

**EDGERTON CITY COUNCIL
MEETING AGENDA
CITY HALL, 404 EAST NELSON STREET
October 9, 2014
7:00 PM**

Call to Order

1. **Roll Call** ____ Roberts ____ Longanecker ____ Brown ____ Crooks ____ Cross ____ Troutner
2. **Welcome**
3. **Pledge of Allegiance**

Consent Agenda *(Consent Agenda items will be acted upon by one motion unless a Council member requests an item be removed for discussion and separate action)*

4. Agenda Approval
5. City Council Meeting Minutes July 10, 2014
6. City Council Meeting Minutes August 14, 2014
7. City Council Meeting Minutes September 11, 2014
8. City Council Meeting Minutes September 25, 2014
9. Approve the re-appointment of Bob O'Neill to Planning Commission

Regular Agenda

10. **Public Comments.** Persons who wish to address the City Council regarding items not on the agenda and that are under the jurisdiction of the City Council may do so when called upon by the Mayor. Comments on personnel matters and matters pending before court or other outside tribunals are not permitted. Please notify the City Clerk before the meeting if you wish to speak. Speakers are limited to three (3) minutes. Any presentation is for informational purposes only. No action will be taken.
11. **Declaration.** At this time Council members may declare any conflict or communication they have had that might influence their ability to impartially consider today's issues.

Business Requiring Action

12. **CONSIDER ORDINANCE NO. 983 AMENDING SECTION 14-205 OF ARTICLE 2 OF CHAPTER XIV OF THE CITY CODE TO INCLUDE PARKING RESTRICTIONS ON EAST 6TH STREET**

Motion: _____ Second: _____ Vote: _____

13. **CONSIDER ORDINANCE NO. 984 AMENDING SECTION 13-401 OF ARTICLE 4 OF CHAPTER XIII OF THE EDGERTON, KANSAS MUNICIPAL CODE TO REVISE PROVISIONS PERTAINING TO THE DUTY OF RESIDENTS TO REMOVE SNOW AND ICE FROM SIDEWALKS ADJOINING THEIR PROPERTY**

Motion: _____ Second: _____ Vote: _____

14. CONSIDER RESOLUTION NO. 10-09-14A OF THE CITY OF EDGERTON, KANSAS, REQUESTING THE BOARD OF COUNTY COMMISSIONERS OF JOHNSON COUNTY, KANSAS, TO MAKE CERTAIN FINDINGS REGARDING THE ANNEXATION OF PROPERTY

Motion: _____ Second: _____ Vote: _____

15. CONSIDER RESOLUTION 10-09-14B OF THE CITY OF EDGERTON, KANSAS, REQUESTING THE BOARD OF COUNTY COMMISSIONERS OF JOHNSON COUNTY, KANSAS, TO MAKE CERTAIN FINDINGS REGARDING THE ANNEXATION OF PROPERTY

Motion: _____ Second: _____ Vote: _____

16. Report by the Mayor

- o Johnson County announced date for Edgerton Resident meeting with Bettis Asphalt – Wednesday, October 15 7:00 PM

17. Future Meeting/Event Reminders:

- October 13th - City Hall Closed for Columbus Day
- October 14th 7:00 PM – Planning Commission Meeting CANCELLED
- October 15th 8:00 AM – City of Edgerton hosts Chamber Coffee
- October 15th Noon – Senior Lunch
- October 15th 7:00 PM – Bettis meeting with Edgerton residents
- October 23rd 7:00 PM – City Council Meeting
- October 26th 4:00 -7:00 PM – Edgerton Halloween Party hosted by Frontier Days Committee

18. Adjourn Motion: _____ Second: _____ Vote: _____

City of Edgerton, Kansas
Minutes of City Council Regular Session
July 10, 2014

A Regular Session of the City Council was held in the Edgerton City Hall, 404 E. Nelson, Edgerton Kansas on July 10, 2014. The meeting convened at 7:00 p.m. with Mayor Roberts presiding, and City Administrator Beth Linn recording.

1. ROLL CALL

Heidi Wiseman	present
Clay Longanecker	present
Cindy Crooks	present
Jody Brown	present
Frances Cross	present

With a quorum present, the meeting commenced.

Staff in attendance:	City Administrator Beth Linn
Consultants in attendance:	Johnson County Sheriff Representative

2. PLEDGE OF ALLEGIANCE AND WELCOME

3. CONSENT AGENDA

A. Agenda Approval

A motion by Crooks, seconded by Brown, to approve the consent agenda.

The motion was approved, 5-0.

4. PUBLIC COMMENTS

None

5. DECLARATIONS BY COUNCIL MEMBERS

None

6. RESOLUTION No. 07-10-14A APPROVING A FIVE-YEAR CITY/COUNTY STREET IMPROVEMENT PROGRAM WAS CONSIDERED.

City Administrator Beth Linn presented information about the 2015 County Assistance Road System (CARS) program. The suggested project area would be Edgerton Road (from between 207th Street to Nelson Street) and 207th Street (1/2 miles west of Edgerton Road to BNSF Railroad).

A motion by Cross, seconded by Longanecker, to approve Resolution No. 07-10-14A approving a five-year City/County Street Improvement Program.

The motion was approved, 5-0.

7. REPORT BY THE CITY ADMINISTRATOR

City Administrator provided an update regarding the conditional use permit for concrete and asphalt plant at 20125 Sunflower Road. Staff report on testimony provided to Johnson County Board of County Commission (BOCC) on July 3, 2014. The BOCC has remanded the application back to Southwest Consolidated Zoning Board for consideration. City Council discussed the application. City Council directed staff to provide testimony at the Zoning Board meeting focusing on the need for relocating the entrance. City Council also directed staff to request the Zoning Board continue the application to allow time for the members to visit an operating asphalt/concrete plant to see first-hand the type of operation.

Ms. Linn also provided an update regarding the 3rd of July Community Picnic and Fireworks Show. The event was a tremendous success. Mayor Roberts agreed and encouraged staff to consider a parking plan for next year.

8. REPORT BY THE MAYOR

None

9. FUTURE MEETING/ EVENT REMINDERS:

- July 16th Noon – Senior Lunch
- July 24th 7:00 pm – City Council Meeting
- July 31st 7:00 pm – City Council Work Session – Truck Related Ordinances

10. ADJOURN

A motion by Crooks, seconded by Longanecker, to adjourn.

The motion was approved, 5-0.

The meeting adjourned at 7:45 pm.

Janeice L. Rawles, CMC
City Clerk

Approved by the Governing Body on

City of Edgerton, Kansas
Minutes of City Council Regular Session
August 14, 2014

A Regular Session of the City Council was held in the Edgerton City Hall, 404 E. Nelson, Edgerton Kansas on August 14, 2014. The meeting convened at 7:00 p.m. with Mayor Roberts presiding, and Account Clerk Nikki Walford recording.

1. ROLL CALL

Frances Cross	present
Clay Longanecker	present
Cindy Crooks	present
 Jody Brown	 absent

With a quorum present, the meeting commenced.

Staff in attendance: City Administrator Beth Linn
 City Attorney Patrick Reavey

2. PLEDGE OF ALLEGIANCE

3. CONSENT AGENDA

Items for consideration:

- A. Agenda Approval
- B. Meeting Minutes for June 26, 2014
- C. Meeting Minutes for July 24, 2014
- D. Agreement Not to Protest Formation of Benefit District for construction of sidewalks or street improvements on the JB Hunt Transport Project located at approximately 30700 West 191st Street
- E. Agreement Not to Protest Formation of Benefit District for construction of sidewalks or street improvements on the Nickell Gardner Kansas Properties located on the northeast corner of 191st Street and Waverly Road
- F. Deed of Dedication and Temporary Construction Easement from Widmer Farms, LLC for property along 199th Street west of Homestead Lane in regards to the Johnson County shoulder improvement project

Motion by Crooks, seconded by Cross, to approve the consent agenda as presented.

The motion was approved, 3-0.

4. PUBLIC COMMENTS

Blair Auld, 409 West Merriwood Lane, spoke regarding Glendale Acres Skate Park and parks facilities in general. Mr. Auld expressed concern regarding the use of the metal structures at the skate park and requested the equipment be removed to allow the use of the basketball court. Mr.

Auld also expressed concern with amount of tax dollars allocated to parks, especially for updating park equipment. Mayor Roberts noted the 2015 budget hearing including parks would be held later at this council meeting.

Casey Carter, Pastor with New City Church, announced the upcoming weekend event/ fundraiser.

5. DECLARATIONS BY COUNCIL MEMBERS

None

6. CONSIDERATION OF RECOMMENDATION OF APPOINTMENT TO THE CITY COUNCIL.

Motion by Crooks, seconded by Longanecker, to appoint Charlie Troutner to the Council to fulfill term vacated by Heidi Wiseman until 2017.

The motion was approved, 3-0.

The oath of office was administered.

7. PRESENTATION BY DEFFENBAUGH INDUSTRIES REGARDING RENEWAL OPTIONS.

John Blessing, Deffenbaugh Industries, distributed printed options for contract. The current contract allows for an extension. Mr. Blessing proposed a contract extension for two years with no increase in price for service, with exception for increase in fuel cost as currently allowed in contract. Mr. Blessing noted past services provided have not always been great. With the renewal option, he offered the two-year renewal with an "out clause" whereby City Council could cancel the contract with 90 days notice. Mr. Blessing noted that a bid would most likely mean higher rates. With the renewal, Deffenbaugh guaranteed to keep the on-site supervisor within the City during collection.

Councilmember Crooks requested a glass recycling container in town. Deffenbaugh agreed to research a centrally located for collection of glass. Mr. Blessing also discussed the opportunities for after-hours customer service and possible collection.

