

EDMOND CITY COUNCIL MINUTES

April 11, 2005

Mayor Sandra Naifeh called the regular meeting of the Edmond City Council to order at 5:30 p.m., Monday, April 11, 2005, in the City Council Chambers.

2. Approval of Minutes. Dan O'Neil addressed Council regarding the last sentence on Item 11 and consensus of Council was to delete the sentence. Motion by Miller, seconded by Lamb, to approve March 28, 2005, Minutes as amended. **Motion carried** as follows:

AYES: Mayor Naifeh, Councilmembers Page,
Sanford, Lamb and Miller
NAYS: None

3. City Council Presentations:

A. Announcements:

- 1) April 11-17, 2005 - 1st Annual National Animal Control Appreciation Week
- 2) Proclamation declaring April 10-16, 2005 - Public Safety Telecommunications Week
- 3) April, 2005 - Child Abuse Prevention Month

B. Presentation of proclamation declaring April, 2005, as "FAIR HOUSING MONTH" in the City of Edmond.

C. City Manager's Monthly Progress Report. Larry Stevens stated the Oklahoma Department of Transportation (ODOT) has scheduled a bid letting for the 7th Street and Kelly intersection project this month. He stated the project is estimated to cost \$600,000 which includes 80% federal funding. The force main and lift station portion of the Oak Tree lift station relocation project will be bid this spring and should be operational by early next year. Mr. Stevens stated construction of the sewer line under a section of the KickingBird Golf Course should be completed this month. The Cross Timbers Municipal Complex is on schedule for completion by September 15th. Fire Station No. 5, fire training facility and the Animal Welfare facility should be substantially complete by July 1st and will be ready for staff to move in. Installation of the fiber

optic cable and construction of the communications hut should be completed by April 30th. Construction of the Public Service Center should be completed by the middle of August with staff occupancy in September. Mr. Stevens stated the PAWS for Life group has raised over \$21,000 for construction of a dog park in the new community park at 33rd Street and Boulevard. The PAWS group would operate the park and help with maintenance. The City's contribution would be for leasing the land, construction of a water line and also helping with maintenance.

4. Appointments to Boards and Commissions:

- A. **Appointment to the Central Edmond Urban Development Board.** Councilmember Page nominated Marjorie Callahan for appointment to serve a three-year term expiring April, 2008.

Motion by Page, seconded by Lamb, to approve Item 4.A.(1).
Motion carried as follows:

AYES: Mayor Naifeh, Councilmembers Page,
Sanford, Lamb and Miller
NAYS: None

- 5. GENERAL CONSENT ITEMS:** (General Consent Items were voted on collectively except where noted.)

A. **Approval of Administrative Items:**

- 1) **Acceptance of construction permits from the Oklahoma Department of Environmental Quality.**
- 2) **Acceptance of public utility easements and Right-of-Way easement from Sooner Investments to serve the University Village Shopping Center.**
- 3) **Acceptance of Final Plat, public improvements and maintenance bonds for the following:**
 - a) Bluffs at Pine Creek
 - b) Chitwood Farms
 - c) Fisher Hall North
- 4) **Acceptance of public improvements and maintenance bonds for Kelly Parkway waterline relocation, 15th to 33rd Streets.**

5) **Acceptance of Final Plat for Intrust Bank, located at 15th Street and Kelly.**

6) **Discussion and consideration of naming the Disc Golf Course at Mitch Park the "Ty F. Cunningham Memorial Disc Golf Park".** Mike McGraw addressed Council on behalf of the Cunningham family. He stated Ty grew up in Edmond and was very instrumental in assisting the Parks and Recreation Department in developing the disc golf course in Mitch Park. Ty and his friends found the location for the course in Mitch Park and determined the layout for an 18-basket course. Mr. McGraw expressed the family's appreciation to the City for honoring their son in this way.

Motion by Lamb, seconded by Sanford, to approve General Consent Item 5.A.(6). **Motion carried** as follows:

AYES: Mayor Naifeh, Councilmembers Page,
Sanford, Lamb and Miller
NAYS: None

7) **Public Hearing and Consideration of variance from detention for a proposed parking area, located on the alley at 14 E. Ayers from Pete Reeser.** Councilmember Lamb stated the Stormwater Advisory Board recommended approval and he also noted that Mr. Reeser will pay a fee in lieu of constructing a detention facility.

