EL DORADO CITY COMMISSION MEETING FEBRUARY 16, 2015

The El Dorado City Commission met in a regular session on February 16, 2015 at 7:00 p.m. in the Commission Room with the following present: Mayor Michael Fagg, Commissioner Chase Locke, Commissioner Bill Young, Commissioner Nick Badwey, Commissioner David Chapin, City Manager Herb Llewellyn, Finance Director Tammy Schaffer, Human Resources Director Suzie Locke, Assistant City Engineer Scott Rickard, and City Clerk Tabitha Sharp.

VISITORS

Julie Clements	El Dorado Times	El Dorado, KS
Linda Jolly	El Dorado Inc.	El Dorado, KS
Hasu Bhakta		Wichita, KS
Ray Bhakta		Wichita, KS
Dennis Gates		El Dorado, KS
Larry Light		El Dorado, KS
Sherry & Corey Hagemeister	102 N Main	El Dorado, KS
Phil Wickwire	341 Village Rd	El Dorado, KS
Janett Jacobs	Tri County Casa	El Dorado, KS
Michelle Higgins	6234 NW 40th	El Dorado, KS
James Cook	719 Fredrick Dr	El Dorado, KS
Susie Carson	Chamber of Commerce	El Dorado, KS
Roger Cutsinger	Elks Lodge	El Dorado, KS
Darla Carter	Family Life Center	El Dorado, KS
Suzi Thien	SCARF	El Dorado, KS
Ron Oberg	1245 Bracken Ct	Wichita, KS
Kim Smith	507 N Emporia	El Dorado, KS
Wade Wilkinson	4555 N Westview	El Dorado, KS
Kendra Wilkinson	1016 S Denver	El Dorado, KS
Harley Thornton	1035 N Cherokee	El Dorado, KS
I.C. Patel	1111 E Central	El Dorado, KS
Ken Patel	1901 West Central	El Dorado, KS
Mike Bhatt	1122 N Main	El Dorado, KS
John Pyle	2525 W Central	El Dorado, KS
Hamza Smajlovic		Bel Aire, KS
Ron and Brandon McGlaughlin		Newton, KS

CALL TO ORDER

Mayor Michael Fagg called the February 16, 2015 meeting to order.

INVOCATION

Reverend Stan Seymour opened the meeting with an invocation.

PLEDGE OF ALLEGIANCE

Girl Scout Troop 40146 led the Pledge of Allegiance.

PUBLIC COMMENT

Mayor Michael Fagg opened the floor for public comments.

There were no comments.

CONSENT AGENDA

Approval of the City Commission Minutes from February 2, 2015.

Approval of appropriation ordinance 1-15 in the amount of $1,197,748.34.

Mayor Michael Fagg asked about charges for attorneys on page two.

City Attorney Jim Murfin stated that they were probably for court-appointed counsel.

Mayor Fagg asked about the charges for a hot water tank and a vacuum in the stormwater fund.

Mayor Fagg asked about the credenza purchased under the tourism tax fund.

City Clerk Tabitha Sharp stated that it was for the Marketing Manager's desk, she requires a lockable piece for items that cannot be left out in her office.

Mayor Fagg asked if the procurement policy was followed on the backhoe that was purchase.

City Manager Llewellyn stated that we did.

Mayor Fagg asked about the three lease payments to Commerce Bank for the same amount.

Tammy Schaffer, Finance Director, stated that it was one lease payment allocated to three funds.

Commissioner Chase Locke moved to approve the consent agenda as presented.

Commissioner Bill Young seconded the motion.

Motion carried 5 – 0.

RESOLUTION FOR THE ISSUANCE OF AN IRB FOR THE PROPOSED DAYS INN

City Manager Herb Llewellyn stated that the State of Kansas allows the city to issue Industrial Revenue Bonds to businesses for a variety of issues. The City is at no risk, borrowers come to the city with a bank to lend the money. The only role of the City is to approve the use.

Mayor Michael Fagg asked if part of the IRB was a ten year tax abatement.

City Manager Llewellyn stated that he was correct. He stated that the Commission is being asked to approve an extended stay hotel in the business park for up to $3,500,000.

Linda Jolly, El Dorado Inc., stated that part of the IRB process includes a cost benefit analysis. She stated that this analysis was performed by the research center at Wichita State University. She stated that as part of the analysis, the developer provides information on the project including costs, revenue projection and job creation.

City Manager Llewellyn asked Ms. Jolly to explain the process of the project.

Ms. Jolly stated that the process begins with the cost benefit analysis that is reviewed by a special committee. This committee includes the Mayor, City Manager, City Clerk, and the El Dorado Inc. Director and President. The application includes the payment of a $250 fee for processing which has been received. She stated that we have been following the direction of bond counsel to ensure that we follow the law exactly.

