

EL DORADO CITY COMMISSION MEETING

December 4, 2006

The El Dorado City Commission met in regular session on December 4, 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., City Clerk Kendra Porter, and Field Engineer Scott Rickard.

VISITORS

Katie Wheeler	1951 Chelsea Drive	El Dorado, Kansas
William Guthrie	812 W. Ash	El Dorado, Kansas
Julie Guthrie	812 W. Ash	El Dorado, Kansas
Jeff Jones	1418 Finney	El Dorado, Kansas
Joey Jones	1418 Finney	El Dorado, Kansas
Jim Gardner	2225 Gentry Lane	El Dorado, Kansas
Larry Hill	425 S. Haverhill	El Dorado, Kansas
Develan Hill	425 S. Haverhill	El Dorado, Kansas
Allison Austin	860 SE Spires Road	El Dorado, Kansas
Mark Sommerville	515 W. Locust	El Dorado, Kansas
H.J. & Paula Provo	416 S. Denver	El Dorado, Kansas
Riley Provo	416 S. Denver	El Dorado, Kansas
Codey Coggins	860 SE Squires Road	El Dorado, Kansas
Larry Adams	1756 W. Third	El Dorado, Kansas
Gerald Watson	125 N. Summit	El Dorado, Kansas
Rollen R. Fooshee	842 N. Taylor	El Dorado, Kansas
Linda Baines	253 Post Road	El Dorado, Kansas
Colin Rowell	1640 Cottonwood	El Dorado, Kansas
Wade & Sharon Wilkinson	1016 S. Denver	El Dorado, Kansas
Dennis W. Harrison	1951 Hazlett	El Dorado, Kansas
Matt Rehder	220 E. First	El Dorado, Kansas
Vince & Melody Haines	300 N. Star	El Dorado, Kansas
David Yearout	1710 Post Court	El Dorado, Kansas
Roger Cutsinger	712 W. 14 th	El Dorado, Kansas
Dennis Hanson	1951 Hazlett	El Dorado, Kansas
Tom White	1805 Hazlett	El Dorado, Kansas
John Banks	1824 Lawndale	El Dorado, Kansas
Todd & Jo Peterson	1830 Kendrick Lane	El Dorado, Kansas
Dave Sundgren	533 Prairie Road	El Dorado, Kansas
Marvin Daniels	1602 W. Third	El Dorado, Kansas
Pat McAllister	1944 Belmont	El Dorado, Kansas
Kevin Johnson	482 NE Bluestem Road	El Dorado, Kansas
Cole Johnson	706 N. Emporia	El Dorado, Kansas
Doug Mackay	8301 E. 21 st St. North	Wichita, Kansas
Tom McKibban	1819 Terrace Drive	El Dorado, Kansas
Don Adlesperger	1285 S. Topeka	El Dorado, Kansas
Linda Jolly	2100 Pico Court	El Dorado, Kansas

CALL TO ORDER

Mayor Brian D. Shepherd called the December 4, 2006, City Commission meeting to order.

INVOCATION

The Reverend Mark Summerville, Hospice Care of Kansas, opened the meeting with prayer.

PLEDGE OF ALLEGIANCE

Ms. Lee’s Third Grade Class from Washington Elementary School led the Pledge of Allegiance.

CONSENT AGENDA

- a) Approval of the November 20, 2006, City Commission minutes.
- b) Approval of Appropriation Ordinance No. 11-06 in the amount of \$6,075,477.29.
- c) Approval of the Engineer’s Ninth Pay Estimate dated November 26, 2006 on Project No. 947, Pedestrian/Bicycle Facilities to the Contractor, Cornejo & Sons, in the amount of \$17,282.47.
- d) Removed from Consent Agenda.
- e) Approval of 2007 Cereal Malt Beverage license applications as listed:

Dillons, 700 N Main	Jumpstart/Conoco, 1631 W Central
Quiktrip, 1320 W Central	Blue Goose Tavern, 120 E 4th
Wal-Mart, 301 S Village RD	Casey's, 420 W 6th
Casey's, 1310 N Main	Pizza Hut, 729 N Main
Pizza Hut, 2423 W Central	Jalisco's, 626 N Main
Prairie Bowl, Inc, 307 S Haverhill Rd	Jax's, 124 W Locust

Commissioner Linda Clark requested Consent Agenda Item D be removed and discussed.

Commissioner Clark moved that the Consent Agenda, with items A, B, C and E, be approved.