8) **Approval of interlocal agreement with the Board of County Commissioners of Oklahoma County to reconstruct, improve, repair and maintain certain city streets in the City of Edmond.**

9) **Discussion and Consideration of agreement with the Miracle League of Oklahoma, Inc.** Margo Price addressed Council and stated the agreement is a modification of the original agreement with The Sports Group, Inc. approved in October, 2003. She stated other than changing the name of the agreement partner, the other provisions and expectations will remain the same. The purpose of the agreement is to allow special needs children to have a field on which to play ball in Mitch Park. Mrs. Price stated modifications, maintenance and operations for this

project will still be the responsibility of The Miracle League of Oklahoma, Inc.

Motion by Page, seconded by Miller, to approve General Consent Item 5.A.(9). **Motion carried** as follows:

AYES: Mayor Naifeh, Councilmembers Page,
Sanford, Lamb and Miller
NAYS: None

10) **Acceptance of roadway easements for the Boulevard Widening, Danforth to Covell improvements, and the Covell Underpass projects from The Villages at Coffee Creek Community Association, Inc.**

11) **Approval of Resolution No. 06-05 declaring certain fire equipment obsolete and surplus to the needs of the City of Edmond and the Edmond Fire Department, and providing for the donation of a 1986 Boardman Fire Pumper to the Oak Cliff Fire Protection District.** Fire Chief Gil Harryman addressed Council and stated the vehicle has recently been retired from the City of Edmond's reserve fleet and will replace a 1976 American LaFrance pumper. Retired Edmond Fire Chief Dwight Maker, now Chairman of the Oak Cliff Board of Directors, addressed Council and urged approval of the donation. He stated the donated pumper will greatly enhance their operations.

12) **Consideration of approval of formal investment policy statements for the 457 Defined Contribution Plan and the 401(a) Money Purchase Plan.**

Motion by Lamb, seconded by Sanford, to approve General Consent Items 5.A.(1-5,7-8,10-12). **Motion carried** as follows:

AYES: Mayor Naifeh, Councilmembers Page,
Sanford, Lamb and Miller
NAYS: None

B. **Approval of Purchases:**

1) **Approval of street and utility easement from Mark W. Bilyeu and Mary M. Bilyeu, Parcel 22, for the 2020 Master Plan Water Improvements, Contract No. 3 in the amount of \$10,000.**

2) Approval of interlocal agreement with the Board of County Commissioners of Oklahoma for mowing and weed control maintenance of section line rural right-of-ways in the amount of \$25,000.

3) Consideration of renewal of jail services agreement with the Board of County Commissioners of Oklahoma County for prisoners incarcerated at the County Jail on Edmond municipal charges in the amount of \$500.

4) Approval to begin contract negotiations with DeBruler, Inc. for completion of the 2005-2010 Consolidated Plan and Housing Needs Assessment in the amount of \$10,000.

5) Award of bid for rehabilitation of residential structure at 119 W. Wayne as part of the Community Development Block Grant (CDBG) program . The Citizens Participation Committee recommended accepting bid from FrenCo Construction in the amount of \$27,525.

6) Approval of bid disposition by the Purchasing Manager for the following:

a) Van Keppel Liftruck - pneumatic forklift for Fleet Management in the amount of \$37,137.

7) Approval of Engineering contract with MGR, Inc. for roadway project (extension of Fretz from 18th Street to Technology Drive at 33rd Street) in the amount of \$29,950.

8) Approval of amendment to design contract with FBS Engineers, Inc. for the design of the Coltrane bridge, located north of 15th Street in the amount of \$19,450.

9) Approval of supplemental appropriations for the Police Public Safety Limited Tax Fund and approval of an agreement with the Benham Group for an assessment of the Police Department facility and design of the weight and property rooms in the amount of \$72,976. Mayor Naifeh asked if this amount represented 10% of the cost of the project since it seems quite expensive.

Clay Coldiron, Public Works Director, addressed Council and stated they do not have a cost estimate at this time. He stated the assessment will evaluate the space planning needs of the Police Department for the next 20 years and at that time the consultant will provide cost estimates associated with the project. He stated the assessment will also help determine whether the current facility will meet the Police Department's long-term needs or if a new facility will be needed in the future before any money is spent on the current facility.

