EL DORADO
THE FINE ART OF LIVING WELL

City of El Dorado, KS
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El Dorado, KS 67402
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www.eldoks.com

TO: City Commission
FROM: Tabitha Sharp, City Clerk
SUBJ: Work Session Meeting Agenda
DATE: July 8, 2019

CANCELLED

A Work Session is scheduled for July 8, 2019 at 5:00 pm in the Commission Chambers at City Hall, 220 E. First Avenue. The following items will be presented:

I. ITEMS FOR PRESENTATION AND DISCUSSION

a. 2020 Budget Review
b. Hands-Free Ordinance
c. Excess Sales Tax

II. July 16, REGULAR AGENDA REVIEW

a. Proclamations
b. Consent Agenda
   i. City Commission Minutes
   ii. Appropriation Ordinance
c. New Business
   i. Excess Sales Tax
   ii. Special Use Permit & Rezoning Application – S. Haverhill Road
d. Executive Session
   i. None

III. REPORTS

a. City Commission Reports
b. City Manager's Report

2018 Commission Priorities
Water Sales • Community Image • Industrial and Business Parks • Parks and Recreation • Public Safety

2020 Proposed Budget

Final Review

July 8, 2019

CANCELLED

Commission Priorities

BRIEF DISCUSSION ON HOW PROPOSED BUDGET ADDRESSES COMMISSION PRIORITIES

CANCELLED

Community Image

CANCELLED

Identified Priority	Objective/Key Result	Status	Budget Impact
Enhance Primary Entrances	Commission to define entrances and project scope	Discussion not yet scheduled	Unknown; no funds presently allocated
Refocus CTC on Placemaking	Commission to provide "CTC" with direction	Initial discussion May 29	No direct budgetary impact
	"CTC" to develop work plan based on new direction	Initial discussion May 29	No immediate budgetary impact
Community Branding Initiative	Staff to present current community marketing efforts	Initial discussion May 29	No immediate budgetary impact
	Commission to define scope of services for RFQ/P	Initial discussion May 29	Allocating up to $75,000 for community branding efforts in 2019 and $100,000 for implementation in 2020
Christmas Tree at Main & Central	KDOT Approval 60 days prior	No update	Unknown; no funds presently allocated

Parks and Recreation

CANCELLED

Identified Priority	Objective/Key Result	Status	Budget Impact
Implementation of Parks Master Plan	Capital Improvement Plan to Parks Advisory Board	Scheduled for next Park Advisory Board with quorum	Unknown; no funds presently allocated
	Joint Commission/Park Advisory Board to discuss priorities and funding	Not scheduled	No immediate budgetary impact
Tennis Court Complex	Design and Construction	Tentatively scheduled for Aug ‘19	City’s share of project ($800,000) to be allocated from 2019 budget
Staffing Assessment	Staffing Assessment and Associated Costs	Completed; discussion to occur during budget preparation	$54,940 for ea. add’l Maint. Worker; ideal situation of 2 FTE costs $109,880

Business Growth

CANCELLED

Identified Priority	Objective/Key Result	Status	Budget Impact
Partner MOUs	Main Street MOU	Scheduled for review May 29	$30,000 Main Street allocation
	Chamber MOU/Agreement	Not started	Unknown; the Chamber does not receive funds from the City at this time
Business Park Marketing Plan	Proposed Land Policy presentation in March	Real Estate Policy under consideration	Allocating up to $25,000 from EcoDevo Sales Tax Fund for business park marketing in 2019/2020
Industrial Park Master Plan	Staff/PEC will present Industrial Park Master Plan in March	Completed	Allocating up to $50,000 from EcoDevo Sales Tax Fund for industrial marketing in 2019/2020

Public Safety

CANCELLED

Identified Priority	Objective/Key Result	Status	Budget Impact
Police Dept at Full Employment	Task force to prepare strategic plan to recruit officers; Fill 2 of 5 open FTEs by 3Q	On-going; Conditional offer made to one prospective officer	$66,800 for ea. add'l Patrol Officer. Ideal situation of 3 FTE costs $200,400; incl. in budget, but not adequately funded
Fire Dept at Full Employment	Staffing assessment will provide Commission with personnel options for upcoming budget discussions	Completed; Discussion to occur during budget preparation; No funding mechanism identified	$82,888 for ea. add'l Firefighter. Ideal situation of 3 FTE costs $248,665; not incl. in budget
Police Facility Planning	RFQ for Police Facility Planning Services	On hold until further notice	No immediate budgetary impact
Equipment & Technology Strategic Plan	Equipment & Technology Strategic Plan for PD and FD	Not started	Unknown; no funds presently allocated

Water Sales

Identified Priority	Objective/Key Result	Status	Budget Impact
Lake Development Master Plan	Staff Overview of Lake Development Opportunities	Initial discussion May 29	Development of master plan will likely cost upwards of $100,000; currently not incl. in budget
	Lake Development Master Plan RFQ	Not started	
Wholesale Water Sales	Augusta Wholesale Contract	On-going; Options submitted to Augusta for discussion	No immediate budgetary impact; although potential increase in water revenue
	HollyFrontier Wholesale Contract	On hold; Awaiting results of initial clarified water study	No immediate budgetary impact; although potential increase in water revenue
Industrial Water Sales	Development of marketing strategies to recruit water-intensive industrial users to industrial park	On-going	Allocating up to $50,000 for industrial marketing efforts (Industrial Mill Levy Fund) in 2019/2020

CANCELLED

Operational Funds

PRIMARY OPERATIONAL FUNDS THAT FACILITATE PROVISION OF GENERAL GOVERNMENT SERVICES.

General Fund

No mill levy increase proposed.

Projected sales tax receipts of $2.5 million and franchise fees of $1.8 million. Estimated $3.3 million from property taxes.

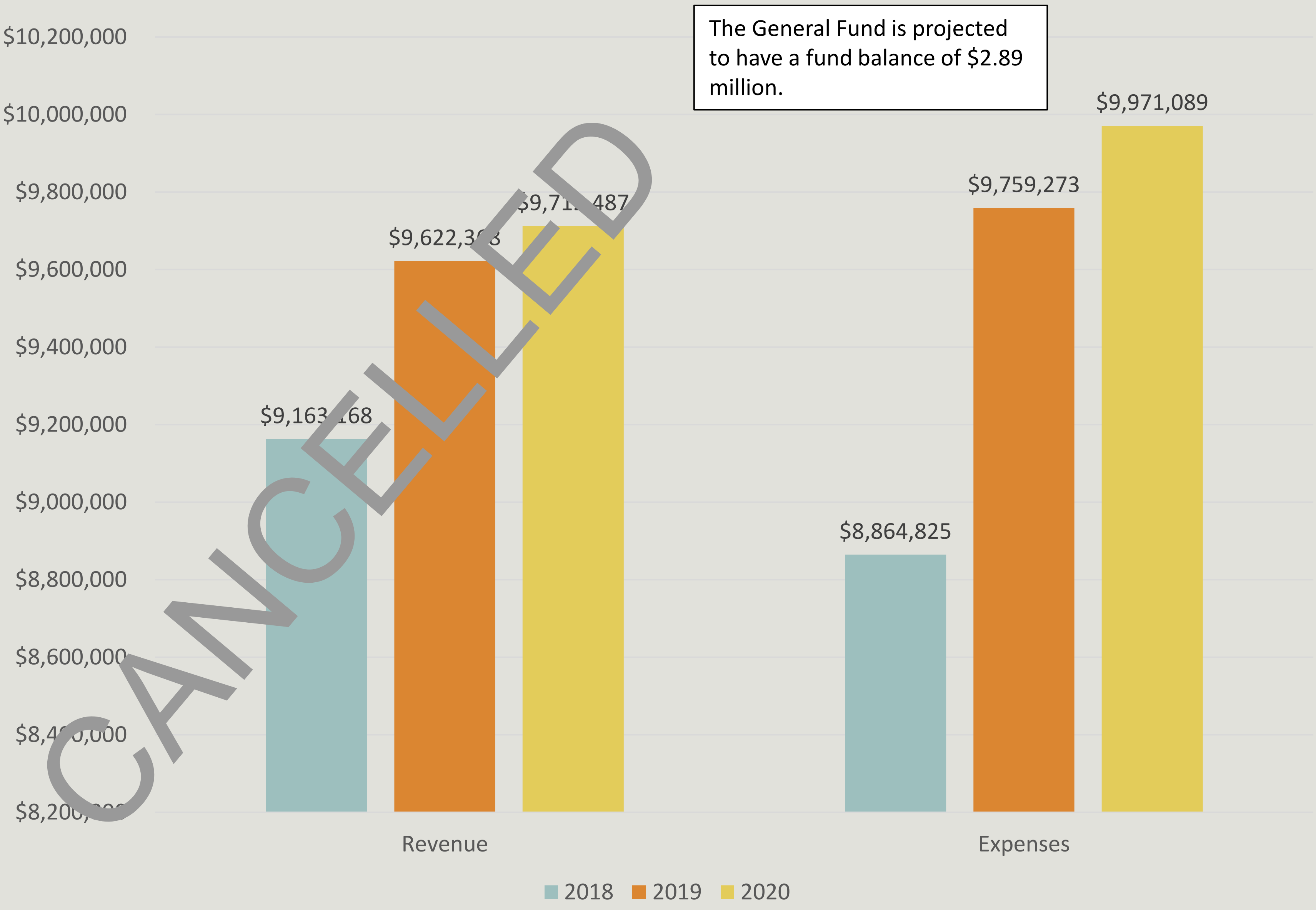
Includes transfer of $200,000 from the General Fund to the Bond and Interest Fund to service debt in 2020 and 2021.

Transfer to Major Street Fund to increase $613,000 due to reallocation of Public Works expenses.

