

EDMOND CITY COUNCIL MINUTES

July 24, 2006

Mayor Sandra Naifeh called the regular meeting of the Edmond City Council to order at 5:30 p.m., Monday, July 24, 2006, in the City Council Chambers.

2. Approval of June 26, 2006, Minutes. Motion by Sanford, seconded by Lamb, to approve the Minutes as submitted.

Mayor Naifeh stated further discussion from the public would not be allowed but that a member of the Council could discuss the Minutes. She noted that a full discussion of the Minutes had taken place at the July 10th meeting.

Councilmember Page stated he felt the public had a right to have input into the Minutes. He stated he felt the Minutes should not be taken lightly and that several important issues were not included in the Minutes. Councilmember Page stated this area has been a contentious issue for 25 years and will continue to be an issue. He stated the integrity of the Minutes should not be compromised and having the Minutes be a summary of the events without adding and subtracting pertinent issues that relate to the well being of the community is another thing. He stated although the meeting could be viewed on a DVD, he felt his amendments should also be included in the Minutes as a point of reference to better understand what happened the night of June 26th. Council-member Page outlined his proposed amendments.

Lydia Lee, attorney representing Bryant ACCORD III, attempted to discuss the Minutes and was not recognized by the Mayor.

Mayor Naifeh noted that Minutes are a summary of action taken and not personal opinions which she felt the proposed amendments were. She stated if the public were allowed to re-write the Minutes then they would have to be re-written for the last 100 years. She noted there was a motion on the floor and called for a vote.

Motion carried as followed:

AYES: Mayor Naifeh, Councilmembers Sanford,
Lamb and Miller
NAYS: Councilmember Page

3. **Approval of July 10, 2006, Minutes.** Motion by Sanford, seconded by Miller, to approve the Minutes. **Motion carried** as followed:

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

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

A. Approval of Administrative Items:

- 1) Acceptance of City Manager's Financial Report for month ending June 30, 2006.
- 2) Acceptance of City Treasurer's Investment Report for month ending June 30, 2006.
- 3) Public Hearing and Consideration Ordinance No. 3033 amending Title 4 of the Edmond Municipal Code to add New Chapter 4.09 Utility Sales Tax; Section 4.09.010 providing for Utility Tax levied; Section 4.09.020 providing for exceptions for franchises; Section 4.09.030 providing for payment of tax; Section 4.09.040 providing for failure to pay tax; Section 4.09.050 providing for tax liens; Section 4.09.060 providing for record of sales; and providing for Repealer and Severability.
- 4) Approval of street name change from Wendover Road to Hardwick Road and approval of Plat Correction in the Hampden Hollow Addition.
- 5) Approval of transfer of appropriations for Centennial Celebration project for FY 2006/2007- \$2,000
- 6) Acknowledge receipt of construction permits from the Oklahoma Department of Environmental Quality for water line to serve the Campbell Street water line improvements project.
- 7) Approval of Resolution No. 21-06 to continue the 3% telephone user fee collection for 9-1-1 service provision.

8) **Approval of supplemental appropriations for the FY 2005/2006 Fleet Management fund - \$15,000**

9) **Approval of supplemental appropriations for the Historical Society and Museum HVAC improvements project - \$62,200**

10) **Approval of the following electric easements:**

- a) Acts 2 United Methodist Church
- b) Henderson Hills Baptist Church

11) **Approval of granting an electric easement to OG&E for Mitch Substation, located at 3300 N. Santa Fe Avenue.**

Motion by Miller, seconded by Lamb, to approve General Consent Items 4.A.(1-11). **Motion carried** as follows:

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

12) **Approval of the description and scope of services to establish the Edmond Fire Department Training Trust Fund account for all hazards public safety training.** Councilmember Sanford stated this item was discussed at the last meeting but that she was still concerned about establishing a separate trust fund, which has not been previously done, for this type of entity and she felt Council would be setting a precedent by approving this item. She stated she could not support this item without further discussion and review.

Mayor Naifeh requested that Chief Harryman continue to work with the City Treasurer's office. She stated there were concerns with calling the fund a trust fund when she felt that perhaps endowment would be a better word to use.

Councilmember Lamb asked as a point of clarification whether the trust fund is being created at this time or if the mechanics for establishing the trust fund is being approved? He questioned if at some point in the future, a formal component will be approved.

