

City of Edgerton, Kansas
Minutes of City Council Regular Session
January 28, 2021

A Regular Session of the City Council (the Council) was held in the Edgerton City Hall, 404 E. Nelson Edgerton, Kansas on January 28, 2021. The meeting convened at 7:00 PM with Mayor Roberts presiding.

1. ROLL CALL

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| Ron Conus | present via videoconference |
| Clay Longanecker | present |
| Josh Lewis | absent |
| Katee Smith | present via videoconference |
| Josh Beem | present via videoconference |

With a quorum present, the meeting commenced.

Staff in attendance:

- City Administrator Beth Linn
- City Attorney Lee Hendricks (via videoconference)
- City Clerk Alexandria Clower
- Development Services Director Katy Crow (via videoconference)
- Finance Director Karen Kindle (via videoconference)
- Accountant Justin Vermillion (via videoconference)
- Public Works Director Dan Merkh
- Marketing and Communications Manager Kara Banks

2. WELCOME

3. PLEDGE OF ALLEGIANCE

Consent Agenda

4. Approve Minutes from January 14, 2021 Regular City Council Meeting
5. Accept Deed of Dedication and Temporary Construction Easement for the 207th Street Grade Separation Project

Councilmember Longanecker motioned to approve consent agenda, seconded by councilmember Smith. The consent agenda was approved 4-0.

Regular Agenda

6. **Public Comments.** There were no public comments made at this time.
7. **Declaration.**

Councilmember Longanecker mentioned possible conflict with scouts meeting on the same nights as city meetings, stating there is no parking for these meetings and the people attending them.

Mayor Roberts stated that he expects future planning commission and council meetings will be well attended.

With agreement from all councilmembers in attendance, Mayor gave direction to staff to reach out to both boy and girl scouts to notify them of meeting dates for council, planning commission and court dates. He stated he would like to see scouts move their programs to times that are not in conflict with city business.

8. **Discussion.** Citywide Contract for Residential Solid Waste Collection and Disposal Services

Ms. Beth Linn, City Administrator, addressed the council. She stated in February 2019, the Edgerton City Council approved the current contract with Gardner Disposal for Residential Solid Waste Collection and Disposal. She stated this contract will expire December 31, 2021. Gardner Disposal has been the City's service provider since 2015.

Ms. Linn stated staff is seeking guidance from council regarding any needed changes to services so that staff can begin to prepare the bid specifications and bidding calendar.

Ms. Linn stated the current service contract provides one container for waste and one container for recyclables, curbside collection once per week and one furniture item per dwelling per week at no additional charge. She stated other items in this contract include service at city facilities, sludge removal at the wastewater treatment plant, the annual citywide clean up and disposal services for city events.

Councilmember Longanecker stated he is quite happy with the current services, only having one small complaint about the containment of trash in the recyclable's containers.

Mayor Roberts stated he would like to see the disposal of sludge be disposed of in an environmentally friendly way. The current contract does not require this and he would like to see that it is mandatory in a new contract.

Councilmember Smith agreed with the Mayor's proposal for the new contract.

Councilmember Lewis signed on at 7:07 PM.

Councilmember Lewis stated he would agree with the proposal as well to have waste disposed of in an environmentally friendly way.

Councilmember Conus agreed with waste disposal and stated he has been very pleased with the services provided.

Councilmember Longanecker asked if the contract goes to bid every 3 years and if it is renewing in 2022. Ms. Linn stated yes, the current contract with Gardner Disposal concludes at the end of this year, 2021.

Ms. Linn asked if there was any clarifying language the governing body wished to see in a contract moving forward. She stated in our current contract, we have curbside bulk collection which includes, appliances without CFGs, furniture and carpet, all of which have specifications which are included in the current contract with Gardner Disposal.

Mayor Roberts stated he would like to see the language in the contract specifying what can and cannot be picked up on city wide clean-up day and the one large item a week for residents.

Councilmember Longanecker asked what the cost might be for trash bags big enough to fit the containers to eliminate some of the trash and debris that flies around town on windy days.

Councilmember Conus asked if there were any outlets for disposal of hazardous materials. Mayor Roberts state Johnson County Waste has a place to drop off collection point. In order to be a collection point for hazardous waste, there has to be approval EPA permitting. He stated that it would be a great start to possibly partner with Johnson County waste and see if they would be available for a City Wide Clean Up day.

Councilmember Conus stated he would like to see a yearly time for collection of hazardous waste to be set up.