Councilmember Miller stated also included in the assessment is the feasibility of constructing a new sub-station east of I-35.

10) Approval of Change Order No. 10 with Wynn Construction for multiple solutions associated with Phase I of the Streetscape project in the amount of \$11,930.89.

11) Approval of Change Order No. 33 with Timberlake Construction for the Cross Timbers Municipal Complex project in the amount of \$19,738.94.

12) Approval of Change Order No. 1 with Luckinbill Construction for the Kelly Parkway waterline relocation project, 15th to 33rd Streets, in the amount of \$980.

13) Approval of Change Order No. 1 with Matthews Trenching for the 15th Street waterline relocation project, Pine Oak to Edgewood, in the decreased amount of \$19,411.80.

Motion by Lamb, seconded by Sanford, to approve General Consent Items 5.B.(1-13). **Motion carried** as follows:

AYES: Mayor Naifeh, Councilmembers Page, Sanford, Lamb and Miller
 NAYS: None

6. Approval of Tort Claim Committee's recommendation on Tort Claim.

<u>CLAIM NUMBER</u>	<u>RECOMMENDATION</u>
25-0036 Police Department	Pay -

\$5,167.81

Motion by Miller, seconded by Page, to approve Tort Claim Committee's recommendation on Tort Claim. **Motion carried** as follows:

AYES: Mayor Naifeh, Councilmembers Page,
Sanford, Lamb and Miller
NAYS: None

Motion by Miller, seconded by Page, to recess the City Council meeting in order to convene the Edmond Public Works Authority meeting. **Motion carried** as follows:

AYES: Mayor Naifeh, Councilmembers Page,
Sanford, Lamb and Miller
NAYS: None

10. Discussion of Sales Tax Holiday legislation being considered by the Oklahoma State Legislature.

Councilmember Sanford stated Nancy Nichols, Legislative Liaison, had requested direction from Council on the proposed state legislation. She stated the Council had requested that Ms. Nichols oppose the exemption of sales tax on groceries, a sales tax holiday and any further exemptions on sales tax when she was preparing her legislative agenda several months ago. She stated she felt Council should discuss this issue and what impact the sales tax holiday would have on Edmond.

Nancy Nichols addressed Council and stated two bills are now making their way through the Legislature that will create a three-day sales tax holiday. A bill was approved by a Senate Committee that will establish a sales tax holiday from 12:01 a.m. on the first Friday in August through midnight the following Sunday in an attempt to compete with the Texas sales tax holiday. She noted the sales tax holiday would apply only to clothes and shoes valued under \$100 each and does not apply to accessories, jewelry, luggage or sports shoes. She stated from information obtained from the Oklahoma Tax Commission, an analysis performed by Oklahoma City shows that Edmond stands to lose slightly over \$90,000 if the sales tax holiday is enacted. Ms. Nichols stated Oklahoma City officials and the Oklahoma Municipal League Board (OML) were opposed to the legislation. She stated one option she and the OML lobbyists discussed was to request of the House bill author that the legislation provide the option for cities to "opt out" of the sales tax holiday. She stated if cities were allowed to opt out, they could be out of compliance with the Streamlined Sales Tax Act which allows collection of sales tax on items sold over the internet and catalogue sales. Ms. Nichols stated the risk of being out of compliance with the Streamlined Sales Tax Act could potentially be much more costly to cities and the State than the sales tax holiday which is why it was mandated that cities participate in the sales tax holiday. She noted there are 110 exemptions at this time and every year the Legislature receives more requests for exemptions which is slowly eroding the City's tax base. Ms. Nichols stated she felt the OML is opposing the legislation for that reason. She stated at this time it is not politically correct to oppose sales tax exemptions so the sales tax holiday is essentially an unfunded mandate. She requested input from Council as to Edmond's position on the matter.

Mayor Naifeh stated she felt the sales tax holiday was just another way of eroding the City's ability to collect revenue since the City does not get use of property or income taxes. She noted the money the City would lose due to the sales tax holiday could possibly fund another firefighter.

Councilmember Sanford stated she would prefer to give a 15% discount rather than a sales tax holiday. She noted it could be difficult for merchants to determine what items could or could not be charged sales tax and then train their employees. She stated the danger of some cities trying to opt out the sales tax holiday and losing the City's ability to comply with the stream-lined sales tax act could cost the City of Edmond over \$1 million a year in just the Use Tax that is collected. She stated she felt the City should oppose the sales tax holidays.

