

EL DORADO CITY COMMISSION MEETING

September 18, 2006

The El Dorado City Commission met in regular session on September 18, 2006, at 7:00 p.m. in the Commission Room with the following present: Mayor Brian D. Shepherd, Commissioner Linda Clark, Commissioner Michael A. Fagg, Commissioner Steve Pershall, Commissioner Steve Reynolds, City Manager Herbert E. Llewellyn Jr., Field Engineer Scott Rickard, and City Clerk Kendra Porter.

VISITORS

Katie Wheeler	Youth Commission	El Dorado, Kansas
Tim Connell	P.O. Box 6	El Dorado, Kansas
Matt Rehder	220 E. First	El Dorado, Kansas
David Yearout	1710 Post Ct.	El Dorado, Kansas
Deborah Amend	1130 W, Locust	El Dorado, Kansas
Kathryn Hollingsworth	114 N. Vine	El Dorado, Kansas
Wade & Sharon Wilkinson	1016 S. Denver	El Dorado, Kansas
Linda Jolly	2100 Pico Ct.	El Dorado, Kansas
Linda Baines	753 Post Rd.	El Dorado, Kansas
Harold Haskell	122 Residence	El Dorado, Kansas
Donald Adlesperger	1285 S. Topeka	El Dorado, Kansas
Leonard & Nellie Smith	601 N. High	El Dorado, Kansas
Jim Hargrove	707 Post Rd.	El Dorado, Kansas
Howard Lachenmayr		Newton, Kansas
Kurt Bookout	2520 Kacy Ct.	El Dorado, Kansas
Pat Hicks	1147 S. Arthur	El Dorado, Kansas
Carl Andrews	1730 Cottonwood Dr.	El Dorado, Kansas
Catherine Hicks	424 Oil Hill Rd.	El Dorado, Kansas
Darrell Burhman	1012 Denver	El Dorado, Kansas
Donna Crawford		Lawrence, Kansas

CALL TO ORDER

Mayor Brian D. Shepherd called the September 18, 2006, City Commission meeting to order.

INVOCATION

Reverend Sam McVay, New Life Fellowship, opened the meeting with prayer.

PLEDGE OF ALLEGIANCE

Ms. Worley’s Third Grade Class from Lincoln Elementary School led the Pledge of Allegiance.

PERSONAL APPEARANCE

Linda Baines, 253 Post Road, updated the Commission on the accomplishments of Main Street.

Debra Amend, 1130 West Locust, representing the CVB Advisory Board, provided City Commissioners with recent guest tax updates. Ms. Amend stated that on October 6, 2006, the State Tourism Destination Assessment Team will meet with the CVB Advisory Board, and tour El Dorado. Ms Amend concluded by inviting the City Commissioners and Mayor to a luncheon to hear the recommendations made by the State Tourism Destination Assessment Team.

CONSENT AGENDA

- a) Approval of the September 5, 2006, City Commission minutes.
- b) Approval of the September 11, 2006, Special City Commission minutes.
- c) Approval of an amended interlocal agreement between Regional Economic Area Partnership (REAP) and the City of El Dorado.

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

Commissioner Steve Pershall seconded the motion.

Motion carried 5-0.

EXECUTIVE SESSION

Mayor Brian Shepherd stated the Executive Session is for the purpose of discussing confidential data relating to financial affairs or trade secrets of second parties.

Commissioner Steve Pershall moved to recess into an Executive Session for the purpose of discussing legal issues and confidential data relating to financial affairs or trade secrets of second parties, and to reconvene the regularly scheduled meeting in the City Commission room at 8:00 p.m.

Commissioner Steve Reynolds seconded the motion.

Motion carried 5-0.

Mayor Shepherd reconvened the meeting at 8:00 p.m., and stated that no official decisions were made.

EL DORADO SEWER IMPROVEMENTS (CDBG GRANT) PROJECT NO. 243

Field Engineer Scott Rickard stated that the City is ready to submit the CDBG grant application to the Kansas Department of Commerce. The project includes: Eight Avenue Lift Station, Manhole Rehabilitation, Insituform, North Main Sewer Interceptor, Tenth Avenue Sewer Improvements, and Douglas Road Sewer Improvements. The City is applying for the CDBG grant to cover \$400,000 of the improvements. The remaining cost will be paid for by General Obligation Bonds, and not through Sewer Revenue Funds.

