

EL DORADO CITY COMMISSION MEETING August 2, 2004

The El Dorado City Commission met in regular session on August 2, 2004, at 7:30 p.m. in the Commission Room with the following present: Mayor Connie Phillips, Commissioner Michael A. Fagg, Commissioner Linda Clark, Commissioner Brian Shepherd, City Commissioner Oral W. Taylor, City Manager Stan B. Stewart, Assistant City Manager Gus Collins, City Engineer Dave Wagner, and City Attorney Mike Coash. City Clerk/Finance Director Dee Anne Grunder was absent.

VISITORS

Mack R. Farren		El Dorado, Kansas
Linda Jolly	2100 Pico	El Dorado, Kansas
Ray Connell	401 W. Pine	El Dorado, Kansas
Bruce Harris	4843 S.W. Country Lane	El Dorado, Kansas
Jim Phillips	216 W. Central	El Dorado, Kansas
George Fagg	320 N. Atchison	El Dorado, Kansas
Pete Knoop	906 S. High	El Dorado, Kansas
Brenda Clarkin	16500 S. E. Stoney Creek	Lathan, Kansas
Matt Wagner	1025 Rim Rock	El Dorado, Kansas
Marv Loucks	1351 Country Club Rd.	El Dorado, Kansas
Lee & Sherri White	1928 Jamaica St.	El Dorado, Kansas
Teri & Jerry Blount	131 Hillside	El Dorado, Kansas
Nellie & Leonard Smith	601 N. High	El Dorado, Kansas
Mac Hicks	424 Oil Hill Rd.	El Dorado, Kansas
Gary Ball	817 W. 4 th	El Dorado, Kansas
Joe Blount	635 N. Star	El Dorado, Kansas
Brad Smith	El Dorado Fire Department	
Kurt Bookout	El Dorado Public Utilities Department	
Cherise Warren	819 N. Denver	El Dorado, Kansas
Pat Hicks	1147 S. Arthur	El Dorado, Kansas
James Cook	719 Fredrick Dr.	El Dorado, Kansas
Verlee Adam	1426 Edgemoore	El Dorado, Kansas
Faye Wilson	512 W. 12 th	El Dorado, Kansas
Dan Ingalls	1417 Terrace	El Dorado, Kansas
Tom Murry	830 Delmar	El Dorado, Kansas
Steve Funk	1810 Lawndale	El Dorado, Kansas
David Sundgren	533 Prairie Rd.	El Dorado, Kansas
Brian Clites	1305 Glenview Dr.	El Dorado, Kansas
Vince Haines	300 N. Star	El Dorado, Kansas
Mark Elwood	El Dorado Times	

INVOCATION

Mayor Connie Phillips called the August 2nd meeting to order. The Reverend Mack Ferren opened the meeting with prayer.

PLEDGE OF ALLEGIANCE

Officer Frank Kratzer led the Pledge of Allegiance.

PROCLAMATION

Officer Frank Kratzer, Community Resource Officer for El Dorado Police Department, appeared before the Governing Body to request August 3, 2004 to be proclaimed as “National Night Out” in El Dorado. Mr. Kratzer stated that this would be the 21st year for National Night Out program, which is designed to increase safety in

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neighborhoods. The citizens are being asked to turn on their outside lights August 3, 2004 as a sign of unity in neighborhoods in the hopes of cutting down on crime.

Commissioner Linda Clark read the proclamation that declares August 3rd as *National Night Out* for the City of El Dorado.

PERSONAL APPEARANCES

Jim Phillips, 216 W. Central, appeared before the Governing body to thank the City Staff and Commission for their support of the Prairie Port Festival.

Jerry Blount, 131 Hillside, appeared before the City Commission and asked that Mayor Connie Phillip consider performing the function of Interim City Manager.

Steve Funk, 1810 Lawndale, appeared before the City Commission to discuss City improvements made in the Community over the past 18½ years.

CONSENT AGENDA

Commissioner Shepherd questioned the insurance cost on Consent Agenda Item E (Bike path) and asked if the cost would be for a new crossing.

Assistant City Manager Gus Collins stated the insurance has not been checked and that he would provide that information to the Commission.

Commissioner Shepherd requested that Item E be removed from the consent agenda and to vote on it separately.

Commissioner Fagg clarified, in reference to the Minutes that property owners are given ten days to mow.

- a) Approval of July 19, 2004, City Commission minutes.
- b) Approval of July 29, 2004, Budget Work Session minutes.
- c) Approval of Appropriation Ordinance No. 07-04 in the amount of \$1,822,393.56.
- d) Approval of Engineer's Third Pay Estimate dated July 23, 2004, on Project No. 221 - 12" Sanitary Sewer Mains & New Sewer Lift Station for Butler County Sewer District #5 to the Contractor, Middlecreek Corporation, in the amount of \$20,977.37.
- e) (Removed from Consent Agenda.)
- f) Approval of Resolution No. 2462, providing for the renewal of Temporary Note No. 1870, maturing December 1, 2004.