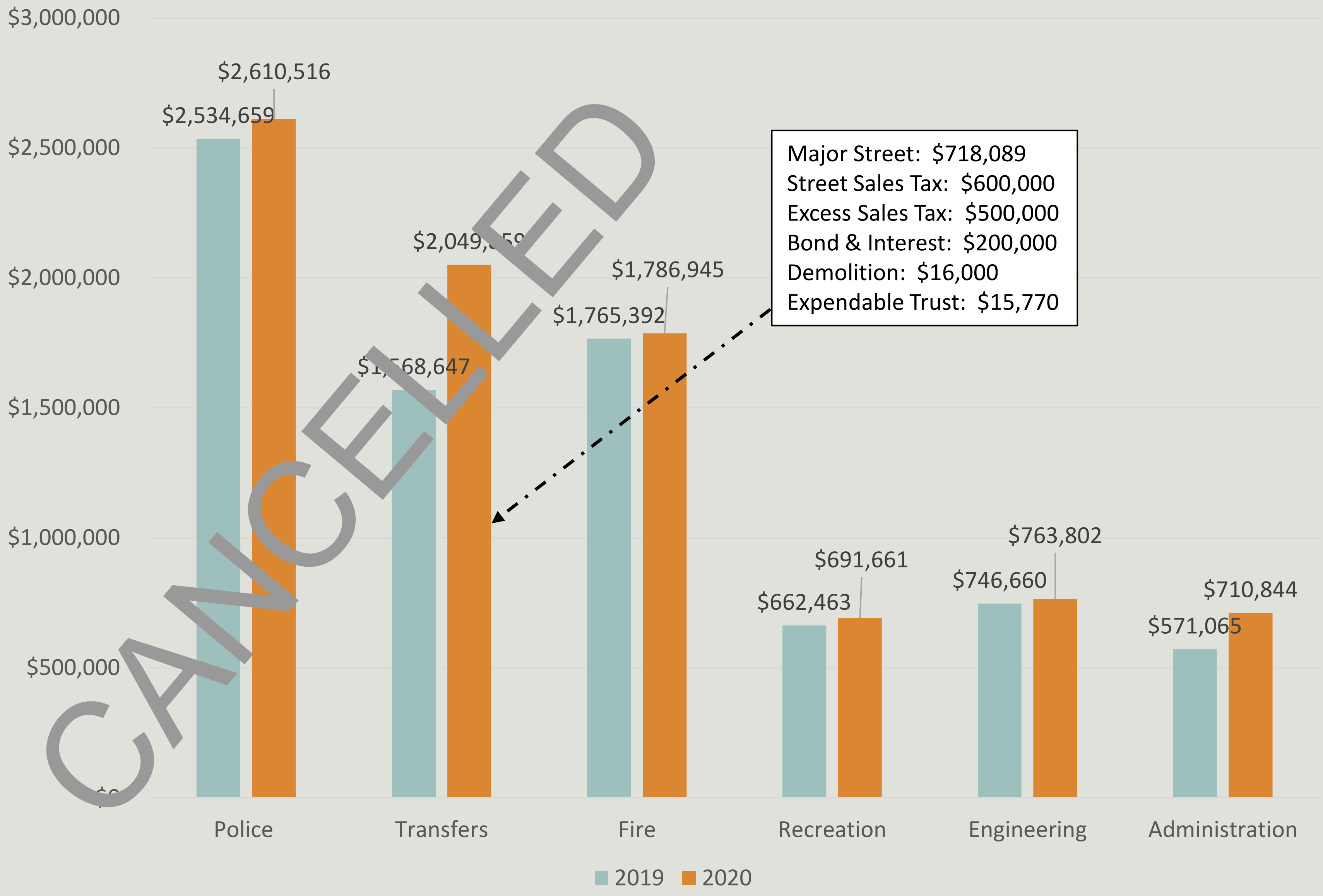
Personnel-related expenses planned to increase by $394,101.

Expected to spend down fund balance by $258,602 if all open positions are filled.

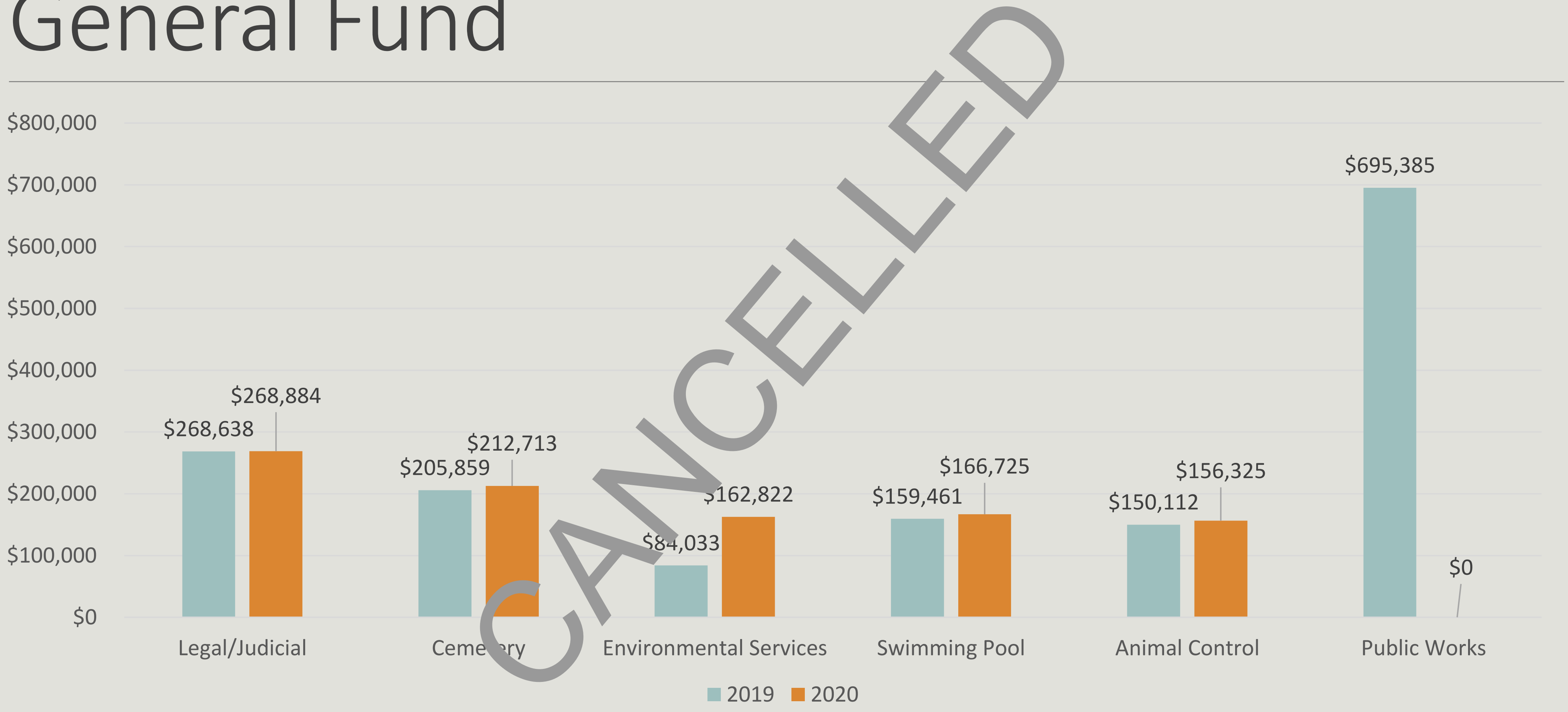
General Fund



General Fund



General Fund



Partner Agency Requests

CANCELLED

Partnering Agency	Fund	2019 Allocation	2020 Budget Request	Budgeted Amount
El Dorado, Inc.	Industrial Mill Levy	$113,000	$113,000	$132,723
El Dorado Main Street Association	General	$30,000	$30,000	$30,000
El Dorado Broncos	Tourism	$10,000	$20,000	$10,000
El Dorado Municipal Band	General	$7,000	$7,200	$7,200
El Dorado Chamber of Commerce	Tourism	$0	$0	$0

Fund Summary

<u>AIRPORT FUND</u>

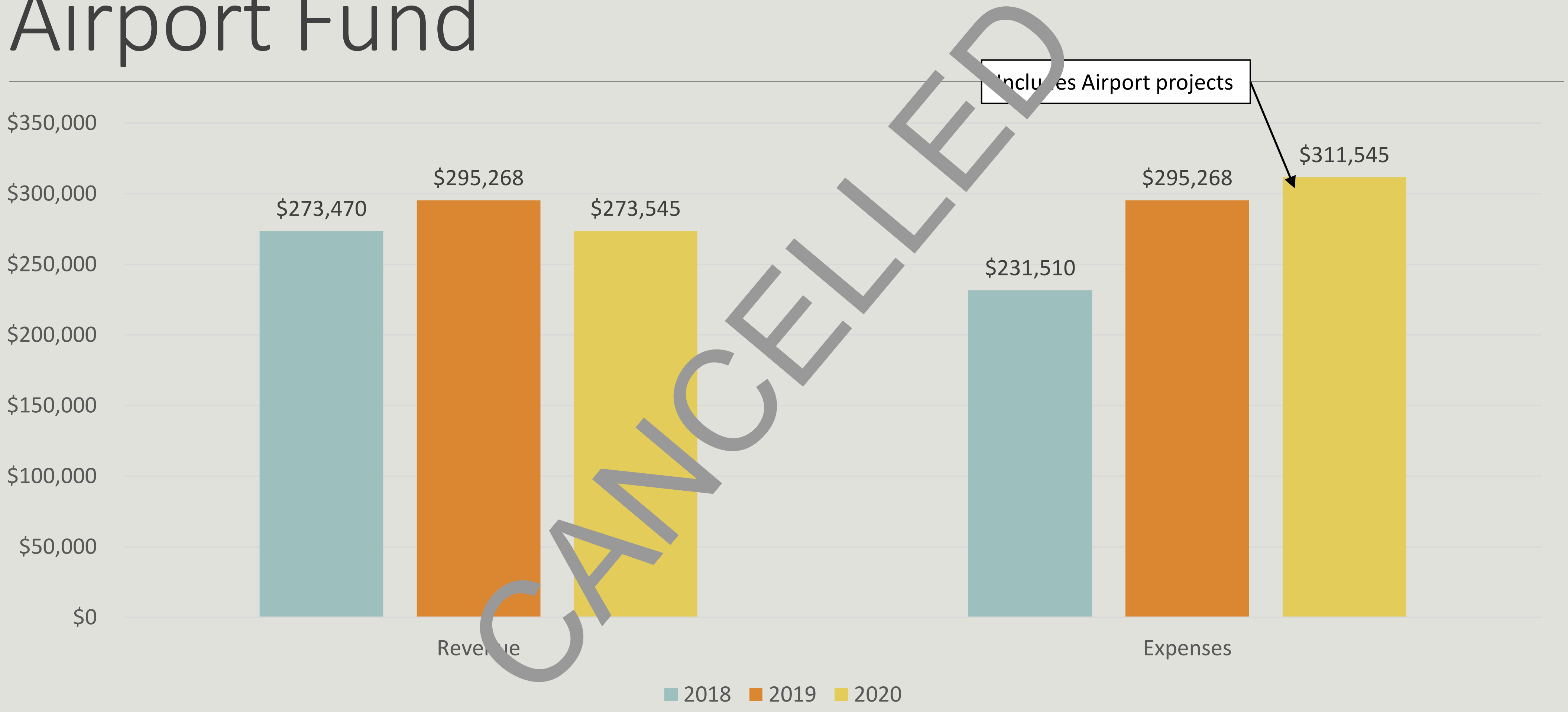
PAPI and Runway Lighting Projects with local match of $66,000.

