

EL DORADO CITY COMMISSION MEETING MINUTES

July 7, 2003

The El Dorado City Commission met in regular session on July 7, 2003. The following were present: Mayor Connie Phillips, Commissioner Oral Taylor, Commissioner Linda Clark, Commissioner Brian Shepherd, Commissioner Michael Fagg, City Manager Stan Stewart, Assistant City Manager Gus Collins, City Engineer David Wagner, Interim City Clerk Shauna Johnson, and City Attorney Mike Coash.

VISITORS

Craigery Lorensen	514 W. Olive	El Dorado, Kansas
Darrell Whitney	206 Warren Rd.	El Dorado, Kansas
Bruce Harris	4843 SW Country Lane	El Dorado, Kansas
Leonard A. Smith	601 N. High	El Dorado, Kansas
Nellie A. Smith	601 N. High	El Dorado, Kansas
Larry Adams	1756 W. Third	El Dorado, Kansas
James Inman	2510 W. Central	El Dorado, Kansas
Patricia Spiller	317 W. Olive	El Dorado, Kansas
Paul Erickson	326 N. High	El Dorado, Kansas
Merlin Conine	412 S. Washington	El Dorado, Kansas
Lonnie & Kristen Clark	403 S. Star	El Dorado, Kansas
Chester McCoy	336 Simpson Rd.	El Dorado, Kansas
Jim Miller	345 Hunton Rd.	El Dorado, Kansas

INVOCATION

Pastor Richard Edds provided the invocation.

PLEDGE OF ALLEGIANCE

Pastor Richard Edds lead the Governing Body and the audience in the Pledge of Allegiance.

CONSENT AGENDA

- a) Consider approval of the June 16, 2003, City Commission minutes.
- b) Consider approval of the June 19, 2003, Budget Work Session minutes.
- c) Consider approval of Appropriation Ordinance No. 06-03 in the amount of \$1,446,597.18.
- d) Consider the Engineer’s Fourth Pay Estimate dated June 19, 2003 on Project No. 985, resurfacing Central (State to Jones) and Main (Post to McCollum) to the Contractor, Central Paving, Inc., in the amount of \$1,445.83.
- e) Consider the Engineer’s Third Pay Estimate dated June 19, 2003 on Project No. 944, resurfacing Central (School to State) to the Contractor, Central Paving, Inc., in the amount of \$5,389.29.
- f) Consider the Engineer’s Revised Sixth and Final Pay Estimate June 20, 2003, on Project No. 908-C, Street & Drainage Improvements for the El Dorado Business Park-Phase I, to the Contractor, Central Paving, Inc, in the amount of \$760.

- g) Consider Ordinance No. S-1167, the same being, “an ordinance authorizing the issuance of bonds for Project No. 963, in an amount not to exceed \$370,000, for the payment of or in part of a Water Distribution System- Along the North and South Side of Central Ave. for the purpose of a KDOT Geometric Improvement Project, Widening Central Ave. between Jones and Alleghany.
- h) Consider approval of Resolution No. 2423, a resolution amending Resolution No. 2360 to correct a typographical error with respect to the apportionment of costs of Project No. 957.
- i) Consider Ordinance no. S-1168, the same being, “an ordinance authorizing the issuance of bonds for Project No. 989, in an amount not to exceed \$200,000, for the payment of or in part of the Water Distribution System at Banks-Willhite First Addition.
- j) Consider the Engineer’s First Pay Estimate dated June 20, 2003, to the Contractor, Nowak Construction, Inc., in the amount of \$115,788.54 for Project No. 989.
- k) Consider approval of a Temporary Cereal Malt Beverage License for the Prairie Port Festival and the National Baseball Congress Regional Tournament during the days of July 22 - August 2, 2003, waiving the application fee.

Commissioner Shepherd questioned whether or not all non-profit organizations were allowed Cereal Malt Beverage Licenses on City Property regarding item k.

City Manager Stewart stated that to his knowledge this was the only application that had been received.

