

**EL DORADO CITY COMMISSION MEETING MINUTES**

**June 7, 1999**

The El Dorado City Commission met in regular session on Monday, June 7, 1999 at 7:30 p.m. in the Court/Commission room. The following were present: Mayor Susan J. Seeber, Commissioner Brian L. Clites, Commissioner Betty J. Kirkpatrick, Commissioner Betty Criss, Commissioner Don Storrer, Director of Administration Gus Collins, City Engineer Bruce Remsberg, City Clerk Dee Anne Grunder, and City Attorney Mike Coash. City Manager Stan Stewart was absent.

**VISITORS**

Tim Connell	P.O. Box 6	El Dorado, Kansas
Roger Cutsinger	712 W. 14 <sup>th</sup>	El Dorado, Kansas
George Ball	1409 W. Pine	El Dorado, Kansas
Neil Buckman	737 Harvard	El Dorado, Kansas
Kevin Wishart	1336 Crescent	El Dorado, Kansas
Ed A. Gard	2325 Wedgewood Drive	El Dorado, Kansas
Mike Boucher	El Dorado Times	El Dorado, Kansas

**INVOCATION**

Mayor Seeber provided the invocation

**PLEDGE OF ALLEGIANCE**

Mr. George Ball led the Governing Body and those attending in the pledge of allegiance.

**PERSONAL APPEARANCES**

**Tim Connell - Rural Water Districts**

Mr. Tim Connell, representative of the Rural Water Districts (RWDs), appeared before the Governing Body. Mr. Connell stated that in years past the RWDs had signed contracts with the City of El Dorado stating that any water rate increases that the City had, would reflect a proportional increase to the RWDs. He noted that in December, 1993 the RWDs requested that they receive adequate notice should the City increase rates. In 1993 the City passed a rate increase of \$ .02 (for every 100 cubic feet of water used) each year for the next five years. Mr. Connell explained that the City and the RWD's usage of water is approximately the same, the City utilizing approximately 53% and the RWDs approximately 47%.

Mr. Connell stated that in March, 1997 the RWDs received a letter stating that the City would be utilizing the firm of Black and Veatch to perform a rate study, and requested the RWDs participation. There were two meetings held. The third meeting was to consist of Black and Veatch informing them of the level of users and how the costs would be attributed. This would consist of different rates for the small residential user, the medium user, and still another rate for the larger users. In the fall of 1997 they still had not had the meeting. The City officials informed Mr. Connell that they were still waiting on the results from Black and Veatch. On December 22, 1998, City Manager Stan Stewart wrote a letter to the RWDs that outlined a rate increase that was to be effective January 1, 1999. Mr. Connell noted that in the past, users outside of the city limits paid 175% of the water rate. The letter stated future increases would be at 200%. Mr. Connell stated that he did not believe this was adequate time for them to make budget

adjustments. He further stated that they need approximately six months notice prior to any increases to make the proper budget adjustments.

Mr. Connell stated that the RWDs believe that: 1.) they should be allowed reasonable notice of rate increases as they had previously requested, and 2.) the RWDs should be provided the opportunity to have input regarding the rate increases. He then noted that they are requesting the following: 1.) The January 1, 1999 rate increase be rescinded until they can be provided with adequate notice, and 2.) The RWDs have input regarding the rate structure. He further noted that the proposition of a County wholesale water district is irrelevant.

Director of Administration Collins stated that the RWDs are high volume users, therefore, they receive the benefit of the lesser rate provided in the rate structure. He noted that the RWDs participated in two meetings. He further noted that ongoing negotiations with the City of Augusta caused the delay in the notification of the increases. Mr. Collins recommended against rescinding the rate increase.

Commissioner Kirkpatrick confirmed that the rate study recommended a rate increase of \$ .06 and the increase was only \$.02.

Mr. Connell stated that the RWDs were present at the first two meetings. He noted that these were informational meetings that primarily consisted of the representative of Black and Veatch speaking of current uses and future proposed uses based on the growth of the community. He further noted that there was no meeting scheduled that would allow the RWDs to provide their input as was previously indicated.

Mayor Seeber questioned whether the rate increase in January was for water used in December.

Director of Administration Collins stated that she was correct. The January increase was for water used in December.

Mayor Seeber noted that she believed the RWDs should be notified in time to prepare for the increase in their budget process.