Commissioner Shepherd moved that the Consent Agenda, with items a, b, c, d and f as approved be approved.

Commissioner Clark seconded the motion. Motion carried 5-0.

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AGENDA ITEM E – RESOLUTION NO. 2463

Commissioner Shepherd stated he did not have any objections with the project for a crossing agreement with Union Pacific for a Bike Path moving forward, but feels like more information needs to be brought to the Commission specifically the cost of insurance.

Assistant City Manager Collins stated he understands the concerns and alternatives would be looked into to reduce the premium price of insurance. Mr. Collins stated that Union Pacific Railroad requires the City to have tunnel insurance in conjunction with this project.

City Engineer Dave Wagner stated that the bike path is connected adjacent to the railroad. This project will not be touching any of the railroad's structures. It will go under the existing bridge.

Commissioner Shepherd moved that Item E on Consent Agenda, Resolution No. 2463 providing for a crossing agreement with Union Pacific for a bike path be approved, with the reservation that the Commission reconsider after the insurance quote is presented.

Commissioner Clark seconded the motion.

Commissioner Fagg had a few questions about the agreement and asked that the other agreements be checked to see if the City is responsible for any other upkeep and removal of graffiti.

Motion carried 5-0.

BUILDING LEASE – CITY OWNED BUILDING IN INDUSTRIAL PARK

Mayor Phillips stated that the existing tenant, IUSI, is in the process of liquidating the business. City Staff has been negotiating with a possible new tenant for this facility. The proposed contract provides for a two-year term with an option for three additional years.

City Manager Stan Stewart stated that the City has been negotiating with a Nebraska company Nebraska that is prepared to take over IUSI's equipment. They will need a lease to operate that equipment in this facility. They plan to rehire a number of the employees formerly working and continue operations. The lease is for two years with the option of three additional years. They would have a purchase option available to them at the end of a five-year period. They do not need the entire building, therefore if they sub-lease, the company and City would share in the revenues of that lease. Tax abatement would be granted for the property tax on the building and make good faith efforts to acquire tax abatement on the equipment acquired by the company.

Commissioner Taylor asked the name of the company.

City Manager Stewart stated it was Valmont Industries, Inc.

Linda Jolly, 2100 Pico, stated that she would like for the tenant to understand that personal property tax exemption would be on property acquired at this time. If they acquire additional personal property during the lease period they would have to apply for additional personal property tax exemption. Ms. Jolly questioned the wording in the lease agreement for personal property tax.

City Manager Stewart stated the wording talks about the City's best faith efforts.

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Commissioner Fagg questioned who wrote the lease agreement.

City Manager Stewart stated the agreement was similar to the agreement the City has with IUSI. It is a combination with Bond Counsel, City Attorney Mike Coash and IUSI's attorneys.

Commissioner Fagg questioned if the City is insured at this time on the building.

City Attorney Coash stated that he thinks we are covered. The City has not received any notice that they are not covered.

Commissioner Fagg asked how much insurance is on the building and if an appraisal has been made on the building.

City Manager Stewart stated that one has not been made on the building.

Commissioner Fagg suggested that perhaps an appraisal be made on the building.

Commissioner Fagg asked which bonds the agreement referred to.

City Attorney Coash stated it was financed by general obligation bonds of the City of El Dorado and could only be used for specific purposes. Bond Council directed the City to make sure in the lease agreement that the premises would not violate State law.

Commissioner Fagg noted that the City did not follow the tax-exempt policy on this application.

Commissioner Fagg suggested that pictures be taken of the building to show what shape the building was in prior to the new company taking over.

Commissioner Taylor moved to authorize the Mayor to sign a lease agreement between the City of El Dorado and Valmont Industries, Inc. for the use of the City-owned facility located at 955 N. Haverhill.

Commissioner Clark seconded the motion.

Commissioner Shepherd requested a copy of a lease agreement in the future and stated that he felt it was poor policy to not have one to look over before having to approve such.

Motion carried 3-2. (Commissioner Fagg and Commissioner Shepherd opposed.)

City Manager Stewart stated that it was good news that a quality company was coming and continuing operations in the building and employing people. Mr. Stewart stated that he feels it is very favorable for the City.

WATER PLANT MAINTENANCE GARAGE

Mayor Phillips stated that the 2004 Budget provided for the construction of a new facility for the Water Distribution Department. Bids have been solicited and received. The bids exceeded the Engineer's estimate. The staff and the architect have discussed options with the lowest bidder.

Vince Haines, PKHL Architects, stated that bids had been let in June 2004. Five bids were received. The low bidder was McCollom Construction. Four items have been identified as money saver items for a total of \$32,610.00. The base-bid is now

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\$415,000.00 with a total project cost of \$444,788.00. Mr. Haines recommended the City accept this even if it is over budget.