Ms. Linn discussed the staff's concern with sludge removal at the wastewater treatment plants. Ms. Linn's recommendation was that the sludge pick up should be improved by better and more containers, and better removal.

City Council discussed the proposal and directed City Administrator and City Attorney to prepare a draft renewal for City Council to review at July 24th City Council meeting.

Councilmember Brown arrived at 7:15 p.m.

8. ORDINANCE NO. 974 AMENDING SECTION 9-107 OF ARTICLE 1 OF CHAPTER IX OF THE EDGERTON, KANSAS MUNICIPAL CODE CHAPTER PERTAINING TO MUNICIPAL COURT WAS CONSIDERED.

City Administrator Linn presented Ordinance No. 974 that moves the date of Edgerton Municipal Court from the third Tuesday of each month to the fourth Tuesday of each month. The time of court remains the same. The ordinance also adds the ability for the municipal judge to change the date, time, and location of municipal court on a temporary basis to accommodate holidays or other scheduling conflicts, so long as court staff and defendants scheduled to appear are notified of the change. Ms. Linn indicated staff would anticipate only using this ability in case of a holiday or unavailability of pro-tem judge or prosecutor if necessary.

Motion by Longanecker, seconded by Brown, to approve Ordinance No. 974 with effective date of October 28, 2014.

The motion was approved, 5-0.

9. ORDINANCE NO. 975 ANNEXING LAND OWNED BY LARRY ALSUP, LOCATED APPROXIMATELY AT I-35 AND HOMESTEAD LANE INTO THE CITY OF EDGERTON, KANSAS WAS CONSIDERED.

Ms. Linn presented Ordinance No. 975 to consider annexing Parcel #4F221509-3004 owned by Larry S. Alsup generally located at the northwest corner of the Homestead Lane/I-35 interchange (directly south of the Thorp property). The Alsup property does not satisfy the “adjoining” requirement for annexation pursuant to K.S.A. 12-520(a)(3). Therefore, the City of Edgerton City Council passed a resolution on November 14, 2013 to request consideration of this annexation to the Johnson County Board of County Commissioners. On June 19, 2014 the Board of County Commissioners of Johnson County, Kansas, determined that the annexation of such land will not hinder or prevent the proper growth and development of the area or that of any other incorporated city located within Johnson County, Kansas, all as provided in K.S.A. 12-520c.

Motion by Crooks, seconded by Longanecker, to approve Ordinance No. 975 annexing property into the city limits.

The motion was approved, 5-0.

10. FINAL PLAT, FP-05-29-2014, JB HUNT CONTAINER STORAGE FACILITY LOCATED AT APPROXIMATELY 30700 WEST 191ST STREET WAS CONSIDERED.

Ms. Linn presented to the City Council Application FP-05-29-2014 for final plat of the JB Hunt Container Storage Facility at approximately 30700 West 191st Street. JB Hunt intends to operate a cargo container storage, repair and maintenance facility to serve Logistics Park Kansas City. Ms. Linn reported that the Planning Commission reviewed the application on July 8, 2014. The Edgerton Planning Commission recommended approval of Application FP-05-29-2014 for Final Plat for JB Hunt Container Storage Facility subject to compliance with stipulations.

Jim Anderson, Kaw Valley Engineering , engineer for the property was present to represent JB Hunt.

Motion by Cross, seconded by Brown, to approve Final Plat, FP-05-29-2014, for JB Hunt Container Storage Facility.

The motion was approved, 5-0.

11. THE SAFETY MANUAL, AS UPDATED, WAS CONSIDERED.

City Administrator Linn presented a draft of the updated Safety Manual. Ms. Linn noted the last revision adopted by Edgerton City Council was in 2002. Kansas Municipal Insurance Trust (KMIT), the city workman's compensation insurance carrier, recommends review of the safety manual every two years. The proposed updated safety manual incorporates the industry safety standards but also be easily read, understood and implemented by employees. Ms. Linn emphasized the key to cultivating a culture of safety is to include those most affected by the procedures and have the procedures protect the employee and employer without being so cumbersome that no employee will abide.

The draft manual has been review and approved by City Attorney. Next steps for staff if approved is to develop a training and implementation program for the new manual. The manual also includes the formation of a safety committee with representation across departments to assist in growing the culture of safety awareness.

Council Member Crooks emphasized the importance of record keeping and documentation for employee attendance and participation at safety meetings. Also discussed were Commercial Driver's Licenses (CDL) and disciplinary actions with notation to add language for protocol and reference in the personnel manual.

Motion by Cross, seconded by Longanecker, to approve the Safety Manual.

The motion was approved, 5-0.

12. PURCHASE OF TANDEM AXLE SNOW PLOW WAS CONSIDERED.

City Administrator Beth Linn presented information regarding requested purchase of a Tandem Axle Snow Plow. Ms. Linn noted that during the last budget work session, staff reviewed the proposed 2014 and 2015 Vehicle and Equipment purchases. One of the most significant purchases scheduled for 2014 is the recommendation by staff for the purchase of a tandem axel snow plow.

Ms. Linn discussed that beginning in winter 2014, the City of Edgerton will be responsible for snow and ice control for an additional six (6) miles of roadway. These roadways, including Homestead Lane and 191st Street, are large roadways serving Logistics Park Kansas City, a facility that operates 365/24/7.

Ms. Linn presented staff research regarding type of truck and the cooperative bidding process used to determine the best supplier of the equipment. Staff recommends the purchase of a New International Tandem Axel truck chassis with Warren model dump bed and Henke model plow and spreader.

Motion by Crooks, seconded by Longanecker, to approve the purchase of the tandem axle snow plow.

The motion was approved, 5-0.

13. FINAL ACCEPTANCE OF EDGERTON QUIET ZONES PROJECT (NELSON STREET AND 199TH STREET) WAS CONSIDERED.

Ms. Linn presented City Council regarding final acceptance of the Edgerton Quiet Zones project. The project includes the construction of two quiet zones located on Nelson Street near Edgerton Lake and on 199th Street just east of Highway 56. Ms. Linn indicated the project is now complete. The construction firm has submitted final pay application for city to consider acceptance of the project. The City contracted with Pfefferkorn & Baldrige Engineering LLC to inspect the construction for conformance to plans and city standards. Both the City's Construction Inspector and the City Engineer have indicated that the project has been completed in general conformance to the plans and specifications approved by the City of Edgerton.

Ms. Linn reported that in June 2014, the City of Edgerton was officially notified by the Federal Railroad Administration (FRA) that the supplemental safety measures (raised medians, signage, etc.) installed along 199th Street and Nelson Street do not meet the federal guidelines for the establishment of a Quiet Zone. The City of Edgerton is working closely with the FRA and railroad partners to ensure corrections are made to meet the required guidelines.

Motion by Cross, seconded by Brown, to approve final acceptance of Edgerton Quiet Zones project as constructed not as designed.

The motion was approved, 5-0.

14. PUBLIC HEARING FOR RECOMMENDED 2015 BUDGET WAS CONSIDERED.

The Mayor opened the public hearing for the proposed 2015 budget. Ms. Linn presented the recommend 2015 Budget.

Mary Pritchard, 317 West Nelson, stated concern with the \$50,000 deduction from law enforcement. Ms. Linn explained the decrease.

Motion by Longanecker, seconded by Cross, to close the public hearing.

The motion was approved, 5-0.

15. APPROVAL OF THE 2015 BUDGET WAS CONSIDERED.

Motion by Longanecker, seconded by Brown, to approve the 2015 budget.

The motion was approved, 5-0.

16. REPORT OF CITY ADMINISTRATOR

- A. Update of the conditional use application for Bettis Asphalt.
City Administrator Linn provided an update from the Consolidated Southwest Zoning Board meeting held on July 23, 2014 regarding the application for a conditional use permit at 20125 Sunflower Road by Bettis Asphalt and Construction, applicant, and Mid-States Ventures, LLC, landowner, for an asphalt and concrete plant and related auxiliary operations. Ms. Linn also presented a proposal from the applicant and landowner to the City

of Edgerton for consideration. Ms. Linn reviewed the items of consideration that included moving of existing entrance into the property (include timeframes for that construction), addition of rumble strips at the new entrances, asphalt pavement of a portion of the internal haul road and an impact fee of five (5) cents per ton of asphalt produced and sold up to a reasonable cap be paid to the City to be used for maintenance, repair and replacement of truck routes within the City of Edgerton (not including those routes adjacent to LPKC).

Motion by, seconded by Crooks seconded to adopt the following:

Resolution Authorizing Letter And/Or Testimony By Mayor Roberts And City Administrator Linn With The Following Resolution: Edgerton City Council Hereby Resolved That With Concessions, Agreed To By Bettis Asphalt And Construction, The Council Is Supportive Of The Conditional Use Permit Application. This Resolution Should Not Be Construed As Representing Support By All Landowners Within The City Of Edgerton As The City Has Not Been Authorized To Speak On Their Behalf.

The motion was approved, 5-0.

- B. Johnson County Bridge Project. Ms. Linn indicated that the City had been notified that Johnson County will be performing maintenance on the 207th Street and Nelson Street bridge that will involve closures of those bridges during August 18 and August 21. Both bridges will not be closed simultaneously.
- C. Trucking ordinances. Ms. Linn updated City Council that staff will present the draft ordinances discussed at the work session on July 31st regarding truck traffic at an upcoming city council meeting simultaneous with the updated Standard Traffic Ordinance (STO).

