

**EL DORADO CITY COMMISSION MEETING MINUTES**

**September 2, 2003**

The El Dorado City Commission met in regular session on Tuesday, September 2, 2003 at 7:30 p.m. in the Commission Room. The following were present: Mayor Connie Phillips, Commissioner Oral Taylor, Commissioner Linda Clark, Commissioner Brian Shepherd, Commissioner Mike Fagg, City Manager Stan Stewart, Assistant City Manager Gus Collins, City Engineer David Wagner, Interim City Clerk Shaunna Johnson, and City Attorney Mike Coash.

**VISITORS**

James Cook	719 Fredrick Drive	El Dorado, Kansas
Leonard Smith	601 North High	El Dorado, Kansas
Nellie Smith	601 North High	El Dorado, Kansas
Kurt Spivey	419 Random Road	El Dorado, Kansas
James A. Smith	201 East Carr	El Dorado, Kansas
Jerry Blount	131 Hillside	El Dorado, Kansas
Terry Blount	131 Hillside	El Dorado, Kansas
Jo Blount	131 Hillside	El Dorado, Kansas

**INVOCATION**

Father Nolan provided the invocation.

**PLEDGE OF ALLEGIANCE**

Mr. Wagner led the Governing Body and the audience with the pledge of allegiance.

**PROCLAMATIONS**

Mayor Phillips read the proclamation recognizing National Alcohol & Drug Addiction Recovery Month.

Kurt Spivey, El Dorado Middle School Student Resource Officer and James Smith, Elementary School Student Resource Officer was present to offer their support for the National Alcohol & Drug Addiction Recovery Month.

Commissioner Taylor read the proclamation recognizing Leukemia, Lymphoma & Myeloma Awareness Month

**CONSENT AGENDA**

- A. Approval of the August 18, 2003, City Commission minutes.
- B. Approval of the August 27, 2003, Work Session minutes.
- C. Approval of Appropriation Ordinance No. 08-03 in the amount of \$1,324,378.47.
- D. Approval of Ordinance No. S-1173, an ordinance relating to the tax levy for Budget Year 2004.
- E. Approval of the Engineer’s Third & Final Pay Estimate dated August 22, 2003 on Project No. 989, Water Distribution System- Banks-Willhite First Addition to the Contractor, Nowalk Construction, Inc., in the amount of \$18,623.50.

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- F. Approval of the Engineer's Second Pay Estimate dated August 22, 2003 on Project No. 990, Paving Banks-Willhite First Addition to the Contractor, Central Paving, Inc., in the amount of \$6,093.00.
- G. Approval of the Engineer's Fifth & Final Pay Estimate dated August 22, 2003 on Project No. 944, resurfacing Central (School to State) to the Contractor, Central Paving, Inc., in the amount of \$100,865.90.
- H. Approval of the Engineer's Second Pay Estimate dated August 22, 2003 on Project No. 957-997, Paving Village Rd. (Central to Sixth) to the Contractor, Central Paving, Inc., in the amount of \$72,826.56.
- I. Approval of the Engineer's First Pay Estimate dated August 22, 2003 on Project No. 959, 2003 Sales Tax to the Contractor, Central Paving, Inc., in the amount of \$11,167.25.
- J. Approval of Resolution No. 2432, a resolution approving the issuance of Taxable Industrial Refunding and Improvement Revenue Bonds by Butler County in an amount not to exceed \$2,000,000.
- K. Approval of lease purchase agreement for the acquisition of a sewer flusher truck for the Wastewater Department.

Commissioner Fagg asked Mr. Collins what the advantages to leasing the flusher truck were versus purchasing it.

Assistant City Manager Collins stated that he recommended a 4-yr lease because of the low interest rate. He also mentioned that this would help the sewer fund not having to pay for purchase all at once.

Commissioner Clark asked Mr. Collins if the lease had an option to buy clause in the agreement.

Assistant City Manager Collins stated yes.

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

Commissioner Shepherd seconded the motion and the motion carried 5 to 0.