Director of Administration Collins stated that during the City's budget process the Governing Body is notified of any proposed water rate increase. They can at that time notify the RWDs.

Commissioner Storrer stated that he disagrees with an increase implemented after the water had been used.

Mayor Seeber stated that the City would be able to notify the RWDs of any rate increases in August during the budget process for an increase to be effective January 1, the following year. Mayor Seeber then noted that she believes the notification of any increases should be prior to the usage.

Director of Administration Collins stated that City staff could do that.

Mayor Seeber stated that the \$ .02 increase has been the norm and did not believe rescinding it for a few months would gain them anything.

Mr. Connell stated that the original agreement in 1993 was to have the increase of \$.02 for each of the next five years. They were not aware of an increase after that time.

Mayor Seeber stated that the City possibly failed by not having the final meeting in order for the RWDs to provide their input on the proposed water rate increases. She noted that in the future the City needs to work harder to provide more timely notification of any water rate increases to the RWDs.

Commissioner Criss stated that the City should be allowed to set the prices, regardless of the input from the RWDs.

Mr. Connell stated that he agreed with her on that. He is simply requesting that the RWDs be provided the opportunity to provide their input especially when there has been a water rate study performed. So far they have not been given that opportunity and do not believe the City has kept their part of the bargain.

Commissioner Kirkpatrick asked Mr. Connell if they were more concerned with the fact that they were not allowed a third meeting or the rate increase.

Mr. Connell stated that prices are going to increase. Their concern is the way in which the increased costs are allocated.

Mayor Seeber then requested City staff to provide Mr. Connell with an allocation of the increased water rate costs. If at that time it is needed, the City could meet with the representatives from the RWDs.

#### **Ed Gard, Sales Tax Advisory Committee**

Mr. Ed Gard, 2325 Wedgewood Drive, Chairman of the Sales Tax Advisory Committee, appeared before the Governing Body to report back to them regarding the proposed procedures for the paving of certain streets that are not currently City standard streets within the City of El Dorado. The primary issue was the proposal of a 2" asphalt overlay that would be placed immediately on the non-conforming streets. Mr. Gard noted that the 2" overlay is contingent upon the property owners signing an agreement that they would not protest the pre-established City standard street improvements to be performed in the future. Property owners would be allowed the opportunity to attend informational meetings and at that time City staff would be able to provide proposed cost estimates. The proposed street improvements include a 31' wide street with a 9" overlay. Should the property owners decide to petition in their street immediately, their assessment would decrease by the amount of the cost of the 2" overlay.

Mr. Gard then stated that in February, 1999 a public hearing was held to receive public input regarding whether to use sales tax funds for the 2" overlay. He noted that as a result of the public hearings and the meetings of the Sales Tax Advisory Committee, they arrived at the following recommendation:

1. Allow the property owners longer than two months to decide whether or not to participate in the proposed program.
2. Delete the paragraph that pertains to the credit should the property owner wish to petition the street initially.

Mr. Gard stated that subject to the changes he outlined, the committee voted unanimously to the recommendations of the proposed policy.

Mayor Seeber thanked Mr. Gard for his report and thanked the committee members for their participation.

**CONSENT AGENDA**

A. Approval of the May 17, 1999 City Commission Minutes with the exception of the date of the Mayor's Coffee changed from June 17, 1999 to July 17, 1999.

B. Approval of the June 1, 1999 Work Session Minutes.

C. Approval of the Engineer's Third Payment Estimate dated May 26, 1999 on Project No. 840 (Bike path) to the Contractor, Central Paving, Inc., in the amount of \$107,931.85.

Commissioner Clites moved the Consent Agenda, as amended, be approved.

Commissioner Kirkpatrick seconded the motion and it carried 5-0.

**APPROPRIATION ORDINANCE NO. 99-05**

Commissioner Kirkpatrick moved that Appropriation Ordinance No. 99-05 in the amount of \$ 798,269.40 be approved.

Commissioner Criss seconded the motion and it carried 5-0.

**FINAL PLAT OF CRISS FOURTH ADDITION**

Commissioner Criss stated that she would abstain from this item.

Mr. Roger Cutsinger, representative of Ramon and Betty Criss, owners of the property, appeared before the Governing Body. This plat has 49 lots and provides another entrance and/or exit to the addition. He noted that they have been working with City staff and he believes all easements that are needed have been provided.

Mayor Seeber questioned the standard depth and width of the lots.