Commissioner Taylor had a question about the Appropriation Ordinance. Assistant City Manager Collins answered that the expenditures in question were for hardware upgrades to the phone system included in the 2003 Budget.

Commissioner Fagg questioned the issuance of bonds for project No. 963 (item g). Assistant City Manager Collins answered that the bond were to be Temporary Notes.

Commissioner Clark moved that the Consent Agenda, as presented, be approved.

Commissioner Taylor seconded the motion.

FINAL PLAT OF POTTER’S SECOND ADDITION

Planning Commission Secretary Shaunna Johnson provided a brief explanation, stating that the Planning Commission did approve the final plat at their last meeting with a few changes. Commissioner Fagg asked how far away the Railroad Tracks were from the East side of the property being annexed. City Engineer Dave Wagner stated that there was a 200-foot right-of-way.

Commissioner Taylor moved to accept the Final Plat of Potter’s Second Addition.

Commissioner Fagg seconded the motion.

PUBLIC HEARING REGARDING THE CONDEMNATION OF 317 W. OLIVE-RESOLUTION NO. 2424

Mayor Phillips opened the public hearing asking for a statement from City Building Inspector Loren Wranosky.

Building Inspector Wranosky stated that he received a complaint call on December 31st of 2002 regarding the condition of the house located at 317 W. Olive. He stated that after inspecting the structure he found that the complaint was valid, and sent a letter to the property owner on January 6, 2003 asking him to make contact with him. He did not get a response. Based on the condition of the outside of the house, Mr. Wranosky asked to do an interior inspection of the house and the tenant granted him permission. The next day, he performed an inspection and then sent the original complaint letter with his findings to the owner, Mr. Blount. Mr. Blount did respond to this second letter, and in all there were 40 violations to the Code in the interior of the house. Mr. Wranosky stated that he has done inspections to the interior since this first inspection and most of the violations have been remedied. He has not done a final inspection, as Mr. Blount has not called him to notify him of the status of the interior complaints. The exterior inspection revealed nine general violations. When reviewing the East side foundation wall, there were obvious signs of structural failure at the bottom of the stairwell, and he told Mr. Blount at that time that the existing limestone block foundation would have to be replaced. As an alternative, Mr. Blount suggested to shore up the existing wall, but in doing that, they would not be able to get the support on the outside of the building. Mr. Blount also suggested cinder tile blocks, but Mr. Wranosky stated that block laying is an acquired skill, especially under a 125 year old two story house that was showing signs of structural decay. Mr. Wranosky stated that he was not comfortable with Mr. Blount laying the cinder tile blocks himself. He also stated that a few minutes into the conversation, it became apparent to him that Mr. Blount was not going to accept his recommendations or options for making the foundation structurally sound. Mr. Wranosky stated that he suggested to Mr. Blount to get in contact with a structural engineer, or another building inspector, and if they could provide Mr. Blount with an alternative that would meet the code, he would consider that alternative. Mr. Wranosky provided copies of all inspection reports and a letter of agreement to perform the repairs needed to alleviate the issues he had up to that point, and Mr. Blount would not sign it. Mr. Wranosky stated that he has not been back to do another inspection and will not do so until an agreement is made. He also stated that a structural engineer, another building inspector and an unsolicited gas service employee and he all came to the same conclusion that the structure was in danger of collapse. His recommendation as Building Inspector that until such time the foundation is made structurally sound, the building should be vacated. He also recommended that Mr. Blount satisfy everything in the original agreement and when this is satisfied, a final inspection will be performed and a statement of findings provided. He then was open to any questions from the commissioners.

Commissioner Shepherd questioned the time frame before the house would collapse. Mr. Wranosky stated that he is unsure of the time frame. Commissioner Shepherd also questioned if Mr. Wranosky influenced the Gas Company in any way to make them pull their meter. Mr. Wranosky stated that he was out of town that week, and pulled their meter of their own accord.