Ms. Jolly stated that this project is asking for a 100% property tax exemption for ten years and a sales tax exemption from all items purchased during the construction process.

Ms. Jolly stated that the City is estimated to receive $2.25 for every dollar given up during the ten year period.

Ms. Jolly stated that the Holiday Inn was the last project that used this project. She stated that they have provided the paperwork on their project. She stated that the return on that project has been $2.74 for every one dollar we invested.

Hasu Bhakta stated that they planned to build a Days Inn extended stay hotel with 42 rooms

Ray Bhakta stated that he and his family have relocated from California to El Dorado in order to run the Days Inn. He stated that they are excited to be a part of the community.

Commissioner Nick Badwey asked when they estimated construction to begin.

Mr. Bhakta stated they would start tomorrow if possible.

Commissioner Badwey asked how long it would take.

Mr. Bhakta stated it would be about six months.

Commissioner Chase Locke asked about the difference between this extended stay and other hotels.

Mr. Bhakta stated that these rooms will include a kitchenette, but will allow people to stay anywhere from one night to more.

Mayor Fagg asked who their target customers were.

Mr. Bhakta stated they are looking at mid-range travelers from the turnpike or others who will be working in the area.

Mayor Fagg asked how much the rooms would rent for.

Mr. Bhakta stated that they were looking at anywhere from $68 to $74.

Commissioner David Chapin asked if that was before tax.

Mayor Fagg confirmed that they were looking at approximately six employees.

Mr. Bhakta stated it would depend on how busy the hotel was.

Mayor Fagg asked what the tax abatement was; he had it figured at $939,000.

Ms. Jolly stated that the City's portion was approximately $33,000 per year. She stated that she thought his number might include all entities.

Mayor Fagg confirmed that the CID would benefit them about a quarter of a million.

Ms. Jolly stated she had approximately the same number.

Mayor Fagg asked if they had ever considered any five year tax abatements.

Ms. Jolly stated that there have been others for fewer than ten years. She stated that there have been a few since she began here at El Dorado. She stated that Valmont was done in a five year increment. She stated that they are typically from 100% to a step-down each year.

Mayor Fagg asked about the Days Inn in Andover.

Ms. Jolly stated that the interim City Administrator there was not sure how that project was funded.

Commissioner Young stated that an informational meeting was held last week regarding CID's, IRB's and the Neighborhood Revitalization Program.

Ms. Jolly stated that many businesses have had the opportunity to participate in those funding programs; she stated that there were others at the meeting interested in learning more.

Mayor Michael Fagg opened the public hearing.

John Pyle, 2525 W Central, confirmed that the abatement total was around $900,000.

Mayor Fagg stated that was the total for all of the taxing entities.

Mr. Pyle asked if they could have additional time to review the information he had requested.

Mayor Fagg asked if he could explain what he requested.

Mr. Pyle stated that he picked up the cost benefit analysis for the proposed hotel, but wanted to look at the others he requested.

City Clerk Tabitha Sharp stated that Mr. Pyle had requested approximately 1,500 pages of documents. She stated that she called him to clarify his request but had not received a call back yet. State law requires that we respond to a request within 72 hours, not provide the information within 72 hours.

Mr. Pyle stated he would like to have a special meeting in another week to discuss the subject.

Mayor Fagg confirmed he would like to have a little more time to digest the information before talking to the Commission.

Mr. Pyle stated that he was correct, he thought there was a large difference between his number and what Ms. Jolly had stated.

City Manager Llewellyn stated that Ms. Jolly’s number only included the City’s portion and the Mayor’s included every entity.

Commissioner Locke stated he would like to hear what everyone else has to say.

Commissioner Badwey asked how big he thought the discrepancy was.

Mr. Pyle stated his estimate was a little over one million dollars.

Commissioner Young stated that today, there is nothing being collected on the property, therefore there is no loss.

Mr. Pyle stated that it is an opportunity loss.

Mayor Fagg stated he would like to wait a week as well.

Commissioner Locke stated that they need to be respectful of the developers’ timeline as well.

Commissioner Young stated he would like to hear what everyone has to say before making a decision to postpone the hearing.

Mayor Fagg asked how many hotel owners would like to postpone it. (He asked for a show of hands which could not be recorded on the dvd and therefore is not counted in the minutes.)

Commissioner Badwey stated he would like them to come up and say why.

Mayor Fagg stated that the discussion would be why the topic should be put off a week.

Commissioners Locke, Badwey, and Young stated that he could not change the topic for the public hearing.

Mayor Fagg stated that we were asking people to present without any preparation.

Ms. Sharp stated that the public hearing was first published in January, and within the publication was a statement telling the public that the documents for this hearing could be obtained from the City Clerk’s office. She stated that the first request did not come until the past Thursday.