17. REPORT BY MAYOR

- A. Adopt the Children Charity Shoot, Saturday, September 20. Mayor Roberts asked for any Council Member interested in participating to contact Ms. Linn

18. FUTURE MEETING/EVENT REMINDERS;

- August 20th Noon – Senior Lunch
- August 28th 7:00 PM – City Council Meeting
- September 1 – City Hall Closed for Labor Day
- Week of September 1st – Trash Pickup on Friday
- September 4th - Southwest Johnson County Elected Officials Forum – Hosted by USD 231 at District Office, 231 E. Madison St., Gardner, KS – 6:00 – 7:30 p.m.

19. RECESS INTO EXECUTIVE SESSION PURSUANT TO K.S.A. 75-4319 (b) (2) FOR CONSULTATION WITH AN ATTORNEY DEEMED PRIVILEGED IN THE ATTORNEY-CLIENT RELATIONSHIP TO INCLUDE BOND COUNSEL AND CITY ADMINISTRATOR WAS CONSIDERED.

Motion by Cross, seconded by Brown, to recess into executive session under the noted exception for 30 minutes.

The motion was approved, 5-0. The meeting recessed at 9:44 p.m.

The meeting reconvened at 10:15 p.m with all members present.

Motion by Cross, seconded by Brown, to recess back into executive session for the same exception for 10 minutes.

The motion was approved, 5-0. The meeting recessed at 10:15 p.m.

The meeting reconvened at 10:25 p.m with all members present.

Motion by Cross, seconded by Brown, to recess back into executive session for the same exception for five (5) minutes.

The motion was approved 5-0. The meeting recessed at 10:26 p.m.

The meeting reconvened at 10:31 p.m. with all members present.

Motion by Cross, seconded by Crooks, to return to regular session and noted only the items mentioned were discussed, and no actions would be taken from the Executive Session.

The motion was approved, 5-0.

13. ADJOURN

Motion by Troutner, seconded by Crooks, to adjourn.

The motion was approved, 5-0.

Meeting adjourned at 10:33 p.m.

Nikki Walford
Account Clerk

Approved by the Governing Body on _____.

**City of Edgerton, Kansas
Minutes of City Council Regular Session
September 11, 2014**

A Regular Session of the City Council was held in the Edgerton City Hall, 404 E. Nelson, Edgerton Kansas on September 11, 2014. The meeting convened at 7:00 p.m. with Mayor Roberts presiding, and City Clerk Janeice L. Rawles recording.

1. ROLL CALL

Charlie Troutner	present
Clay Longanecker	present
Cindy Crooks	present
Jody Brown	present
Frances Cross	absent

With a quorum present, the meeting commenced.

Staff in attendance: City Administrator Beth Linn

Consultants in attendance: Johnson County Sheriff Representative
Scott Anderson, Intermodal Bond Counsel
Jeff White, Columbia Capital Management

2. PLEDGE OF ALLEGIANCE

The Mayor asked all present to remember the importance of this date and the lives lost then and since then. He offered thanks to all the military families, law enforcement families, and firefighters and their families.

3. CONSENT AGENDA

A. Agenda Approval

Motion by Brown, seconded by Longanecker, to approve the consent agenda.

The motion was approved, 4-0.

4. PUBLIC COMMENTS

A. Heidi Wiseman, 206 W. 8th, had three items to bring to council; Deffenbaugh's recycle bin has been taken for repairs and a new one has never been returned, the restrooms at Martin Creek Park are not open for use and this is an inconvenience for citizens, why do the connection fees charged for water customers need to be paid every time it goes into the landlord's names. The Mayor responded to the restrooms at the park question, as the restrooms have been vandalized and will not be open this season.

5. DECLARATIONS BY COUNCIL MEMBERS

A. None

6. TESTIMONY AT JOHNSON COUNTY BOARD OF COUNTY COMMISSION REGARDING CONDITIONAL USE PERMIT FOR ASPHALT AND CONCRETE PLANT AT 20125 SUNFLOWER ROAD WAS CONSIDERED.

City Administrator Beth Linn presented information at the August 28th, 2014 Johnson County Board of County Commissioners meeting. Ms Linn presented the written testimony made by motion at the August 14, 2014 Edgerton City Council Meeting. The motion was in regards to the application for a conditional use permit for operation of a concrete and asphalt plant at 20125 Sunflower Road. There were a large group of citizens present, and several citizens that spoke about the application for a conditional use permit for operation of a concrete and asphalt plant. Among the citizens that spoke were Bill Braun, Cheri Magee, Mike Sleister, Jerry Owens, Kim Denny and others. Most citizens were opposed to the asphalt plant for a variety of reasons. The Mayor noted that the City of Edgerton can convey the concerns of the city and those expressed by residents; however, the ultimate decision is made by the Board of County Commissioners. All four city council members spoke and thanked the large group of citizens for attending tonight's meeting.

A motion by Troutner, seconded by Longanecker, to direct City Council and Mayor to rescind previous testimony, and request denial of the conditional use application based on Golden Criteria established by Kansas Supreme Court in 1978 for items such as intensity of use, impact to road network, and impact to neighboring property owners.

The motion was approved, 4-0.

**Mayor Roberts recessed the meeting for five minutes at 8:30 pm.
The meeting was reconvened at 8:35 pm.**

7. PUBLIC HEARING REGARDING RESOLUTION OF INTENT FOR INLAND PART XI WAS CONSIDERED.

The Mayor opened the public hearing at 8:41 pm.

Edgerton Land Holding Company has submitted an industrial revenue bond and tax abatement application for a new 657,000 square foot warehouse and distribution facility to be located on the southeast corner of 191st and Waverley Road. City of Edgerton Intermodal Bond Counsel Scott Anderson informed the council that the City must first hold a public hearing, consider the cost-benefit report, and then approve the Resolution of Intent. Jeff White, Columbia Capital Management, presented the cost benefit analysis. Patrick Robinson, Developer for Edgerton Land Holding Company, was present to answer any questions.

The public hearing was closed at 9:05 pm.

8. RESOLUTION NO. 09-11-2014A DETERMINING THE INTENT OF THE CITY OF EDGERTON, KANSAS, TO ISSUE ITS INDUSTRIAL REVENUE BONDS IN THE APPROXIMATE AMOUNT OF \$34,000,000 TO PAY THE COST OF ACQUIRING, CONSTRUCTING AND EQUIPPING A COMMERCIAL FACILITY FOR THE BENEFIT OF ELHC XI, LLC WAS CONSIDERED.

With the closing of the public hearing, the Resolution of Intent was discussed. There was discussion and questions from the council.

A motion by Crooks, seconded by Brown, to approve Resolution No. 09-11-2014A determining the intent of the City of Edgerton, Kansas to issue its industrial revenue bonds in the approximate amount of \$34,000,000 to pay the cost of acquiring, constructing, and equipping a commercial facility for the benefit of ELHC XI, LLC.

Motion was approved, 4-0.

9. REPORT BY THE CITY ADMINISTRATOR

City Administrator Beth Linn gave an update on the Quiet Zone. The City met with a representative of the Federal Railroad Administration to understand the modifications that need to be completed for each quiet zone to become in compliance.

A code compliance report was passed out to everyone in regards to the Truck Traffic on First Street. Mayor and Council directed staff to research the concern and report back at a future council meeting.

10. REPORT BY THE MAYOR

Mayor requested the Council appoint a Voting and Alternate Delegate to the League of Kansas Municipalities Annual Conference.

A motion by Brown, seconded by Crooks, to approve Mayor Roberts as the Voting Delegate and Council Member Troutner as the Alternate Delegate for the annual League of Kansas Municipalities Conference on October 11-13, 2014.

The motion was approved, 4-0.

11. FUTURE MEETING/ EVENT REMINDERS:

- September 16th 8am - SWJCEDC Quarterly Event at Smart Warehouse
- September 17th Noon – Senior Lunch
- September 25th 7:00 pm City Council Meeting and Work Session regarding Sidewalk Maintenance and Snow Removal
- October 9th 7:00 pm – City Council Meeting
- October 15th 8:00 am Chamber Coffee

12. ADJOURN

A motion by Crooks, seconded by Brown to adjourn.

The motion was approved, 4-0.

Meeting adjourned at 10:10 pm.

Janeice L. Rawles, CMC
City Clerk

Approved by the Governing Body on

**City of Edgerton, Kansas
Minutes of City Council Regular Session
September 25, 2014**

A Regular Session of the City Council was held in the Edgerton City Hall, 404 E. Nelson, Edgerton, Kansas on September 25, 2014. The meeting convened at 7:00 p.m. with Mayor Roberts presiding, and City Clerk Janeice L. Rawles recording.

1. ROLL CALL

Charlie Troutner	present
Clay Longanecker	present
Frances Cross	present
Cindy Crooks	absent
Jody Brown	absent

With a quorum present, the meeting commenced.

Staff in attendance: City Administrator Beth Linn
 City Attorney Patrick Reavey

Consultants in attendance: Johnson County Sheriff Representative

2. WELCOME AND PLEDGE OF ALLEGIANCE

3. CONSENT AGENDA

A. Agenda Approval

A motion by Longanecker, seconded by Cross, to approve the consent agenda.

The motion was approved, 3-0.

4. PUBLIC COMMENTS

- A. Shirley and Gary Gillard, 521 W. Martin Street, spoke about the lake in Bridgewater subdivision and passed out pictures of what the lake looks like at the present time. Tegan Meadors, City of Edgerton Parks and Recreation Coordinator, has been in contact with Kansas Wildlife and Parks inquiring about the algae on the lake.
- B. Bill Braun, representing the Edgerton Historical Society, had a list of repairs to present to the council for the Edgerton Community Museum.