**SIDEWALK POLICY-CONSIDERATION OF AN AMENDMENT**

Mayor Phillips stated that in July 2002, the City Commission approved a sidewalk policy that provided for the improving of sidewalks throughout the entire city and also provided an incentive to those property owners where sidewalks do not currently exist. Basically, there are three segments of the policy: providing incentives on the repair of existing sidewalks on areas that do not have sidewalks and the construction of new sidewalks on the three main thoroughfares, Main Street, Central Avenue and Sixth Avenue.

The construction of sidewalks on the previously named streets was on both sides of the street. The proposed amendment is to construct a sidewalk on both sides only "if adequate right-of-way is available and where practical."

**PRESENTATION OF REQUEST**

City Manager Stewart indicated that there are some portions of Sixth Avenue that do not have adequate right-of-way to construct sidewalks. He pointed out that the proposed amendment to the policy would allow city staff to address those streets in the future that do not have adequate room for sidewalks.

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Mayor Phillips asked whether sidewalks are required in all parts of the city.

City Manager Stewart stated that sidewalks are only required on the major thoroughfares which include Main, Central, and 6<sup>th</sup> Avenue. Other parts of the community are not required to have sidewalks.

Commissioner Shepherd stated that the West side of Main Street and the South side of 6<sup>th</sup> Avenue should be removed from the sidewalk policy to avoid any future confusion.

Commissioner Taylor indicated that there may be areas on those streets that are adequate and suggested adding additional language to the proposed amendment to clarify that issue rather than specifically excluding certain streets.

Commissioner Shepherd commented that his understanding of sidewalks was to connect one side of the community to the other. He doesn't see the point of including certain sections of some streets unless the whole street had adequate right-of-way to construct the sidewalk. He questioned the purpose of the sidewalk policy.

Discussions continued among the City Commission as to whether specific portions of streets should be removed from the sidewalk policy or if wording should be included in the policy to allow city staff the discretion to determine what streets should have sidewalks on both sides or not.

Commissioner Fagg asked if the public supported the policy and why Olive and Third Avenue was not considered to be included in the policy.

Mayor Phillips indicated that there was support for the policy and indicated that those streets could certainly be added to the policy at any time. She pointed out that the purpose was to get sidewalks on the streets that have the most traffic first.

Commissioner Taylor moved to add the following language to the Sidewalk Policy, to replace or construct the sidewalks on Main Street, Central Avenue and Sixth Avenue on both sides of the street only if adequate right-of-way exists and where practical as determined by the City Commission.

Commissioner Clark seconded the motion and it carried 3 to 2 with Commissioner Fagg and Commissioner Shepherd opposing the motion.

**ZEBRA MUSSELS**

City staff provided an informational update regarding the recent announcement of Zebra mussels being identified in the El Dorado Lake.

Director of Utilities, Kurt Bookout indicated that Zebra mussels had been identified in El Dorado Lake but wanted to assure the public that the Zebra mussels would not affect our water supply or quality. He went on to discuss the impact Zebra mussels may have on the reservoir in the future and assured the public there was nothing to be concerned with at this time.

The City Commission asked Mr. Bookout about how the Zebra mussels would impact the water supply and the fishing at the lake.

Mr. Bookout indicated that it will not have an impact on quality or quantity of water and that it would be at least 10 to 15 years before fishing would be affected, if any.

**CITY COMMISSION QUORUM CHANGE**

Mayor Phillips indicated that the City Commission desired to seek public input regarding the possible revision of the designation of a quorum with the existing commission. Currently, a quorum is defined as a total of three members of the governing body and a majority of a quorum, therefore, would be two members. The consideration is to increase the quorum to four members, therefore, a majority of a quorum would be three members. Mayor Phillips indicated that there would be no action taken on this issue this evening.

Commissioner Shepherd stated that this was an issue he felt was important to discuss. He stated that two commissioners should be able to discuss city issues without being concerned they are violating any laws. He pointed out that it is a little uncomfortable talking to one of the fellow commissioners in public and stated that this is something that should be considered to change.