9. **Discussion.** All-Terrain Vehicles, Golf Carts, Low Speed Vehicles, Micro Utility Trucks and Work-Site Utility Vehicles

Ms. Linn addressed the council. She stated in September 2020, the City Council held a work session to discuss possible regulation to allow various types of vehicles on city streets. Based on reviews from the city attorney and the representative of the Sheriff's Department, staff would request City Council consider a few topics prior to finalizing the ordinance. She stated these items are Hours of Operations, Definition of All Terrain Vehicle, and Age of Operator. Ms. Linn stated these items can always be changed in the future, if council should decide to.

Ms. Linn stated during the work session, city council provided direction to draft the regulations to include the ability to operate these types of vehicles 24/7 with proper equipment. She stated based on public safety recommendation from the Sheriff's Office and the city's noise ordinance, staff recommends the Governing Body reconsider prohibiting the operation of these types of vehicles from sunset to sunrise.

Councilmember Lewis stated he would like to see the time be set based on city ordinance for noise, rather than a sunset to sunrise. He stated if noise is the biggest reason for consideration of the sunset to sundown, he suggested mirroring the noise ordinance.

Ms. Linn stated noise was some of the concern, but the hours of sunrise to sunset were based more on the safety concerns of operating these types of vehicles during daylight hours.

Councilmember Lewis stated if all vehicles to be permitted through the city must have proper equipment to operate at night and be on the road, what is preventing the city from allowing this to coincide with the noise ordinance and operate at those times.

Master Deputy Brad Johnson, Edgerton's Community Officer, stated that one of the biggest issues he sees with allowing the time to extend until late hours of the evening, is that this allows more people to be on the roads that probably should not be, and people do not always see a UTV as needing to abide by the same regulations as regular daily driver vehicles. He stated no other city who has adopted this ordinance has strayed away from sunrise to sunset.

Councilmember Conus asked if persons operating the vehicles have to have proper drivers licenses. Ms. Linn stated the guidelines set now are that the person operating the vehicle have to have proper state drivers license.

Councilmember Lewis stated residents will want to drive/ride to city events, like 3rd of July. He stated he thinks that if people do not follow the rules of the road, proper citations should be placed against the person or they should be arrested in the same fashion they would be if they were operating a regular vehicle while under the influence. He stated that because of the cost for permitting within the City of Edgerton for this vehicle, he thinks the amount of people that will improperly operate will be weeded out.

Mr. Lee Hendricks, City Attorney stated he is in favor of a slow roll out of the ordinance, once the city can see how it will work and sees positive feedback, the Governing Body can make changes, if they should see a reason to.

Councilmember Longanecker stated we have law enforcement and city attorneys here to help make decisions like these. He stated that he would like to see this slow roll out as well and revisit the idea of allowing the vehicles to be operated at events like 3rd of July and Frontier Days.

Councilmember Beem stated he would like to see a slow start to the process of this new ordinance, and he supported the operation of vehicles from sunrise to sunset. He asked what would happen to those people that become repeat offenders. Mr. Hendricks stated that it could result in immediate revocation of the permit and an increase in fines.

Councilmember Lewis stated he is not a big fan of government telling people that it is okay and safe to operate the vehicle during the day, but then tell them they have to stop at night. He stated he would like to see the ordinance consistent with noise ordinance.

Councilmember Conus asked if the ordinance, how it's drafted today, requires headlights, turn signals and seatbelts. Ms. Linn, stated the draft ordinance requires proper equipment for night use, as well as proper equipment to operate on regular roads, turn signals, mirrors, seatbelts, etc.

Councilmember Conus stated that if this ordinance requires all of those precautions to allow usage of the equipment and proper permitting by the city, he suggests the ordinance be drafted to coincide with the noise ordinance and allow for nighttime usage.

Councilmembers Longanecker and Smith agreed to Sheriff recommendations of sunrise to sunset hours of operation.

With the majority of council in favor of an approach an ordinance drafted parallel with the noise ordinance, Mayor Roberts suggested a mandatory review in first quarter of 2022.

All councilmembers were in favor of this approach. Staff is to bring back an ordinance with language to suggest a review of the hours of operation in the first quarter of 2022.

Ms. Linn stated during the work session, city council provided direction to include all types of ATVs in regulations. In addition, council stressed the requirement for proper safety equipment, such as seatbelts. She stated based on review from the city attorney and sheriff's office, staff would recommend prohibiting ATVs that can only be straddled by the operator as this type of ATV would be more difficult to install a seat belt.

Councilmember Lewis asked the difference between riding legal and illegal vehicles. Deputy Johnson stated the safety components, size of motor and how they are regulated. He stated to be street legal, the operator must have a motorcycle endorsement on their license and in order to receive that, they must take a class, pass a written test and prove they can operate a two-wheel vehicle. Councilmember Lewis stated he see's the safety component as it might relate to two wheeled straddled vehicles but does not understand why straddled 4 wheelers would be eliminated from the list of ATVs allowed.