Donna Crawford, Governmental Assistant Services, explained that the remaining funding must be obtained through General Obligation Bonds, and that no general funds will be used in the funding.

RESOLUTION NO. 2551

Commissioner Steve Pershall moved to approve Resolution No. 2551, a resolution certifying legal authority to apply for the 2007 Kansas Small Cities Community Development Block Grant Program from the Kansas Department of Commerce and authorizing the Mayor to sign and submit such an application.

Commissioner Linda Clark seconded the motion.

Motion carried 5-0.

RESOLUTION NO. 2552

Commissioner Steve Pershall moved to approve Resolution No. 2552, a resolution stating commitment to seek funding through the Kansas Department of Commerce, small cities CDBG program, in the amount of \$400,000 and further commitment by the City, to leverage project costs in the amount of \$1,032,217 with general obligation bonds.

Commissioner Fagg seconded the motion.

Motion carried 5-0.

RESOLUTION NO. 2553

Commissioner Michael Fagg moved to approve Resolution No. 2553, a resolution assuring the Kansas Department of Commerce that funds will be continually provided for the operation and maintenance of improvements to the sewer system to be financed with Community Development Block Grant Funds.

Commissioner Steve Reynolds seconded the motion.

Motion carried 5-0.

ORDINANCE NO. S-1274

Commissioner Linda Clark moved to approve Ordinance No. S-1274, an ordinance authorizing the alteration, repair and reconstruction of a portion of the City’s sanitary sewer system; providing for the payment of the cost of said improvements; and authorizing and providing for the issuance of temporary improvements notes of the City from time to time as funds are needed for such purposes, and authorize the Mayor and the City Clerk to sign and publish in the City’s official newspaper.

Commissioner Steve Pershall seconded the motion.

ROLL CALL

Position No. 1	Commissioner Steve Reynolds	Yes
Position No. 2	Commissioner Linda Clark	Yes
Position No. 3	Commissioner Steve Pershall	Yes
Position No. 4	Commissioner Michael Fagg	Yes
	Mayor Brian Shepherd	Yes

REZONING TO I-1 AND SPECIAL USE PERMIT TO ALLOW OIL AND GAS EXTRACTION (CASE NO. 06-001-REZONE/SPECIAL USE)

Interim Planning/Zoning Director David Yearout stated that Howard Lachenmayr, Lachenmayr Oil Company, is seeking a rezoning of the property between School Road and Boyer Road and south of Third Avenue from R-1, Residential – Low Density to I-1, Light Industrial and a Special Use Permit to allow oil and gas extraction. Lachenmayr Oil has the working-lease interest in the minerals on this property. The case was opposed by the owners of the surface of the property who are engaged in the development of residential lots. In addition, a valid protest petition has been filed on this case, which results in the requirement of a ¾ majority of the entire governing body to approve this case.

Interim Planning/Zoning Director David Yearout stated that the matter was presented to the City Commission on August 7, 2006, at which time the City Commission voted to return the case to the Planning Commission for reconsideration based on the question of whether the Planning Commission had taken into account the location of the proposed new well in relation to the existing development and new platted lots in the vicinity of that location. This was based on the presentation of an aerial photo with the overlay of the platted residential lots in the Prairie Land Estates First Addition by the attorney for the applicant.

Interim Planning/Zoning Director David Yearout stated that the Planning Commission reconsidered this case on August 24, 2006. The determination was made that the Planning Commission was fully aware of the location of the proposed oil well in relation to the existing and proposed development in the area. A motion was made to resubmit the original recommendation, which failed on a 3 to 3 vote. A subsequent motion was made to submit a new recommendation to rezone the entire property from R-1 Residential – Low Density to I-1 Light Industrial and approve the Special Use Permit for the oil and gas extraction, which failed on a 3 to 3 vote. As a result, the case is returned to the City Commission with the original recommendation, which is to deny the request.