Commissioner Fagg asked the origination of another inspection report that was done on the same date as the inspection Mr. Wranosky performed. Mr. Wranosky explained that he had asked the County Building Inspector Mike Cox, to accompany him on this inspection, which was very detailed. Commissioner Clark asked if Mr. Cox had the same opinion of the condition of the house, and Mr. Wranosky concurred. Commissioner Fagg asked if the City and County Building Codes were the same and again, Mr. Wranosky concurred. Commissioner Fagg then asked if the City's Housing Codes were different than those of other city's. Mr. Wranosky replied that the City is in line with other jurisdictions of this size.

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Commissioner Clark asked if the Codes were from the state, and Mr. Wranosky stated that the codes are regional created by the International Conference of Building Officials.

Commissioner Taylor then asked if the Building codes were uniform with the Electrical and Plumbing Codes and with the code of other cities. Mr. Wranosky concurred.

Mayor Phillips then Mr. Wranosky if he had dealt with condemnations before and Mr. Wranosky stated that he had not dealt with condemnations, but had been involved with other houses being razed for not meeting code specifications. Mayor Phillips then asked if the Codes were different for rental property and owner occupied properties. Mr. Wranosky stated that the codes were universal and apply to all occupied structures.

Dick Hartwell, a structural engineer stated that he became involved when Mr. Blount called him and asked him to evaluate the condition of the East foundation wall. He believed that there was a solution to fix the East wall to stabilize it and hold it against any more significant movement. He then stated that City Manager Stewart called him and asked him his opinion on the house. He stated that he told City Manager Stewart that he had only evaluated the East foundation wall. He stated that the City wanted him to evaluate the entire foundation, which he did. Mayor Phillips asked Mr. Hartwell his opinion of the condition of the house. He stated that he is unsure of how much longer the house will last, but in his opinion there are many things that need attention for the house to continue to be structurally sound and for the foundation to continue to support the house above. He believed that the house could be saved, but it would take a lot of attention to do so. Commissioner Clark questioned Mr. Hartwell about whether or not he went into the house when he performed the first inspection. Mr. Hartwell stated that he only went into the basement and since the basement was full of water at the time, he did not go in all the way. Later, when he did the inspection for the City, the water had been pumped out and he was able to evaluate all of the walls in the basement.

Commissioner Shepherd recalled a previous conversation with Mr. Hartwell in which Mr. Hartwell stated that the wall was failing because of a lack of weight on the foundation wall instead of too much weight on the wall. Mr. Hartwell stated that the soil is pushing in on the foundation which is causing the wall to collapse as well as the deterioration of the mortar. Commissioner Shepherd asked Mr. Hartwell his opinion of how long the structure would remain standing as is. Mr. Hartwell replied that if the East wall was fixed, then he believes that it is stabilized. However after going in the second time he found other walls that had mortar joints missing or that were really soft and it was only a matter of time before they shifted.

Mayor Phillips asked Mr. Hartwell if, when doing the second inspection, he had been given any expectation as to what he would find, or if there was anyone who suggested what his findings might be. He replied that no, but he had contacted Mr. Blount since he was the one who had originally contacted him to do an inspection to obtain his approval. Mr. Blount had approved the inspection.

Commissioner Shepherd then asked Mr. Hartwell if he conformed to the Code of Ethics of the National Society of Professional Engineers. Mr. Hartwell said that in fact he does.

Commissioner Taylor then asked Mr. Hartwell if there was a reason why he did not look at or recommend any repairs to additional portions of the structure other than the fact that he could not get in the basement because of the water. Mr. Hartwell explained that he was only asked to look at the East wall. Commissioner Taylor then asked if anyone from City staff had contacted him in an attempt to influence his recommendations in any way before or after his second inspection. Mr. Hartwell replied that to his knowledge no, as he does his own inspections and evaluations and that is how he reports it. He had been contacted by a reporter and the Gas Company in regard to the gas line going into the house.

Jim Miller, 345 Hunton Rd., then spoke about a previous situation that was similar to the issue at hand. He stated that the solution was to fill the basement up with sand and run some

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two-foot square bars of concrete from one wall to the other wall, and therefore the walls would not move. Mayor Phillips asked Mr. Miller if he had fixed the foundation in order to save the house. Mr. Miller said yes he had with everyone's approval and to their satisfaction.

