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**DRAFT MINUTES**

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**ROLL CALL & DETERMINATION OF QUORUM**

Council President Horn called the meeting to order at 6:30 pm. He asked for a moment of silence and led the Pledge of Allegiance.

Interim Clerk Riffle announced a quorum with four Councilmembers and Mayor Dowless present. She said that Councilmember Pierce requested to be excused.

Councilmember Chotas made a motion to excuse Councilmember Pierce's absence. The motion was seconded by Councilmember Rader. Motion approved by voice vote (4/0).

(Minutes reflect the order of business.)

**PRESENTATION OF PROCLAMATION**

- Week of the Family - November 5 - 12, 2022

Mayor Dowless presented a Proclamation proclaiming November 5 through November 11, 2022, as the Week of the Family in the City of Edgewood.

**CONSENT AGENDA**

- August 15, 2022 Budget Workshop Meeting Minutes
- September 20, 2022 Council Meeting Minutes

Councilmember Rader made a motion to approve the Consent Agenda; seconded by Councilmember Lomas. Motion approved by voice vote (4/0).

**ORDINANCES - None**

**PUBLIC HEARINGS (ORDINANCES – SECOND READINGS & RELATED ACTION)**

- **Ordinance 2022-06**

AN ORDINANCE OF THE CITY OF EDGEWOOD AMENDING 2 CHAPTER 134 OF THE CODE OF ORDINANCES RELATED TO 3 LOCATION, HEIGHT, AND CONSTRUCTION STANDARDS AND 4 REGULATIONS APPLICABLE TO FENCES AND SCREENING WALLS; 5 PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION, 6 CONFLICTS AND AN EFFECTIVE DATE.

Attorney Smith read the second reading of Ordinance 2022-06 in title only.

Planner Hardgrove reviewed the changes made resulting from the first reading.

There were no public comments.

***Councilmember Rader made a motion to approve Ordinance 2022-06. The motion was seconded by Councilmember Lomas. Motion approved (4/0).***

The motion was approved by roll call vote:

Councilmember Rader	Approve
Councilmember Chotas	Approve
Councilmember Lomas	Approve
Council President Horn	Approve
Councilmember Pierce	Absent

**UNFINISHED BUSINESS - none**

**NEW BUSINESS**

- 524 Harbour Island Road Boat Dock

Engineer Lane introduced a proposed boat dock at 524 Harbour Island Road. The boat dock was presented to City Council due to objections that were submitted to the City as a result of the public notice that was mailed on August 24, 2022, to all properties within 300 feet of the subject property.

Engineer Lane said that CPH reviewed the proposed plans and found that the dock met City Code. The existing dock was constructed as a notch into the seawall. The applicant proposes to cover the platform and expand into the canal.

Engineer Lane said that CPH has no objections to the plans.

Councilmember Chotas asked if there is enough room to navigate between the other docks in the canal. Engineer Lane replied that the Code is adequate to allow safe navigation.

Engineer Lane said he requested, but did not receive, the dimension of the corner of the proposed dock to the docks on the opposite side of the canal. He said if the other docks are built to code, it would leave 24 feet of navigable water. Even if the boat docks were built more than 12 feet into the canal, there would not be a navigation issue; however, he requested additional information from the applicant.

Engineer Lane confirmed to Council President Horn that they required that the applicant to inform the City when the stakes were installed so that CPH could confirm measurements.

Council President Horn said the City should have Orange County Marine Patrol assess the navigability.

Engineer Lane explained to Councilmember Chotas that in the past, the City requested the marine patrol to confirm navigability for docks that were in review after they were built.

Attorney Smith confirmed to Council President Horn that a dock that impairs navigability would not be permitted.

Applicant Rachel Willson said she does not intend to ruin the navigability for anyone. She said the current dock has been there for about 30 years and is built into the seawall.

Councilmember Rader said it is about relative position, not the size of the dock. He asked if they looked at alternatives or a narrower walkway. Wilson responded that they moved the position so it would not be next to the other boat dock. She said canal is quite wide at that location and the stakes that are out there are wider set than the actual boat dock.

#### Public Comment

Joseph Olear, an Edgewood resident, said his dock is across the canal at 449 Harbour Oaks Pointe Drive, and he is concerned about boaters potentially hitting his dock due to its location.

Mr. Olear told Councilmember Rader the he was granted a variance for his boat dock.

Jimmy Philpot, an Edgewood resident, said he also lives across the canal. He explained that the docks are not offset and he is concerned about wind and a boat hitting his boat or his dock. He would prefer that the docks be staggered.

Reed Clary, a representative of the Harbour Oaks Pointe HOA, said other docks would be affected by the location of the dock. He said the width of the canal should be verified by an independent engineer and that the width is tight for safe navigability. He asked how difficult it would be to relocate the dock.

Rhonda Jackson, with BlueWater Dock and Boat Lifts, said they need to relocate the pipes. She told Councilmember Chotas that they would go out into the water to measure where to position the PVC stakes.

Councilmember Chotas suggested a continuance as it seemed prudent to get extra data.

Councilmember Rader noted that residents from the north side of the canal were not in attendance.