Interim Planning/Zoning Director David Yearout stated that the El Dorado Planning Commission held the first public hearing on this case on May 25, 2006, at which time the case was continued at the request of the applicant to complete negotiations with the surface owners concerning a potential agreement between those two parties. The case was heard again on June 29, 2006, with the report that no agreement had been reached between the surface owners and the applicant. After hearing all of the information and reviewing the testimony from all interested parties, the Planning Commission, by a vote of 6 to 1, recommended denial of both the rezoning and the Special Use.

Interim Planning/Zoning Director David Yearout stated that the case therefore comes back to the City Commission with a recommendation of denial from the Planning Commission and the protest petition filed with the City Clerk remains in effect.

James Hargrove, 707 Post Road, stated that Mr. Lachenmayr is willing to release all oil and gas rights, with the exception of the existing oil well and the 100 foot radius around the proposed drilling site.

Tim Connell, P.O. Box 6, provided the Commissioners with a copy of the Notice of Intent to Drill, along with a timeline. Mr. Connell stated that both times this issue has been presented it has been denied by the Planning Commission. He also reminded the Commission that the rezoning would be for industrial; therefore, any type of industrial use could take place, not just the drilling of wells.

Mayor Brian Shepherd stated that the property owner's rights should be taken into consideration.

Commissioner Linda Clark moved that the recommendation of the Planning Commission to deny Case No. 06-001 – Rezone/Special Use, requesting the rezoning from R-1 Low Density Residential to I-1 Light Industrial and a Special Use Permit to allow the drilling of a new oil well on property located between School Road and Boyer Road on the south side of Third Avenue, be approved, and that the rezoning and Special Use Permit therefore be denied.

Commissioner Steve Pershall seconded the motion.

Motion carried 4-1. (Mayor Brian Shepherd opposed)

PROPOSED AMENDMENTS TO THE SUBDIVISION REGULATIONS

Interim Planning/Zoning Director David Yearout stated that the Planning Commission held a public hearing on July 27, 2006, and recommended certain amendments to the El Dorado Subdivision Regulations. The amendments are to replace Article 5 of the Subdivision Regulations which addresses the Dedication or Reservation of Public Open Space. The recommended new language will establish a fee to be paid at the time of issuance of a building permit for new residential construction.

Interim Planning/Zoning Director David Yearout stated that at the September 5, 2006, meeting, the City Commission tabled this item and asked that the full language, which included the provisions for land dedication, be provided for review. Staff has prepared that document, which reflects the actual language recommended by the Planning Commission into the draft that included the land dedication language.

Discussion ensued amongst the Commissioners and Interim Planning/Zoning Director David Yearout regarding the proposed amendments to the subdivision regulations.

Commissioner Michael Fagg moved to return the recommendation of the Planning Commission to increase fees based on the City's option of money or land.

Commissioner Steve Pershall seconded the motion.

Motion carried 4-1 (Commissioner Linda Clark opposed).

NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS)

Mayor Brian Shepherd stated that the National Incident Management System (NIMS) is a document that was produced by the Department of Homeland Security under PD-5 in March 2004. It is intended to standardize the way all states, cities and towns respond to and mitigate disasters and large scale events.

The Fire Service has operated under the Incident Command System for more than 20 years and is very familiar with the advantages and benefits of using a system like NIMS. Although NIMS parallels the current system, ICS, NIMS goes into more detail. The Federal government has set guidelines and timeframes for all levels of government to adopt, incorporate and utilize the NIMS in their emergency plans.

Any future federal funding, beginning in 2006, will be contingent on the applicant being in compliance with NIMS.

City Manager Herbert E. Llewellyn stated that this resolution needs to be passed to be granted any federal funding.

RESOLUTION NO. 2554

Commissioner Linda Clark moved that Resolution No. 2554, a resolution designating the National Incident Management System (NIMS) as the basis for all incident management in the City of El Dorado, Kansas, be approved.

Commissioner Steve Reynolds seconded the motion.

Motion carried 5-0.