Steve Murdock, City Attorney, addressed Council and stated Council is creating a fund and establishing a basic structure of a separate fund. He noted a legal entity of the fund is not being created with approval of this item.

Councilmember Lamb then noted that if in the future Council chooses to re-title the fund to an endowment fund, which he felt would probably be a more appropriate title, that issue could be addressed at that time.

Motion by Miller, seconded by Page, to approve General Consent Item 4.A.(12). **Motion carried** as follows:

AYES: Mayor Naifeh, Councilmembers Page,
Lamb and Miller
NAYS: Councilmember Sanford

B. **Approval of Purchases:**

- 1) **Approval of real estate purchase agreement for property located near Main and Littler in the amount of \$70,000 plus closing costs.**
- 2) **Approval of Resolution No. 22-06 and project agreement with the Oklahoma Department of Transportation for the Boulevard/Broadway widening, Danforth to one-fourth mile north of Covell Road in the amount of \$1,347,700.87.**
- 3) **Acceptance of proposals for temporary labor services for the Human Resources Department.** Staff recommended accepting proposals from Manpower and Express Personnel.
- 4) **Approval of disposal disposition of used vehicle and equipment for the Fleet Management Department.**
- 5) **Approval of Change Order No. 1 with Luckinbill, Inc. for the Broadway and Covell Waterline Relocation project in the amount of \$75,756.**
- 6) **Award of bid and approval of contract for the HVAC Improvement Project at the Historical Society and Museum and Resolution No. 23-06 appointing Purchasing**

Agent. Purchasing Manager recommended accepting bid from Harrison Orr Air Conditioning in the amount of \$62,200.

7) **Approval of purchase of easements from Oklahoma Christian Apartments, Inc. (\$8,850) and Trudy L. DeWitt (\$7,000) for the Downtown Regional Detention Project in the total amount of \$15,850.**

8) **Approval of agreement with John Montgomery for consulting services for Federal Legislative issues in the amount of \$48,000.**

Motion by Lamb, seconded by Miller, to approve General Consent Items 5.B.(1-8). **Motion carried** as follows:

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

Motion by Page, seconded by Miller, 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

7. **Public Hearing and Consideration of Ordinance amending Edmond Plan III from Single Family Dwelling to Restricted Commercial Planned Unit Development (PUD) usage, located north of Danforth at 1413, 1431 and 1531 W. Danforth and 1311 Sherry Lane (Catherine Ethridge; French Properties, LLC; Phillip and Melba Castillo; and R.W. and Sue Lute-Plaza's of Ketch Acres, applicants) Case No. Z060022.** Mayor Naifeh stated the applicant has requested this item be continued.

Randel Shadid, attorney representing the applicants, addressed Council and stated the application will be amended to all office uses only. He noted specific uses would be eliminated when the amended application is submitted. He stated Council had requested that because of the drastic changes the application be referred back to the Planning Commission for their review. He stated all the signs posted on the property will be changed to reflect the new hearing dates of both the Planning Commission and City Council.

Bill West, resident of Ketch Acres, addressed Council on this matter and requested the dates for the Planning Commission and City Council meetings at which these two items would be heard.

It was determined the application could be heard at the August 22nd Planning Commission meeting and the September 11th City Council meeting

8. Public Hearing and Consideration of Ordinance rezoning from "A" Single Family Dwelling to "D-1" Restricted Commercial Planned Unit Development (PUD), located north of Danforth at 1413, 1431 and 1531 W. Danforth and 1311 Sherry Lane (Catherine Ethridge; French Properties, LLC; Phillip and Melba Castillo; and R.W. and Sue Lute-Plaza's of Ketch Acres, applicants) Case No. Z060023. This is a companion to the above item and was also requested to be continued.

Motion by Sanford, seconded by Lamb, to continue Items 7 and 8 to September 11, 2006. **Motion carried** as follows:

AYES: Mayor Naifeh, Councilmembers Sanford,
Lamb and Miller
NAYS: Councilmember Page

9. Public Hearing and Consideration of Site Plan approval regarding signage for the CVS Pharmacy ground sign and on-site directional signs, located on the southeast corner of 15th Street and Bryant (Armstrong, applicant) Case No. SP060024. The original Site Plan was approved on March 27, 2006. The reason the application is being reviewed again is due to the number of directional signs shown on the plan. The application is in compliance with City sign requirements and contains five ground signs directing traffic to the pharmacy or do not enter signs on the east side of the building. There are also signs on the walls indicating the pharmacy drive-in window. The two existing CVS Pharmacies have the same signs as are proposed for this location.