Councilmember Smith stated when she thinks of four wheeled vehicles being allowed, she thinks of the standard straddled four-wheeler. She stated this is what she sees most often around town and thinks this is what people would think of when they hear ATV/UTV. She stated she does see the safety issue of these types of vehicles not having the same safety equipment that the side by side 4 wheelers might have. Councilmember Smith stated the safety concern conveyed by the Sheriff's Office of straddled vehicles takes precedence.

Councilmember Lewis stated he is in favor of ATV and dirt bikes for straddled vehicles.

Councilmember Smith stated she would like to see seatbelts required which are not on straddled vehicles. She stated she is in favor of Sheriffs Office recommendations of prohibiting straddled vehicles.

Councilmember Beem stated he is in favor of straddled vehicles.

Councilmember Conus stated he is in favor of straddled vehicles.

Councilmember Longanecker stated he is in favor of Sheriffs Office to require seatbelts and prohibit straddled vehicles.

Ms. Linn asked for clarification of the need for seatbelts on all vehicles, or just on those that come equipped with them.

Councilmember Lewis stated he would be in favor of seatbelts not being required on anything if it makes the ordinance easier to enforce. He stated he would also be in favor of persons needing a valid driver's license with motorcycle endorsement for straddled two wheeled vehicles.

Councilmember Beem stated he is in favor of allowing straddled vehicles, but that the operator of such vehicles must have a valid driver's license with motorcycle endorsement. He stated he is indecisive about requiring seatbelts.

Councilmember Smith stated two wheeled vehicle operators should have valid driver's licenses with a motorcycle endorsement. She stated she is okay with allowing straddled vehicles and would like to see seatbelts required on all others, as well as all proper safety equipment to operate on the roadway including lights, turn signals, mirrors, etc.

Councilmember Conus stated he is in favor of straddled vehicles, seatbelts required on those that come equipped and would like to see it required that lights, mirrors, break lights, etc. are mandatory to operate. He stated he is in favor of the operator of such vehicles having a valid driver's license and motorcycle endorsement for two wheeled vehicles.

Councilmember Longanecker stated if the ordinance is going to allow two wheeled and four wheeled straddled vehicles, he would like to require the operator to have a valid driver's license with motorcycle endorsement to operate two wheeled vehicles. He stated he is also in favor of all proper safety equipment being mandatory to operate on the roadway, lights, mirrors, etc.

The majority of the council is in favor of allowing straddled vehicles and that seatbelts are required for all vehicles that come equipped with them.

Ms. Linn stated during the work session, council provided direction to staff to draft the regulations requiring the operator to be at least 17 years of age and have a valid driver's license. For enforcement of the regulation, staff and the Sheriff's Office would recommend removing the reference to an age, and instead simply be a valid driver's license.

All councilmembers were in favor of the requirement of a valid driver's license to operate.

Ms. Linn stated with the final direction from council on these topics, staff will work with the City Attorney to finalize the draft regulations to bring forward to the Governing Body for review and consideration at an upcoming council meeting.

Business Requiring Action

- There were no items to discuss.

10. Report by the City Administrator

- Ms. Linn stated the Board of County Commissioners extended the mask mandate until the end of March 2021.

11. Report by the Mayor

- Mayor Roberts stated council will remain virtual until notified otherwise.

- Mayor Roberts stated with the new zoning in planning commission, elected members may be receiving phone calls and emails from the community. He stated if anyone should receive any kind of communication, to please forward these to staff so this information can be added to the packet to be reviewed by all councilmembers at the same time during an open public meeting. He stated this allows transparency for all questions and comments for all members of the community.
- Mr. Lee Hendricks stated with the use of Facebook there has been some communication in other cities that has been found to be in violation of the Kansas Open Meetings Act. He stated he understands the desire to clear information up when it is seen on social media but advises council and all elected personnel to only discuss city business during open public meetings to remain compliant and transparent.

12. **Future Meeting Reminders:**

- February 9th: Planning Commission Meeting – 7:00 PM
- February 11th: City Council Meeting – 7:00PM
- February 25th: City Council Meeting – 7:00 PM
- March 9th: Planning Commission Meeting – 7:00 PM
- March 11th: City Council Meeting – 7:00 PM
- March 25th: City Council Meeting – 7:00 PM

13. **Adjourn**

Councilmember Smith motioned to adjourn, seconded by councilmember Beem.
Meeting adjourned at 8:18 PM, 5-0

EVENTS

February 15th: City Hall Closed for President's Day
February 18th: Annual State of the City