Fund is expected to spend down cash balance by $36,000.

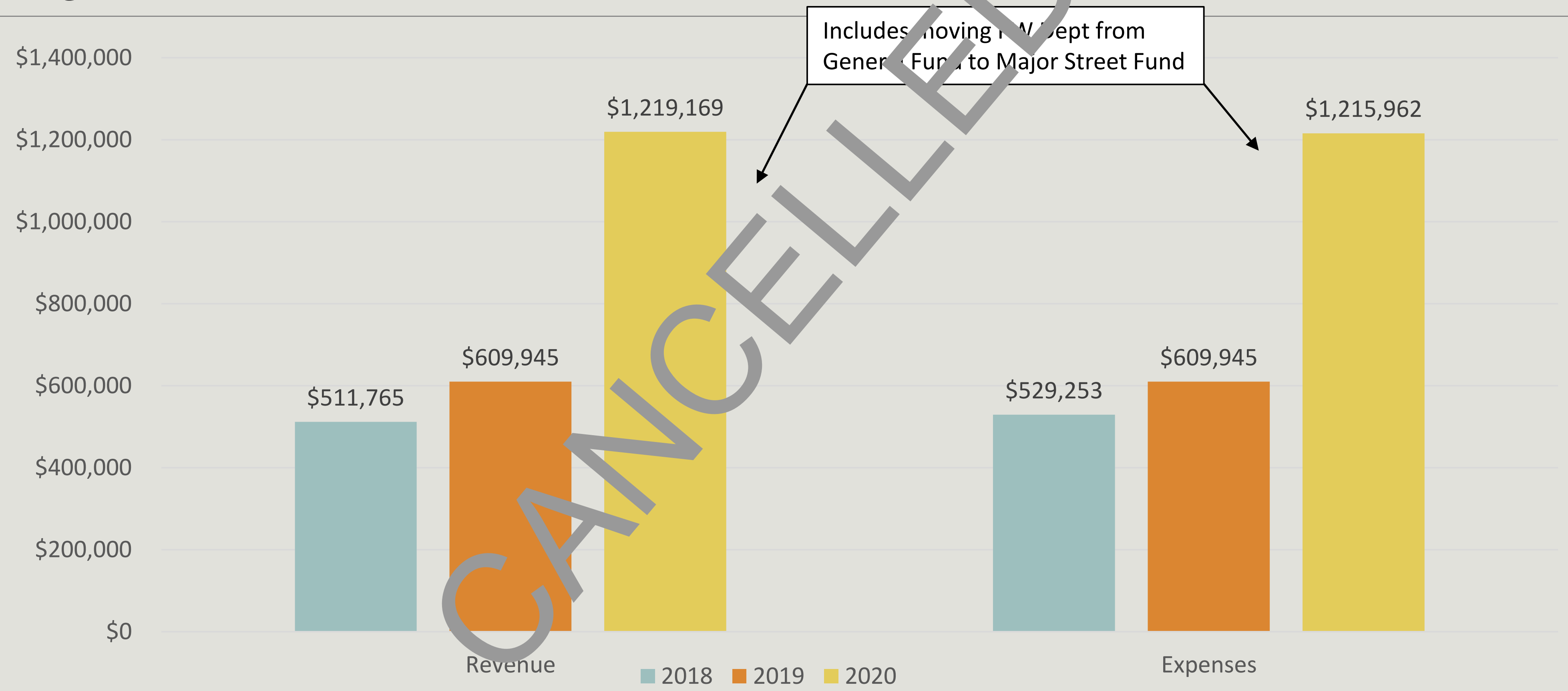
<u>MAJOR STREET FUND</u>

Increased transfer of $613,000 from General Fund for employee expense reallocation.

Airport Fund



Major Street Fund



Fund Summary

Tourism Fund

Planning to spend down fund balance by about $100,000 for community branding initiative.

Includes part-time employee to assist with summer events and activities.

Estimating $170,000 in transient guest tax receipts.

Civic Center lease revenue from Butler Rural Electric of $36,000.

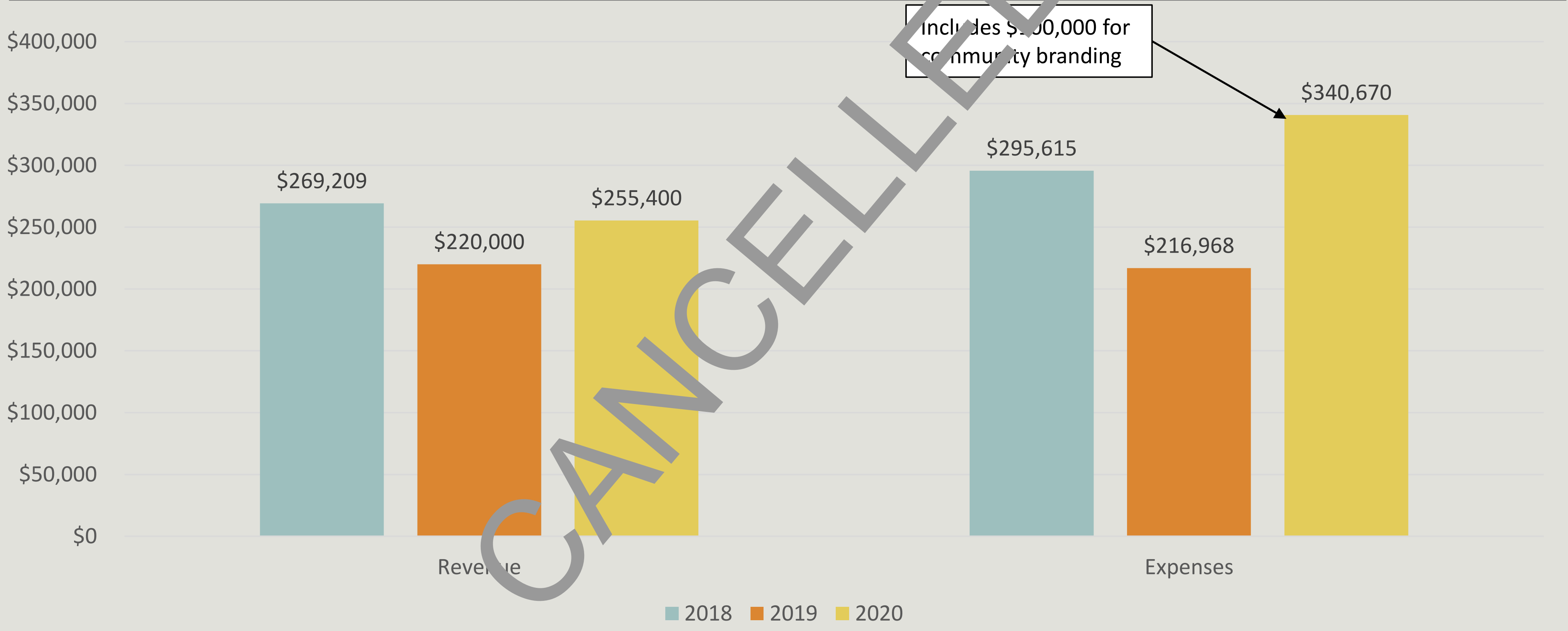
Bond and Interest Fund

Includes transfer of $200,000 from General Fund to cover debt service payment.

Anticipated to spend down cash balance by $312,000.

Debt service payment of $1.798 million.

Tourism Fund



Bond and Interest Fund

Cash Reserves

Enterprise Funds

OPERATIONS THAT ARE INTENDED TO BE SELF-SUPPORTED BY ENTERPRISE-GENERATED REVENUE.

Fund Summary

WATER FUND

Proposing rate reduction equal to about $105,000.

Proposed $100,000 in water infrastructure investments.

$50,000 allocated for water infrastructure projects

(Rim Rock Water Main).

One Equipment Operator removed from budget due to retirement ($82,000).

Increase to part-time budget of $10,000.

