

Sales Tax Committee Meeting

March 28, 2016

Present: Andy Waller, Randy Wells, Dan Davis, Scott Leason and Tom Storrer

Absent: Wade Wilkinson and Stacey Guthrie

Staff Present: Tammy Schaffer, Tabitha Sharp, Curt Zieman and Scott Rickard

Public: Kendra Wilkinson, Gregg Lewis, Vince Haines, Nick Badwey, Nancy and Larry McEachern, Roger Cutsinger, Kathy and Tom Clark

Andy Waller called the meeting to order.

Dan Davis moved to approve the minutes from February 23, 2016.

Randy Wells seconded the motion.

Motion carried 5 – 0.

Andy Waller stated that \$13,198.12 was added to the total to be allocated which comes to \$623,504.68.

Mr. Waller reviewed the funds that they had discussed at the last meeting.

- Additional Property Tax Reduction - \$278,306.56
- Savings – None
- Ball Fields - \$20,198.12
- Disc Golf/Cart Paths - \$65,000 The committee would like to make this allocation contingent on an 18 hole course and having the project completed by a contractor. If the project cannot be done that way, the money should go back into sales tax fund.
- McDonald Stadium - \$35,000 for repairs not to include the proposed garage
- Downtown Development Plan – none
- Sidewalks on 6th Orchard to Star – none
- Solar Lighting - \$18,000 for Engineering and \$59,000 for paths
- Storage Building - \$85,000 to include solar energy option.
- Arena - \$30,000 The committee would like this allocation to be contingent on being built in El Dorado.
- Elks Lodge – \$30,000

Dan Davis thought we needed to make sure it is a legal use of public funds. He stated that according to the memo from the attorney, he is not sure this is a clear public use. He stated that the attorney had discussed how membership requirements might affect the public use. He also stated that if there are age limits or other restrictions for using the building, it is not available to the entire public.

He recommended that the City Attorney and City Commission review the project in more depth before allocating these funds to the project.

Randy Wells stated that the Sales Tax Committee allocated monies to them last year and there were no problems.

Mr. Davis stated that the memo was dated January of 2016. The attorney cited legal precedent that states the project must be for the greater good of the community and open to all members of the public.

Mr. Wells stated that he felt it would be along the same lines as the Civic Center.

Roger Cutsinger stated that it would be open for any type of event.

Mr. Davis stated that in his opinion this project does not meet the public use doctrine.

Mr. Wells stated that he did not receive the memo.

Ms. Sharp stated that it was sent to the committee about two months ago.

Mr. Storrer stated that he received it, he had not read it.

Mr. Wells clarified that this memo referred to excess sales tax funds.

Mr. Davis stated that it was all public funds.

Mr. Wells suggested that the committee approve the project pending approval from the City Attorney.

Mr. Davis stated that he didn't have a problem with that language. He stated that he thought the Elks was a great organization, he just wanted to make sure the committee followed the law.

Mr. Wells stated that he wasn't sure what caused the concern.

Mr. Davis stated that he thought it was a byproduct of the allocation last year and concern that it didn't fall within the law.

Ms. Schaffer stated that it was questioned last year after the allocation.

Mr. Wells asked what the result was after it was questioned last year.

Ms. Sharp stated that the attorney reviewed it and provided the memo.

Mr. Waller read the last paragraph of the memorandum from Attorney Ashlyn Lyndskog "...In order to be eligible for membership in the Elks, a person must be a citizen of the United States, over the age of 21, and have a belief in God. While the Elks' requirements are still rather broad, the limitations on membership may serve to limit the members of the community who would benefit through the spending of public monies to improve the Elks building. Specifically, anyone under the age of 21 who has no religious affiliation may not see a community benefit from the use of unallocated sales tax dollars under the capital expenditures allowance in the ordinance. Those individuals would then, under the public use doctrine, have a right to challenge the governing body's spending choices. Therefore, in order for the Elks Lodge to appropriately receive an allocation of excess sales tax dollars, it needs to demonstrate a clear public purpose through an actual benefit to the community."

Mr. Storrer stated that he didn't think they were discussing membership, just building rental.

Randy stated that it should be amended to be monies for the meeting hall area.

Tom Clark stated that the building wouldn't be owned by the Elks Lodge, it would be owned by the Foundation. He stated that the local lodge would be paying rent to use the facility.

Mr. Cutsinger stated that they are a 501c3. (More comments were made, but they didn't get caught by the microphones.)

Mr. Waller stated that the committee is just trying to make sure they are doing things correctly.

Mr. Wells stated that we could specify the rental part of the facility. He asked who sent a letter to the attorney.

Ms. Sharp stated that no letter was sent, she stated that the City received questions regarding the allocation of funds to the Elks Lodge and so we contacted an attorney to ask their opinion. She did not find that we could not give those funds to the Elks, there is gray area surrounding the allocation of funds to private groups.

Mr. Wells asked if it was specific to the Elks facility.

Ms. Sharp stated that the public funds doctrine is not specific to the Elks Lodge, it would apply to all civic groups.

Mr. Davis stated that pending approval by the City Commission and City Attorney, the Sales Tax Committee would be okay with recommending the \$30,000.

Mr. Waller continued with the allocation.

- Bradford Memorial Library – none
- Façade Grant for Main Street - \$3,000

Mr. Waller stated that the previous allocation was \$603,306.56 plus the additional \$13,198.12 for a total allocation of \$623,504.68.

Mr. Davis moved to approve the allocations.

Mr. Wells seconded the motion.

Motion carried 5 – 0.

Ms. Schaffer stated that the earliest they could go to Commission would be April 18th.

Mr. Waller stated that was fine.

Mr. Davis moved to adjourn at 5:51 p.m.

Mr. Storrer seconded the motion.

Motion carried 5 – 0.