Commissioner Steve Pershall seconded the motion.

Motion carried 5-0.

CONSENT AGENDA ITEM D

RESOLUTION NO. 2563

Commissioner Linda Clark explained that she was opposed to the Ninth Avenue bridge project and asked why this temporary note was not included in our recent bond issue. Staff explained that this project was not closed in time for the last bond issue.

Commissioner Steve Pershall moved that Consent Agenda Item D, Resolution No. 2563, a resolution for the issuance of Temporary Improvement Renewal Note No. 1876, in the total principal amount of \$205,305 for Project Nos. 255 and 266, be approved.

Commissioner Michael Fagg seconded the motion.

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

HOME HOUSING GRANT

Administrative Intern Matt Rehder stated the City of El Dorado has been awarded a second housing grant from Housing and Urban Development (HUD) as part of the Federal HOME Investment Partnerships Program through the Kansas Housing Resources Corporation. The \$300,000 grant, with \$75,000 local match, provides for the rehabilitation of approximately twelve owner-occupied homes in the City.

Administrative Intern Rehder stated the award mandates that the City appoint an Administrator and Inspector/Risk Assessor for the properties utilizing the grant monies. He advised the Commission that Staff will submit RFQ's for Risk Assessors and a Grant Administrator. He also updated the Commission on the current Home Housing Grant.

Discussion ensued regarding the eligibility requirements for home owners and who to contact for further information and applications.

SUB-DIVISION MORATORIUM DISCUSSION

Mayor Brian Shepherd stated that at the June 5, 2006, City Commission meeting, the City Commission approved a moratorium for a period of 180 days on processing applications for plat approvals. The City Manager thought the time period was complete, however, the last day of the moratorium will be January 2, 2007.

City Manager Herb Llewellyn explained that the purpose of this discussion item was to request more time to review and prepare changes to the sub-division regulations.

PUBLIC HEARING

Mayor Brian Shepherd opened the public hearing.

Vince Haines, 300 N. Star, President of El Dorado Inc., stated his preference of lifting the moratorium on the expiration date without any changes. This item could be considered during the Comprehensive Plan update. He also suggested the City consider using a third party during the Comprehensive Plan update.

Mayor Shepherd closed the public hearing.

Discussion ensued regarding continuing or discontinuing the moratorium.

Interim Planning and Zoning Director David Yearout explained the different options for the moratorium and the possible changes to the sub-division regulations.

City Manager Llewellyn suggested Staff draft an extension for the moratorium to be presented at the December 18, 2006, City Commission meeting.

PROJECT NO. 291 – PUBLIC HEARING

Mayor Brian Shepherd stated the Commission established this date for a Public Hearing on Project No. 291, which is proposed to be included in the 2007 Sales Tax

Program projects. This action is required because the property owners will be assessed for a portion of this work.

2007 SALES TAX PROJECT – the proposed project funded with the 2007 Sales Tax is as follows:

Project No. 291 – curb & gutter and driveway rehabilitation on Post Road (Country Club to Lawndale), Hazlett (McCollum to Skyview), Rim Rock (Country Club to Hazlett).

Mayor Shepherd stated a letter was mailed to each property owner notifying them about their proposed costs and the date established for the public hearing.

PUBLIC HEARING

Mayor Brian Shepherd opened the public hearing.

Dennis Hanson, 1951 Hazlett, requested information regarding the curb and gutter portion of this project.

Field Engineer Scott Rickard explained that all property owners received notification even if they were not going to be assessed.

Mayor Brian Shepherd closed the public hearing.

Commissioner Steve Pershall questioned the letter and assessment process.

Field Engineer Scott Rickard explained that the majority of the property owners in the project will not be assessed any costs unless work is requested by the property owner.

Tom White, 1805 Hazlett, requested a further explanation of the cost assessment process.

RESOLUTION NO. 2564 AND ORDINANCE NO. S-1278

Commissioner Michael Fagg moved that Resolution No. 2564, a resolution of finding as to the advisability of the improvements, and that Ordinance No. S-1278, an ordinance authorizing the construction and funding of Project No. 291, be adopted, and authorize the City Manager to prepare plans and take bids on this project.

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

SEWER AVERAGING ORDINANCE

Mayor Brian Shepherd stated that at the November 20, 2006, City Commission meeting, the City Commission approved amending the current process of averaging sewer rates. Currently, sewer charges on April through December billings for residential and small non-residential users are based on the average monthly water usage during the months

of December through March each year. Under the proposed ordinance, the March through December billings for these customers will be based on the average of the water usage during the months of December through February.