RECEIVING THE BIDS

Mayor Phillips asked that the bids be spread on the record:

Sutherland Builders - \$462,700.00
McCollum Construction - \$448,300.00, renegotiated
Conco Construction - \$499,500.00
Compton Construction - \$471,700.00
Commerce Construction - \$485,000.00

ORDINANCE NO. S-1209

Commissioner Shepherd questioned the size of the building.

Mr. Haines stated the building was 8900 square feet with 30'x50' finished office space for the water distribution staff.

Kurt Bookout, Director of Public Utilities, stated that the current building is 30'x45' feet, approximately 40 or 45 years old. Some of the maintenance activities will be moved to that building.

Commissioner Shepherd questioned who would occupy the office space.

Mr. Bookout stated that it will be comprised of two offices, break room and restroom.

Commissioner Taylor asked if reducing the size of the building had been considered to cut down on the cost.

Assistant City Manager Gus Collins stated that the City proceeded with plans on the building to meet growth in the future.

Commissioner Taylor asked if the scope could be changed.

Mr. Haines stated that it could be done, however, staff felt that the building should be kept the size of the original agreement.

Commissioner Clark asked what plans were being made for raising additional money.

Assistant City Manager Gus Collins stated that it would be funded through revenue bonds. This project would be combined with funding for the water residuals at the water plant.

MOTION I – BID – MCCOLLUM CONSTRUCTION

Commissioner Taylor moved to approve the negotiated bid from Mc Collum Construction in the amount of \$415,690.00 for the construction of a maintenance garage for the Water Distribution Department.

Commissioner Fagg seconded the motion.

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Commissioner Shepherd stated he felt it was poor policy to go over a budgeted item for things that are not necessarily needed. He stated he feels this is a want more than a need.

Motion carried 3-2. (Commissioner Shepherd and Commissioner Fagg opposed.)

MOTION 2 – ORDINANCE S-1209

Commissioner Taylor moved that Ordinance No. S-1209, an ordinance providing for the issuance of bonds in an amount not to exceed \$460,000.

Commissioner Clark seconded the motion.

ROLL CALL

Position No. 1	Commissioner Oral Taylor	yes
Position No. 2	Commissioner Linda Clark	yes
Position No. 3	Commissioner Brian Shepherd	no
Position No. 4	Commissioner Michael Fagg	no
	Mayor Connie Phillips	yes

NUISANCE ORDINANCE AMENDMENT

Mayor Phillips stated that recently City Staff attended a seminar on nuisances. The state legislature has made certain changes to the nuisance statute. The revision provides for the inclusion of the new laws. There are two ordinances – an ordinance relating to weed and grass control and one regarding abandoned vehicles.

Fire Chief Brad Smith stated that the State changed some items in the t the State allows for mowing lawns (ten days). Chief Smith explained some of the changes.

City Commissioner Taylor questioned the areas in town recently annexed that are agricultural in nature, having the same type of weed removal as in residential areas. He asked if there was any modification for these individuals.

Chief Smith stated that they do have the ability for agriculture to be exempted. The Governing Body provides that right for the City Commission to hear appeals and to make these exemptions.

Commissioner Shepherd questioned the form of government.

City Attorney Coash stated he included the language in that the City Manager would be the delegated representative of the Governing Body to hear appeals on both weed issues and abandoned vehicles. If that is wrong, the Commission can vote to have that come before the Governing, Body and it will be deleted.

City Manager Stewart stated that the Staff collectively felt that the Commission did not want to hear every appeal. They felt the Commission’s time would be spent on bigger issues than weed ordinances.

Commissioner Clark suggested postponing and discussing this issue during a Work Session.

Commissioner Taylor stated that he was not in favor of putting something off, since it has been the same way for forty years. It is also foolish to criticize the system because someone received a weed ordinance that they objected to.

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Commissioner Shepherd stated his argument is the City needs to be consistent with passing out citations. It needs to be enforced equally.

City Manager Stewart stated that what the staff has done is to ask fire officers to assume duties that are not a normal part of their job responsibilities. If the Commission wants the level of enforcement increased, then an adjustment on the proposed budget is needed. In Abilene they have 2 ½ people assigned to take care of weeds in a City ½ the size of El Dorado. The City has been fortunate to have the fire department assume those duties, and saving the City a lot of money over the years.

Commissioner Clark moved that Nuisance Ordinances Amendment be postponed for further discussion.

Commissioner Fagg seconded the motion. Motion carried 4-1. Commissioner Shepherd opposed.

2005 BUDGET – PUBLIC HEARING

City Manager Stewart stated that Staff has had the normal budget process. What is being discussed does not reflect everything that the City Manager's office, the Commission and the Department Heads would like. A budget is being proposed that has a mill levy the same as 2004. The assessed valuation increased five percent this year, which provides additional revenue. Increases in utility rates are reflected. Capital outlays were minimal.