Mr. Clary said it was suggested to move the dock to the east, but the existing platform was built into the seawall and code does not allow more than one dock.

Attorney Smith noted that if the proposed dock meets Code, then the issue is navigability.

Councilmember Rader agreed that a navigability assessment should be done. He added that the applicant could consider another configuration before coming back to Council.

Further discussion ensued regarding the position of the markers.

Clerk Riffle confirmed she would ask for the assessment from Orange County Sheriff's Office marine patrol.

***Council President Horn made a motion to table the business to November 15, 2022 City Council meeting at 6:30 pm. The motion was seconded by Councilmember Rader. Motion approved by voice vote (4/0).***

**GENERAL INFORMATION** - none

### **CITIZEN COMMENTS**

Nelson Lerma of Mecato's Bakery and Café submitted drawings that pertained to issues with their building that they were not previously aware of. He said the construction on the building was faulty. He explained some of the problems including that the bricks are not attached to the cinderblock wall and they need to take them down and add rebar, leaving the slab and the footer in place.

Attorney Smith said the waivers granted parking because the building was good. It is significant that the slab and the footers will not be changed. He said he spoke with Planner Hardgrove and they did not want to mislead the Council regarding the waivers and wanted to determine if they saw a need to modify them.

Councilmember Rader said this was unforeseen and good faith approval was based on all known conditions. He noted that he does not want to create a precedent to correct unwanted conditions.

City Attorney Smith agreed that an approval could be made because of good faith application and efforts on the part of the applicant.

Councilmember Chotas thanked Mr. Lerma for trying to save the integrity of the building and for salvaging the old bricks in a safe way. He said he supported the request.

There were no public comments.

***Councilmember Rader made a motion that the approved waivers would remain in place given the good faith and the conditions that were discovered during the careful demolition. The motion was seconded by Councilmember Lomas. Motion approved by voice vote (4/0).***

### **BOARDS & COMMITTEES**

- Boards and Committees Planning & Zoning Report
- Waiver 2022-01: 4800 S. Orange Ave. - Car Wash

Planner Hardgrove explained that this agenda item is a request for waivers to ECD standards for a proposed car wash at 4800 South Orange Avenue, the current location of the Coq Au Vin Restaurant.

The primary waiver request is to allow the building to be perpendicular to Orange Avenue rather than parallel so that the northern 1/3 of the property would be reserved for the Holden Avenue extension. Orange County eliminated that alternative, the justification for the waiver no longer holds true, and staff recommends denial.

Planner Hardgrove spoke with the applicant and they have a preliminary site plan to go back to meeting the ECD requirements.

She said that car washes are allowed in the ECD if they are full-service only per code requirements Section 134-472.

Bradley Busbin, with Busbin Law Firm, is the attorney for the applicant. He said his client made provisions for the realignment and they now withdraw their waiver requests. He asked for clarification on the definition of a full-service carwash.

Discussion ensued amongst Councilmembers on the services offered by a full-service car wash. Council President Horn read the code that "All washing, waxing, and detailing of automobiles shall be within an enclosed building. "

Attorney Busbin said a self-service carwash is one where the customer washes the car themselves. He showed examples from Google and said this proposed use is fully automated; the owner would not wash their own car.

Attorney Smith said the applicant wants to know what the Council considers to be a full-service carwash so that it is worth their while to submit a revised site plan. Councilmember Rader said it would ultimately come down to a definition.

#### Public Comment

Sue Fulford, an Edgewood business owner said her property is next door does not object to the business but to the design on the property. She said he is concerned about the vacuum being located outside.

Attorney Busbin said the vacuums would not be seen from the road and now that there will be no realignment, the design will conform to the ECD.

Public comment was received from Edgewood resident, Tina Demostenes, which City Clerk Riffle read for the record.

Councilmember Chotas said he does not want a car wash, but he cannot vote against it as it exists under the code. Councilmember Lomas agreed that it appears to be permitted in Code. Councilmember Rader said he agrees with the sentiment but this does not meet a standard of a full-service car wash.

Planner Hargrove clarified that vacuums are allowed on the side if it is screened.

Councilmember Chotas said he is not willing for the City to litigate that it is more important for the applicant to have attendants dry the vehicles rather than blowing them dry. He said he agrees with Councilmember Rader that Council wants to improve Edgewood, and this does not seem to be a step in that direction.

Planner Hardgrove asked if Council would define the attributes of a full-service car wash so the applicant can meet the criteria.

Attorney Smith said there could be a controversy if there is a denial.

Further discussion ensued regarding vacuuming done by the customer versus the attendant. Councilmember Rader said he was not inclined to make a motion this evening.

Attorney Busbin said the code is ambiguous.  
There was no vote.

### **Mayor Dowless' Report**

#### Commercial Planned Development

Mayor Dowless said that he authorized Planner Hardgrove to retransmit the commercial planned development to the State. This is a tool that Council discussed before and it was determined there were other applications and areas this tool could be applied. In addition to the Randall Knives property, this could be applied to the Boise Cascade property and the church. He said having this tool would enable the City to have more control over uses, especially when abutting residential areas.