5. DECLARATIONS BY COUNCIL MEMBERS

A. None

6. ORDINANCE NO. 981 ANNEXING LAND (OWNED BY VICTOR AND LORI SMITH) INTO THE CITY OF EDGERTON, KANSAS WAS CONSIDERED.

Beth Linn, City Administrator, presented to the council information about the parcel of land owned by the Smith's at 20040 Edgerton Road. The Smith's have filed a written petition and their land is located contiguous to property already within the City of Edgerton corporate city limits. City Attorney Patrick Reavey prepared a draft ordinance for approval.

A motion by Longanecker, seconded by Cross, to approve Ordinance No. 981 annexing land (owned by Victor and Lori Smith) into the City of Edgerton, Kansas.

The motion was approved, 3-0.

7. **ORDINANCE NO. 982 ADOPTING A RECOMMENDATION BY THE CITY PLANNING COMMISSION TO APPROVE REZONING OF APPROXIMATELY 15 ACRES OF LAND (LOCATED AT THE NORTHWEST CORNER OF I-35 HIGHWAY AND HOMESTEAD LANE) IN EDGERTON, KANSAS FROM JOHNSON COUNTY RURAL RESIDENTIAL (RUR) TO CITY OF EDGERTON HEAVY SERVICE COMMERCIAL DISTRICT (C-2) WAS CONSIDERED.**

Beth Linn, City Administrator, informed Mayor and Council that the City of Edgerton received an application, RZ-08-12-2014, for rezoning from Larry S. Alsup, property owner, and Tim Gates, realtor requesting to rezone approximately 15 acres located on the northwest corner of I-35 and Homestead Lane. The current zoning on this property is Johnson County RUR and the applicant has requested to change to City of Edgerton Heavy Service Commercial District (C-2) zoning. The City of Edgerton planning commission recommended approval of the application with stipulations; all site plan application requirements of the City shall be met, all infrastructure requirements of the City shall be met, and prior to issuance of building permits the property shall be developed in accordance with a site plan reviewed and approved by the City.

A motion by Longanecker, seconded by Troutner, to approve Ordinance No. 982 adopting a recommendation by the City Planning Commission to approve rezoning of approximately 15 acres of land (located at the northwest corner of I-35 highway and Homestead lane) in Edgerton, Kansas from Johnson County Rural Residential (RUR) to City of Edgerton Heavy Service Commercial District (C-2).

The motion was approved, 3-0.

8. **RESOLUTION NO. 09-25-2014A CONSENTING TO THE ASSIGNMENT OF A BASE LEASE, LEASE AGREEMENT AND RELATED BOND DOCUMENTS IN CONNECTION WITH THE CITY'S INDUSTRIAL REVENUE BONDS (ELHC I, LLC PROJECT), SERIES 2013 WAS CONSIDERED.**

City Attorney Patrick Reavey informed Mayor and Council that a resolution is needed consenting to the assignment of a base lease, lease agreement and related bond documents in connection with the City's Industrial Revenue Bonds. In order to acquire the Project, Edgerton Land Holding Company (ELHC) must assign its interest in the Base Lease, the Lease Agreement, the Performance Agreement, the Origination Fee Agreement and all other Bond documents to Flexsteel. This assignment requires the consent of the City.

A motion by Longanecker, seconded by Troutner, to approve Resolution No. 09-25-2014A consenting to the assignment of a base lease, lease agreement and related bond documents in connection with the City's Industrial Revenue Bonds (ELHC 1, LLC project), series 2013.

The motion was approved, 3-0.

9. REPORT BY THE CITY ADMINISTRATOR

- The recycle bin from last meeting has been taken care of; the citizen has received the recycle bin.
- The restrooms at Martin Creek Park have been "Shut Down" due to vandalism. The City of Edgerton Park & Recreation Coordinator has notified the parties that have reserved the fields and or the shelter house of the situation.
- City Administrator suggested a future work session to discuss several administrative operating procedures for utilities such as connection fees, extension requests, etc.
- Report of billing miscalculation. Letters to affected residents will be mailed with October bills. No penalties were assessed on those balances. Payment arrangements have been offered to affected residents.
- Paul Greely, Deputy Director Johnson County Planning & Development, informed City Administrator on September 25th the Johnson County Board of County Commissioners Meeting continued the Conditional Use Permit for the asphalt and concrete plants to the October 23rd, 2014 agenda.

10. REPORT BY THE MAYOR

NONE

11. FUTURE MEETING/ EVENT REMINDERS:

- October 9th 7:00 pm – City Council Meeting
- October 15th 8:00 am – Chamber Coffee
- October 15th Noon – Senior Lunch
- October 23rd 7:00 pm – City Council Meeting

12. ADJOURN

A motion by Cross, seconded by Troutner, to adjourn.

The motion was approved, 3-0.

Meeting adjourned at 7:30 pm.

Janeice L. Rawles, CMC
City Clerk

Approved by the Governing Body on

AGENDA ITEM INFORMATION FORM

Agenda Item: Consider Ordinance No. 983 Amending Section 14-205 Of Article 2 Of Chapter XIV Of The City Code To Include Parking Restrictions On East 6th Street

Department: Public Works

Background/Description of Item: In May 2014, the Edgerton City Council approved Ordinance No. 972 to prohibit parking on East 6th Street from Nelson Street to the southern edge of the boat ramp. This ordinance was passed after the construction of the quiet zone due to the realignment of East 6th Street and the addition of a tight s-shaped curve.

While updating the City Code books to reflect new ordinances, staff discovered this section of the code had inadvertently been repealed on August 28, 2014. Staff recommends the approval of Ordinance No. 983 to reinstate the prohibition of parking on East 6th Street from Nelson Street to the southern edge of the boat ramp.

Enclosure: Draft Ordinance No. 983

Related Ordinance(s) or Statute(s): Chapter XIV, Article 2, Section 14-208 of Edgerton City Code

Recommendation: Approve Ordinance No. 983 Amending Section 14-205 Of Article 2 Of Chapter XIV Of The City Code To Include Parking Restrictions On East 6th Street

Funding Source: N/A

Prepared by: Beth Linn, City Administrator

Date: October 2, 2014

ORDINANCE NO. 983

AN ORDINANCE AMENDING SECTION 14-205 OF ARTICLE 2 OF CHAPTER XIV OF THE CITY CODE TO INCLUDE PARKING RESTRICTIONS ON EAST 6TH STREET

NOW THEREFORE, BE IT ORDAINED by the Governing Body of the City of Edgerton:

Section 1. The Governing Body hereby adopts the following new Subsection (c) as part of Section 14-205 of Article 2 of Chapter XIV of the Code of the City of Edgerton:

(c) On-street parking prohibited on East 6th Street from Nelson to the southern edge of the Edgerton boat ramp at Edgerton Lake Park.

Section 2. This ordinance shall take effect upon its adoption by the City Council, approval by the Mayor and publication in the City's official newspaper.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS
AND APPROVED BY THE MAYOR ON THE 9TH DAY OF OCTOBER, 2014.

(SEAL)

Donald Roberts, Mayor

ATTEST:

JANEICE L. RAWLES
City Clerk

PATRICK G. REAVEY
City Attorney

AGENDA ITEM INFORMATION FORM

Agenda Item: Consider Ordinance No. 984 Amending Section 13-401 Of Article 4 Of Chapter XIII Of The Edgerton, Kansas Municipal Code To Revise Provisions Pertaining To The Duty Of Residents To Remove Snow And Ice From Sidewalks Adjoining Their Property

Department: Public Works

Background/Description of Item: Both in March and September of 2014, the Edgerton City Council held work sessions to discuss the responsibility for property owners for removal of snow and ice from sidewalks adjacent to their property. Based on the discussion at the September 25, 2014 work session, City Attorney prepared the enclosed draft ordinance for council consideration. The draft ordinance extends the time frame for removal from 12 hours to 48 hours. The draft ordinance also includes language to allow a property owner to present extenuating circumstances for lack of removal to the Code Enforcement Officer.

Enclosure: Draft Ordinance No. 984
 Memo from City Attorney prepared for September 25, 2014 work session
 Current City Code

Related Ordinance(s) or Statute(s): Chapter XIII, Article 4, Section 13-401 of Edgerton City Code

Recommendation:

Funding Source: N/A

Prepared by: Beth Linn, City Administrator
Date: October 2, 2014

ORDINANCE NO. 984

AN ORDINANCE AMENDING SECTION 13-401 OF ARTICLE 4 OF CHAPTER XIII OF THE EDGERTON, KANSAS MUNICIPAL CODE TO REVISE PROVISIONS PERTAINING TO THE DUTY OF RESIDENTS TO REMOVE SNOW AND ICE FROM SIDEWALKS ADJOINING THEIR PROPERTY

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS:

SECTION 1: Section 13-401 of Article 4 of Chapter XIII of the Edgerton, Kansas Municipal Code is hereby amended to state the following:

13-401.SNOW AND ICE TO BE REMOVED. (a) It shall be unlawful for the owner and/or the occupant of any lots abutting upon any sidewalks to fail to take reasonable measures to remove all snow and ice from such sidewalks within 48 hours from the time that the snowfall or ice storm ceases. In the event there are extenuating circumstances prohibiting such removal, it is the burden of the owner and/or the occupant to present these circumstances to the City Code Enforcement Officer within 5 days of the owner and/or occupant receiving notice of a violation of this Article, and thereafter the City Code Enforcement Officer may exercise discretion to withdraw the notice or citation.

(b) It shall be unlawful for any person to place snow removed from private property upon any public street, alley or sidewalk.

SECTION 2: Repeal. Former Section 13-401 of Article 4 of Chapter XIII of the Edgerton Municipal Code is hereby repealed.

SECTION 3: Effective Date. This Ordinance shall be effective after its passage, approval and publication once in the City's official paper.

ADOPTED BY THE GOVERNING BODY AND APPROVED BY THE MAYOR OF EDGERTON, KANSAS ON THE 9th DAY OF OCTOBER, 2014.