City Manager Herb Llewellyn stated the reason for the requested change.

ORDINANCE NO. G-968

Commissioner Steve Pershall moved Ordinance No. G-986, an ordinance amending Chapter IX, Article 4, Subsection (d) (2) (A) of the code of the City of El Dorado, Kansas, 1989 pertaining to user charge rates, be approved.

Commissioner Steve Reynolds 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	No
	Mayor Brian Shepherd	Yes

PUBLIC HEARING ON PETITION TO VACATE PLATTED SETBACK LINES IN A PORTION OF THE BANKS-WILLHITE ADDITION TO THE CITY OF EL DORADO (CASE NO. 06-001-VAC)

Interim Planning and Zoning Director David Yearout stated that Sweet Tree Properties, Inc, by John Banks, President, and Tom McKibban and Cathy Cooper-McKibban, petitioners, are requesting the vacation of a portion of the platted building setback lines along Chase Avenue in the Banks-Willhite Addition. When this property was platted, the setbacks along Chase Avenue were set on the face of the plat at 30 feet, even though the intent was for these sides of the lots to be the street side yard. Under the Zoning Regulations, a street side yard in a residential area has a minimum of a 15-foot setback. This vacation will reduce the platted restrictions to be consistent with the Zoning Regulations.

Interim Planning and Zoning Director David Yearout also stated that at the November 16, 2006, Planning Commission meeting, the Planning Commission found no objections to the granting of the vacation as requested.

Mayor Brian Shepherd requested information regarding details of the setting of the house on this property.

Interim Planning and Zoning Director Yearout explained the details.

John Banks, 1824 Lawndale, explained the oversight during the platting process.

Commissioner Steve Reynolds moved to grant the prayer of the petition in Case No. 06-001-VAC, requesting the vacation of a portion of the building setback lines along Chase Avenue in the Banks-Willhite Addition, and authorize the Mayor to sign the Vacation Order granting said vacation.

Commissioner Linda Clark seconded the motion

Motion carried 5-0.

REZONING FROM I-1, LIGHT INDUSTRIAL TO R-1, RESIDENTIAL – LOW DENSITY OF PROPERTY LOCATED AT 505 EAST FOURTH AVENUE (CASE NO. 06-001-REZONE)

Interim Planning and Zoning Director David Yearout stated that the applicants, Gerald & Linda Greer, are requesting the rezoning of the property located at 505 East 4th from I-1, Light Industrial to R-1, Residential Low-Density. This property has an existing single-family home that was established in 1993, just prior to the adoption of the 1993 Zoning Regulations. At the time of the issuance of the building permit, a residence was a permitted use in the Light Industrial District. After the adoption of the 1993 Zoning Regulations, a residential use is not a permitted use. Therefore, the existing house is “grandfathered.” However, the applicants are having difficulty in selling the residence because of the zoning classification because potential buyers are unable to obtain mortgages due to policies of the lenders. Staff recommended denial of the rezoning based on the Comprehensive Plan and the existing nearby uses.

Interim Planning and Zoning Director Yearout also stated that at the November 16, 2006, Planning Commission meeting, after reviewing the information submitted at the public hearing, the Planning Commission recommended approval of the rezoning from I-1, Light Industrial to R-1, Residential – Low Density by a vote of 4 to 3.

Commissioner Steve Pershall questioned the property’s current use and past actions of zoning regulations.

Interim Planning and Zoning Director Yearout explained the process of the zoning of the property to present day.

Commissioner Steve Reynolds questioned the zoning details of the area.

Interim Planning and Zoning Director Yearout explained the zoning details surrounding the property.

Commissioner Michael Fagg requested information regarding the approval process of the Planning Commission and Staff.

Interim Planning and Zoning Director Yearout explained how the decisions and votes were resolved.

Discussion ensued regarding zoning issues throughout the City.

ORDINANCE NO. G-987

Commissioner Linda Clark moved that the recommendation of the Planning Commission to approve Case No. 06-001-Rezone requesting a rezone from I-1, Light Industrial to R-1, Residential – Low Density for property located at 505 East Fourth Avenue be accepted, and that Ordinance No. G-987 be approved.