PROJECT NO. 906 – PUBLIC HEARING

Mayor Brian Shepherd stated that Project No. 906 is complete. The City Commission established this date to spread the special assessments to the properties involved.

Project No. 906 – Paving Oil Hill Road (Sixth to Haverhill)

Preliminary Estimate	\$900,000.00
Final Cost	\$876,697.91
Improvement District Cost	\$444,345.97
City at Large Cost	\$182,351.94
KDOT	\$250,000.00

PUBLIC HEARING

Mayor Brian Shepherd opened the public hearing.

With no one appearing, Mayor Shepherd declared the public hearing closed.

ORDINANCE NO. S-1275

Commissioner Linda Clark moved that Ordinance No. S-1275, an ordinance levying against, and providing for the collection of, special assessments for Project No. 906, be adopted.

Commissioner Steve Pershall seconded the motion.

ROLL CALL

Position No. 1	Commissioner Steve Reynolds	Yes
Position No. 2	Commissioner Linda Clark	Yes
Position No. 3	Commissioner Steve Pershall	Yes
Position No. 4	Commissioner Michael Fagg	Yes
	Mayor Brian Shepherd	Yes

SET A HEARING DATE FOR PROJECT NO. 274

Mayor Brian Shepherd stated that Project No. 274 is complete. The City Commission must set a hearing date to spread the costs to the properties involved.

Project No. 274 – 2006 Sales Tax Street Project

Preliminary Estimate	\$477,575.21
Final Cost	\$433,208.29
Improvement District Cost	\$ 21,078.54
City at Large Cost	\$412,129.75

RESOLUTION NO. 2555

Commissioner Linda Clark moved that Resolution No. 2555, a resolution for Project No. 274, providing notice of public hearing by this Commission to be held at 7:00 p.m. on the 2nd day of October 2006 for the purpose of considering the proposed assessments of the cost of said projects, and direct the City Clerk to publish notice in the official City paper, and further direct individual mailings to each owner liable for the special assessments, be approved.

Commissioner Steve Pershall seconded the motion.

Motion carried 5-0.

PROJECT NO. 266 – KDOT AGREEMENT NO. 136-06

Mayor Brian Shepherd stated that in order for Project No. 266; constructing left turn lanes, storm sewer and resurfacing of Central Avenue (School to Haverhill), to move forward, the agreement between the City and KDOT needs to be signed.

Discussion ensued amongst the Commissioners, Field Engineer Scott Rickard, and City Manager Herb Llewellyn regarding the cost to add turn lanes to access commercial businesses.

RESOLUTION NO. 2556

Commissioner Linda Clark moved that Resolution No. 2556, a resolution designating, authorizing and directing the Mayor and City Clerk to execute for and on behalf of the City of El Dorado, Geometric Improvement Agreement No. 136-06 between the City and the Kansas Department of Transportation, to obtain for the City the benefits of State Aid for Project No. 266, to construct left turn lanes and storm sewer and to resurface Central Avenue. (School to Haverhill), be approved.

Commissioner Steve Pershall seconded the motion.

Motion carried 5-0.

PROJECT NO. 254 – KDOT AGREEMENT NO. 140-06

Mayor Brian Shepherd stated that in order for Project No. 254, resurface Main Street (Fourth Avenue to Twelfth Avenue) and grading and bridge rehabilitation over the West Branch of the Walnut River (North Main bridge) to move forward, the agreement between the City and KDOT needs to be signed.

Commissioner Steve Reynolds questioned if the Bike Path was included in this Resolution.

Field Engineer Scott Rickard stated that KDOT strongly suggested including the bike path to insure a safe crossing.

RESOLUTION NO. 2557

Commissioner Linda Clark moved that Resolution No. 2557, a resolution designating, authorizing and directing the Mayor and City Clerk to execute for and on behalf of the City of El Dorado, Agreement No. 140-06 between the City and the Kansas Department of Transportation, to obtain for the City the benefits of State Aid for Project No. 254, to resurface Main Street (Fourth Avenue to Twelfth Avenue) and grading and bridge rehabilitation over the West Branch of the Walnut River (North Main bridge), be approved.