Mike Bhatt, Stardust Hotel, stated he felt they needed more time to present their case before a decision is made. He stated that they would like to see the other information they requested before presenting their case.

Commissioner Young asked if there were 1,500 pages of documents related to the Days Inn.

Ms. Sharp stated that there were not. She stated that Mr. Pyle requested the cost-benefit analysis and resolution for the Days Inn, the IRB documents for Holiday Inn, and the IRB documents for BG Products.

Mr. Bhatt stated that they could present their information but did not feel it was accurate.

Wade Wilkinson, 4555 Westview, stated that he is disappointed in an individual for creating a lynch mob against businesses. He stated that he received an IRB for the hotel he built in 2006. He stated that the decision to grant his IRB was based on a third party study done on the need for hotel rooms in El Dorado.

Mr. Wilkinson stated that these gentlemen are coming to town based on that study and are only filling 42 of the 79 rooms that were shown needed in the City.

Mr. Wilkinson stated that they were going to be moving in next door to his hotel and he was in favor of the project. He stated that he is in favor of more businesses in town.

Mr. Wilkinson stated that the Days Inn being proposed is a total different facility than what the other owners are comparing it to. He stated that the proposal has been published in the paper per State law; it is not the owners of the proposed hotel's fault that the others were not prepared.

Commissioner Young asked if Mr. Wilkinson has tracked the benefits to the City of El Dorado since opening.

Mr. Wilkinson stated that they have paid $728,000 in sales tax and a little over half a million in bed tax.

Mr. Wilkinson stated that he offered $30,000 in free hotel rooms for the football stadium construction crew.

Mr. Wilkinson stated that if we follow the feasibility study and offer these benefits, then it helps the community because we become a point of interest.

Mayor Fagg stated that he voted for the IRB for Holiday Inn because it was an upscale hotel and there was a need for that.

Mr. Wilkinson stated that he wished Mayor Fagg could have said that in 2006.

Mayor Fagg stated that this was about property tax, and no one likes to pay property tax.

Mr. Wilkinson stated that he pays his fair share of taxes and his hotel has brought a lot of money to El Dorado, we should extend that same courtesy to these developers.

Mayor Fagg stated that he felt that a week wasn't long to ask for, he stated that he had just received the information last week and that wasn't enough time.

Ms. Sharp stated that the Mayor had received this information in January.

Mayor Fagg stated that he was not talking about the Commission.

Ms. Sharp stated that he has repeatedly stated this evening that he did not receive the information until last week, she stated that she wanted to clarify that was not the case.

City Manager Llewellyn stated that it was also published in the paper and available in the City Clerk's office for the last month.

Commissioner Young asked if we would ask other businesses every time someone wanted to open a competing business in El Dorado.

Mayor Fagg stated he thought that we should if they are getting a tax abatement.

Commissioner Young stated that they are competing with people in town with the exact same opportunities.

Mr. Wilkinson stated that the difference is that many of those businesses would come to town regardless; he stated that the City is asking these developers to come to town.

Commissioner Badwey stated that Mr. Wilkinson also provided jobs in town.

Mayor Fagg agreed and thanked him.

Mr. Bhatt stated that the other hotel owners were not against the competition, but did not want them to receive assistance. He felt that they should open the hotel on their own merits. He stated that the fundamentals are missing to support another business.

Mr. Bhatt stated that he felt he was being singled out for his opinions because the City had checked his construction permits.

Mr. Bhatt asked if he could present a five minute presentation.

Mayor Fagg stated that there are a lot of positives in this project. He stated that he felt the one negative is how it will affect the other hotels. He stated that he thought they could wait one week.

Mr. Bhatt and Mr. Pyle presented their information on the estimated costs to the citizens. They stated that the current hotels do not operate at maximum capacity except during short times in the fall typically around the refinery's turn around.

Commissioner Badwey confirmed that when the turn-around is in full swing that there is not 100% occupancy in El Dorado.

Mr. Bhatt stated that he was correct.

Mr. Pyle stated that the area shown above the green line are vacant rooms.

Commissioner Badwey stated that he works with a company very involved in the turn-around. He stated that the workers they bring in were staying in Wichita and at the lake because there weren't rooms available.

Mr. Pyle stated that companies need a block of rooms and the local hotels can't accommodate those blocks due to the other reservations.

Commissioner Badwey stated that he spoke to many of the workers and they could not find a place to stay.

City Manager Llewellyn reiterated that the graph shown is not by days, it is by month. He stated that the majority of available nights in the hotels according to our CTC are during the weekends.

Mr. Bhatt continues with the presentation. He stated that some of the motels in the City are set up similar to the extended stay hotel. He stated that he felt the market assessment was out dated.

Mr. Pyle and Mr. Bhatt continued with the presentation and read the information from the cost benefit analysis.

Commissioner Young asked if the valuation included everything or just the real property.