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	No
	Mayor Brian Shepherd	Yes

SPECIAL USE PERMIT TO ALLOW A DAY CARE CENTER TO BE LOCATED AT 422 NORTH TAYLOR ON PROPERTY ZONED R-1, RESIDENTIAL – LOW DENSITY (CASE NO. 06-005-SUP)

Interim Planning and Zoning Director David Yearout stated the applicant, Christa Brazill and owners, Clifford & Cindy Brazill, are requesting a special use for a day care center to be located at 422 North Taylor. The property is zoned R-1 Residential Low Density District. Staff recommended the applicant be denied, primarily because the property is felt to be too small to accommodate a facility of this size and there is not adequate space on the lot to meet the requirements of the Zoning Regulations.

Interim Planning and Zoning Director Yearout also stated that at the November 16, 2006, Planning Commission meeting, after reviewing the information submitted at the public hearing, the Planning Commission recommended approval of the Special Use Permit for the establishment of the day care center by a vote of 7 to 0, subject to complying with the requirements of the Zoning Regulations concerning off-street drop-off/pick-up area because Taylor Street is a collector.

Discussion ensued regarding driveway and parking issues on a collector street.

RESOLUTION NO. 2565

Commissioner Linda Clark moved that the recommendation of the Planning Commission to approve Case No. 06-005-SUP requesting a Special Use Permit to allow the establishment of a day care center for property located at 422 North Taylor be accepted, and that Resolution No. 2565 be approved.

Commissioner Steve Reynolds seconded the motion.

Motion carried 5-0

SPECIAL USE PERMIT TO ALLOW A STORAGE WAREHOUSE AT 325 WEST SIXTH AVENUE ON PROPERTY ZONED C-1, GENERAL BUSINESS (CASE NO. 06-006-SUP)

Interim Planning and Zoning Director David Yearout stated that the applicant, Curtis Lill, and owners, Robert & Inez Dixon, are requesting a special use for a storage warehouse to be located at 325 West Sixth. The property is zoned C-1 General Business District. The intent is to construct a storage warehouse at the southeast corner of the property for storage of materials associated with the Glass and Upholstery business and to also make space available by lease to Frito Lay for warehousing of merchandise for pick-up by the route drivers. In addition, the applicant is also requesting approval of a reduction of the setbacks along the east and south property lines as shown on the site drawing.

Interim Planning and Zoning Director David Yearout further stated that at the November 16, 2006, Planning Commission meeting, after reviewing the information submitted at the public hearing, the Planning Commission recommended approval of the Special Use Permit for the establishment of the storage warehouse by a vote of 6 to 1, subject to compliance with the paving requirements of the Zoning Regulations.

RESOLUTION NO. 2566

Commissioner Linda Clark moved that the recommendation of the Planning Commission to approve Case No. 06-006-SUP requesting a Special Use Permit to allow the

establishment of a storage warehouse for property located at 325 West Sixth Avenue be accepted, and that Resolution No. 2566 be approved.

Commissioner Steve Pershall seconded the motion.

Motion carried 5-0.

CONCEALED CARRY LOCATION RESTRICTIONS DISCUSSION

Mayor Brian Shepherd stated that beginning January 1, 2007, licensed individuals will be authorized by State law to carry concealed weapons in Kansas.

City Manager Herb Llewellyn explained the details and requested input from the City Commission.

Discussion ensued regarding possible prohibited locations and the differences between law enforcement and those authorized to carry concealed weapons.

BOUNDARY RESOLUTION

Mayor Brian Shepherd stated that in any year that the City annexes land, the Commission must pass an ordinance redefining the City boundary. The following resolution incorporates the changes that resulted from the annexation (the new wastewater treatment plant land).

RESOLUTION NO. 2567

Commissioner Steve Pershall moved that Resolution No. 2567, a resolution redefining the boundary limits of the City of El Dorado, Kansas, be adopted.

Commissioner Steve Reynolds seconded the motion.

Motion carried 5-0.

INDUSTRIAL PARK DEVELOPMENT

Mayor Brian Shepherd stated that at the November 20, 2006, City Commission meeting, the City Commission passed a resolution authorizing the surveying of property in the Industrial Park for the purpose of creating an acceptable site for a manufacturing facility to be served by the Union Pacific Railroad. It is necessary that the legal description of the property be certified with the City Clerk and an ordinance is required to begin the eminent domain process to acquire the property.

City Manager Herb Llewellyn reminded the Commission of this discussion item on the previous City Commission agenda.

