

EDMOND CITY COUNCIL MINUTES

April 13, 2009

Mayor Dan O'Neil called the regular meeting of the Edmond City Council to order at 5:30 p.m., Monday, April 13, 2009, in the City Council Chambers.

2. Approval of March 23, 2009, Minutes. Motion by Miller, seconded by Page, to approve Minutes. **Motion carried** as followed:

AYES: Mayor O'Neil, Councilmembers Page, Waner, Lamb and Miller
NAYS: None

3. City Council Presentations:

- A. **Presentation of proclamation recognizing April 12-18, 2009, as "National Telecommunications Week" in the City of Edmond.**
- B. **Presentation of proclamation recognizing April 22, 2009, as "Earth Day" in the City of Edmond.**
- C. **City Manager's Progress Report.** Larry Stevens addressed Council and stated the Covell Underpass project has been delayed due to the BNSF Railroad's re-routing. That portion of the project is moving forward but the contractor is two to three months behind schedule for completion in October. This is an Oklahoma Department of Transportation (ODOT) project with an 80%-20% share at a cost to the City of \$1.37M.

Mr. Stevens stated the bridge replacement at 15th Street and Coltrane remains on schedule for an August completion. The City is funding the entire cost of the project at \$4.225M.

Mr. Stevens stated the design plans for the Kelly widening, Danforth to Covell, project as 90% complete. This is also an ODOT project with an 80%-20% funding split. The City's share is estimated at \$1M with construction beginning as early as fall of 2010. He stated if the City is successful in obtaining state funding for a road project, ODOT will pay approximately 50% of the construction costs but they do not pay for utility relocations and right-of-way acquisitions.

Mr. Stevens stated the last project is the intersection improvements at 15th Street and Broadway. The design plans for this ODOT project are nearing completion and the right-of-way appraisals are underway. The City's 20% share is

estimated at \$100,000 with the project scheduled for construction in 2010.

Mayor O'Neil asked what the status is on the Broadway overlay project. Steve Manek, City Engineer, addressed Council and stated ODOT has let the project and will begin the overlay in June or July.

4. Appointments to Boards and Commissions:

- A. **Appointment to the Visual Arts Commission.** Councilmember Lamb nominated Kenneth Wohl for appointment to serve a term expiring April, 2010.

Motion by Lamb, seconded by Miller, to approve General Consent Item 4.A. **Motion carried** as follows:

AYES: Mayor O'Neil, Councilmembers Page, Waner, 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) **Public Hearing and Consideration of Ordinance No. 3200 Amending Chapter 13.16 Sewage Service of the Edmond Municipal code to amend Section 13.16.010 Definitions by amending Subsections 13.16.010(L) and 13.16.010(S); Amend Section 13.16.040 Building Sewer and Connections by Amending Subsections 13.16.040(F) and 13.16.040(I); Amend Section 13.16.050 Use of the Public Sewers by Amending Subsection 13.16.050(C) and 13.16.050(D); Repealing Subsection 13.16.050(J); Amend Section 13.16.150 Industrial Wastewater Discharge Permit by Amending Subsections 13.16.150(C) and 13.16.150C(1)C; and Providing for Repealer and Severability.**

2) **Approval to proceed with the sale of City property on West Campbell to the Edmond Public School System.** Councilmember Waner stated she was pleased the school system is purchasing the property and that she hoped staff would work with them regarding the neighborhood traffic issues that will occur when the school begins utilizing the property. Mayor O'Neil encouraged the school system to direct as much bus traffic to Kelly as possible.