Mr. Pyle stated he removed the machinery and equipment.

Commissioner Young confirmed that he was using the numbers from the professional economists at WSU.

Mr. Pyle stated that he was. He referred to the tax loss projected for the schools.

Commissioner Young stated again, there is not a tax loss. There is nothing on the property at this time and if we continue with nothing, the schools will get nothing. He stated that he did not want to scare the school districts.

Mr. Pyle stated that it was an opportunity loss.

Commissioner Young stated that they are discussing the effects on education in our city based on a loss on land that is not producing anything at this time.

Mr. Pyle concluded the presentation by asking the Commission to consider not approving the tax abatements. He stated that if they insist on approving the tax abatements, they should require the developers to pay the taxes to the school districts. He stated that he hoped that the Commission would consider taking more time before giving away more school revenue.

Commissioner Young reiterated that they are not giving away school revenue. There is no revenue at this time.

Mr. Pyle again stated that it is opportunity loss.

Commissioner Young reiterated that he did not want to scare the public.

Mayor Fagg stated that Mr. Pyle was giving a presentation.

Commissioner Young stated that he appreciated that, he just did not want incorrect information in the public and people thinking we were taking money from schools.

Mr. Pyle stated that the Commission could consider a partial abatement as opposed to the current project proposal.

Commissioner Badwey confirmed that all of the other entities have agreed to the NRP and that there was no limit on the commercial portion.

Scott Rickard, Assistant City Engineer, stated that they had. He stated that it would be different with the NRP because it looks at blighted areas.

Commissioner Young asked if the other entities have been notified of this project.

Ms. Sharp stated that they were notified via certified mail and she received no objections on the project.

Mr. Wilkinson stated that the average occupancy for the Holiday Inn is 72%. He stated that he reports to the Star Report, a company who verifies those numbers. He stated that he is the only one in the City who reports to that agency.

Commissioner Young confirmed that their IRB was received seven years ago.

Mr. Wilkinson stated that he was correct.

Commissioner Young asked Ms. Jolly if any of our current hotels had contacted her regarding the abatement.

Ms. Jolly stated that they had not.

Commissioner Locke stated that he struggles with the idea of putting someone out of business, but felt that if the hotel next door was in support of the project; it seemed like a good project. He stated that when bringing the large events to town, often groups can only consider hotels that have doors inside. He stated that there were only three hotels that fit that description currently within our city.

Commissioner Locke stated that if the abatement doesn't happen, the hotel would be a lost opportunity. He stated that all parties involved have done their due diligence. He stated that he was in support of passing the project.

Commissioner Young moved to close the public hearing

Commissioner Locke seconded the motion.

Motion carried 5 – 0.

Mayor Fagg stated three things caught his eye, 144 average vacant rooms; the potential for losing motels, he stated he was not ready to make a decision on this.

Commissioner Badwey asked if that information would change in a week.

Mayor Fagg stated that it could help him make a decision.

Commissioner Locke stated that he felt this could go on a long time and there were people ready to make a move. He stated that there is a difference between rooms altogether and the difference between hotels and motels. He stated that they needed to look at the future and getting a facility that caters to our future projects.

Mayor Fagg stated he thought that the new company should look at the presentation like they were on the other side. He felt that they should feel good about the Commission taking time to look at it since the others just got the information on Thursday.

Commissioner Locke stated that everyone has had a month to look at it.

Commissioner Young stated that the group was right that there are other opportunities to focus on such as restaurants. He stated that it concerns him that we might lose hotels, but we have to find ways to encourage the development of the business park. He stated that it is commendable that these people want to come spend their money in El Dorado and move their families here.

Commissioner Young stated that we can talk about possible loss, but at this time, no other entity has objected. He stated that there are opportunities for our city to grow here such as restaurants and other facilities to serve people who come to our city. He stated that those opportunities are improved and enhanced by the development of our business park.

Commissioner Young reiterated that because they plan to do this with a bond, there is no risk to the City. He stated that none of the entities have objected. This project has the opportunity to bring more money to those entities than if the land stays empty.

Commissioner Young encouraged business to use the incentives available to improve their locations.

Commissioner Chapin thanked the businessmen who came by to discuss the project with the Commission. He stated that any data we would have later would not change the facts in his opinion. He stated that the Holiday Inn was forecasted to close, but it is operating with a 72% average occupancy.

Commissioner Chapin stated that the future impact of stopping this project could be more harmful than allowing it. He stated that there is a visible impact when people see the City grow. He stated that if the hotel next door is not concerned, the others should see it as an opportunity as well.

Commissioner Chase Locke moved to approve Resolution No. 2755, a Resolution determining the advisability of issuing taxable industrial revenue bonds for the purpose of financing the acquisition, construction, furnishing and equipping of a hotel facility to be located in the City of El Dorado, Kansas and authorizing the execution of related documents.