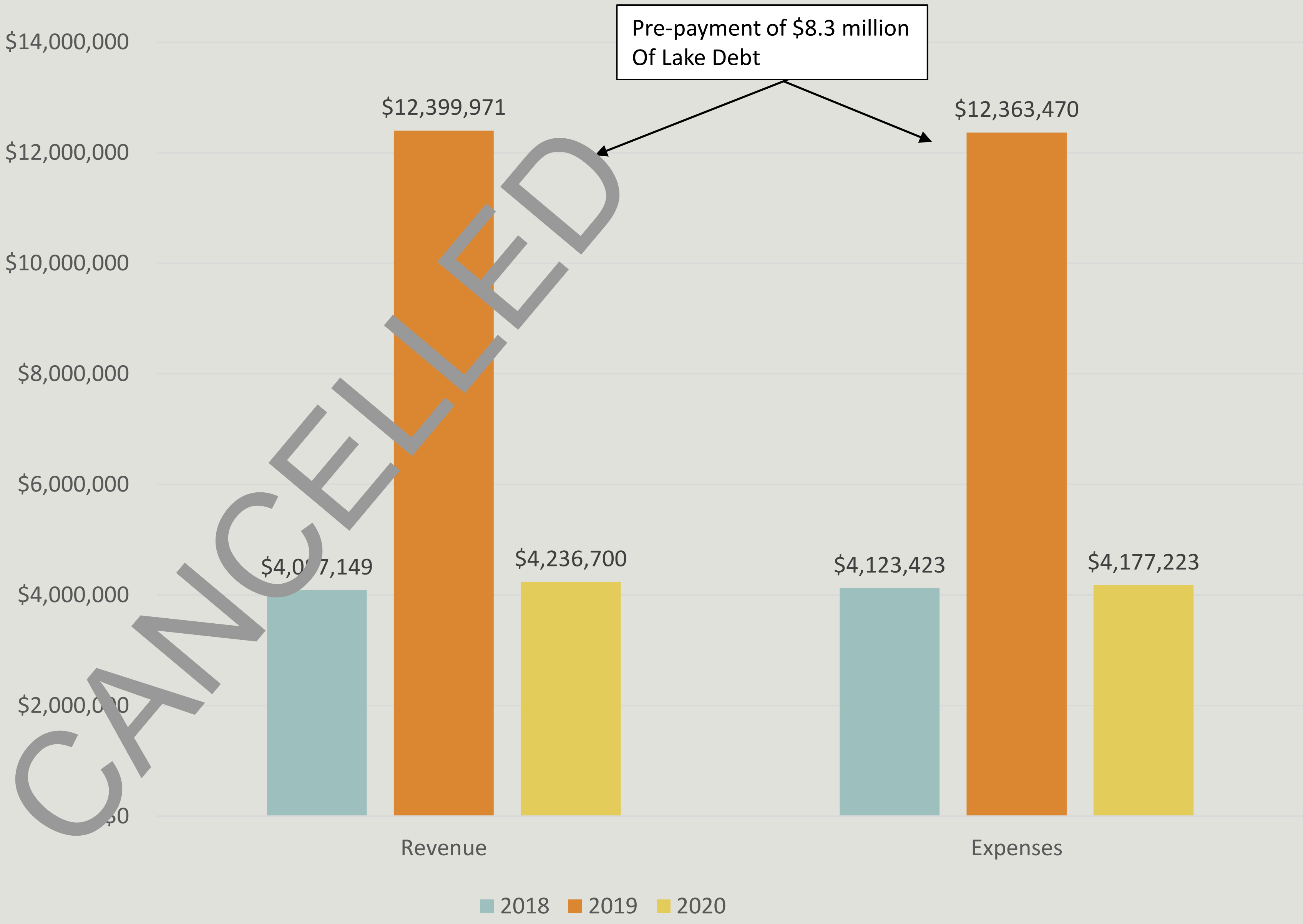
SEWER FUND

No rate increases proposed.

Proposed $100,000 transfer from Water Fund for sewer infrastructure investments.

$35,000 allocated to sewer maintenance projects.

Water Fund



Pre-payment of $8.3 million
Of Lake Debt
$14,000,000
$12,000,000
$10,000,000
$8,000,000
$6,000,000
$4,000,000
$2,000,000
$0
$12,399,971
$12,363,470
$4,236,700
$4,123,423
$4,177,223
Revenue
Expenses
2018
2019
2020
CANCELED

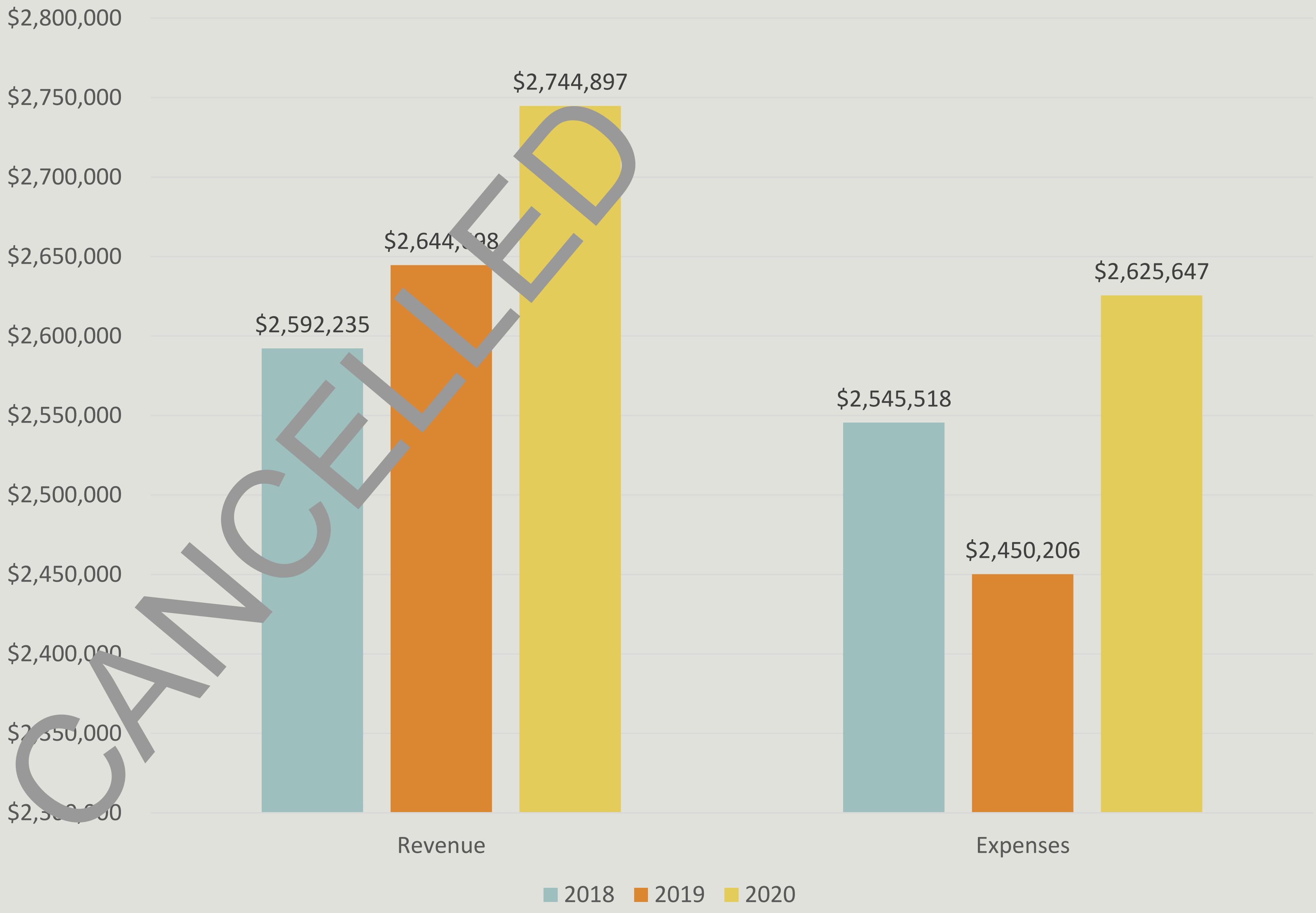
Lake Debt Fund Proposal

Funds previously allocated to Lake Debt for Stages 2 & 3 and Future Lake Debt proposed to be re-allocated as follows:

- Infrastructure Investments:
  - Water: $100,000
  - Sewer: $100,000
- Readiness-to-Serve Rate Reduction: $105,000
- Future Lake Debt Set-Aside: $360,000

CANCELLED

Sewer Fund



$2,800,000
$2,750,000
$2,700,000
$2,650,000
$2,600,000
$2,550,000
$2,500,000
$2,450,000
$2,744,897
$2,592,235
$2,625,647
$2,545,518
$2,450,206
CANCELLED
Revenue
Expenses
2018
2019
2020

Fund Summary

REFUSE/RECYCLING FUND

Likely reduction to refuse fee to $14.75.

Anticipated changes to refuse billing structure.

Planning to spend $60,000 on new trash containers of various sizes.

No planned vehicles and equipment replacement.

Planning to spend down balance by about $68,112. Fund will still maintain reserve requirements per policy.