Donald Roberts, Mayor

ATTEST:

Janeice Rawles, City Clerk

APPROVED AS TO FORM:

Patrick G. Reavey, City Attorney

MEMORANDUM

TO: GOVERNING BODY

FROM: PATRICK G. REAVEY

RE: SNOW AND ICE REMOVAL FROM SIDEWALKS

DATE: SEPTEMBER 24, 2014

C: CITY ADMINISTRATOR

- *City generally not liable for defects in sidewalks.*

There are no specific statutes in Kansas setting forth a city's maintenance responsibilities or exposure to liability arising from sidewalks. Rather, over the years, Kansas court decisions have set forth when a city may be liable for negligence due to an alleged failure by the city in insuring sidewalks are safe for pedestrians. Before getting specifically to issue of snow and ice, by way of background, I've provided below some snippets from Kansas Court cases showing that cities, generally speaking, are not liable for sidewalk defects, unless city created the defect.

The court in *Lyon* set forth the following generalities concerning the slight defect rule:

"Here, plaintiff's claim is based upon a defect negligently constructed and maintained by the defendant. That defect was caused by the negligent acts of the defendant and not by the acts of nature or the passage of time. The slight defect rule is not intended to shield from liability those who negligently create and maintain a defect in the sidewalk. Its intended function is to limit the liability of those who permit or allow a slight defect not of their own making to remain. The rule *271 of a slight defect in a sidewalk does not apply where the defect is negligently created and maintained by the defendant." 250 Kan. at 52, 824 P.2d 198.

Barnett-Holdgraf v. Mut. Life Ins. Co. of New York, 27 Kan. App. 2d 267, 270-71, 3 P.3d 89, 92 (2000).

First, sidewalks, always open to the public, are easements dedicated to public foot traffic. Sidewalks can extend for miles. They are usually narrow strips of relatively thin concrete slabs (or bricks) *465 that rise and fall and expand and contract with the seasons due to expansion joints built in the walkway. See *Barnett-Holdgraf*, 27 Kan.App.2d at 272, 3 P.3d 89. The surface of a sidewalk can be affected by soil conditions beneath and adjacent to the sidewalk. Tree

roots, drains, plumbing, and electrical conduits can all cause slight variations in a sidewalk. Rain, snow, and ice can make the surface hazardous. It is fair to say that it is virtually ****483** impossible to maintain a sidewalk permanently level forever.

Elstun v. Spangles, Inc., 40 Kan. App. 2d 458, 464-65, 193 P.3d 478, 482-83 (2008) *aff'd*, 289 Kan. 754, 217 P.3d 450 (2009).

- ***Kansas law on liability for snow and ice on sidewalks [pre-Tort Claims Act].***

Currently, anyone wanting to sue a city for negligence must do so pursuant to the Kansas Tort Claims Act, which Act requires the suing party to first submit a Notice of Claim, set forth what damages they are claiming, and the Act limits the amount of damages that can be collected from the city. Before this Act was enacted by the Legislature in 1979, cities could be sued in the same manner as a private company. Before the Act, a long line of cases was decided by Kansas courts addressing if and when a city could be held liable for injuries due to snow or ice on city streets or sidewalks. Some of these cases are set forth below:

From the above citations of decisions and authorities, it may be deduced that a city is not liable for injuries resulting solely from falls on smooth ice and snow, but that it is liable where ice and snow have been allowed to accumulate and remain and become ridged, rutted, and uneven, due regard always being given to whether the city has sufficient notice and opportunity to remedy the situation by removal or other effective remedy. And in connection therewith consideration should also be given to weather conditions and to the well-recognized sudden changes in meteorological conditions which frequently occur in Kansas. The burden of proof is upon the claimant to show all the various elements entering into his right to recover.

* * *

And it may be remarked that very often in Kansas the condition is sooner remedied by change of weather than it could be by any effort of the city. And this court takes notice of the fact that, not only in Dodge City, but in every other city in Kansas, with the weather conditions such as they were in this case, it would be impossible, by any reasonable expenditure of money, to clean all of the crosswalks and street crossings of snow and ice which may have become roughened because of passing traffic. The city is not an insurer or guarantor of the safety of its streets, crosswalks, and sidewalks, and is required only to use reasonable diligence that they be safe. The facts as developed on the trial and as found by the jury in answer to the special questions fail to show that the defect complained of had existed for any period of time prior to the accident, or that the city had any notice thereof or that after notice it had had a reasonable time to remedy any conditions for which, for any reason, it might be liable.

Speakman v. Dodge City, 137 Kan. 823, 22 P.2d 485, 488 (1933).

In an action against a city for injuries from falling on a sidewalk covered with ice and snow, where it appears from plaintiff's opening statement that the ice, which accumulated from natural causes, was less than an inch thick, and plaintiff knew

when he went on it that it was slippery, and fell by reason of its slippery condition, and no other defect is claimed, a judgment against plaintiff will be upheld.

Evans v. City of Concordia, 74 Kan. 70, 85 P. 813 (1906)

The court said (35 Kan. 323, 11 Pac. 38, 57 Am. Rep. 165) that the city owed the public the duty of keeping its streets and sidewalks in a safe condition for use in the usual mode by travelers and was liable for injuries resulting from the neglect to perform such duties.

These citations are sufficient to support the doctrine that a city must use reasonable care to keep its streets and sidewalks safe for travel, the kind and degree of care and precaution differing with different circumstances and conditions.

Kirkham v. Kansas City, 89 Kan. 651, 132 P. 160, 161 (1913).

- ***City not liable for snow and ice on sidewalks under Tort Claims Act.***

Pursuant to the current Kansas Tort Claims Act, a city cannot be held liable for an injury occasioned by ice or snow on a public way (to include a street or sidewalk). Here is what the law states:

A governmental entity or an employee acting within the scope of the employee's employment shall not be liable for damages resulting from:

* * *

(1) snow or ice conditions or other temporary or natural conditions on any public way or other public place due to weather conditions, unless the condition is affirmatively caused by the negligent act of the governmental entity;

K.S.A. 75-6104.

This raises the question of what would constitute an affirmative act of negligence by the governmental entity, thereby subjecting the city to liability. This issue was touched on in 2003 by the Kansas Supreme Court in a case where a water pipe broke due to weather conditions, and water released from the pipe spread across the roadway and froze, which, in turn, led to a vehicle accident. The Supreme Court was clear in indicating the city's failure to act, or incompetence, was not enough to constitute an "affirmative negligent act":

Our synthesis of the *Taylor* and *Draskowich* holdings compels the conclusion that, once a naturally occurring weather condition has a role in developing a roadway hazard, courts must apply the snow and ice exception "*unless* the condition is affirmatively caused by the negligent act of the governmental entity." K.S.A.2002 Supp. 75-6104(1).

Was there evidence of such a negligent act in this case? We agree with the district judge that there was not. Even Lopez argues that there was only a failure to act—a failure to warn or a failure to shut off the water supply to the affected area. These failures are not equivalent to “affirmative” negligent acts in any ordinary sense, and it is the ordinary sense of the legislature’s language that we have a duty to discern and apply. See *GT, Kansas, L.L.C. v. Riley County Register of Deeds*, 271 Kan. 311, 316, 22 P.3d 600 (2001).

The district judge was correct to apply the snow and ice exception and find the defendants immune from suit under the KTCA.

Lopez v. Unified Gov’t of Wyandotte Cnty., 31 Kan. App. 2d 923, 927-28, 75 P.3d 1234, 1237 (2003), as corrected (Sept. 18, 2003), *aff’d*, 277 Kan. 682, 89 P.3d 588 (2004).

- ***Can liability arise if City decides to take over clearing sidewalks?***

Having the City clear sidewalks of snow and ice would not cause the City to lose the above exemption from liability. It would, though, move the City into a position of being closer to committing an “affirmative negligent act” if a City employee does something that a court may construe as being affirmatively negligent (e.g. piling snow on a corner, thereby blocking sightlines and causing a vehicle collision). Hiring an independent contractor to do this work would avoid this situation because their negligence could not be imputed to the City because they are not considered an “employee” of the City. See K.S.A. 75-6102 (“Employee” [for purposes of Kansas Tort Claims Act] does not include: . . . any independent contractor under contract with a governmental entity except those contractors specifically listed in paragraph (1) of this subsection.”).

- ***Can City be held liable for not enforcing City Code on snow and ice removal?***

Again, City can only be held liable for negligence pursuant to the Kansas Tort Claims Act. The Act states the following:

A governmental entity or an employee acting within the scope of the employee's employment shall not be liable for damages resulting from:

(c) enforcement of or failure to enforce a law, whether valid or invalid, including, but not limited to, any statute, rule and regulation, ordinance or resolution;

(k) the failure to make an inspection, or making an inadequate or negligent inspection, of any property other than the property of the governmental entity, to determine whether the property complies with or violates any law or rule and regulation or contains a hazard to public health or safety;

(l) snow or ice conditions or other temporary or natural conditions on any public way or other public place due to weather conditions, unless the condition is affirmatively caused by the negligent act of the governmental entity;

K.S.A. 75-6104.

- ***If City assists in putting property owners in touch with volunteers, can City be liable for negligent acts of volunteers?***

Given that City can only be held liable, under the Tort Claims Act, if the negligent act at issue was committed by a City employee, the question is whether a “volunteer” could come within the definition of an “employee”. There are Attorney General Opinions indicating that “volunteers” acting on behalf of a governmental agency in an official capacity come within the definition of an “employee” under the Tort Claims Act. This being true, volunteers, if deemed to be working on behalf of the City, would be protected by the Tort Claims Act (i.e. they can’t be liable for negligence connected with snow and ice, unless deemed to be an affirmative negligent act). If the volunteer cannot be liable for their acts, then, obviously, the City cannot be liable for those same acts.