ORDINANCE NO. S-1279

Commissioner Steve Reynolds moved that Ordinance No. S-1279, an ordinance initiating the eminent domain proceedings for an acceptable site for a manufacturing facility to be served by the Union Pacific Railroad in the El Dorado Industrial Park.

Commissioner Linda Clark 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

NEW BUSINESS – DISCUSSION ITEMS

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

Commissioner Linda Clark questioned the amount of time to renew discussion regarding the parking on North Residence decision.

Commissioner Steve Pershall requested an update regarding the fire located in the 100 block of West Central.

City Manager Herb Llewellyn explained the initial, tentative fire report and staff's actions to protect the abutting buildings and local area.

Commissioner Steve Reynolds stated the Youth Commission is requesting a change in their by-laws.

Youth Commissioner Katie Wheeler, 1951 Chelsea Drive, explained the requested change of adding a point system to participate in the Youth Commission.

YOUTH COMMISSION BY-LAW CHANGE

Commissioner Steve Reynolds moved to accept the changes to the Youth Commission By-laws as presented.

Commissioner Linda Clark seconded the motion.

Motion carried 5-0.

Mayor Shepherd closed the discussion item section.

PUBLIC COMMENTS

Mayor Brian Shepherd opened the floor for public comments.

John Banks, 1824 Lawndale, stated his concerns regarding the sub-division moratorium.

Mayor Shepherd responded with the desire for consistency for all developers.

Don Adlesperger, 1285 S. Topeka, expressed his ideas for changes for the sub-division regulations. He requested an open meeting to discuss the moratorium.

Mayor Shepherd stated a possible meeting for early January to include representatives from the City, Chamber, El Dorado Inc, developers and other interested parties.

Gerald Watson, 125 N. Summit, expressed his thanks to the Commission and Staff for the work spent on his questions regarding the airport. He discussed several more questions regarding the airport.

Mayor Shepherd requested Mr. Watson to make his request in writing.

Jo Peterson, 1830 Kendrick Lane, mentioned her goal of ending the airport discussion and stated more questions.

Dave Sundgren, 533 Prairie Road, stated his concerns regarding repeated questions and repeated concerns against the airport and its employee.

Marvin Daniels, 1602 W. Third, stated his concerns regarding loud music emanating from vehicles in the community.

City Manager Llewellyn stated more staffing as a possible, but expensive, solution to enforce ordinances.

Pat McAllister, 1944 Belmont, restated his concerns regarding the number of days allowed to discharge fireworks.

City Manager Llewellyn addressed several concerns regarding previous fireworks discussions with the City Commission.

Kevin Johnson, 482 NE Bluestem Road, thanked the Commission for their work. He stated his support for Dave Wiebe, and his concerns regarding the constant questions regarding the airport.

Vince Haines, 300 N. Star, offered to facilitate a discussion regarding the moratorium issue. He extended a welcome to the Commissioners to attend El Dorado Inc meetings.

Cole Johnson, 706 N. Emporia, stated he is a certified flight instructor and thanked the Commission and Staff for their hard work. He explained he does not allow flight students to use the El Dorado Municipal Airport due to current bad practices of one pilot. He complimented Dave Wiebe for his dedication and work at the airport.

Mayor Shepherd closed the public comments section.

EXECUTIVE SESSION

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

Commissioner Steve Pershall moved to recess into an Executive Session for the purpose of discussing confidential data relating to the financial affairs or trade secrets of second parties, legal and non-elected personnel issues, and to reconvene the regularly scheduled meeting in the City Commission room at 10:50 p.m.

Commissioner Steve Reynolds seconded the motion.

Motion carried 5-0.

EL DORADO CITY COMMISSION MEETING

December 4, 2006

The Commission returned to the Commission Room.

The Mayor reconvened the meeting at 10:50 p.m.

Commissioner Fagg moved to extend the Executive Session for previously stated reasons, and to reconvene the meeting in the City Commission room at 11:30 p.m.

Commissioner Steve Reynolds seconded the motion.

Motion carried 4-0. (Commissioner Pershall remained in the Conference Room.)

Mayor Shepherd reconvened the meeting at 11:30 p.m., and stated that no official decisions were made.

CITY MANAGER REPORT

City Manager Herb Llewellyn stated the work session is scheduled for December 11 at 7:00 p.m.

ADJOURNMENT

Commissioner Steve Pershall moved to adjourn the meeting at 11:45 p.m.

Commissioner Michael Fagg seconded the motion.

Motion carried 5-0.

City Clerk Kendra Porter

Mayor Brian D. Shepherd