- 3) **Approval of supplemental appropriations for the Police Public Safety Limited Tax Fund - \$12,730**
- 4) **Approval to add Spirit Bank to the list of approved banking institutions and Brokers/Dealers as contained in the City of Edmond Pooled Investment Policy. Mayor O'Neil stated this item would be continued for consideration by the Finance/Audit Committee at their May 20th meeting.**
- 5) **Approval of addendum to the agreement with the Edmond Historical Society and the Edmond Historic Preservation Trust relating to the operations and management of Edmond's first public school.**
- 6) **Approval of electrical upgrades to campsites at Central State Park, Arcadia Lake in the amount of \$85,000.**
- 7) **Approval of variance for right-of-way for Preliminary Plat of Lexington Heights, located at southwest corner of Coffee Creek and Boulevard.**
- 8) **Acknowledge receipt of construction permits from the Oklahoma Department of Environmental Quality for Market Square 1A at Covell Village.**
- 9) **Acceptance of Final Plat, public improvements and maintenance bonds for Chitwood Farms II, located south of 15th Street, east of Post Road.**
- 10) **Acceptance of public improvements and maintenance bonds for The Bridges of Spring Creek, located north of 15th Street, east of Bryant Avenue.**
- 11) **Approval of supplemental appropriations for the Police Public Safety Limited Tax Fund - \$35,000. Police Chief Bob Ricks addressed Council and stated on January 1, 2005, the Council approved the motorcycle replacement program which called for replacement of all motorcycles annually. He stated it was part of a program that was negotiated with Harley Davidson Worldwide allowing the City to purchase new vehicles at a vastly reduced rate under the retail cost. He noted staff determined that the City would save approximately \$200,000 over seven years. Chief Ricks stated the money will be used to fund the replacement of seven Harley Davidson motorcycles utilizing the Harley Davidson buyback program. The motorcycles were budgeted for replacement**

in FY 2008 but due to the economy, the motorcycles were not replaced. He noted replacement of the motorcycles were not budgeted in FY 2009 but were included in the FY 2010 budget. Chief Ricks stated the motorcycles are now two years old and maintenance costs have increased. He stated staff determined it would be in the City's best interest to replace the motorcycles in this fiscal year because their resale value will decrease from the current value once the new models come out later this year. He stated the value would further decrease due to the declining market. He noted if the City had continued with the annual replacement program, the cost would be \$40,000 each year.

Councilmember Waner asked the amount of money that will be lost by not purchasing the motorcycles at this time. Chief Ricks stated he did not have a figure at this time but felt it prudent on his part to save as much money as possible. He stated they were hopeful the savings would be approximately \$10,000 but due to the soft market the savings could be even more. Councilmember Waner stated her concern is the City is 2½ months from the new budget year and without a solid dollar figure of savings she had some concerns and reservations. Councilmember Miller asked if the purchase of the vehicles out of the current budget year would compromise the budget and Chief Ricks stated the Police Public Safety Limited Tax Fund is for these types of items specifically.

Motion by Miller, seconded by Lamb, to approve General Consent Item 5.A.(11). **Motion carried** as follows:

AYES: Mayor O'Neil, Councilmembers Page, Lamb and Miller
NAYS: Councilmember Waner

12) **Approval of transfer of appropriations for Vehicle Maintenance fund - \$43,053**

13) **Acceptance of the following electric and utility easements:**

- a) Jack R. and Regina L. Myers
- b) Ian W. and Angela L. Suhrstedt
- c) Ed Carlson

Motion by Waner, seconded by Page, to approve General Consent Items 5.A.(1-3,5-10,12-13). **Motion carried** as follows:

AYES: Mayor O'Neil, Councilmembers Page, Waner, Lamb and
Miller
NAYS: None

B. Approval of Purchases:

- 1) Approval of Change Order No. 2 with Crawford & Associates for the FY 2007/08 Comprehensive Annual Financial Report (CAFR) in the amount of \$6,895.
- 2) Approval to increase contract amount for professional services from Johanson Group for the design and implementation of a job evaluation, pay plan/classification, compensation study in the decreased amount of \$15,000.
- 3) Approval of budgeted funds for capital and operating expenditures for the Guthrie/Edmond Regional Airport in the amount of \$12,838.72.
- 4) Award of bid and approval of contract for the Carl Benne Rodeo Grounds Lighting Upgrades project and Resolution No. 11-09 appointing Purchasing Agent for the Parks Department. Purchasing Manager recommended accepting bid from Libra Electric in the amount of \$117,872.38.
- 5) Award of bid and approval of contract for the Halfway House Restroom renovation at Kickingbird Golf Club and Resolution No. 12-09 appointing Purchasing Agent for the Parks Department. Purchasing Manager recommended accepting bid from L.G. Construction, Inc. in the amount of \$59,585.
- 6) Award of bid and approval of contract for the Children's Safety Village City Hall and Props project and Resolution No. 13-09 appointing Purchasing Agent for the Fire Department. Purchasing Manager recommended accepting bid from Downy Contracting in the amount of \$439,690.
- 7) Approval of purchase of seven (7) motorcycles from Harley Davidson as a sole source purchase for the Police Department in the amount of \$330,304.76.