Mayor Dowless asked Council to authorize Planner Hardgrove to resubmit as they have to start over.

Attorney Smith said it would come back to Council for the first reading.

Councilmember Rader recalled that this was approved on first reading. Council saw the second reading at the same time it was intended for Planning and Zoning to discuss the zoning change that was supposed to come with it, because this is a comprehensive plan change. However, Planning and Zoning did not actually have the discussion because they ran out of agenda time.

Councilmember Rader noted that he was also opposed to the concept for one applicant and wanted examples of how the City would benefit from other cases. He would like to discuss allowable uses when this comes forward again. He wants a lot of standards with the zoning process.

There was consensus from the Council to move forward.

### **STAFF REPORTS**

- **City Attorney Smith**
- **Police Department**

Acting Chief Cardinal delivered the report for the Police Department

In response to Councilmember Rader, Acting Chief Cardinal said he would check on the alarm that occurred in Legacy the previous week.

Mayor Dowless said the City of Belle Isle complimented Edgewood's Police Department on their teamwork in preparing for the hurricane. He said the Police Department and City Hall did a good job with preparations for debris cleanup. Much of the County has not been cleaned up.

- **City Clerk Riffle**

Clerk Riffle said she found the FEMA representative and she and the Police Department would meet with them the next day.

She said that the budget was submitted to the State on time and she is awaiting the response from their review.

She received a request for financial assistance of \$791.00 from the businesses at Commerce Drive to help pay for an excavator needed to repair their stormwater. There was damage caused by the Force Four stormwater pond breaching their pond during Hurricane Ian and the HOA does not have the money for repair.

Councilmember Rader asked if there was a public reason to assist them and Mayor Dowless responded that it is stormwater.

Attorney Smith advised considering what precedent it would set the next time businesses requested financial assistance from the City.

In response to Councilmember Rader, Clerk Riffle said Force Four businesses and the Commerce Drive HOA own their own stormwater ponds.

Code Enforcement Salemi said Code Enforcement would have to enforce each business on Force Four Parkway because there is no longer an HOA. The business owners hold the responsibility. Councilmember Rader confirmed this is a code enforcement issue.

Councilmember Chotas stated the City's budget comes from the citizens in taxes and that the City cannot spend money in taxes on something no matter how good without going through the proper process.

Councilmember Rader said if there is no outfall, it is a private issue. If these ponds have separate outfalls that fall in the public domain, but the only information given was that a pond failed. He thinks that Force Four needs to be code enforced for not maintaining their pond.

Councilmember Chotas said he would like a paper trail with what and why public funds are necessary, and whether should the funds should be reimbursed. He would like to know what the damage would be to public facilities if the expenditure is not made.

Horn said a pond has to be engineered and does not want to contribute to the pond being fixed without the proper engineering process.

Clerk Riffle said she informed the Commerce Drive HOA that the pond had to be repaired with engineering and they could not just take the excavator and clean the pond.



**MAYOR AND CITY COUNCIL REPORTS**

- Mayor Dowless  
Mayor Dowless said he asked Attorney Smith to draw up an agreement for the best way to part ways with Chief Freeburg.

Attorney Smith said the separation agreement is in recognition that everyone wished for a different outcome but that Chief Freeburg is willing to accept the termination of his contract. With the termination of the contract there is no investigation so there is no fault. This is a final decision and he cannot come back to say he should not have been terminated.

Attorney Smith noted that findings are consistent with State law and is as simple as possible.

Dowless said this requires Council's approval.

The Council had no objection to the separation agreement.

There was no public comment.

Acting Chief Cardinal said that it is a hard step to be in this position and he would be available if Council had any questions.

Attorney Smith suggested to make a motion to terminate Chief Freeburg's employment agreement as of October 31,2022, and approve the execution of the separation agreement, dependent on Chief Freeburg's approval of the separation agreement.

***Councilmember Chotas made a motion to approve the separation agreement in the form submitted to Council in order to effectuate the actions set forth in the separation agreement. The motion was seconded by Council President Horn. Motion approved (4/0).***

The motion was approved by roll call vote.

Councilmember Rader	Approve
Councilmember Chotas	Approve
Councilmember Lomas	Approve
Councilmember Horn	Approve
Councilmember Pierce	Absent

- Council Member Chotas – No report.
- Council Member Pierce - Absent.
- Council Member Rader

Councilmember Rader spoke to Toll Brothers and they should be closing on the Haven Oaks Planned Development in two weeks. They are getting close to starting work.

- Council Member Lomas  
Councilmember Lomas asked how much time it should take for Orange County to provide a new realignment option at Orange and Holden Avenue. Mayor Dowless said when the traffic



backs up City Clerk Riffle will log the calls and give the caller Commissioner Uribe's contact information.

- Council President Horn  
Council President Horn said he recently had a fire in his house from an old breaker. He said he was able to turn power off quickly and that the Fire Department showed up quickly.

**ADJOURNMENT**

Council President Horn made a motion to adjourn the meeting at 8:32 pm

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Richard A. Horn, Council President

Attest:

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Sandra Riffle, City Clerk

Approved in the \_\_\_\_\_ City Council Meeting