Mr. Miller then questioned a statement made by Mr. Wranosky regarding the fact that a citizen could not pour his own concrete. City Manager Stewart stated that Mr. Wranosky had said that a person needed to be skilled at laying concrete block.

Jerry Blount, 131 Hillside, owner of the property, stated that to his knowledge it was illegal in the City to repair a concrete block foundation. He also read a brief timeline of the issue. He stated that he agreed to all of the agreement except for the part concerning the East wall. He said that he agreed to fix it, but he understood that it was illegal to fix it the way he wanted to: completely remortar the foundation. Mr. Blount stated that Mr. Wranosky told him that if an engineer certified the work then, Mr. Wranosky would accept it. After the project was certified, Mr. Blount stated that Mr. Wranosky told him that the engineer did not know the codes and therefore he would not accept it. Mr. Blount stated that since Mr. Wranosky rejected the report, he had submitted an application to designate the structure as a historic structure. Then, as he stated, the illegal fix becomes mandated by Federal Law. Mr. Blount proceeded to tell the Commission about the two times Mr. Wranosky threatened to throw out the tenants and placard the house. Commissioner Shepherd corrected Mr. Blount in that he did not recall Mr. Wranosky stating that he was going to throw out the tenants and placard the house in his presence. Mayor Phillips asked Mr. Blount if the East wall had been repaired and inspected, and Mr. Blount stated that the work had been done but not inspected. Mayor Phillips asked Mr. Blount if there was a reason why he did not call for an inspection when he did the work. Mr. Blount stated that to his knowledge, Inspectors did not stand by and watch as concrete is being poured. Mr. Blount then passed around photos of the work being done. Commissioner Taylor stated that at the time inspection of the concrete work, there were no forms put up and therefore Mr. Robert Mendoza, interim Building Inspector could not have permitted the work. Mr. Blount then showed the commission a picture of the project showing where he had used rebar to make the foundation more stable.

Mr. Blount explained that he did not take out the wall itself, but did what the engineer recommended and relaid and replaced the mortar. He then poured two pillars into place, and poured in a four inch overlay of the original wall. Mayor Phillips asked if the gas service had been restored to the structure. Mr. Blount answered no, that the City has refused to follow up with any inspection until the Commission makes their decision. Mr. Blount stated that the wall is now 24 inches thick and 8 inches is required. Mayor Phillips questioned if the 24 inches consisted of entirely concrete or consists of a combination of stone and concrete. Mr. Blount answered that the wall has about 4-6 inches of concrete across the face of the wall, which is the same as a masonry cover such as stucco. Mayor Phillips asked if the concrete was fastened to the stone in any way and Mr. Blount answered that the concrete completely surrounds the stone. He also stated that he sent City staff an email stating when he would begin the work on the pillars. He argued that staff knew that these pillars would be a part of the work being done. Commissioner Clark asked if a permit was required to pour concrete, and Mr. Blount concurred and stated that he had bought a blanket permit which allows him to do the work and after the work is completed, he would be charged accordingly.

City Manager Stewart asked Mr. Blount why he chose to come before the City Commission when he was given the opportunity to go before a "specialized board" in this profession that could approve an alternative building technique.

Mr. Blount stated that he had hired another structural engineer to inspect the work after it was performed, and this engineer has found the foundation to be sound. Therefore, Mr. Blount had fulfilled the requirement needed to satisfy Mr. Wranosky's specifications. Mayor Phillips contested the wording of the inspection report as it states that the foundation appears

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to be sound, and the inspector/structural engineer cannot guarantee that the foundation is sound. Mr. Blount stated that all the structural engineer did was a standard inspection.

Mayor Phillips asked Mr. Blount what other work he had done to the house. He stated that he has virtually completed the list of repairs required.

Mayor Phillips then called for Mr. Wranosky to answer some questions regarding his opinion of why Mr. Blount did not sign the initial agreement. Mr. Wranosky stated that he and Mr. Blount disagreed on how to repair the foundation. He also corrected a statement made earlier that in fact it was not illegal to repair a block foundation, but it was illegal to dry stack the blocks without mortar.