Councilmember Miller stated he did not see a problem with supporting the sales tax holiday and that he would oppose any resolution in opposition to the sales tax holiday. He noted that the amount of loss to the City is minimal and it makes the City look greedy.

Councilmember Lamb stated he could see arguments on both sides of the issue. He agreed with the Mayor that any further changes in taxable items or a sales tax holiday is a limitation of the City's ability to collect revenue. He noted the proposed legislation mandates both State and municipal sales taxes would be waived. Councilmember Lamb stated he also understood Councilmember Miller's position that \$90,000 is a small amount in the overall budget as it relates to this situation. He stated he would probably choose to oppose the legislation because it is another encroachment on the ability of the local government to collect revenue being mandated at the State level.

Councilmember Page stated he felt this matter was a state Legislative matter and it depended on how a resolution is worded whether he would be opposed or not. He believes the sales tax holiday could present a problem for local merchants.

Mayor Naifeh stated she would work with the City Attorney to draft a resolution in opposition to the sales tax holiday. She requested suggestions on wording for the resolution be forwarded either to the City Attorney or City Clerk in order for the resolution to be on the next agenda.

11. Executive Session to discuss the purchase of real property generally located in Downtown Edmond and property generally located at Covell and Broadway and Covell and Sooner Road (Executive Session authorized pursuant to 25 Okla. Stat. Section 307(B)(3).

12. Executive Session to discuss the appointment, employment of the City Manager and the City Attorney (Executive Session authorized pursuant to 25 Okla. Stat. Section 307(B)(1). Mayor Naifeh requested this item be continued to the next meeting.

Motion by Miller, seconded by Sanford, to continue Items 12 and 15 to the next meeting. **Motion carried** as follows:

AYES: Mayor Naifeh, Councilmembers Page,
Sanford, Lamb and Miller
NAYS: None

13. Executive Session to discuss the following pending claim (Executive Session authorized pursuant to 25 Okla. Stat. Section 307(B)(4):

Barnthouse et. al. vs. City of Edmond

Motion by Miller, seconded by Sanford, to meet in Executive Session to discuss Items 11 and 13. **Motion carried** as follows:

AYES: Mayor Naifeh, Councilmembers Page,
Sanford, Lamb Miller
NAYS: None

Mayor and Councilmembers recessed to the City Council Conference Room at 6:40 p.m. and returned to the City Council Chambers at 8:16 p.m.

Motion by Miller, seconded by Page, to adjourn Executive Session. **Motion carried** as follows:

AYES: Mayor Naifeh, Councilmembers Page,
Sanford, Lamb and Miller
NAYS: None

14. Consideration of action regarding the purchase of real property generally located in Downtown Edmond and property generally located at Covell and Broadway and Covell and Sooner Road.

Motion by Lamb, seconded by Miller, to authorize City Attorney to proceed with negotiating the acquisition of properties in downtown Edmond and address Covell and Broadway in Item 17 and take no action on Covell and Sooner Road. **Motion carried** as follows:

AYES: Mayor Naifeh, Councilmembers Page,
Sanford, Lamb and Miller
NAYS: None

15. Consideration of action regarding the appointment, employment of the City Manager and the City Attorney. This is a companion to Item 12 and was continued to the next meeting.

16. Consideration of action regarding the pending claim of Barnthouse et.al. vs. City of Edmond. No action was taken on this item.

17. Consideration of Resolution Nos. 07-05, 08-05, 09-05, and 10-05, declaring the necessity for acquiring certain real property within the City of Edmond, Oklahoma for public use, and authorizing acquisition by Eminent Domain.

Motion by Sanford, seconded by Lamb, to approve Item No. 17. **Motion carried** as follows:

AYES: Mayor Naifeh, Councilmembers Page,
Sanford, Lamb and Miller
NAYS: None

18. NEW BUSINESS: None

19. Motion by Miller, seconded by Page, to adjourn meeting. **Motion carried** as follows:

AYES: Mayor Naifeh, Councilmembers Page,
Sanford, Lamb and Miller
NAYS: None

City Clerk

Mayor