Motion by Lamb, seconded by Page, to approve General Consent Items 5.B.(1-7). **Motion carried** as follows:

AYES: Mayor O'Neil, Councilmembers Page, Waner, Lamb and Miller
NAYS: None

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

AYES: Mayor O'Neil, Councilmembers Page, Waner, Lamb and Miller
NAYS: None

Mayor O'Neil reconvened the City Council meeting.

8. PLANNING CONSENT ITEMS:

- A. **Consideration of Final Plat of Fairfax Business Park, located north of Covell Road, 810 feet west of Sooner Road (Greg Brasher, applicant) Case No. PR090004.** The addition contains 7.25 acres and 13 lots. Common area "A" will be developed as parking, driveways and landscaping. Planning Commission recommended approval.

Motion by Miller, seconded by Waner, to approve Planning Consent Item 8.A. **Motion carried** as follows:

AYES: Mayor O'Neil, Councilmembers Page, Waner, Lamb and Miller
NAYS: None

- B. **Public Hearing and Consideration of amended Site Plan for the Holiday Inn Express, located at 3840 E. 2nd Street, regarding outside lighting to be placed on the walls of the existing hotel (Tom Ward, applicant) Case No. SP090003.** The applicant is proposing new decorative lighting with a blue cast to them added to the existing light fixtures on the outside walls. No new light poles are planned and there are no other changes to the overall Site Plan. The lighting is intended to draw attention to the building in the evening and are directed either up or down onto the site. Planning Commission recommended approval.

Mayor O'Neil asked for an explanation of the code for this type of lighting. Bob Schiermeyer, City Planner, addressed Council and stated this type of lighting was permitted by code and it was common to have outside lighting for security purposes. He stated a notice was mailed to residents in the Clayton Pond Addition since this request is a change from the original plan.

Motion by Miller, seconded by Page, to approve Planning Consent Item 8.B. **Motion carried** as follows:

AYES: Mayor O'Neil, Councilmembers Page, Waner, Lamb and Miller

NAYS: None

- C. **Consideration of Final Plat for Shoppes on Broadway, located on the northeast corner of 33rd Street and Broadway (Tom Parker, applicant) Case No. PR090003.** The applicant plans to plat the project which will consist of eight lots and a common area on 12.50 acres. This location was originally a Wal-Mart and now includes eight businesses. The detention and utilities have been completed. The applicant does not wish to change the existing signage which incorporates multi-tenant signs, one on 33rd Street and one on Broadway. Covenants have been created providing for cross access between the individual lots. The applicant does not intend for each lot owner to have a ground sign even though the property is being divided into individual lots. Planning Commission recommended approval.

Councilmember Lamb noted the original Final Plat was approved as part of a Master Site Plan for the entire development. He stated he wanted to frame the motion around the idea that the Plat is approved subject to compliance with the Master Site Plan conditions as previously approved regarding the curb cuts and signage. He stated the project was unique and would be viewed somewhat as a PUD. He stated he was not opposed to dividing the property into individual lots with the understanding that each property owner would not be allowed to install their own sign.

Mayor O'Neil asked which lots would be platted. Mr. Schiermeyer stated the lots along Broadway, south of Burger King, up to 30th Street, east to the boundary line and back down all the way to 33rd Street. He noted the applicant has also provided additional right-of-way for the turn lanes.

Councilmember Waner stated she was concerned that because the applicant was not present at the meeting that he was not aware of these conditions and Mr. Schiermeyer stated he was. Mr. Schiermeyer also noted that MidFirst Bank, who is moving into the building originally designed for Starbucks, also understands they will not be allowed an individual ground sign. He noted that if in the future a property owner requested a sign they would be required to apply for a sign permit from the Council.