Mayor Phillips asked Mr. Wranosky if, since the repairs have been made, he was comfortable with the condition of the house. Mr. Wranosky stated that he has not been under the house since he did the initial inspection.

The discussion continued concerning the fact that a structural engineer deemed the foundation stable, but members of the Commission and Mr. Wranosky were not comfortable with this fact as they could not see what was inside the East wall concrete. The Commission and Mr. Wranosky discussed ways to remedy this fact such as to x-ray the pillars. City Manager Stewart stated that the engineer's report may only state that the structure appears structurally sound because of the new pillars, but he does not know whether or not the pillars were poured to code or with the steel rods placed where they should be.

Commissioner Fagg asked Mr. Blount what part of the agreement he did not want to agree to. Mr. Blount stated that he did agree to the agreement except for the part about the East wall. He continued to say that if Mr. Wranosky will allow him to repair the wall, then he will indeed repair it.

Mr. Blount stated that he believes that he has completed the work necessary to fulfill the requirements, but he also stated that Mr. Mendoza or Mr. Wranosky will not inspect the house until the Commission made their decision or until an agreement was made.

Commissioner Clark suggested tabling the issue, but City Attorney Mike Coash stated that the usual procedure is to adopt the resolution and then give the property owner a number of days to comply. The next step would be to adopt the condemnation ordinance which would be the ordinance that would effectively take the ownership from Mr. Blount and put it into the City's hands. The City would then take whatever steps appropriate to make the structure safe. City Manager Stewart stated that if all of the provisions are met, then the demolition ordinance never comes before the Commission.

Larry Adams, 1756 W. Third, appeared before the Commission to ask if Mr. Wranosky was a licensed Building Inspector. City Manager Stewart stated that he is qualified to do the job. Mr. Adams stated that the Commission is concerned with the qualifications of the structural engineer, yet the Building Inspector is not licensed. He suggested that the Commission allow Mr. Blount to fix the house and be done with the issue.

Mayor Phillips stated that the resolution gives Mr. Blount a certain amount of time to complete the work. She stated that she assumes that Mr. Blount cannot get any work accomplished until Mr. Wranosky and Mr. Blount agree on what needs to be done. She stated that Mr. Blount may not necessarily like what is in the agreement, but Mr. Wranosky's job is to enforce the code. She also stated that if Mr. Blount is unable to complete the work within the specified time period, and has made the effort to complete the work through unusual circumstances, then the Commission would consider that fact.

Commissioner Fagg read part of an email he received and spoke in favor of tabling the issue until the next meeting. Delaying would allow Mr. Wranosky and Mr. Blount a chance to work out an agreement. Commissioner Shepherd was also concerned with the wording of the

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resolution and was also in favor of tabling the issue. He was also in favor of giving Mr. Blount a specific list of requirements to fulfill before they pass the resolution. City Manager Stewart stated that an agreement had already been drawn up and the work was not completed and that is why the issue is before the commission now. Commissioner Taylor was in favor of passing the resolution subject to a meeting and agreement between Mr. Blount and Mr. Wranosky, and subject to a structural engineer inspecting the wall so that the gas service can be restored.

Commissioner Taylor moved that Resolution No. 2424, a resolution finding that a wood frame structure located at El Dorado, Original Town Subdivision, Section 2, Block 13, also known as 317 West Olive and/or 402 South Washington, El Dorado, Kansas, is considered unsafe or dangerous and directing the structure to be repaired or removed within 90 days and the premises made safe and secure. Staff shall meet with the owner and the two structural engineers involved to work out what work needs to be done and a plan for how to accomplish this work. Determination shall be made by the two structural engineers in conjunction with Mr. Wranosky that the East wall is sufficiently stable to support the gas service so that it can be re-metered.