Commissioner Nick Badwey seconded the motion.

Mayor Fagg stated he felt that these people should get more time. He stated that he was also stuck on the 144 rooms that are empty. He also stated he wanted to spend more time on the effects of existing business.

Commissioner Locke stated he felt it was time to move.

Commissioner Young stated that they have had a month to review the information. He stated that the economists at Wichita State did the analysis, and he felt that they know what they are doing. He stated that there was an opportunity to sit in a meeting where they received the information. He felt that he had time to vet it.

Mayor Fagg stated that he still felt a week was not much to ask.

Commissioner Young stated that based on the discussion tonight there would be no new information provided that would cause them to change their mind. He stated that they have said that they do not mind the competition; they just do not want the IRB.

Motion carried 4 – 1 (Mayor Fagg opposed).

ADOPTION OF AN ORDINANCE FOR A COMMUNITY IMPROVEMENT DISTRICT (CID)

City Manager Herb Llewellyn stated that the HSRP LLC is asking to impose a sales tax on their property that will help them to pay for the development. He stated that this decision was based on their performance estimates from the cost benefit analysis. He stated that this was published in January after the meeting on the 20th.

Mayor Michael Fagg stated that he felt we should call people.

City Manager Llewellyn stated that we would have to call all like businesses each time a new business came into town if we called anyone that it would affect.

Commissioner Bill Young stated that this did not affect anyone but the Days Inn property.

Mayor Michael Fagg opened the public hearing.

Wade Wilkinson, 4555 Westview, stated that this is a great opportunity for them to develop their property that does not affect any other hotels or businesses. He stated that this opportunity is available to all businesses in town.

Mike Bhatt, 1127 N Main, he stated that this is a good idea. He stated that he felt El Dorado Inc. should call other businesses and be proactive in talking about these opportunities.

Commissioner Young reminded him that there were some opportunities for retroactive assistance if he asked for help.

Mr. Bhatt stated that he felt that there is a leadership failure in El Dorado Inc. He stated that we need to be proactive with the existing businesses.

Commissioner David Chapin stated that people need to be engaged in the City so that they know about these items because it is challenging to make sure that every citizen gets the information.

Mayor Fagg closed the public hearing.

Commissioner Bill Young moved to approve Ordinance No. G-1192, an ordinance authorizing the creation of the Days Inn Hotel Community Improvement District in the City of El Dorado, Kansas, the reimbursement of certain economic development project costs incurred within said district, the imposition of a community improvement district sales tax to be collected within said district, and the execution of a development agreement related to said district.

Commissioner David Chapin seconded the motion.

Commissioner Young stated he felt that the CID is a great tool and encouraged other businesses to consider this.

Mayor Fagg stated that we should develop a policy for CID’s so that we are careful about how they are distributed across the city.

Commissioners Young and Chapin agreed.

ROLL CALL VOTE

Position No. 1	Commissioner Chase Locke	Yes
Position No. 2	Commissioner Bill Young	Yes
Position No. 3	Commissioner Nick Badwey	Yes
Position No. 4	Commissioner David Chapin	Yes
	Mayor Michael Fagg	Yes

DISTRIBUTION OF LIQUOR TAXES AND COURT FEES

Finance Director Tammy Schaffer stated that annually the city distributes money received from the liquor taxes and court fees.

Ms. Schaffer stated that during 2014 the City received $64,030.62 in Liquor Tax Revenue; $32,015.31 was allocated to the General Fund and $32,015.31 to the Special Parks and Recreation Fund. One-third of the revenue allocated to the Special Parks and Recreation Fund, $10,671.77, is for the Liquor Tax Program. She stated that the balance as of 12/31/13 available for the liquor tax program was $17,285.71. At the City Commission meeting on 2/17/14 for the 2014 budget, the Commission allocated $7,500 to be given to Non-Profit Organizations leaving an ending balance of $9,785.71. The total available for 2015 Liquor Tax Program is $20,457.48.

Ms. Schaffer stated that the municipal court began collecting fees for this program in December 2009. During 2014 the City received $6,103 in Court Fee Revenue. The balance as of 12/31/13 available for the liquor tax program was $7,575.50. At the City Commission meeting on 2/17/14 for the 2014 budget, the Commission allocated $6,500 to be given to Non-Profit Organizations leaving an ending balance of $1075.50. The total available for 2015 Court Fee Program is $7,178.50.

Commissioner Bill Young stated that it was exciting that we are able to fully fund all of the requests this year.

Mayor Michael Fagg stated that the Family Life Center did not spend about $3,500 of their grant. He stated that they could only fund half of the Family Life Center’s request and then if they needed it later, it could be granted.

Ms. Schaffer stated that the City used to pay it before they collected it, but now they collect it and then pay it out the following year.