Mr. Cutsinger stated there were approximately six lots that they requested a variance on the depth. In doing this they extended the width of these lots.

Mayor Seeber questioned the width.

Mr. Cutsinger stated that the width is correct.

Commissioner Kirkpatrick questioned whether the streets were standard width.

Mr. Cutsinger stated that they met the standard regulations.

Mayor Seeber questioned whether there was a reason that they should not grant the variance.

City Engineer Remsberg stated that the lots met regulations.

Commissioner Clites questioned whether the grade of the entrance to 12<sup>th</sup> Street would be too steep.

Mr. Cutsinger stated that it is steep, but it will level off before it reaches 12<sup>th</sup> Street, similar to the existing entrance.

Commissioner Kirkpatrick questioned whether potential property owners would be requesting variances on the smaller lots.

Mr. Cutsinger stated that they are attempting to avoid those particular situations.

Commissioner Storrer moved that the Final Plat of Criss Fourth Addition be accepted as presented.

Commissioner Clites seconded the motion and it carried 4-0-1. Commissioner Criss abstained.

**SPECIAL USE PERMIT AT 500/502 S. HIGH**

The Planning commission recommended the request be granted, subject to the following additional requirements:

1. That the exterior of the building be repaired and refurbished to present an aesthetic appearance.
2. That there be no outside storage.
3. That there be no exterior signage.
4. That this be non-transferable.

City Engineer Remsberg noted that the requesting party was not present at the meeting.

Mayor Seeber questioned whether there would be a required timeframe for the owners to repair and refurbish the property.

City Engineer Remsberg stated that a timeframe was implied but not specifically stated.

Commissioner Clites asked about the extent of the repairs.

City Engineer Remsberg stated that this referred primarily to painting and clean up of the property.

Mayor Seeber questioned what would happen in the event the property owner does not comply with the required timeframe to make the repairs.

City Engineer Remsberg stated that then the property would not be in compliance with the special use permit.

Mayor Seeber then questioned the parking.

City Engineer Remsberg stated that there would be available street parking, but the issue of any other parking was not addressed.

Commissioner Clites asked City Engineer Remsberg if the property owner mentioned a timeframe.

City Engineer Remsberg stated that the property owner seemed anxious to proceed. Mr. Remsberg suggested that the date he opens for business is when the time limit should begin.

**RESOLUTION NO. 2220**

Mayor Seeber moved that the recommendation of the Planning Commission be approved with the additional stipulation that all refurbishing be completed within 90 days after he opens for business and that Resolution No. 2220 be adopted.

Commissioner Kirkpatrick seconded the motion and it carried 5-0.

**SPECIAL USE PERMIT AT 614/616 N. ATCHISON**

The Planning Commission recommended to the City Commission that the request be granted, subject to the following additional requirements:

1. That the exterior of the facility be compatible with the existing neighborhood.
2. That the area be fenced in on the north and south sides of the facility.
3. That off street parking be limited to the area behind the facility.
4. That no on street parking by students be permitted.
5. That his be non-transferable.

Mayor Seeber noted that the property owner was not present at this meeting. She then asked if the school already owned this property or if they planned to purchase it should the special use permit be approved.

City Engineer Remsberg stated that this was unknown to him.

Mayor Seeber then had questions regarding the fencing that the Planning Commission recommended to be placed on the north and south sides. She asked if they were required to fence the property to the street.

City Engineer Remsberg stated that the fencing could be placed to the property line. The property owners are required to follow the guidelines for fencing in a residential area.

Mayor Seeber stated that the Planning Commission recommended that on-street parking not be permitted by students. She questioned whether faculty and employees should be added to that as well.

City Engineer Remsberg noted that the school has indicated that faculty parking would be provided at the rear of the facility. This would be the Governing Body's decision.

Mayor Seeber questioned whether the off-street parking was going to be paved. Her concern was when the property sold for a residential home, they likely would not want all that area paved.

City Engineer Remsberg stated that he understood it would be paved.

Mayor Seeber then questioned whether the concerns of the ADA and fire codes had been addressed.

Commissioner Kirkpatrick asked whether fire sprinklers were required.

City Engineer Remsberg noted that these concerns would be addressed at the time the building permit is issued. At this time the primary concern is proper land use. The requesting party plans to utilize this facility, should they not be able to meet the building code requirements with this facility, then other options will be addressed.