Commissioner Steve Reynolds seconded the motion.

Motion carried 5-0.

BOARD APPOINTMENTS

Mayor Brian Shepherd stated that the City Commission appoints members to various advisory boards. The Board of Zoning Appeals has dismissed a member due to lack of attendance and the appointment needs to be filled until the end of the current term, April 1, 2007. The Planning Commission needs two appointments due to the resignations of members.

BOARD OF ZONING APPEALS

Commissioner Michael Fagg moved to appoint Jim Miller to the Board of Zoning Appeals for a term set to expire April 7, 2007.

Commissioner Steve Pershall seconded the motion.

Motion carried 5-0.

PLANNING COMMISSION

Commissioner Michael Fagg moved to appoint Chet McCoy to the Planning Commission for a term set to expire April 1, 2007, and Gerald Watson to the Planning Commission for a term set to expire April 1, 2009.

Mayor Brian Shepherd seconded the motion.

Commissioner Linda Clark stated that one of the applicants did not list that they were a member of the Sales Tax Committee.

Motion carried 4-1 (Commissioner Linda Clark opposed).

REGIONAL ECONOMIC AREA PARTNERSHIP

Commissioner Michael Fagg moved to appoint Steve Pershall (elected official) to represent the City of El Dorado as "Member," and to appoint Herb Llewellyn (elected or appointed official) to represent the City of El Dorado as "Alternate Member" to the governing body of the Regional Economic Area Partnership (REAP).

Commissioner Steve Reynolds seconded the motion.

Motion carried 5-0.

NEW BUSINESS – DISCUSSION ITEMS

Mayor Brian Shepherd opened the floor for the Commissioners' comments.

Commissioner Michael Fagg inquired on the number of traffic citations issued to semi-truck drivers who are stopped for driving on Central Avenue.

Youth Commissioner Katie Wheeler updated the Commissioners on the activities of the Youth Commission.

Commissioner Steve Pershall asked for more discussion regarding fireworks, and for a possible non-binding vote in the next election regarding firework changes.

Commissioner Michael Fagg questioned the landfill charges. His understanding from City Staff was that the County was increasing their fees in 2007; however, according to the newspaper, they are not.

Mayor Shepherd closed the discussion item section.

PUBLIC COMMENTS

Mayor Brian Shepherd opened the floor for public comments.

Catherine Hicks, 424 Oil Hill Road, stated that she received a letter from Code Enforcement Officer Christy Beaman regarding her grass. Ms. Hicks explained that the grass was not mowed due to rocks left in her yard after the repaving project. Ms. Hicks also stated that the matting was not removed or grass planted. Ms. Hick concluded with applauding the Mayor on his stance for individual property rights.

Darrell Burhman, 1012 North Denver, questioned if the sewer improvement project would help with the sewer back up problems he has experienced at his address.

Staff will review the sewer problems at Mr. Burhman's address.

Harold Haskell, 122 Residence, presented the Commissioners with a copy of the abandoned vehicle section of the Municipal Code, and photographs of the area near his residence. Mr. Haskell requested no parking signs be placed in the 100 Block of Residence.

NO PARKING SIGNS

Commissioner Steve Pershall moved to post no parking signs in the 100 block of Residence on the east side and to review in sixty days.

Commissioner Michael Fagg seconded the motion.

Motion carried 5-0.

Catherine Hicks, 424 Oil Hill Road, requested that the speed limit sign on her property be removed, or placed to the north of her driveway.

Pat Hicks, 1147 South Arthur, thanked the Commission for all the work they do. Ms. Hicks also thanked the Mayor for his stance for Constitutional Rights.

Mayor Brian Shepherd closed the public comments section.

CITY MANAGER REPORT

City Manager Herb Llewellyn requested a work session for Monday, September 25, 2006, at 7:00 p.m. in the City Commission room.

ADJOURNMENT

Commissioner Steve Pershall moved to adjourn the meeting at 10:30 p.m.

Commissioner Michael Fagg seconded the motion.

Motion carried 5-0.

City Clerk Kendra Porter

Mayor Brian D. Shepherd