City Manager Llewellyn clarified that the Mayor was asking to cut the Family Life Center request by the amount of the net income from the previous year.

Mayor Fagg stated that the Family Life Center had money left over, so they were making money off of the City.

Darla Carter, Family Life Center Executive Director, stated that the liquor tax money is spent on their fiscal year which runs July 1st through June 30th. She stated that the money they request in February begins being used in July and continues through June 30th of the following year. She stated the statement only includes what has been spent to date.

Mayor Fagg stated that the statement shows February 1st.

Ms. Carter stated that it shows the deposit in February, but it doesn't begin being spent until July.

Mayor Fagg stated that she should change her report.

Commissioner Nick Badwey moved to allocate the portion of the liquor tax monies in the Special Parks & Recreation Fund in the following manner and to authorize the City Manager to execute the appropriate documents and contracts with the following recipients and that these funds are disbursed consistent with Kansas statutes:

Requesting Organization	Requested Amount	Commission Allocation
SCARF	$ 2,500.00	$2,500.00
Family Life Center	$ 8,000.00	$8,000.00
CASA	$ 2,500.00	$2,500.00
Total	**$13,000.00**	$13,000.00

Commissioner Chase Locke seconded the motion.

Motion carried 5 – 0.

Commissioner Nick Badwey moved to allocate a portion of the court fees in the General Fund in the following manner and to authorize the City Manager to execute the appropriate documents and contracts with the following recipients and that these funds are disbursed consistent with Kansas statutes:

Requesting Organization	Requested Amount	Commission Allocation
SCARF	$1,500.00	$1,500.00
Family Life Center	$2,000.00	$2,000.00
Elk's Lodge #1407	$2,000.00	$2,000.00
Total	**$5,500.00**	$5,500.00

Commissioner David Chapin seconded the motion.

Mayor Fagg asked Ms. Sharp how the public is notified.

City Clerk Tabitha Sharp stated that the Finance Director publishes it in the paper.

Motion carried 5 – 0.

SPECIAL USE PERMIT TO ALLOW A FUNERAL HOME IN A C-2 DISTRICT LOCATED AT 120 N MAIN STREET (CASE NO. 15-001-SUP)

Assistant City Engineer Scott Rickard stated that Heritage Funeral Home is requesting a special use permit to operate a funeral home at 120 N Main Street. The Planning Commission recommended approval 6 – 1. He stated that they have been operating since 2011 and it recently came to our attention that they needed a special use permit.

Mayor Fagg confirmed that there were no complaints.

Commissioner Bill Young moved that the recommendation of the Planning Commission to approve Case No. 15-001-SUP requesting a Special Use Permit to allow Funeral Home in a C-2 Zoning District and that Ordinance No. G-1193 be approved.

Commissioner David Chapin seconded the motion.

ROLL CALL VOTE

Position No. 2	Commissioner Bill Young	Yes
Position No. 3	Commissioner Nick Badwey	Yes
Position No. 4	Commissioner David Chapin	Yes
	Mayor Michael Fagg	Yes
Position No. 1	Commissioner Chase Locke	Stepped Out

APPLICATION TO REZONE 4411 SW HIGHWAY 196 FROM R-S RESIDENTIAL – SUBURBAN DISTRICT TO I-1 LIGHT INDUSTRIAL DISTRICT (CASE NO. 15-001-REZ)

Assistant City Engineer Scott Rickard stated that the property owner at 4411 SW Highway 196 has requested a rezone from R-S to I-1. The applicant was issued a building permit from the County and after he completed the project, the County did not grant occupancy because of a zoning issue.

Mr. Rickard stated that this was heard at the Planning Commission who voted 6 – 0 to deny the application. The County Commission voted 3 – 2 to approve the application.

Mr. Rickard stated that staff have recommended the rezone of the property. He stated that they feel that the property is situated near heavy industrial and densely treed which creates a significant buffer from the residential use on the west.

Mayor Fagg asked why the Planning Commission recommended denial of the application.

Mr. Rickard stated that two of the three owners in the district were concerned about potential noise and odor issues. He stated that they explained that all of the work would be done within a building, and the proposal is for more of an office and storage building.

Hamza Smajlovic, Bel Aire, KS, stated that he builds nothing at the facility. He stated it will strictly be used to store equipment. He stated that during the winter they do spend time in their shop working on equipment for the next season. He stated that the only place that would be visible to neighbors is on the northwest side of the property where they plan to put a fence to buffer.

Mr. Rickard stated that one of the recommendations of staff was to put up a privacy fence as a buffer.

Mr. Smajlovic stated that they had to cut some trees because of a power line. He stated that it created a gap of about twenty feet where his neighbor can see into their yard. He stated that there is now a building between that space and his workshop that will block the neighbor's view. He stated that one of his neighbors is opposed to the project because he is in the same business.