Commissioner Storrer stated that the City building inspector would address much of these concerns.

Mayor Seeber stated that should they not be able to utilize the house for whatever reason, then they must sell anyway.

Commissioner Clites asked what maintenance the City does on the alley.

City Engineer Remsberg noted that generally the City does not maintain alleys.

Commissioner Clites then stated that should they use the alley as a main access to the property and problems arise, would the City be required to maintain.

City Engineer Remsberg indicated that there are several properties within the City that use the alley as their primary access. The City does very little maintenance on alleys.

Commissioner Clites stated that the only change from the Planning Commission's recommendations that he would request would be to require access through the front of the property. He does not believe the alley is adequate for access to the property.

Commissioner Storrer asked whether the alley could be widened back onto this property.

Commissioner Clites stated that there are two structures that would not allow this.

Mayor Seeber again addressed her concern regarding the paving of the parking lot.

**RESOLUTION NO. 2221**

Commissioner Clites moved that in the case of the Special Use Permit for an Alternative School in an R-1 District Zone, the City Commission adopt the recommendation of the Planning Commission with the following revision: that the off-street parking be limited to the area behind the facility and the access to that parking must be from Atchison with no alley access and that Resolution No. 2221, A RESOLUTION SETTING OUT THE FINDINGS OF THE CITY OF EL DORADO IN SPECIAL USE CASE NO. 99-04, be adopted.

Commissioner Kirkpatrick seconded the motion and it carried 5-0.

**CAPITAL IMPROVEMENT PLAN PUBLIC HEARING #2**

**PUBLIC HEARING**

Mayor Seeber opened the public hearing regarding the Capital Improvement Plan.

With no one appearing before the Governing Body, Mayor Seeber declared the public hearing closed.

**PAVING COMMERCE STREET FROM CENTRAL TO ENTERPRISE**

City Engineer Remsberg stated that over the past years there have been a number of attempts to get this street paved at the request of some of the property owners in the area. The City has been unsuccessful in this due to the resistance of a couple of owners and the reluctance of Butler County to proceed without a clear majority in favor. Since Butler

County owns such a large percentage of the area within the Benefit District, it has been impossible to get a sufficient petition without their signature.

Mr. Remsberg further stated that the City has been contacted by the current owner of Vending Service, Inc., Mike Arnett, with a request to pave the street. City staff's recommendation is to hold a public hearing. After the public hearing the Governing Body would have the option to pass a resolution of necessity to order the paving completed, which would be subject to a 20-day protest period by the residents within the area. The City would also notify owners of this action by mail even though state law does not require it.

**RESOLUTION NO. 2222**

Commissioner Criss moved that Resolution No. 2222 ordering a public hearing on the paving of Project No. 926, more specifically described therein, be adopted.

Commissioner Storrer seconded the motion and it carried 5-0.

**SPECIAL ASSESSMENTS FOR THE STREETScape – PROJECT NO. 841**

Mayor Seeber stated that this project was petitioned in under KSA 12-6a in December, 1995. The total local budget set out in the petition was \$364,750. The amount to be spread as assessments is \$89,425.

Mayor Seeber questioned the overrun of \$11,573.73.

Director of Administration Collins stated that the overrun had been reduced to \$8,602.65. The City is still negotiating in regard to who is responsible for the overrun. The construction of the flagpoles and the change in the brick color are two items that are still being negotiated. The specials are correct and the City plans to proceed with levying those costs to the benefit district.

Commissioner Kirkpatrick asked where the brick was used that was in question.

City Engineer Remsberg stated that it is the brick color that Mr. Collins was referring to, not the brick. The City did have to pay a restocking charge and shipping for the change in color.

Mayor Seeber moved that the City of El Dorado accept the completed work of Project No. 841 by Bryant and Bryant Construction, Inc. and the final cost be determined and that the City Commission meet on the 21<sup>st</sup> day of June, 1999 for the purpose of considering the proposed assessments of Project No. 841.

Commissioner Criss seconded the motion and it carried 5-0.

**SANITARY SEWER TO SERVE THE RIVER ROAD AREA**

City Engineer Remsberg stated that a sanitary sewer service to the area east of the Walnut River has been an issue for a number of years. The construction of the Walnut River Apartments in 1994 necessitated the construction of a lift station and some sewer line to provide service for that development.