CURRENT REGULATIONS, INCLUDING OTHER COMMUNITIES

EDGERTON:

13-401.SNOW AND ICE TO BE REMOVED. (a) It shall be unlawful for the owner and/or the occupant of any lots abutting upon any sidewalks to fail to cause to be removed from such sidewalks all snow and ice within 12 hours form the time that the snow fall or ice storm ceases. If the snow falls or ice accumulates in the nighttime, removal of same must be made within 12 hours after sunrise on the following day.

(b) It shall be unlawful for any person to place snow removed from private property upon any public street, alley or sidewalk.

13-402.SAME; EXCEPTION; ALTERNATE REMEDY. Where there shall be ice or compacted snow on any such sidewalk of such a character as to make it practically impossible to remove the same, the sprinkling of ashes, sand or other noncorrosive chemicals on the accumulation of ice or snow in such a manner as to make such sidewalk reasonably safe for pedestrian travel shall be deemed a sufficient compliance with the provisions of this article until the ice or snow can be removed. (Code 1995)

13-403.SAME; PENALTY. That any person violating the provisions of section 13-401 shall, upon conviction, be fined \$25. (Code 1995)

13-404.REMOVAL MAY BE MADE BY CITY. If any owner or occupant of any lot or lots shall refuse or neglect to clean or remove from the sidewalk abutting the lot or lots all snow and ice within the time specified, the city may cause such snow and ice to be removed from sidewalks and the cost thereof shall be assessed against such abutting lot or lots, and the city clerk shall certify the same to the county clerk for collection as provided by law. (Code 1995)

13-405.COSTS ON TAX ROLLS. The city clerk shall, at the time of certifying other city taxes to the county clerk, certify the unpaid costs for removal of know or ice performed under the authority of section 13-404 and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground. The cost of such work shall be paid form the general fund or other proper fund of the city, and such fund shall be reimbursed when payments therefore are received or when such assessments are collected and received by the city. (Code 1995)

DE SOTO:

13-111. Snow and ice to be removed.

(a) It shall be unlawful for the owner and/or the occupant of any lots abutting upon any sidewalks to fail to cause to be removed from such sidewalks all snow and ice. If the snow falls or ice accumulates upon the sidewalks in the nighttime, removal of same must be made within 12 hours after sunrise on the following day.

(b) It shall be unlawful for any person to place snow removed from private property upon any public street, alley or sidewalk.

(c) That any person violating the provisions herein shall, upon conviction, be fined \$25.
(Code 1998)

13-112. Removal may be made by city.

If any owner or occupant of any lot or lots shall refuse or neglect to clean or remove from the sidewalk abutting the lot or lots all snow and ice within the time specified, the city may cause such snow and ice to be removed from sidewalks and the cost thereof shall be assessed against such abutting lot or lots, and the city clerk shall certify the same to the county clerk for collection as provided by law.

(Code 1998)

13-113. Costs on tax rolls.

The city clerk shall, at the time of certifying other city taxes to the county clerk, certify the unpaid costs for removal of snow or ice performed under the authority of section 13-112 and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground. The cost of such work shall be paid from the general fund or other proper fund of the city, and such fund shall be reimbursed when payments therefore are received or when such assessments are collected and received by the city.

KANSAS CITY, MISSOURI:

Sec. 64-246. Removal of ice or snow. It shall be the duty of all persons owning or occupying any real property, fronting upon any street, boulevard or highway, to remove from the sidewalks in front or alongside of such property all ice and snow within a reasonable time after cessation of a storm depositing such ice or snow. The provisions of chapter 62, article III, pertaining to littering, and penalties for violations thereof, shall be applicable to violations of this section.

LAWRENCE:

16-115 REMOVAL OF SNOW OR ICE FROM PUBLIC SIDEWALKS.

(A) It shall be unlawful for the property owner of record of property immediately adjacent to a public sidewalk on public right-of-way to fail to remove from the sidewalk, within forty-eight (48) hours of the cessation of accumulation of snow or ice on the sidewalk, any snow or ice accumulated on such sidewalk or obstructing such sidewalk. If ice has accumulated of such character as to make removal thereof impossible, the sprinkling or placement of sand thereon within the time specified for removal in such a manner as to make such sidewalk safe for travel of pedestrians shall be deemed compliance with the provisions of this section. (Ord. 7456, Ord. 8324)

(B) Pursuant to the authority of Charter Ordinance No. 31, employees of the Planning and Development Services Department shall have the authority to issue notices to appear for violations of this ordinance (Ord. 7456, Ord. 8324)

(C) Violation of the provisions of this ordinance shall be considered a municipal offense and upon an adjudication of guilty, the violator shall be fined \$20.00. Each day of a continuing violation shall be deemed a separate offense. (Ord. 7456, Ord. 8324)

16-116 MAINTENANCE OF DESIGNATED SIDEWALKS.

The City of Lawrence shall be responsible for all future maintenance, including snow and ice removal, of the 8 foot wide sidewalk, the exposed aggregate adjacent to the sidewalk, and the retaining walls to be constructed on the west side of Kasold Drive from Bob Billings Parkway to Clinton Parkway and the 10 foot wide recreation path, exposed aggregate and the retaining walls constructed on the west side of Kasold Drive from Clinton Parkway to 31st Street in Lawrence, Kansas (Ord. 7978)

Finish shoveling the driveway? Don't forget the sidewalk

BY: Keith King

POSTED: 4:46 PM, Feb 2, 2011

UPDATED: 6:10 PM, Feb 2, 2011

KANSAS CITY, Missouri - You probably have cleared your driveway by now. But what about your sidewalks?

Many cities have ordinances requiring people shovel their sidewalks within a reasonable amount of time. But few communities hand out tickets.

In Kansas City, residents have a "reasonable amount of time" to clear sidewalks. But Call For Action found no agency willing to enforcing the rule by ticketing.

Overland Park has a resolution "encouraging people" to maintain their sidewalks, but the city does not ticket. The situation is similar in Olathe and Independence. Lee's Summit does not have a sidewalk maintenance ordinance on the books.

Call For Action found only one city, Lawrence, ready and willing to ticket. Regarding snow, the city ordinance states, "removal must be done within 48 hours after the ice forms or snowfall ends." The fine is \$20 per day.

Following this latest snowfall, Lawrence has extended the period to clear sidewalks before ticketing due to the blizzard conditions and now the cold. The deadline went from 8 am Friday morning to 5 pm Friday afternoon.

In January, Lawrence handed out 157 citations following two snowfalls.

But even if the city where you live doesn't ticket, you may still get hit with an unexpected cost if you don't clear your sidewalks.

Tom Dubbert of the Yard Barber of KC, a snow removal and landscaping company, reminds homeowners about liabilities if someone is hurt.

Dubbert says, "Typically there is some liability issues of course if someone slips and falls on your property. It could cause some problems for you and your insurance company."

Most cities hope people adopt a good neighbor approach and clear the sidewalks on their own without the city becoming heavy handed and enforcing the rules.

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This summer, [we were all about Britain](http://c.jsrdn.com/i/1.gif?r=ktpk&k=ZA11cy1YXNoLTF1CWgJaS1mMmNlNzMxYw11CTNmOTI1N2FhLWFkMGQtN3A%2F%2Fwww.statravel.com%2Fwildcard-sweeps.htm%3Futm_campaign%3Dwildcard-visitbritain-Astro%26utm_source%3DDistroScale%26utm_medium%3DDisplay%26utm_content%3DAstroPlaylist%26wt.mc_id%3Da0020-visitbritain-DistroScale-Astro%26wt.tsrc%3DDisplay) (http://c.jsrdn.com/i/1.gif?r=ktpk&k=ZA11cy1YXNoLTF1CWgJaS1mMmNlNzMxYw11CTNmOTI1N2FhLWFkMGQtN3A%2F%2Fwww.statravel.com%2Fwildcard-sweeps.htm%3Futm_campaign%3Dwildcard-visitbritain-Astro%26utm_source%3DDistroScale%26utm_medium%3DDisplay%26utm_content%3DAstroPlaylist%26wt.mc_id%3Da0020-visitbritain-DistroScale-Astro%26wt.tsrc%3DDisplay)! We sent our friend and talented American musician, Astronautalis, to walk on Britain's wild side with Aussie reality TV star, Tully Smyth, as the two joined forces to create a YouTube mini-series showcasing the

unexpected and exciting side of Britain. From experiencing Beattlemania in Liverpool, swimming in Bath and hanging out with Manchester United - they hunted high and low for the best things to do and see.

Because the videos are likely to create a huge spike in visually transmitted FOMO

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Labor Day Savings Event!

Valid until Sep 30

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Everyday Low Prices!

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Target USA

Fall Style Event

Expires this Saturday

MORE ADS ([HTTP://WWW.KSHB.COM/CIRCULARS?](http://www.kshb.com/circulars?)

LOCALE=EN&UTM_SOURCE=FM&UTM_MEDIUM=FM_1946&UTM_TERM=MORE&UTM_CAMPAIGN=WISHABI_1_0)

interferes with the proper spread of light along the street from a street light, or interferes with visibility of any traffic control device or sign.