City Manager Stewart that this is something that is not unheard of and pointed out that there were 16 other cities and or counties that have amended their code to allow this change.

The City Commission discussed this issue further and stated that this is something that should be considered and requested any comments or input for the public prior to making a decision regarding this issue.

**PROPOSED AMENDMENTS TO THE ZONING REGULATIONS**

Mayor Phillips stated that this item was tabled at the June 16, 2003, City Commission meeting. The concern with this item was that a specific publication and public hearing notice was not completed prior to this item coming before the City Commission. If you recall, a citizen appeared before the City Commission and questioned the appropriate procedure follow-up. After this discussion, the City Commission stated it appropriate to explain the question more. The specific amendments proposed were published in the newspaper and the Planning Commission held the public hearing at their last meeting.

**PRESENTATION OF REQUEST**

Planning Director, Shaunna Johnson, indicated that the Planning Commission had reviewed this at their last meeting and pointed out that there was no one present to speak to this issue. She stated that the Planning Commission recommended approval of the two zoning text amendments proposed. The first amendments dealt with the definition of kennels and the number of animals allowed in a residential district. The Planning Commission recommended to have the definition of kennels and the number of animals allowed in residential districts to be consistent with the recently revised Animal Control Ordinance. Ms. Johnson indicated that the second proposed amendment dealt with allowing property owners the ability to request a special use permit to allow an accessory structure to be built without a primary structure in a residential district. The Planning Commission recommended approval to allow property owners the ability to request a special use permit from the Planning Commission.

The City Commission discussed the amendments and Commissioner Fagg asked specific questions concerning the number of animals allowed by Ordinance. He was concerned with allowing existing citizens who have more animals than allowed an opportunity to be grandfathered.

Ms. Johnson assured Commissioner Fagg that those things were addressed in the Animal Control Ordinance. She pointed out that this amendment does not change how we do things, it just makes the two Ordinances consistent with one another.

**ORDINANCE NO. G-945**

Commissioner Clark moved that Ordinance No. G-945, an ordinance providing a revision to the Zoning Regulations based on the Planning Commission’s recommendation be approved.

Commissioner Taylor 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 Phillips	yes

Motion carried 5 to 0.

**CENTRAL WIDENING-RIGHT OF WAY CLEARANCE AND UTILITY ARRANGEMENTS**

Mayor Phillips stated that Federal-Aid projects require that the City certify that all right-of-way easements have been acquired correctly, and utilities have been relocated, or arrangements have been made to remove or adjust utilities for this project (DOT Form 1303 and 1303A). This action also resolves that the City must provide matching funds to construct the project. At this date, the tasks are complete and KDOT requires that the governing body certify this prior to project letting. This project will be bid in Topeka on November 19. Work on the project will probably not start until February of 2004.

**PRESENTATION OF REQUEST**

City Manager Stan Stewart stated the City identified the need to widen Central several years ago. He pointed out that this project is in the process of being completed in phases. Mr. Stewart indicated that this action by the City Commission would allow city staff to begin the next stage in this process.

The City Commission discussed some of the concerns they had with traffic on West Central specifically. They felt that a signal at Arthur may be something that would be needed in the future to assist with the high traffic volumes of on West Central.

City Manager Stewart said that city staff is in the process of reviewing the possibilities of removing certain signals specifically in the downtown area. He pointed out that adding a signal at Arthur could also be reviewed as well.

Commissioner Taylor moved that the right-of-ways have been acquired correctly and utilities have made arrangements for relocation for the Widening of Central Avenue, from Jones to High, and that the Mayor sign the required documents.

Commissioner Shepherd seconded the motion and the motion carried 5 to 0.

**SANITARY SEWER AND WATER LINES-PROPOSED WAL-MART**

Mayor Phillips stated that the following action allows the City to enter into an agreement with Wal-Mart to improve the sewage system and water lines for the area west of Village Rd. Wal-Mart plans to be open for business by May 1, 2004.