Randel Shadid, attorney representing the applicant, addressed Council and stated four directional signs have been eliminated from the site plan. He noted two drive-through ground signs and two drive-through wall signs will be eliminated.

Motion by Lamb, seconded by Miller, to approve Item 9 as amended. **Motion carried** as follows:

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

10. Consideration of Final Plat for the CVS Pharmacy, located on the southeast corner of 15th Street and Bryant (Armstrong, applicant) Case No. PR060002. The site contains 1.5 acres. The applicant is providing 60 foot of right-of-way on Bryant and an additional five foot utility easement on 15th Street. The

detention will be underground in the easement on Bryant. Both easements will be landscaped to meet the greater than 10% standard. The sanitary sewer line will be extended off-site to the north in the street right-of-way along Bryant. The driveway on Bryant will be completely on the applicant's property. The drive on 15th Street will be widened and shared with the adjacent church.

It was noted there is not adequate room due to existing utility lines and any future street widening projects to use septic systems so the applicant will be required to tie into the City's sanitary sewer line.

Steve Manek, City Engineer, addressed Council and stated a maximum of 48 feet could be needed in the future if 15th Street is widened with turns additional lanes.

Randel Shadid addressed Council and stated the plat as presented complies with all City requirements.

Motion by Lamb, seconded by Sanford, to approve Item 10.
Motion carried as follows:

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

11. Discussion and Consideration of motion to reconsider the approval of the following ordinances approved by the City Council on June 26, 2006, related to real property generally located east of Bryant, south of Hafer Park, and north of 15th Street:

- a) **Ordinance No. 3025** - amending Edmond Plan III from Single Family Dwelling to General Commercial Planned Unit Development (PUD) usage (2.89 acres)
- b) **Ordinance No. 3026** - rezoning from "A" Single Family Dwelling to "E-1" General Commercial PUD usage (2.89 acres)
- c) **Ordinance No. 3027** - amending Edmond Plan III from Single Family Dwelling to Restricted Commercial PUD usage (28.35 acres)
- d) **Ordinance No. 3028** - rezoning from "A" Single Family Dwelling to "D-1" Restricted Commercial PUD usage (28.35 acres)

Mayor Naifeh stated the City Council meetings follow the Roberts

Rules of Order which state that only a Councilmember who voted yes for an item can request reconsideration of that item. She stated the only reason the above items are on the agenda for reconsideration is as a courtesy to Councilmember Page who requested the items be reconsidered. She noted this was not proper procedure but would be allowed.

Councilmember Page requested that Lydia Lee be allowed to address Council.

Ms. Lee addressed Council and stated she had filed Referendum Petitions containing 3,352 signatures each on Ordinance Nos. 3026 and 3028 earlier in the day with the City Clerk. She noted because the petitions for those two ordinances were already completed and submitted, she asked that Ordinance Nos. 3025 and 3027 be rescinded. She reiterated her position that the ordinances were in violation of the Open Meeting Act and the City's Charter because it was not noted on the agenda that an Emergency Clause would be considered.

Steve Murdock, City Attorney, addressed Council and recommended no action be taken on Ordinance Nos. 3026 and 3028 since Referendum Petitions have been submitted to the City Clerk regarding these two ordinances. He noted no determination has been made at this time regarding the validity of the signatures on the petitions.

Mayor Naifeh stated there has been some talk regarding the validity of the ordinances and she requested the City Attorney address this issue.

Mr. Murdock stated in his opinion the City did not violate the Open Meeting Act. He stated the ordinances were clearly stated on the agenda and the ordinances themselves contained the Emergency Clause provision as required by law. Mr. Murdock stated appropriate notice was given to the citizens that those ordinances would be considered at the June 26th meeting.