- (b) The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property. The city will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within 60 days after the date of service of notice. In the event of failure of owners to comply with such provisions the city shall have the authority to remove the trees and charge the cost of removal on the owner's property tax notice. (Code 1984)

13-307.TREES ON PUBLIC PROPERTY; COST BORNE BY THE CITY. The city shall have the authority to treat or to remove any tree as defined in section 13-301 of the article, or to remove any dead tree as mentioned herein, which is located within the limits of any public right-of-way within the city. The adjacent property owners shall not be responsible for the cost of treatment or removal of any such trees within the public right-of-way and this expense shall be borne by the city at large. (Code 1984)

13-308.COSTS ON TAX ROLLS. The city clerk shall, at the time of certifying other city taxes to the county clerk, certify the unpaid costs for treatment or removal performed under the authority of sections 13-304 or 13-306 and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground. The cost of such work shall be paid from the general fund or other proper fund of the city, and such fund shall be reimbursed when payments therefore are received or when such assessments are collected and received by the city. (Code 1984)

13-309.INJURING TREES AND SHRUBS. No person shall willfully break, cut, take away, destroy, injure, mutilate, or attempt to willfully break, cut, take away, destroy, injure or mutilate any tree, shrub, vine, flower or landscaping standing, growing, or being upon the premises in the possession of another, or growing on any public ground, street, sidewalk, promenade or park in the city. (Code 1984)

13-310.FIRE HYDRANTS, PLANTINGS ADJACENT TO. No person shall plant or cause to be planted nor allow to grow upon property owned by him or her any shrubs, trees, or planting of any kind within 10 feet of any fire hydrant in the city, in order that every fire hydrant shall be in full view day or night, to fire apparatus approaching from any direction. (Code 1984)

ARTICLE 4. SNOW AND ICE

13-401.SNOW AND ICE TO BE REMOVED. (a) It shall be unlawful for the owner and/or the occupant of any lots abutting upon any sidewalks to fail to cause to be removed from such sidewalks all snow and ice within 12 hours form the time that the snow fall or ice storm ceases. If the snow falls or ice accumulates upon the

sidewalks in the nighttime, removal of same must be made within 12 hours after sunrise on the following day.

(b) It shall be unlawful for any person to place snow removed from private property upon any public street, alley or sidewalk.

13-402.SAME; EXCEPTION; ALTERNATE REMEDY. Where there shall be ice or compacted snow on any such sidewalk of such a character as to make it practically impossible to remove the same, the sprinkling of ashes, sand or other noncorrosive chemicals on the accumulation of ice or snow in such a manner as to make such sidewalk reasonably safe for pedestrian travel shall be deemed a sufficient compliance with the provisions of this article until the ice or snow can be removed. (Code 1995)

13-403.SAME; PENALTY. That any person violating the provisions of section 13-401 shall, upon conviction, be fined \$25. (Code 1995)

13-404.REMOVAL MAY BE MADE BY CITY. If any owner or occupant of any lot or lots shall refuse or neglect to clean or remove from the sidewalk abutting the lot or lots all snow and ice within the time specified, the city may cause such snow and ice to be removed from sidewalks and the cost thereof shall be assessed against such abutting lot or lots, and the city clerk shall certify the same to the county clerk for collection as provided by law. (Code 1995)

13-405.COSTS ON TAX ROLLS. The city clerk shall, at the time of certifying other city taxes to the county clerk, certify the unpaid costs for removal of snow or ice performed under the authority of section 13-404 and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground. The cost of such work shall be paid from the general fund or other proper fund of the city, and such fund shall be reimbursed when payments therefore are received or when such assessments are collected and received by the city. (Code 1995)

13-406.REMOVAL OF PARKED VEHICLES AFTER SNOWFALLS.

- (a) All persons having vehicles parked on the streets of the city shall remove the same therefrom within two (2) hours after any snowfall which shall leave a covering of two (2) inches or more, the covering to be measured and determined by the street or maintenance department of the city.
- (b) Confirmation of such determination by the street or maintenance department may be obtained by any resident by contacting the city clerk's office or police department, who shall have previously been advised of the applicability of this section by the city street or maintenance department.
- (c) All vehicles parked in the street two hours after such snowfall, and obstructing snow removal operations of the city, shall be towed off the street. All towing charges shall be paid by the owner of any vehicle so removed from the street. (Ord. 553, 1995) (Previous Code 13.218 – Removal of Parked Vehicles after Snowfalls, Ord. 553, 1985)

AGENDA ITEM INFORMATION FORM

Agenda Item: Consider Resolution 10-09-14A of the City of Edgerton, Kansas, Requesting The Board Of County Commissioners Of Johnson County, Kansas, To Make Certain Findings Regarding The Annexation Of Property

Department: Administration

Background/Description of Item: Paul V. and Marie E. Middleton, owner of Parcel # 2F221510-1005 located at 20081 Homestead Lane (the northeast corner of the Homestead Lane/I-35 interchange) has submitted a Consent for Annexation Form to request annexation into the City of Edgerton. The Consent for Annexation Form is attached with a map of the parent parcel (shown in red) and a plot plan including the anticipated zoning requested by the property owners.

As stated in the resolution, the above described property does not satisfy the “adjoining” requirement for annexation pursuant to K.S.A. 12-520(a)(3) because it only adjoins land that was annexed into the City pursuant to K.S.A. 12-520c. Therefore, the City of Edgerton must request the consideration of this annexation, if the resolution is approved, be approved by the Johnson County Board of County Commissioners. The Governing Body would base this request on the finding that such annexation, at the request of the property owner, is advisable, desirable, beneficial, and in the interest of the public.

If the resolution is approved, the City would request that the Board of County Commissioners of Johnson County, Kansas, find and determine that the annexation of such land will not hinder or prevent the proper growth and development of the area or that of any other incorporated city located within Johnson County, Kansas, all as provided in K.S.A. 12-520c.

Enclosure: Resolution No. 10-09-14A
 Consent for Annexation
 Property Map
 Requested Zoning Map

Related Ordinance(s) or Statute(s): K.S.A. 12-520

Recommendation: Approve Resolution 10-09-14A of the City of Edgerton, Kansas, Requesting The Board Of County Commissioners Of Johnson County, Kansas, To Make Certain Findings Regarding The Annexation Of Property

Funding Source: N/A

Prepared by: Beth Linn, City Administrator
Date: October 3, 2014

RESOLUTION NO. 10-09-14A

A RESOLUTION OF THE CITY OF EDGERTON, KANSAS, REQUESTING THE BOARD OF COUNTY COMMISSIONERS OF JOHNSON COUNTY, KANSAS, TO MAKE CERTAIN FINDINGS REGARDING THE ANNEXATION OF PROPERTY.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS:

SECTION 1. The Governing Body of the City of Edgerton, Kansas, hereby finds that a Consent for Annexation (attached as **Exhibit A**) for the tract of land described as part of the Consent has been presented to the City by the record title owners of the land.

SECTION 2. The Governing Body further finds that the above described land does not satisfy the "adjoining" requirement for annexation pursuant to K.S.A. 12-520(a)(3) because it only adjoins land that was annexed into the City pursuant to K.S.A. 12-520c. The Governing Body further finds that such annexation, at the request of the property owner, is advisable, desirable, beneficial, and in the interest of the public.

SECTION 3. The land described as part of **Exhibit A** is currently zoned Johnson County Rural District (RUR) but, after annexation into the City, the owner will be seeking a City of Edgerton Zoning designation of Heavy Service Commercial (C-2), and the intended use of the land after annexation is for development of a commercial business such as truck stop, truck/car wash or other permitted use in the C-2 district.

SECTION 4. The City of Edgerton, Kansas, hereby respectfully requests that the Board of County Commissioners of Johnson County, Kansas, find and determine that the annexation of such land will not hinder or prevent the proper growth and development of the area or that of any other incorporated city located within Johnson County, Kansas, all as provided in K.S.A. 12-520c.

SECTION 5. Once a hearing is scheduled before the Board of County Commissioners of Johnson County, Kansas, the City will publish the attached Notice of Hearing in the City's official newspaper, said Notice to be published at least seven (7) days before the scheduled hearing.

ADOPTED AND APPROVED by the Governing Body of the City of Edgerton, Kansas, this 9th day of October, 2014.

Donald Roberts, Mayor

ATTEST:

Janeice L. Rawles, City Clerk

APPROVED AS TO FORM:

Patrick G. Reavey, City Attorney

Exhibit A

CONSENT FOR ANNEXATION (Adjoining Property by Request)

TO: The Governing Body of the City of Edgerton, Kansas.

The undersigned owner of record of the following described land hereby petitions the Governing Body of the City of Edgerton, Kansas to annex such land to the City. The land to be annexed is described as follows:

[Insert full legal description]


See attached

The undersigned further warrants and guarantees that they are the only owner of record of the land.

OWNER OF LAND TO BE ANNEXED:

Paul V. Middleton, aka
Paul Victor Middleton

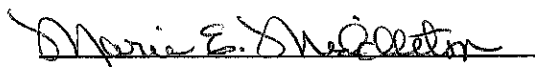
Printed Name


Signature

9-23-14
Date

Marie E. Middleton

Printed Name


Signature

9-23-14
Date

Part of the Northwest One-Quarter of Section 10, Township 15 South, Range 22 East of the 6th Principal Meridian, Johnson County, Kansas. Lying North of Highway 35 as now established, being more particularly described as follows:

Commencing at the Northwest corner of the Northwest 1/4, Section 10, Township 15 South, Range 22 East; thence South 02 degrees 03 minutes 46 seconds East along the West line of the said Northwest 1/4 a distance of 991.99 feet to a point; thence North 87 degrees 35 minutes 22 seconds East, 280.86 feet to the TRUE POINT OF BEGINNING; thence continuing North 87 degrees 35 minutes 22 seconds East, 362.18 feet to a point; thence South 02 degrees 03 minutes 46 seconds East, 342.19 feet (deeded 342.20 feet) to a point on the North line of the South 1/2 of the said Northwest 1/4; thence North 88 degrees 12 minutes 35 seconds East along the said North line, 1487.52 feet to a point on the Northwesternly right-of-way of Highway I-35 as recorded in Book 201108, Page 1191; thence South 53 degrees 32 minutes 58 seconds West along the said highway right-of-way, 737.13 feet (deed 737.07 feet) to a point; thence South 64 degrees 51 minutes 34 seconds West along said highway right-of-way, 509.90 feet to a point; thence South 85 degrees 06 minutes 40 seconds West along said highway right-of-way, 821.52 feet to a point; thence North 10 degrees 04 minutes 47 seconds West along said highway right-of-way, 802.50 feet to a point; thence North 15 degrees 12 minutes 50 seconds East along said highway right-of-way, 141.15 feet to a point; thence North 88 degrees 57 minutes 08 seconds East along said highway right-of-way, 116.36 feet to a point; thence North 0 degrees 38 minutes 21 seconds West along said highway right-of-way, 76.41 feet to the TRUE POINT OF BEGINNING and containing 25.0737 acres, more or less.