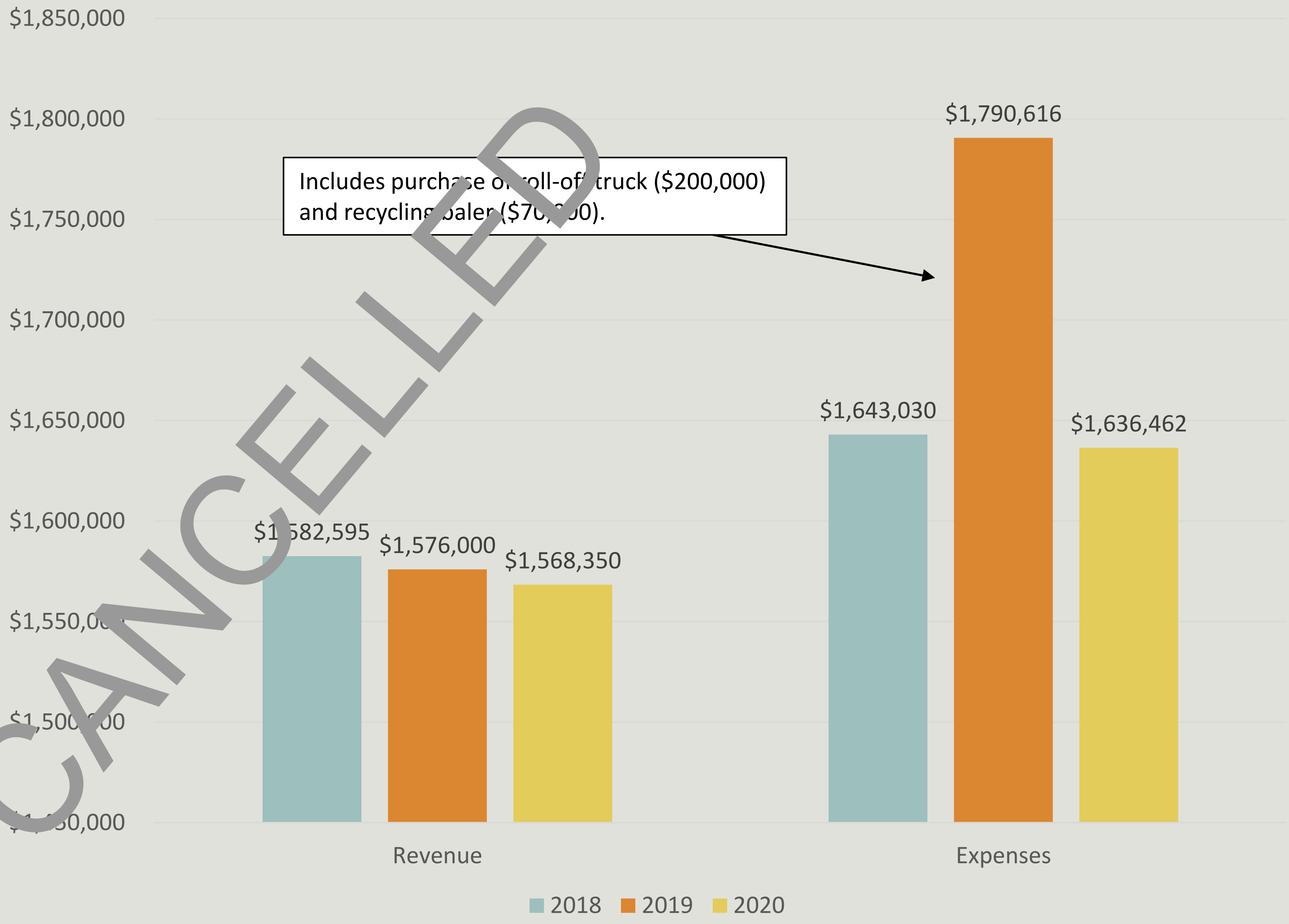
STORM WATER FUND

No assessment increases planned.

Planning to spend down balance by about $27,000 due to personnel expenses exceeding annual revenue.

Fund will continue to focus on Operations and Maintenance projects.

Refuse/Recycling Fund

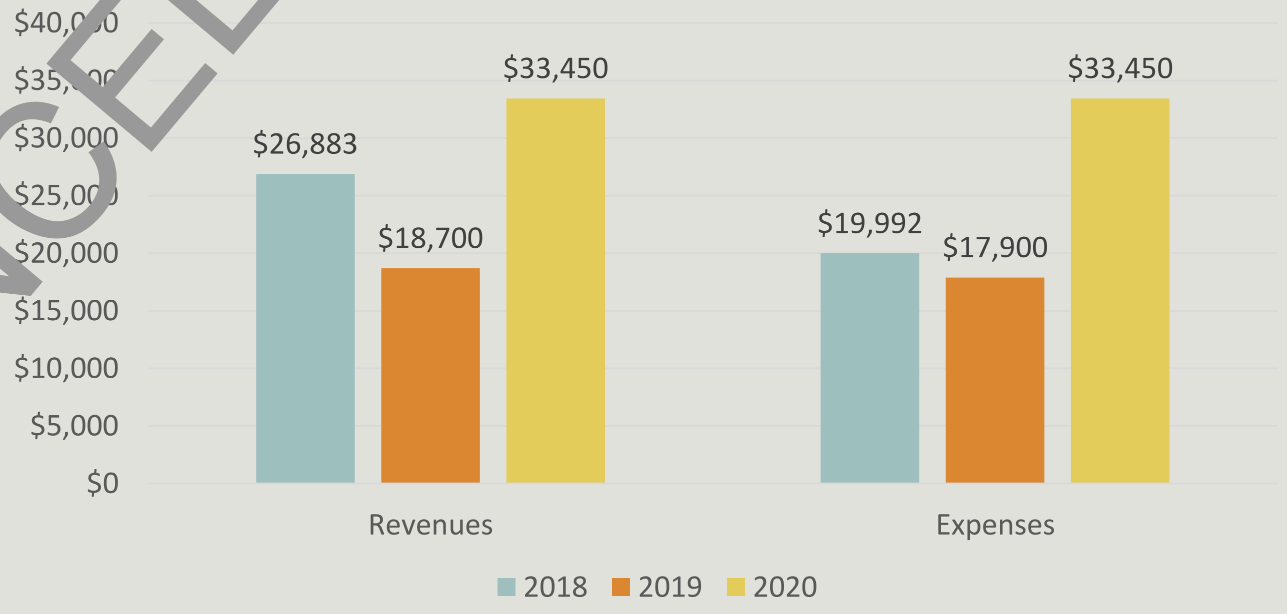


Fund Summary

COMPRESSED NATURAL GAS FUND

No changes proposed.

The CNG Fund has performed well since its inception and will continue to do so given the City's reliance on compressed natural gas as a fuel source.



Non-Operational Funds

SPECIAL PROJECT FUNDS THAT MUST BE ALLOCATED PER STATUTE, LOCAL ORDINANCE, OR POLICY.

CANCELLED

Fund Summary

STREET SALES TAX FUND

Continuation of $600,000 allocation for street maintenance:

- $500,000 to major maintenance such as mill and overlays
- $100,000 to minor maintenance such as crack sealing, pothole patching, etc.

EXCESS SALES TAX FUND

Est. excess sales tax of $283,000 available for allocation next year based on current sales tax trend.

Excess Sales Tax Committee has $349,000 to allocate to various projects in 2020.

Staff is requesting $30,000 allocated to Arena Feasibility Study be re-allocated to other projects.

Fund Summary

ECONOMIC DEVELOPMENT SALES TAX FUND

Annual appropriation of $100,000 from the one-cent sales tax.

Allocating up to $25,000 for business park marketing and $50,000 for industrial marketing in 2019-20.

City continues to make annual payment to John K. Fisher per economic development incentive agreement. The City has averaged an annual pay-out of about $13,000 based on sales volumes. The agreement has eight years remaining, or will expire once $204,425 is paid.

INDUSTRIAL MILL LEVY FUND

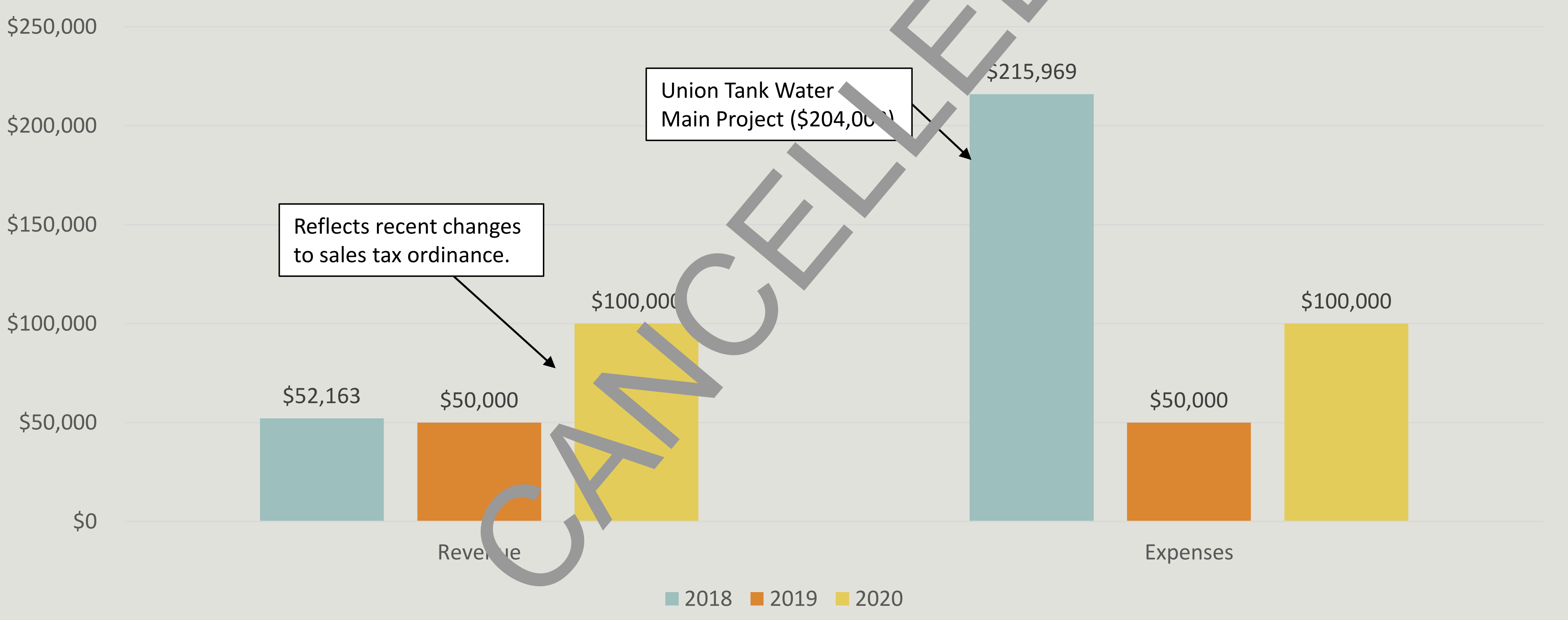
Fund receives one mill, or about $92,000, each year.

Allocation of $132,723 to El Dorado, Inc. as contribution match and contractual services for economic development.