Sewer Lines and Lift Station: Wal-Mart has agreed to pay for a portion of the upgrade of the lift station and the majority of the new sewer line. The new line will be upgraded from 8-inches to 12-inches to handle the current and future loads. The area this system

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serves includes most of Township Village, the businesses west of Village Rd., the El Dorado Business Park No. 2, and the proposed Wal-Mart.

Water Lines: Wal-Mart has agreed to pay for two 12-inch waterlines extending across Central Ave. (This should increase residual pressure in the area.)

Part of the action will allow for financing. Wal-Mart will make direct cash payment to the City for the work. The remainder of the project will be financed first with temporary notes, and finally with general obligation bonds.

**ORDINANCE S-1174**

Commissioner Fagg moved to direct the City Manager to enter a Development Agreement with Wal-Mart for the purposes of upgrading the sewer system and water lines for the surrounding area, and move that Ordinance No. S-1174, which provides for the financing of the project, be placed on its passage and considered section by section.

Commissioner Shepherd 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 Phillips	yes

Motion carried 5 to 0.

**DEDICATION OF EASEMENT-SHARPVILLE ROAD**

Mayor Phillips stated that Ordinance No. S-157, passed in October of 1955, vacated Sharpville Rd. and East Second Ave. along the east and north side of the Water Plant, for the construction of the Walnut River Bridge on East Central. Utilities in the area were not relocated at that time, and still serves one residence on the east side of the river at 521 Sharpville. Kansas Gas Service (KGS) has requested that a public utility easement be provided to allow for a system up-grade to serve the properties at 380 W. Central (City Water Department), 521 Sharpville Rd. (Pratt residence), and 390 W. Central (Prairie Port Building). KGS is not allowed to make changes on private property, but must have a legal right to be on the premises.

**ORDINANCE S-1175**

Commissioner Shepherd moved that Ordinance No. S-1175, provides for the dedication of an easement located near the Water Plant, be approved.

Commissioner Fagg 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 Phillips	yes

Motion carried 5 to 0.

**COMMUNITY DEVELOPMENT BLOCK GRANT, SENIOR CENTER IMPROVEMENTS- PUBLIC HEARING**

Mayor Phillips stated that the City of El Dorado is applying for a Community Development Block Grant (CDBG) to assist in funding of an addition at the Senior Center. Resolutions and a public hearing are needed.

Mayor Phillips opened the public hearing. There was no one present to speak to this so the public hearing was closed.

Commissioner Taylor moved that the Residential Anti-displacement and Relocation Assistance Plan, that the Statement of Assurances and Certifications, that Resolution No. 2433, a resolution to apply for the 2004 Kansas Small Cities Community Development Block Grant in an amount not to exceed \$169,250, and that Resolution No. 2434, a resolution assuring the Kansas Department of Commerce that funds will be provided for the operation and maintenance of improvements to the Senior Citizen Center financed with Community Development Block Grant funds, be approved.

Commissioner Shepherd seconded the motion and the motion carried 5 to 0.

**MISCELLANEOUS**

**WORK SESSION**

A work session was scheduled for Wednesday, September 10, 2003 at 3:30 p.m.

**SALES TAX**

City Manager Stewart stated that the sales tax voted on today and the unofficial final tally of 594 no's and 2,097 yes'. He commented that the sales tax task force put a great amount of time and effort getting this passed and appreciated their efforts.

**MESQUITO SPRAYING**

City Manager Stewart commented that city crews continue to spray for mesquitos.

**EXECUTIVE SESSION**

Mayor Phillips stated that the City Commission desired to hold an executive session for the discussion of lawsuits.

Commissioner Clark moved to move into an Executive Session for the purpose of discussing legal matters for a period of 20 minutes.

Commissioner Shepherd seconded the motion.

**ADJOURNMENT**

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**Interim City Clerk Shaunna Johnson**

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**Mayor Connie Phillips**