City Engineer Remsberg stated that in August, 1997 a complaint was filed with the Butler County Health Department about a sewage system within the area. Kansas Department of Health and Environment has issued an order that this be corrected. It is City staff's opinion that establishing a project to construct public sewers to serve the entire area would be the best solution for this situation. Mr. Remsberg noted that at the November 3, 1997 City Commission meeting the Governing Body took the preliminary action of ordering the plans, specifications and preparation of an estimate of cost. The owners within the area were notified of this meeting and an informational meeting was held on November 18, 1998. The plans and estimated costs were presented to the owners along with a request for the necessary easements. Mr. Remsberg stated that since the necessary easements have been acquired, the plans need to be approved and a sanitary sewer district approved.

Commissioner Criss questioned whether this would take care of any future development to the east.

City Engineer Remsberg stated that this would take care of development to the east. Should there be considerable development to the east, someday larger pumps may need to be added.

Commissioner Kirkpatrick asked whether this would connect with the Correctional Facility.

City Engineer Remsberg answered no, the Correctional Facility's lift station is located south of this area.

Mayor Seeber questioned the allocation of the costs.

City Engineer Remsberg stated that only the costs that will serve everyone are spread among the property owners. Cost related to a specific property are assessed to that property.

Commissioner Storrer asked whether the proposed 8" line would drain naturally and not require a lift station.

City Engineer Remsberg stated that this will gravity drain to a specific manhole.

**APPROVE PLANS, SPECIFICATIONS AND ESTIMATE OF COST**

Commissioner Kirkpatrick moved that the City Engineer's plans, specification and estimate of cost amounting to \$172,000 for constructing a sanitary sewer to serve the River Road Area, designated as Project No. 900, as filed by the City Engineer in the City Clerk's office on June 4, 1999, be approved.

Commissioner Storrer seconded the motion and it carried 5-0.

**ORDINANCE NO. S-1070 - CREATING A SANITARY DISTRICT**

Commissioner Seeber moved that Ordinance No. S-1070 creating the described taxing district for the sanitary sewer, be placed on its passage and approved.

Commissioner Criss seconded the motion.

**ROLL CALL**

Commissioner Brian L. Clites	yea
Commissioner Betty J. Kirkpatrick	yea
Mayor Susan J. Seeber	yea
Commissioner Betty Criss	yea
Commissioner Don Storrer	yea

**MOTION TO SOLICIT BIDS**

Commissioner Criss moved that the City Manager solicits bids for the construction of Project No. 900 and that the bids be considered at the regular meeting on June 21, 1999.

Commissioner Storrer seconded the motion and it carried 5-0.

**LAND SALE – CENTRAL AND OHIO**

Mayor Seeber stated that the City is going to potentially sell a parcel of land 12 feet by 101 feet in the 100 block of North Ohio behind H&R Block to the landowners adjacent. Mayor Seeber then asked about the assessed land value of the adjoining property.

Director of Administration Collins stated that this was never appraised. City staff then got with the County Appraiser to arrive at a value. They arrived at a cost of \$300.00 per property owner.

Commissioner Storrer questioned whether there were any back taxes on this property.

Director of Administration Collins answered that there were no back taxes.

Mayor Seeber moved to authorize the sale of the parcel of land.

Commissioner Criss seconded the motion and it carried 5-0.

**LIBRARY BOARD APPOINTMENT**

Mayor Seeber stated that Mr. Rod Ziegler was reappointed, however, subsequently resigned his position as he had taken on other responsibilities.

Mayor Seeber moved to appoint Morgan Metcalf to fill the unexpired term to the Library Board that expires May 1, 2000.

Commissioner Criss seconded the motion and it carried 5-0.

**MISCELLANEOUS**

**BUDGET WORK SESSION**

Director of Administration Collins stated that there was a work session scheduled for Wednesday, June 9, 1999 at 4:00 p.m. to 5:30 p.m. Directly following is a budget work

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session. There is a luncheon budget work session scheduled for Thursday, June 10, 1999 at 11:30 a.m.

**FOURTH OF JULY CELEBRATION**

Mayor Seeber stated that the Fourth of July Committee is asking for any non-profit organizations that would like to sell concessions. They would need to contact Sindi Sundgren.

**ADJOURNMENT**

Commissioner Kirkpatrick moved the meeting adjourn.

Commissioner Clites seconded the motion and it carried 5-0.

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**Dee Anne Grunder, City Clerk**

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**Susan J. Seeber, Mayor**

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