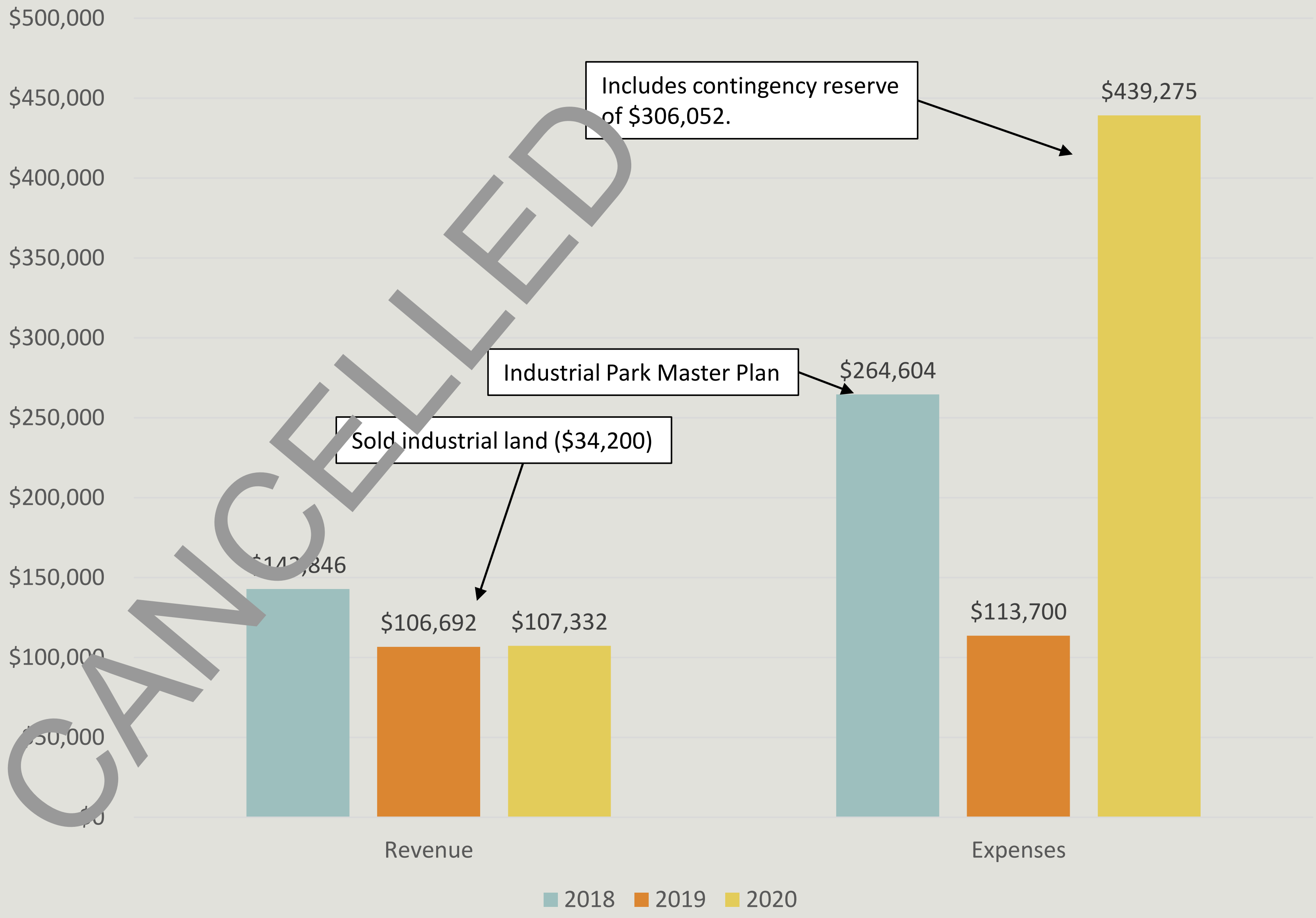
Anticipating an expense for real estate acquisition in 2019.

Planning to spend down cash balance by $21,000.

Economic Development Sales Tax Fund



Industrial Mill Levy Fund



Fund Summary

SPECIAL PARK AND RECREATION FUND

Fund receives about $29,000 from Kansas Alcohol Taxes.

Proceeds must be used on park improvements.

Projects not funded through excess sales taxes or with other revenue sources will be considered for these funds.

SPECIAL ALCOHOL FUND

Fund receives about $29,000 from Kansas Alcohol Taxes.

Proceeds must be used on drug and alcohol prevention programs and domestic violence victim assistance.

Funds have typically been awarded to local non-profits that address these areas such as SCARF and Family Life Center.

CANCELLED

Fund Summary

LIBRARY FUND

The Library operates as a component unit of the City by state law.

The City includes the Library's budget as part of its budget, although the City does not have direct oversight of the Library.

Library employees are considered employees of the City, and are included in the City's benefits and pay plan.

Presently, the City budgets about five mills to fund the Library's operations.

SENIOR CENTER FUND

Receives about $47,000 from County and the City transfers about $47,500 from General Fund for operation of the Senior Center.

The Senior Center is managed by its Board of Directors and has no direct affiliation with the City other than employment status of its director; the director is an employee of the City.

The City exercises no other oversight of the center's operations or programming.

Capital Projects

PROPOSED CAPITAL PROJECTS FOR 2020

CANCELLED

Proposed Capital Projects

MAJOR STREET PROJECTS

9th Avenue from Taylor Street to Gordy Street
- Est. Cost: $1.2 million
  - City at-large: $1.06 million (88%)
  - Special assessments: $200,000
- Est. annual debt service: $88,882

Norris Drive from 3rd Avenue to 6th Avenue
- Est. Cost: $934,000
  - City at-large: $250,000 (27%)
  - Special assessments: $684,000
- Est. annual debt service: $65,781

AIRPORT PROJECTS

CANCELLED

Airport Runway Lighting Project
- Est. Cost: $450,000
  - Federal Grant: $405,000 (90%)
  - City At-Large: $45,000

Airport PAPI Lighting Project
- Est. Cost: $360,000
  - Federal Grant: $324,000 (90%)
  - City At-Large: $36,000

Proposed Capital Projects

CANCELLED

WATER AND SEWER PROJECTS

Water Main Replacement

- Planned Expense: $50,000
  - Rimrock Road

Cured-in-Place Piping (CIPP)

- Planned Expense: $35,000

PARK PROJECTS

Largely determined by allocation of excess sales tax funds. Projects may include:

- North Main Playground Equipment: $80,000
- Gordy Park Shelter: $40,000
- Activity Center Basketball Goals: $10,000

Proposed Capital Projects

CANCELLED

Other Projects

Largely determined by allocation of excess sales tax funds. Recommended projects include:

- Miniature Golf Course: $80,000
- Senior Center Parking Lot: $67,200
- Public Works Roof Replacement: $61,000
- McDonald Stadium Project Bank: $40,000
- Fire Station No. 1 Doors: $24,000
- Oil Museum Sign Replacement: $17,296
- El Dorado Main Street Façade Grant Program: $5,000
- Chamber of Commerce Grant Program: $5,000

Proposed Capital Projects

Vehicles and Equipment *(Funded from Vehicle and Equipment Reserve Fund)*

Police Patrol Vehicles (2): $74,000

Wildland Fire Apparatus: $60,000

2-Ton Truck: $30,000

Mid-Sized Truck (½ to ¾ ton): $35,000

CANCELLED

Next Steps

Next Steps

City Commission determines if there are any changes needed in the proposed budget or if there are any questions needed to be answered prior to consideration.

If not, the City Commission authorizes the Notice of Budget Hearing to be published in the official newspaper at least ten days prior to the hearing.

Budget Hearing would be scheduled for the August 5th regular meeting. The Commission could adopt the budget following the hearing or table the decision until the following meeting.

The City Commission formally adopts the proposed budget and certified copies are sent to the County. Certified copies must be sent to the County Clerk by August 25th.

The budget becomes effective January 1, 2020.

CANCELLED

Questions?

2018 Commission Priorities
Water Sales • Community Image • Industrial and Business Parks • Parks and Recreation • Public Safety

TO: City Commission
FROM: Tabitha Sharp, City Clerk
SUBJ: Hands-Free Ordinance
DATE: July 5, 2019

Background:
Commissioner Matt Guthrie had mentioned interest in reviewing options for a hands-free ordinance in April. Staff have reviewed what other communities have, and located one in Manhattan, Kansas. The information below would be added to the Standard Traffic Ordinance when it is approved in August if the City Commission approves it.

Listening or Talking on Wireless Communication Devices While Driving.

a) Except as provided in subsection (b), no person shall operate a motor vehicle on a public road or highway while listening or talking on a wireless communication device, unless the wireless communication device is specifically designed and configured to allow hands-free listening and talking, and is used in that manner while driving.
b) The provisions of subsection (a) shall not apply to:
    a. A law enforcement officer or emergency service personnel acting within the course and scope of the law enforcement officer's or emergency service personnel's employment;
    b. A driver in a motor vehicle stopped off the regular traveled portion of the roadway;
    c. A driver talking or listening to a law enforcement agency, health care provider, fire department, or other emergency services agency for emergency purposes;
    d. A person who is relaying information between transit or for-hire operator and the operator's dispatcher, in which the device is permanently affixed to the motor vehicle; and,
    e. A driver who uses a digital two-way radio device that transmits radio communication transmitted by a station operating on an authorized frequency within the citizen's or family radio service bands in accordance with rules of the Federal Communications Commission; or
    f. A driver who uses an amateur radio and who holds a valid amateur radio operator license, or any other similar license related to such use, issued by the Federal Communications Commission.
c) For the purposes of subsection (a), "hands-free" use shall mean listening or talking on a wireless communication device that has an internal feature or function, or is equipped with a temporary or permanent attachment or addition, that allows listening or talking without the use of either hand, except to activate or deactivate that function of the wireless communication device.
d) There shall be a rebuttable presumption that any person who is driving a motor vehicle and holding a wireless communication device to, or in the immediate proximity of, his or her ear is listening or talking on such device in violation of subsection (a). Immediate proximity shall mean that distance that permits the person to listen or talk on such device, but shall not require physical contact with the person's ear.