Commissioner David Chapin confirmed the purpose of the building.

Mr. Smajlovic stated that it is a shop to store his equipment and work on it out of the elements. He stated that they were not notified by the County that they needed to check with the City.

Commissioner Chain confirmed that they obtained permits from the County.

Mr. Smajlovic stated that they had. He stated that his builder went to the County and received all of the proper permits.

Commissioner Chapin asked about the stop order.

Mr. Rickard stated that the occupation of the structure is what has been stopped due to the zoning.

Commissioner Bill Young clarified that the County issued the building permit but then did not issue an occupancy permit.

Mr. Rickard stated the reason it is being brought forward is because he is not living there, he is only working there.

Commissioner Nick Badwey confirmed that if he lived there, we would not be seeing this issue.

Mr. Rickard stated that he was correct.

Commissioner Badwey asked if he planned to do any painting.

Mr. Smajlovic stated he will do some painting. The primary purpose of the shop is for the winter months when the equipment will be serviced and some of it repainted. He stated that they follow all regulations on storage and use of materials.

Commissioner Young asked if they would be doing sand blasting on site.

Mr. Smajlovic stated that maybe a small amount would be done. He stated that he estimated that they have done four hours of sandblasting in their building in the last two years.

Mr. Rickard stated that in this type of zone, all work would have to occur inside the building.

Commissioner Chapin confirmed that it would take a 4 – 1 vote to overturn the Planning Commission decision.

Commissioner Young stated that he hesitates to overturn the Planning Commission's recommendation, but he felt that this was a bad deal.

Mr. Smajlovic stated he was concerned about what to do if this is declined.

Commissioner Young stated that someone definitely needed to discuss this with the County. He stated he was in favor of returning it to the Planning Commission with the comments from the City Commission so that they could review it again.

Mr. Rickard stated that he felt it was based on the reaction of the neighbors even though another neighbor adjacent to the property supported the project. He stated that staff were available but a motion was made quickly and the project was declined.

Mr. Smajlovic stated he felt that they weren't ready for the Planning Commission hearing and that the neighbors were opposed for the wrong reasons. He felt that they didn't understand what was going to be happening within the buildings.

Commissioner Chase Locke stated that as long as the issues are addressed, he didn't feel it would be a problem.

Commissioner Badwey asked if there was a vapor recovery in the building.

Mr. Smajlovic stated that there are different processes used. He stated that they use the proper equipment to ensure that there is no exposure.

Commissioner Badwey stated the concerns expressed to him were vapors and over spray.

Mr. Smajlovic stated that they would not be spraying there much and what was being done would be in the building.

Dennis Gates, 4517 196th, stated that as this started it was going to be a few pole barns, but ended up being two enclosed buildings with cement floors. He stated that he understood that there was going to be equipment stored. He stated he believed it would be a full operation if it was rezoned. He asked if the request could be denied.

Commissioner Young asked why he was requesting the denial.

Mr. Gates stated that he felt that the zoning would lead to outside operations.

Mr. Rickard stated that this zoning allows storage outside, but work only inside. He stated that the zoning requires that the outside storage be done in a neat fashion.

Commissioner Badwey asked if all the activity was done inside, would he still be opposed.

Mr. Gates stated that he would because of the opportunity of someone else to purchase it later.

Larry Light stated he felt the cart was before the horse in this case. He stated that he felt it was a health hazard. He didn't believe that it could be contained in a building. He expressed concerns regarding sand blasting older equipment that might contain lead based paint which would be hazardous. He stated that the vent system would not help; the only way it would help is if there was a paint booth.

Ron McGlaughlin, Newton, stated that he has known the owner for approximately two years. He stated that the area is neat and orderly, equipment is well maintained; there are no fumes or noise coming from his shop.

Brandon McGlaughlin stated he has worked with Mr. Smajlovic as well and that he is very respectful of others and keeps a clean shop. He stated that 96-98% of his work is done off site. He stated that his equipment is all neat and well kept.

Discussion on how the three mile zoning regulations work between the County and City.

Mayor Fagg stated that he was also concerned about what would happen to the property in the future. He asked if he would be eligible for a special use permit.

Mr. Rickard stated that he would not because the primary use is residential

Mr. Smajlovic asked what his options were. He asked if he put a house out there if it would fix everything.

City Manager Llewellyn thought it would.

Commissioner Badwey stated that he feared if they overturned the decision of an advisory board that no one would want to serve.

Commissioner Locke stated that he is upset about the way that the County has handled this.

Mr. Rickard stated that he could probably store his equipment and material in a residential area, but not operate his business.

Mayor Fagg recommended that he go back to the County and talk to them.

Commissioner Chase Locke moved that the recommendation of the Planning Commission to deny Case No. 15-001-REZ requesting a rezoning of property located at 4411 SW Highway 196, be accepted.