Motion by Lamb, seconded by Waner, to approve Planning Consent Item 8.C. subject to compliance with the conditions approved as part of the Master Site Plan specifically the curb cuts and project signage. **Motion carried** as follows:

AYES: Mayor O'Neil, Councilmembers Page, Waner, Lamb and Miller

NAYS: None

9. Public Hearing and Consideration of amended commercial Site Plan for Parkway Cleaners addition, located at 124 E. 5th Street (Mark Neighbors, applicant) Case No. SP090006. The Site Plan was originally approved on January 24, 2005, for a two-story addition to the existing cleaners. The plans showed a five foot sidewalk offset 10 feet from the west side of the new building which had a five foot landscape bed on the west side of the sidewalk and a 10 foot landscape bed to the east of the sidewalk. There is a total of 20 feet between the new building and the Hideaway Pizza/UCO Jazz Lab building. The plans also included brick columns with cedar panels to enclose the dumpsters at the southwest corner of the property. The applicant is requesting the following five amendments to the Site Plan:

- 1) Move the sidewalk to within five feet from the east wall and 10 feet from the west wall with the displaced landscaping being relocated on the property
- 2) Enlarge the sidewalk from five to 10 feet with the sidewalk being adjacent to the new addition rather than off-set
- 3) Have patio seating between the buildings
- 4) No brick columns in the dumpster fence
- 5) Move the dumpster 18-24 inches south

The Central Edmond Urban Development Board recommended approval of the five variances.

Mark Neighbors addressed Council and stated when the original Site Plan was approved the dumpster enclosure contained brick columns. He stated the landscaping architect added the columns without his knowledge. He stated the original plan also contained two dumpsters that would be emptied every other day plus a grease trap. The grease trap would not fit in the enclosure with the two dumpsters so he requested only one dumpster that would be emptied every day. He stated the landscaping that will be lost by widening the sidewalk will be relocated to different areas of the site in order to retain the same point values.

Councilmember Waner stated she had some concerns regarding the relocation of the landscaping to the east side of the site and felt the plant selection should be reviewed by staff. She stated

she understood the applicant's desire to move the sidewalk because it dead ended at the electric transformer but she still had concerns about the landscaping. Mr. Neighbors stated the original plan showed the plants all being on the east side of the site and they would lose some point values but they would make those points up by installing landscaping elsewhere on the site.

Councilmember Page stated he would be remiss if he did not mention the parking. Mr. Neighbors stated the reason for moving the dumpster is to make room for an additional parking space next to the dumpster.

Motion by Page, seconded by Miller, to approve Item No. 9. **Motion carried** as follows:

AYES: Mayor O'Neil, Councilmembers Page, Waner, Lamb and Miller
NAYS: None

10. Public Hearing and Consideration of extension of The Falls Condominiums to include Site Plan for the Special Use permit, located east of Vista Lane, south of 2nd Street (The Falls, LLC, applicant) Case No. SP050043. This item has been withdrawn by the applicant and will not be reconsidered in the future.

11. Public Hearing and Consideration of Ordinance No. 3201 amending Title 8 of the Edmond Municipal Code by adding New Section 8.12.025 providing for Regulation of Toy Guns, Air Soft Guns and Replica Firearms, Subsections 8.12.025(A) Definitions; and 8.12.025(B) Unlawful Activities; Punishment; and providing for Penalty; and providing for Repealer and Severability. The Police Department requested this ordinance which would prohibit the possession of these toy guns if the blaze orange plug is not permanently attached to the muzzle end of the barrel or if they are not marked to clearly indicate that they are a toy gun.

Officer Matt Harden addressed Council and presented a powerpoint presentation on the justification for this ordinance. He stated the Police Department is not requesting the toy guns be banned but want to keep the guns from being altered to look more authentic. Officer Harden stated in other parts of the country, Police Officers have shot and killed people who were pointing toy guns with the orange tip either painted over or removed and the Police did not want a similar incident to occur in Edmond.

Councilmember Lamb noted that changing the ordinance will not address all the problems the Police have with the toy guns but he felt the Police would have the opportunity to identify the real weapons from the fake weapons. He asked how the public will be

notified regarding this change in the ordinance. Councilmember Miller stated in most instances the sellers of the toy guns would post signs notifying the public of the ordinance change. He suggested the Police Department distribute flyers or notices to the businesses who sell the toy guns. Councilmember Waner asked if the packaging contained a warning not to alter the orange tip and Officer Harden stated he did not think the packaging contained that warning but Federal law required the orange tip on the guns.