Policy Issue:
The City Commission must approve all amendments to the municipal code.

Alternatives:
The City Commission may choose to suggest other changes to the hands-free ordinance.

Fiscal Impact:
There would be no costs incurred by the City.

2018 Commission Priorities

Water Sales • Community Image • Industrial and Business Parks • Parks and Recreation • Public Safety

TO: City Commission
FROM: Tabitha Sharp, City Clerk
SUBJ: Excess Sales Tax Committee Recommendations
DATE: June 6, 2019

Background:

The 2019 Excess Sales Tax Committee met this year to discuss the allocation of the excess sales tax funds from 2018. The City of El Dorado collected $2,649,496.41 in 2018 from the one cent sales tax. After ordinance items were removed ($600,000 for street rehabilitation, $1,350,000 for property tax reduction and $50,000 for economic development), a total of $679,496.41 was available for allocation by the excess sales tax committee. They met once to review the process and proposals and once for a public hearing after which they provided the following recommendations with a unanimous vote. The committee has requested that should the Commission find that the miniature golf course project is not possible, the committee has provided a second set of recommendations.

The City Commission requested an updated letter from Mr. Wilkinson and a review from the City Attorney on the miniature golf course request at the work session on June 12th. Those items have been provided and are ready for discussion.

Recommendation #1:

Re-allocate the funds from the arena study to the excess sales tax fund and re-distribute them to new projects.

Recommendation #2:

- Additional Property Tax Reduction $300,000
- Senior Center Parking Lot $ 67,200
- McDonald Stadium Project Bank $ 40,000
- Public Works Roof Replacement $ 61,000
- Fire Station No. 1 Doors $ 24,000
- North Main Playground Replacement $ 80,000
- Miniature Golf Course $ 80,000
- Oil Museum Sign Replacement $ 17,296.41
- El Dorado Main Street Façade Grant $ 5,000
- Chamber of Commerce Grant Program $ 5,000

Recommendation #3:

- Additional Property Tax Reduction $300,000
- Senior Center Parking Lot $ 67,200
- McDonald Stadium Project Bank $ 50,000
- Public Works Roof Replacement $ 61,000
- Fire Station No. 1 Doors $ 24,000
- North Main Playground Replacement $ 80,000
- Oil Museum Sign Replacement $ 31,396
- Gordy Park Shelter $ 40,000

- Activity Center Basketball Goals $ 10,000
- El Dorado Main Street Façade Grant $ 5,000
- Chamber of Commerce Grant Program $ 10,000

The committee requested that any funds that are saved while completing the projects listed, be placed in the McDonald Stadium project bank.

Policy Issue:

The City Commission must accept or reject the recommendations of the Sales Tax Committee as they are the ultimate authority for the expenditure of these funds. If they are accepted for consideration and the Commission determines a greater need prior to 2020 when the funds can be spent, they could re-allocate them as they see fit.

Fiscal Impact:

The additional property tax reduction listed allows the City of El Dorado to use up to 3.5 mills for general government services while keeping the mill levy at a lower rate. The funds allocated to the Parks and Recreation Master Plan are not available within the budget and therefore without the sales tax monies, these projects would not be completed for many years.

Trade-offs:

N/A

Staff Recommendation:

Accept the recommendations for consideration.

Commission Actions:

Wilkinson Companies

1100 S Denver

El Dorado, Ks 67042

To whom it may concern:

I would like to apply for excess sales tax to build a new 18-hole miniature golf course in our community. I have been working on this project for several years and have not started on it because of the financial investment that it would take. I believe that it would be an asset to the kids in our community, but I have not found a way to make it a profitable adventure with all the upfront costs. According to a recent survey that the City performed, one of the comments made was, "We need more activities for the kids to do".

In my original request, I was offering to donate a piece of land where the course could be installed. I gladly accepted the recommendation from the Sales Tax Committee to receive about half of what was requested, with the approval of the City Commission. With the reduction of funding, I will need to change the design and the location of the course to make it more economical. This would eliminate my offer to donate the land needed since it will be on my current site.

I had originally planned on setting the course further to the West of the bowling alley. My new plan is to locate it closer to the South Entrance of my building which would allow me to install fencing leading to the course. This would allow me to control admittance to the course without having to build another building. I would be able to run everything from behind the existing front counter with our current POS system.

Please see a sample of the course layout and an overview of the new location that are attached.

The money that I am requesting will cover the costs to build a complete and ready facility. The money would be used for the following items.

1. Fencing
2. Installation of Miniature Golf Holes
3. Sidewalks
4. Landscaping
5. Electrical- lighting and security
6. Dirt work
7. Utilities
8. All necessary equipment to operate a miniature golf facility

The total cost requested will be $80,000.

I do appreciate your consideration for my project. If you have any questions, please feel free to call me anytime.

Wade Wilkinson

316-435-4354

CANCELLED

www.adventureandfun.com

AWL Jr.
Specifications

ADVENTURE GOLF SERVICES
1742 Barlow St.
Traverse City, MI. 49686
PH 231-922-8166
FX 231-922-0153

Turf

Hole Cup

Suggested pathway
(drawing only)

Rubber Bumper Edging 51)
6' pcs (306' LF)

Shoot over
Bridges

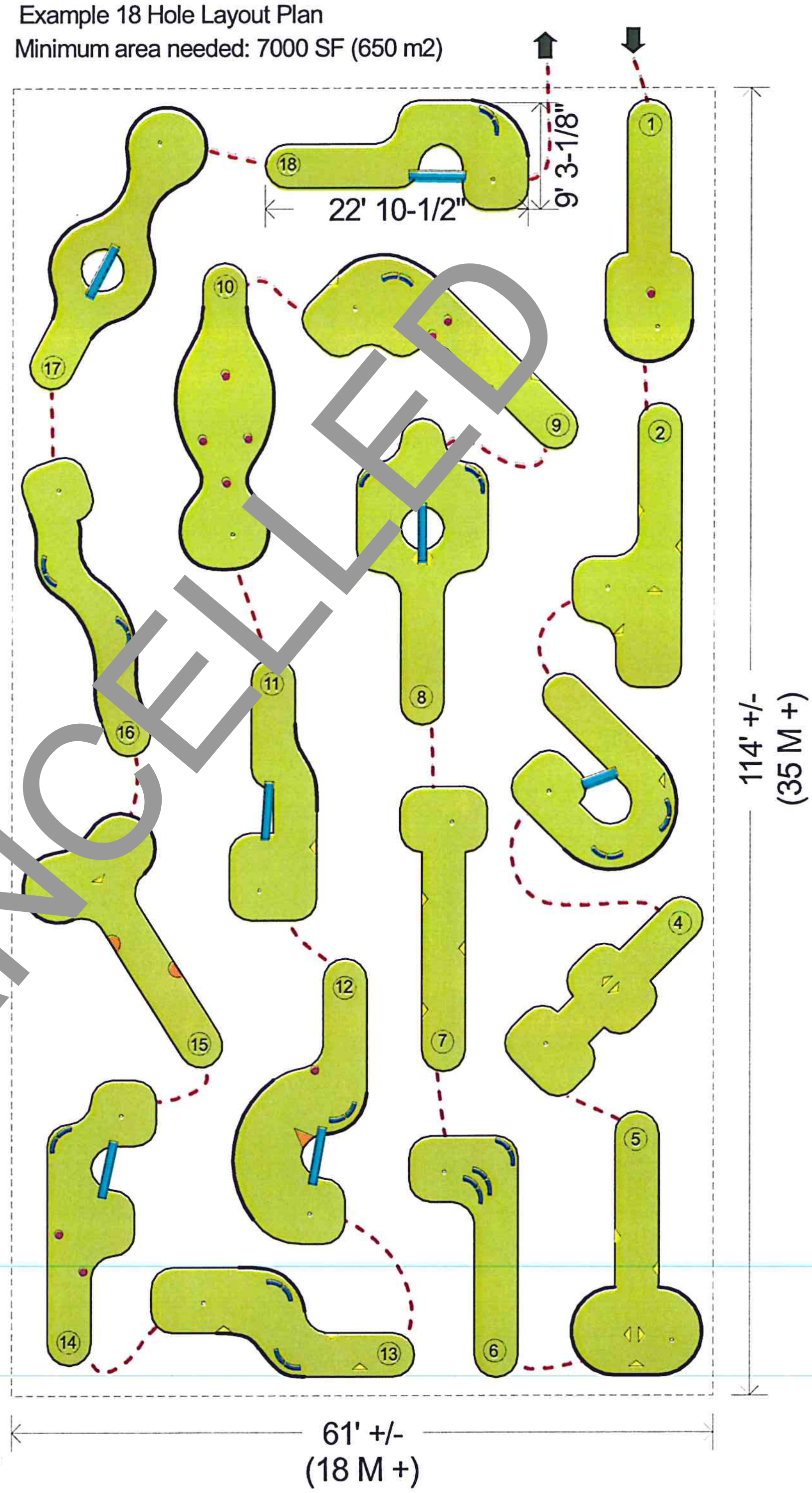
(6)