Commissioner Nick Badwey seconded the motion.

Motion carried 5 – 0.

CDBG GRANT AGREEMENT – PROJECT NO. 392 – EL DORADO SEWER IMPROVEMENTS

Scott Rickard, Assistant City Engineer, stated that they are asking the Mayor to sign the agreement for the CDBG grant.

Mayor Michael Fagg asked if anyone went to the training required in the letter he received in his mail.

Mr. Rickard stated that they were able to attend.

Mayor Fagg stated we can open his mail to make sure we don't miss important letters like this one waiting on the Commission to check their mail.

Commissioner Bill Young moved to authorize the Mayor to sign the Grant Agreement No. 15-PF-004 with the Kansas Department of Commerce for the Community Development Block Grant.

Commissioner David Chapin seconded the motion.

Mayor Fagg asked about the depository for program funds.

Mr. Rickard stated that we will pay the costs and then request reimbursement so we do not have to worry about co-mingling funds.

Mayor Fagg asked about the costs.

Mr. Rickard stated that a lot of it is going to be negotiated still.

Mayor Fagg asked if our engineering costs are paid with bond monies.

Mr. Rickard stated that those fees are for professional engineers that are hired out but we do reimburse ourselves for the work that is done out of the engineering department.

Motion carried 5 – 0.

NEW BUSINESS

Commissioner David Chapin asked where we were on clean up on West Central.

Commissioner Chase Locke stated that they are discussing it in Youth Commission. He stated it will be considered as a service project.

Scott Rickard, Assistant City Engineer, stated that staff have discussed it with the businesses on West Central to encourage them to help with the issue.

Commissioner Chapin asked about the fence line on the south side.

Commissioner Bill Young stated that it was bad.

Commissioner Chapin asked for a schedule.

City Manager Herb Llewellyn stated that they would provide one. He stated that we are requesting that the judge assign it for community service as well.

Commissioner Nick Badwey stated that tomorrow is Shrove Tuesday and the Trinity Episcopal Church will be having their annual pancake supper from 4 to 7.

Commissioner Bill Young asked why we are unable to use our budgeted funds to pay for parks and recreation equipment.

City Manager Llewellyn stated that we have a limited amount of resources and those items are pushed aside.

Commissioner Young stated we need to look at funding these items in the next budget.

Mayor Michael Fagg asked about the basketball court at the High School. He asked why it could not be fixed under tourism tax.

City Manager Llewellyn stated that the CVB money has only recently come back under the City's purview. He stated that they could consider it.

Mayor Fagg asked if we could paint the railroad overpass on north Main.

Mr. Rickard stated that the railroad owns it. He stated that the City only typically covers up graffiti. He stated that we could talk to them about it.

Mayor Fagg stated that they had a good meeting on the lake debt. He read the e-mail he sent regarding ideas for the debt.

Commissioner Young thanked the Mayor for sending that out.

City Manager Llewellyn stated that it has been sent out for consideration by our Financial Advisor. He stated that the City Commission could change the policy, but it would be a big change.

Commissioner Young reminded citizens that the Mayoral forum is Thursday night at 7 p.m. at City Hall.

CITY MANAGER'S REPORT

City Manager Herb Llewellyn asked if we could talk to El Dorado Inc. about putting up the spec building at the airport.

Mayor Michael Fagg asked if we owned the building.

City Manager Llewellyn stated we did own it; it was the old M-6 building.

There was consensus to begin the conversation.

City Manager Llewellyn stated that tomorrow the Butler County Commission is going to take up the interlocal agreement between the County and the City. He stated that Commissioner Palmer has indicated that she would like to take those responsibilities back. He stated that there is a memo for the Commission to sign if they would like to continue doing that.

The Commission signed the memo in support of retaining the 3-mile zoning duties.

EXECUTIVE SESSION

Commissioner David Chapin recommended only discussing the legal matters and putting off the non-elected personnel issue until the next meeting.

Roger Cutsinger, Elks, stated he was told they would be addressing the excess sales tax this evening.

City Clerk Tabitha Sharp stated that the meeting was scheduled for the first Commission meeting in March.

Mayor Fagg apologized for the confusion.

Commissioner Chase Locke moved to recess into an Executive Session for the purpose of discussing legal matters and to reconvene the regularly scheduled meeting in the City Commission room at 11:30 p.m.

Commissioner Bill Young seconded the motion.

Motion carried 5 – 0.

Mayor Fagg called the meeting back to order at 11:33 p.m.

ADJOURNMENT

Commissioner Chase Locke moved to adjourn the meeting at 11:34 p.m.

Commissioner David Chapin seconded the motion.

Motion carried 5 – 0.

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City Clerk Tabitha D. Sharp Mayor Michael A. Fagg