PUBLIC HEARING

Mayor Phillips declared the Public Hearing.

Brenda Clarkin, 16500 S.E. Stoney Creek, Lathan, KS thanked the Commission for their support for Boundless Park. She stated that they are up to 70% of their goal.

Commissioner Fagg encouraged anything that could be done to be more cost effective.

Mayor Phillips declared the Public Hearing closed.

SANITARY SEWER – PROJECT NO. 247 GRILER ADDITION PHASE I

Mayor Phillips abstained.

Vice-Mayor Shepherd stated that the City Commission directed that bids be taken on this project. Bids were taken and the low bid was below the Engineer's Estimate. The bids are now ready for consideration.

Commissioner Shepherd stated that the Engineer's Estimates were based on the total cost of \$144,475.00. Nowak Construction Company's bid came in at \$140,802.50 and Middle Creek Corporation came in at \$153,882.70.

ORDINANCE NO. S-1210

Commissioner Taylor moved that Ordinance No. S-1210, an ordinance authorizing the issuance of bonds of the City of El Dorado, Kansas, in an amount not to exceed \$178,000 in payment of the cost of Project No.247, and providing for the issuance of temporary notes pending the issuance of such bond, and that as Nowak Construction Co., Inc. has submitted the lowest and best bid for said project and since their bid of \$40,802.50

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was below the Engineer's Estimate, the City Manager be directed to award the contract for the construction of this project, providing that the company furnishes the proper Statutory and Performance and Maintenance Bonds.

Commissioner Clark seconded the motion.

ROLL CALL

Position No. 1	Commissioner Oral Taylor	yes
Position No. 2	Commissioner Linda Clark	yes
Position No. 3	Commissioner Brian Shepherd	yes
Position No. 4	Commissioner Michael Fagg	yes
	Mayor Connie Phillips	abstained

**RECEIVE PROJECT NO. 233 PETITION FOR RESIDENTIAL SIDEWALKS –
AWARD THE CONTRACT – PROJECT NO. 222 & PROJECT 233**

Mayor Phillips stated that during the July 19, 2004 City Commission meeting, the City Commission directed Staff to re-bid Projects No. 222 (2003 Sidewalk Sales Tax Project) and 233 since no bids were received. These projects are the result of five private property owners utilizing the sidewalk policy. The bids were requested, but again, no bids were received. After contact with several contractors, Staff is requesting to negotiate with a contractor for the completion of these projects.

At the request of several businesses, work on west Central will not begin until after the middle of September. We are still in the process of acquiring easements at Freddy's, Long John Silvers, Sonic and KFC.

Assistant City Manager Gus Collins stated that six property owners took advantage of the sidewalk policy and are waiting for a contract to be awarded. The recommendation for the Commission's consideration is trying to negotiate with a local contractor.

Commissioner Taylor stated he feels City Staff should re-bid and try to get the sidewalk projects built at the best price. He stated he feels if no bids are received after the third try then to try to negotiate with a contractor.

Commissioner Taylor made a motion to re-bid the Sidewalk Projects.

Commissioner Clark seconded the motion. Motion carried 5-0.

EXECUTIVE SESSION

Mayor Phillips stated that Executive Session would meet due to the resignation of City Manager Stan Stewart. It is necessary for the City Commission to go into discuss personnel issues.

Commissioner Shepherd moved to recess into an Executive Session for the purpose of discussing personnel matters and to reconvene the regularly scheduled meeting at 10:10 p.m.

Commissioner Taylor seconded the motion.

RECONVENE

Mayor Phillips stated that in Executive Session they discussed the process of selecting a new City Manager. They also discussed selecting an Interim City Manager.

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Commissioner Shepherd moved that the City Commission accept the resignation of City Manager Stan Stewart and appoint Gus Collins as Interim City Manager effective August 20, 2004.

Commissioner Taylor seconded the motion. Motion carried 5-0.

CITY MANAGER’S REPORT

City Manager Stan Stewart noted the following:

1. There will be a Character First breakfast Wednesday, August 4, 2004
2. There will be a 254 Corridor Meeting the Mayor will attend
3. Carolyn Marcum’s building is complete – insurance reserve will be issued
4. Death of an employee

Mr. Stewart stated that Mr. Funk’s comments were unexpected and he will make his comments and statements before his departure.

5th AND HOUSER

Commissioner Shepherd stated that he has received complaints that the project at 5th and Houser was incomplete.

City Manager Stewart stated he would have someone visit with the individuals who made the complaints.

ADJOURNMENT

Mayor Phillips adjourned the meeting at 8:28 p.m.

City Clerk Dee Anne Grunder

Mayor Connie Phillips