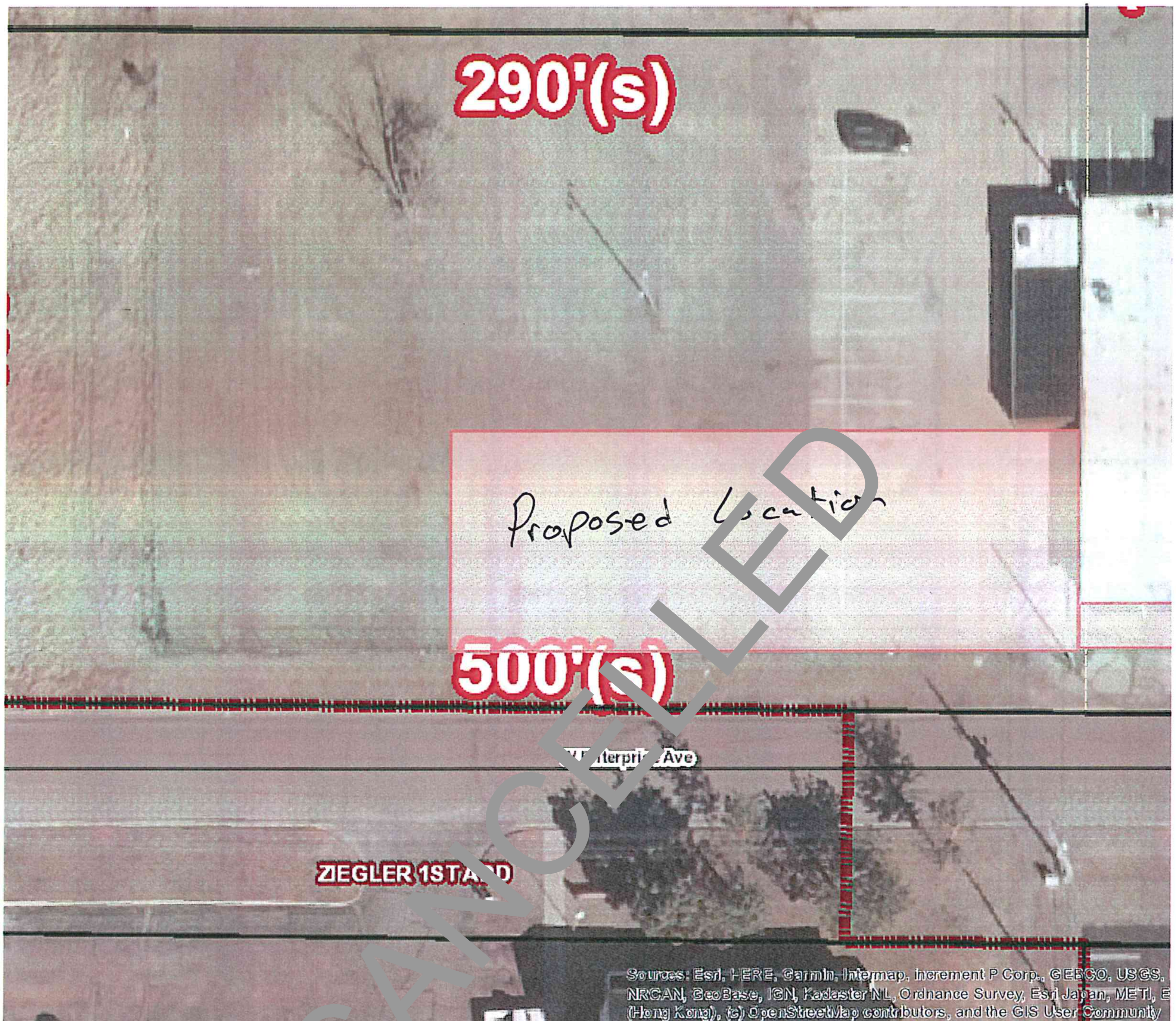
(1)

OPTIONAL HPDE Obstacle Shapes
Small Round (10)
1/2 Large Round (2)
Small Triangle (25)
Curve Bar (30)

Mounts included.

Example 18 Hole Layout Plan
Minimum area needed: 7000 SF (650 m2)




290'(s)
Proposed Location
500'(s)
Ave
ZIEGLER 1ST A
Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS,
NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, E
(Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community
CANCELLED

MARTIN | PRINGLE
ATTORNEYS AT LAW

ATTORNEY CLIENT
PRIVILEGED COMMUNICATION

MEMORANDUM

TO: **City of El Dorado, Kansas**

FROM: **Ashlyn Lindskog**

DATE: **July 5, 2019**

RE: **Excess Sales Tax and Miniature Golf Proposal**

FILE NO.: **33870-13**

I. Issue:

What is the legality of allowing the City's excess sales tax be awarded for the purposes of the Wilkinson Miniature Golf Proposal?

II. Short Answer:

The City can only spend public funds for a public purpose that benefits the community. Therefore, in order for any allocation of excess sales tax funds to be distributed for the purposes of the Wilkinson Miniature Golf Proposal ("WMGP"), it will need to demonstrate a clear public purpose that would benefit the El Dorado Community.

III. Discussion:

A. <u>Ordinance No. S-1325</u>

Ordinance No. S-1325 Section 3 states that the purposes for the use of any excess sales tax collected is additional street rehabilitation, additional property tax reduction, and capital expenditures. Further, Section 3 states that the Sales Tax Advisory Committee shall consider consistent requests. Section 7 defines Capital Expenditures as an addition or structure that enhances the value of a property, a replacement or upgrade that extends the useful life of an asset or equipment acquisition.

B. <u>The Public Purpose Doctrine</u>

The Public Purpose Doctrine requires that all public funds be used for a valid public purpose. This means that public funds must be used in such a way that benefits the public. The function behind the doctrine is to put certain restrictions on how the government spends the public's tax dollars. All government powers and offices constitute a public trust and any power conferred must be excised for the public good. See McQuillin, 2A *Municipal Corporations*, 3rd Ed., 39.34.

What constitutes a public purpose has been broadened by the Kansas courts in recent years. The Supreme Court of Kansas upheld a direct loan and grant program to private businesses located in the central city area and cited the need for redevelopment efforts in the central city area of major urban centers as an important public concern. *Duckworth v. City of Kansas City*, 243 Kan. 386 (1988). In *Ullrich v. Board of Thomas County Commissioners*, 243 Kan. 782 (1984) the court upheld the constitutionality of the transfer of assets from a county hospital to a private nonprofit hospital, stating that the private enterprise could be used to eradicate urban blight and it was reasonable that private industry may be used to promote the health of Thomas County citizens.

More recently, the Kansas Supreme Court found that the development of an auto race track facility, the issuance of special obligation bonds for the project, and the exercise of eminent domain authority were all a proper public purpose in *State ex rel. Tomasic v. Unified Government of Wyandotte County Kansas City*, 265 Kan. 779 (1998). The Attorney General has said that public monies may be granted by a city to a religious organization which provides social services to individuals without regard to their religious affiliation. See Op. Att'y Gen. 10 (1997).

Ultimately, the public-purpose requirement is meant to restrict the government's use of taxpayer money from profiting private enterprises, but because the definition of the doctrine can be so widely interpreted, it is sometimes difficult to determine whether an investment actually functions to serve the public or not. Therefore, in order to stay complaint with the public purpose doctrine, a governing body should use tax dollars **in such a way that the direct beneficiary of the spending is the local community**.

C. Analysis

According to Kansas law, the use of any excess sales tax should promote a clear *city-wide* benefit that *every citizen can enjoy*. Excess sales tax funds should be used in such a way that benefits the community, meaning that there should be a clear public purpose behind the use of these funds. According to previous allocations approved by the El Dorado City Commission, the uncommitted sales tax allocations have been distributed for tax relief, soccer fields, library upgrades, sidewalk improvements, spray parks, park improvements, and other measures that directly benefit the El Dorado community and its citizens. The only "private enterprises" receiving allocations of the excess sales tax from 1990 – 2014 are the YMCA and, most recently, the Elks Lodge.

The public purpose doctrine requires a unit of local government, in exercising the powers conferred upon it, to spend funds only for a public purpose. The question of whether a specific expenditure serves a public purpose must be determined in light of the specific circumstances. Each case must be decided in the light of the existing conditions, with respect to the objects sought to be accomplished, the degree and manner in which that object affects the public welfare, and the nature and character of the thing to be done. According to the Kansas Supreme Court, ". . . the development of recreational facilities and the facilitation of economic development in partnership with private enterprise have been considered legitimate public purposes for the exercise of eminent domain and the expenditure of public money." *State of Kansas ex rel. Tomasic v. Unified Government of Wyandotte County/Kansas City, Kansas*, 265 Kan. 779, 962 P.2d 543 (1998). The Kansas Supreme Court further provided that the concept of the terms public purpose, public use, and public welfare, as applied to matters of this kind, must be broad and inclusive. The mere fact that through the ultimate operation of the law the possibility exists that some individual or private corporation might make a profit does not, in and of itself, divest the act of its public use and purpose. *State ex rel. Fetzer v. Urban Renewal Agency of Kansas City*, 179 Kan. 435, 438, 296 P.2d 656, 660 (1956)

In regards to the WMPG, it is critical that all individuals in the community be able to derive a benefit from the use of unallocated sales tax dollars under the capital expenditures allowance in the ordinance. Anyone who did not have access to the WMPG would, theoretically, under the public use doctrine, have a right to challenge the Governing Body's spending choices. Therefore, in order for the WMPG to be eligible to receive an allocation of excess sales tax dollars, it needs to demonstrate a clear public purpose through an actual benefit to the community.

The applicant for the WMPG explained that he believed the WMPG would be "asset for kids in our community." He also explained that the excess sales tax dollars would be used for the following items: fencing, installation of miniature golf holes, sidewalks, landscaping, electrical-lighting and security, dirt work, utilities, and all necessary equipment to operate a miniature golf facility. The total cost requested from the applicant is $80,000. There is no information included in the application that clearly defines what community members would have access to the miniature golf course, the hours of operation, the season in which the course would be open, or other factors that are important for a public purpose analysis. Without that information, it is difficult to fully analyze whether the funds would be spent **in such a way that the direct beneficiary of the spending is the local community**.

IV. Conclusion

Because the City is required to allocate public funds only for a public purpose and because the WMPG is requesting an allocation from public funds, the onus should be on the WMPG to prove that the use of those funds would be a for a public purpose and compliant with Kansas law. It is my recommendation that the City Commission require the WMPG provide details to demonstrate excess sales tax should promote a **clear *city-wide* benefit that *every citizen can enjoy*** prior to the allocation of any excess sales tax dollars.