Motion by Page, seconded by Miller, to approve Ordinance No. 3201 as read by title by the Mayor. **Motion carried** as follows:

AYES: Mayor O'Neil, Councilmembers Page, Waner, Lamb and Miller
NAYS: None

12. Executive Session to discuss the appointment, employment of the City Manager and City Attorney (Executive Session authorized pursuant to 25 Okla. State. Sec. 307 (B)(1)):

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

Teel vs. City of Edmond

Motion by Waner, seconded by Lamb, to meet in Executive Session to discuss the above items. **Motion carried** as follows:

AYES: Mayor O'Neil, Councilmembers Page, Waner, Lamb and Miller
NAYS: None

Councilmember Page left the City Council meeting.

Mayor and Councilmembers recessed to the City Council Conference Room at 6:41 p.m. and returned to the City Council Chambers at 7:18 p.m.

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

AYES: Mayor O'Neil, Councilmembers Waner, Lamb and Miller
NAYS: None

14. Consideration of action with regard to the appointment, employment of the City Manager and City Attorney.

Motion by Lamb, seconded by Waner, to retain the services of the City Manager and increase his base salary by 2½% annually. **Motion carried** as follows:

AYES: Mayor O'Neil, Councilmembers Waner, Lamb and
Miller
NAYS: None

Motion by Lamb, seconded by Miller, to retain the services of the City Attorney and increase his base salary by 3½% annually. **Motion carried** as follows:

AYES: Mayor O'Neil, Councilmembers Waner, Lamb and
Miller
NAYS: None

15. Consideration of action with regard to the Teel claim.

Motion by Miller, seconded by Lamb, to authorize the City Attorney to proceed with settlement negotiations on the Teel claim. **Motion carried** as follows:

AYES: Mayor O'Neil, Councilmembers Waner, Lamb and
Miller
NAYS: None

16. NEW BUSINESS:

Ray Harshman, Mohawk Court in the Arrowhead Valley Addition, addressed Council regarding the Hilltop Plaza development. He stated his property is on the southern border of Hilltop Plaza. He noted when the Site Plan was approved on July 9, 2007, a retaining wall was required on the south and west sides of the development and a masonry fence installed on top of the retaining wall. He stated the developer removed a considerable amount of dirt along the southern boundary and then all activity on the site ceased. He noted the developer did sell 2.2 acres to a bank. Mr. Harshman stated on November 24, 2008, the developer requested an extension of the Site Plan which was denied by the Council. At that time the developer requested construction of the retaining wall be delayed until construction of the development began. He stated due to the excavation, the retaining wall is necessary because erosion is within six feet of the existing 13 homes. Mr. Harshman requested the Council take action against the developer to require installation of the retaining wall and that any further permits requested by the developer be denied until the situation is remedied. Mayor O'Neil requested Mr. Harshman send him the recommendations in writing in order for the Council to review the situation. He also requested staff evaluate the site regarding the level of risk associated with not constructing the retaining

wall and possible action by Council to remedy the situation. Mr. Harshman stated both he and the homeowners association will make their requests in writing directly to the Mayor and Council.

Councilmember Waner stated for the past few years she has been talking about the need to address the environmental needs of the community and whether the City could become a sustainable operation. She felt even though staff has been busy applying for grants associated with the stimulus package that there were additional grants that could be obtained that they may not know about. She requested Council research the need to have a staff person, even an internship, relegated to applying for and managing grants in order to move the City in the direction of a sustainable operation. She requested the City Manager provide a list to Council of the stimulus grants that the City is applying for.

Mayor O'Neil expressed his thanks to Councilmember Lamb for attending the dedication of the pavilion at Bickham/Rudkin Park this past Saturday on his behalf.

Mayor O'Neil also wished Councilmember Page good luck regarding his attendance at the National League of Cities conference in Portland Oregon.

17. Motion by Miller, seconded by Lamb, to adjourn meeting. Motion carried as follows:

AYES: Mayor O'Neil, Councilmembers Waner, Lamb and Miller
NAYS: None

City Clerk

Mayor