Bruce Harris, Kansas Gas Service, concurred that the gas service would be reconnected after these requirements are fulfilled. He stated that the gas line was in jeopardy due to the collapsing wall. Commissioner Shepherd asked Mr. Harris if his crews could then go to the site and determine that the foundation was secure and restore the service. Mr. Harris stated that this would not happen, as with all structures, the Kansas Gas Service waits until the City Inspection department notifies them that they are released to serve that customer. Mr. Harris went on to say that if the line remained in the structure and the house settled any more, then there would be a danger of a gas leak. Commissioner Shepherd questioned him about a statement made earlier regarding that the decision to pull the gas line was strictly based on the Gas company's opinion. Mr. Harris stated that the decision to pull the gas service is an independent decision, but the decision to reconnect the gas service is a separate issue.

Commissioner Fagg asked Mr. Harris what the initial reason was for a serviceman to go to this address. Mr. Harris replied that the company had a service order for 402 S. Washington, and upon finding out that this side of the house was vacant, the serviceman went to the back of the house to read the meter in order to transfer the service back to the owner and found that the wall had collapsed. Commissioner Shepherd stated for the record that the wall had not collapsed but that Mr. Blount had removed the wall in order to repair it.

Mr. Blount pointed out that a licensed structural engineer that looked at the East wall specifically and has declared it safe, so the Gas Company should be able to turn the gas back on.

Commissioner Clark seconded the motion.

Commissioner Shepherd stated for the record that the only reason he was opposed to the resolution was in the wording in that it calls the structure unsafe and dangerous. He stated that he does believe that work needs to be done, but he does not believe that it is unsafe and dangerous.

Commissioner Fagg also stated for the record that he believes that there are things that both Mr. Blount and City staff could have done better. He believes that the possibility of there being a tainted report calls for the necessity to have a new structural engineer inspect the premises, if the two parties can agree.

Mayor Phillips stated that she was voting in favor of the motion so as not to set any precedent to allow anyone to perform work on a structure without proper inspection.

ROLL CALL

Commissioner Oral Taylor	yes
Commissioner Linda Clark	yes
Commissioner Brian Shepherd	no
Commissioner Michael Fagg	no
Mayor Connie Phillips	yes

City Manager Stewart asked for additional explanation on the “tainting” statement. Commissioner Fagg stated that this was not the only reason, as he had listed other reasons for opposing the resolution. City Manger Stewart stated that there are no reasons for the Commissioners to feel this way, as there has been no implication of tainting. He also explained that tainting by definition implies some wrongdoing and City staff has not done anything incorrect on this issue.

TWELFTH & MAIN SIGNALIZATION – RESOLUTION NO. 2425 AND ORDINANCE NO. S-1169

Mayor Phillips stated that the Kansas Department of Transportation received bids on June 18, 2003 for the signalization of the intersection of Twelfth and Main. Since the City must match funds, there must be a resolution and ordinance passed.

Commissioner Shepherd moved that Resolution No. 2425, a resolution providing for the City’s commitment of matching federal funds that are hereby pledged for KDOT Project No. 77-8U-1948-01, and Ordinance No. S-1169, an ordinance authorizing the issuance of bonds in an amount not to exceed \$55,000, and that authorization for the City Manager to execute an agreement between Professional Engineering Consultants, KDOT and the City of El Dorado, be approved.

Commissioner Clark seconded the motion.

Commissioner Fagg asked what amount the State would pay. City Engineer Dave Wagner answered that the State is contributing \$172,000. Commissioner Fagg also asked what type of sensor would be used to trip the lights.

Motion passed 5-0.

CITY MANAGER’S REPORT

WORK SESSION

The next scheduled work session is set for Thursday, July 10th at 8 a.m.

INDEPENDENCE DAY CELEBRATION

City Manager Stewart stated that the Fourth of July Celebration went very well, with a high turnout.

HEALTH INSURANCE

City Manager Stewart stated that the City's plan was renewed on July 1, 2003, and while everyone else in the state is looking at a twenty to twenty-five percent increase such as the ones the City has faced over the past years, the City was actually able to decrease the premium eighteen percent.

MISCELLANEOUS

City Manager Stewart stated the City of Ottawa visited the community this past week.

ADJOURNMENT

Interim City Clerk Shaunna Johnson

Mayor Connie Phillips