Mayor Naifeh stated when she was first elected the "Emergency Approval Required" phrase did not appear on the agenda. She stated she requested, as a courtesy to her, that it be placed on the agenda to remind her to ask for a motion to approve the Emergency Clause when required. Mayor Naifeh stated this fallacy has been repeated as a reason to invalidate the ordinances which is not true. She stated the reason the Chambers were cleared at the June 26th meeting is because the last person to speak accused the Council of accepting bribes

which is what other citizens were also saying. She noted the outburst was very involved with negative personal accusations which was the only reason the Chambers were cleared. Mayor Naifeh stated Council always welcomes comments from citizens but should not have to hear personal accusations assaulting their character. She stated the citizen's attorney also reiterated those same comments which was another reason to clear the Chambers. She stated after the unhappy citizens left the Chambers there was still business on the agenda to be considered and other citizens stayed for those items so the meeting remained open to the public.

Councilmember Page requested that since the petitions have been submitted to bring this issue before a vote of the people that Ordinance Nos. 3025 and 3027 also be included on the ballot. He noted this would eliminate the need for citizens to circulate additional petitions regarding these ordinances. He stated he felt it was in the best interest of the public to roll all four ordinances together and make it simpler for citizens.

Mr. Murdock stated that although the Council has the power to refer items to a vote of the public, that issue would need to be placed on a future agenda. He noted that issue could not be discussed at this meeting because the agenda was not written to allow that request to be considered.

Councilmember Page requested the next agenda contain an item allowing all four ordinances to be placed on the ballot eliminating the necessity of submitting the two Initiative Petitions.

General discussion was held regarding this issue.

Lydia Lee addressed Council and disagreed with some of the statements made by Mayor Naifeh. She stated she did not accuse anyone of taking bribes but had a problem with not allowing citizens to remain in an open meeting.

Tim Reese, President of the Edmond Neighborhood Alliance, addressed Council and also requested the two ordinances be included on the ballot. Marie Yont, Barbara Sparks, Janeen Bets and John Nash, area residents, also addressed Council on this matter.

Mary Ann Karns, local attorney, addressed Council and spoke in defense of the process for resolving these types of disputes. She stated Roberts Rules of Order state that a motion to

reconsider an item must be made at the meeting following the approval of the subject item. She stated that time has past. Ms. Karns stated if citizens want to put this issue on the ballot then it is up to them to do it right which is submitting Initiative and Referendum Petitions. She encouraged everyone to just follow the rules and the process without argument and accusations.

Mayor Naifeh requested a motion to reconsider from either of the two Councilmembers who voted to approve the project. **No motion was made on these items so the items will not be reconsidered.**

12. Executive Session to discuss the purchase of real property located near Littler and 2nd Street in Downtown Edmond (Executive Session authorized pursuant to 25 Okla. State. Sec. 307 (B)(3)):

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

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

Mayor and Councilmembers recessed to the City Council Conference Room at 6:46 p.m. and returned to the City Council Chambers at 7:00 p.m.

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

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

13. Consideration of action with regard to purchase of real property located near Littler and 2nd Street in Downtown Edmond.

Motion by Lamb, seconded by Miller, to authorize City Attorney to proceed with purchase negotiations on the above property. **Motion carried** as follows:

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

14. NEW BUSINESS:

Councilmember Lamb stated at the June 26th meeting he advised

Council that they had received a draft copy of Title 22 and he requested direction from Council as to whether they would prefer to discuss this issue during a regular meeting or a workshop. He stated the steering committee met last week and considered that they were finished and recommended Title 22 go forward with a public hearing. Consensus of Council was to schedule a workshop in order to include the Planning Commission.

Several citizens addressed Council regarding the sound system for the Council Chambers. They stated it was very difficult to hear what was being said by various Councilmembers and encouraged the Council to upgrade the sound system. Mayor Naifeh stated remodeling of the Council Chambers is in this fiscal year's budget and will be completed in the near future.

Josh Moore addressed Council and encouraged all citizens to vote yes on renewal of the one cent sales tax.

Mayor Naifeh stated there is some confusion regarding this tax and requested staff address this issue.

Larry Stevens, City Manager, addressed Council and stated a segment of the population mistakenly think the tax is part of the original Capital Improvements Sales Tax that was approved in 1996. He stated this tax is a renewal of the existing sales tax which is part of the General Fund that was first approved in 1976 with renewal every 10 years. He noted the sales tax has been approved three consecutive times.

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

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

City Clerk

Mayor