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing shall be held by the Johnson County Board of County Commissioners on **[Thursday, _____, 2014, at 9:30 a.m.,** in the Commission Hearing Room, on the third floor of the Johnson County Administration Building, 111 South Cherry Street, Olathe, Kansas, to consider the request and landowner's consent to annex a tract of land within an unincorporated area of Johnson County, Kansas into the corporate limits of the City of Edgerton, Kansas, pursuant to K.S.A. 12-520c. The Tract is located generally at 20081 Homestead Lane, and is legally described as follows:

Part of the Northwest One-Quarter of Section 10, Township 15 South, Range 22 East of the 6th Principal Meridian, Johnson County, Kansas. Lying North of Highway 35 as now established, being more particularly described as follows:

Commencing at the Northwest corner of the Northwest 1/4, Section 10, Township 15 South, Range 22 East; thence South 02 degrees 03 minutes 46 seconds East along the West line of the said Northwest 1/4 a distance of 991.99 feet to a point; thence North 87 degrees 35 minutes 22 seconds East, 280.86 feet to the TRUE POINT OF BEGINNING; thence continuing North 87 degrees 35 minutes 22 seconds East, 362.18 feet to a point; thence South 02 degrees 03 minutes 46 seconds East, 342.19 feet (deeded 342.20 feet) to a point on the North line of the South 1/2 of the said Northwest 1/4; thence North 88 degrees 12 minutes 35 seconds East along the said North line, 1487.52 feet to a point on the Northwesterly right-of-way of Highway I-35 as recorded in Book 201108, Page 1191; thence South 53 degrees 32 minutes 58 seconds West along the said highway right-of-way, 737.13 feet (deed 737.07 feet) to a point; thence South 64 degrees 51 minutes 34 seconds West along said highway right-of-way, 509.90 feet to a point; thence South 85 degrees 06 minutes 40 seconds West along said highway right-of-way, 821.52 feet to a point; thence North 10 degrees 04 minutes 47 seconds West along said highway right-of-way, 802.50 feet to a point; thence North 15 degrees 12 minutes 50 seconds East along said highway right-of-way, 141.15 feet to a point; thence North 88 degrees 57 minutes 08 seconds East along said highway right-of-way, 116.36 feet to a point; thence North 0 degrees 38 minutes 21 seconds West along said highway right-of-way, 76.41 feet to the TRUE POINT OF BEGINNING and containing 25.0737 acres, more or less.

Any person wishing to appear at the public hearing to give evidence, comment, or testimony regarding the proposed annexation may do so. Any person with questions regarding the annexation may call Richard Lind, Assistant County Counselor at 913-715-1900 between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday.

Johnson County complies with the Americans with Disabilities Act. If you have a disability and need special arrangements for the public hearing, please call 913-715-2200 at least 48 hours prior to the hearing.



Johnson Co AIMS Map

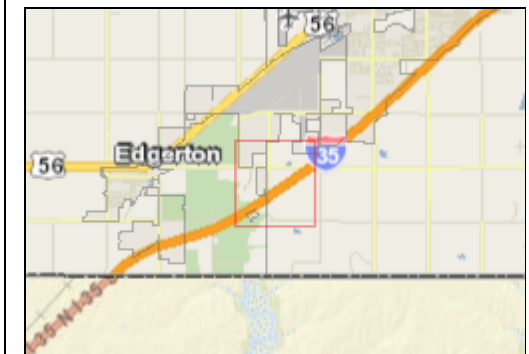
LEGEND

AIMS Imagery: Current Imagery (2012)

Parcel Line

Lot Line

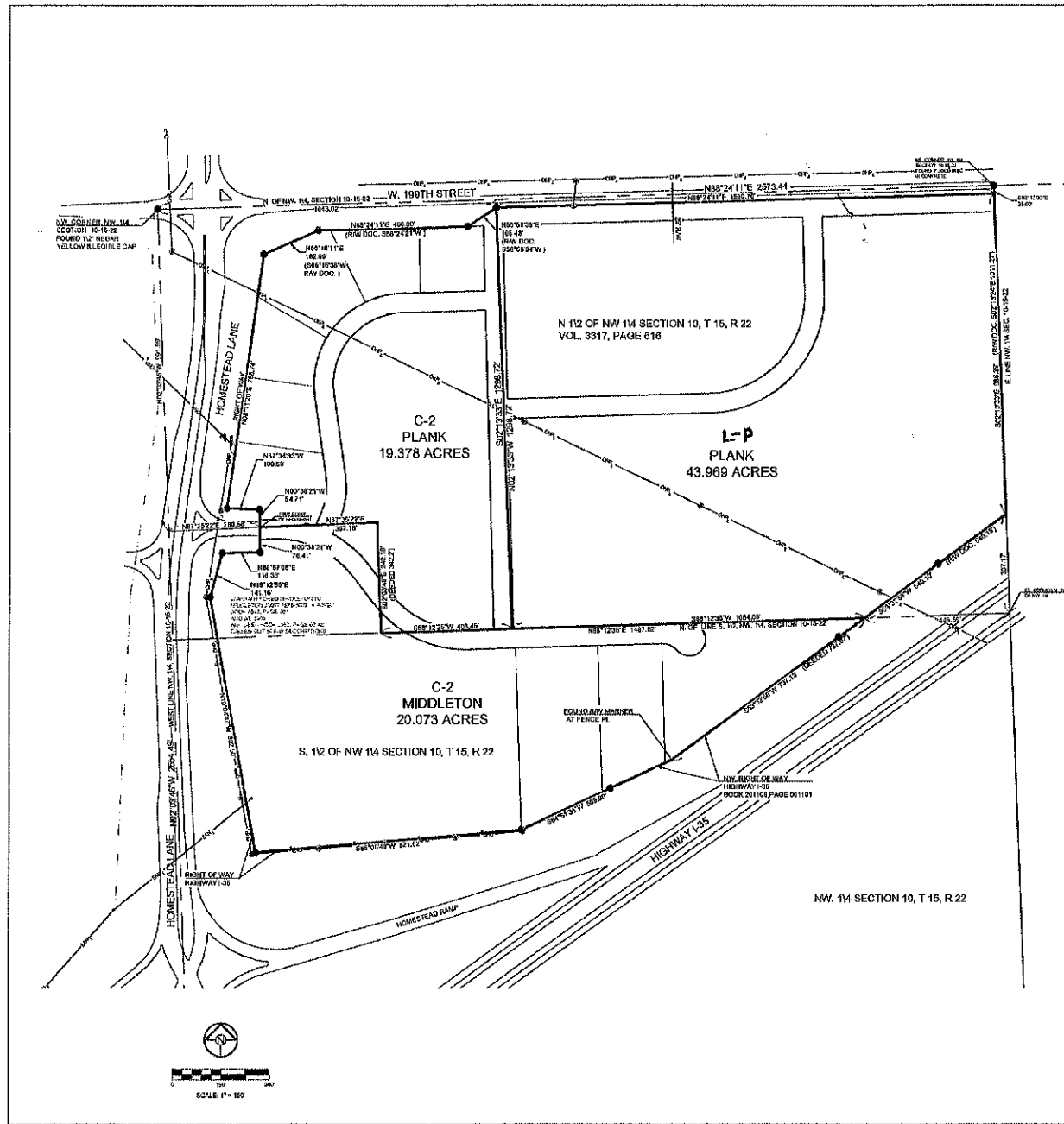
Original Lot Line



Disclaimer: No person shall sell, give, reproduce, or receive for the purpose of selling or offering for sale, any portion of the data provided herein. Johnson County makes every effort to produce and publish the most current and accurate information possible. Johnson County assumes no liability whatsoever associated with the use or misuse of such data, and disclaims any representation or warranty as to the accuracy and currency of the data.

AIMS

10/3/2014



Midleton Property C-2
Description:

Part of the Northwest One-Quarter of Section 10, Township 15 South, Range 22 East of the 6th Principal Meridian, Johnson County, Kansas, lying North of Highway 35 as now established, being more particularly described as follows:

Commencing at the Northwest corner of the Northeast 1/4, Section 10, Township 15 South, Range 22 East, thence South 02 degrees 03 minutes 48 seconds East along the West line of the said Northeast 1/4 a distance of 993.99 feet to a point; thence North 87 degrees 35 minutes 22 seconds East, 280.85 feet to the TRUE POINT OF BEGINNING; thence South 87 degrees 35 minutes 22 seconds East, 362.18 feet to a point; thence South 03 degrees 45 minutes 45 seconds East, 342.38 feet (dashed) 342.30 feet to a point on the North line of the South 1/2 of the said Northwest 1/4; thence North 86 degrees 12 minutes 35 seconds East along the said North line, 1497.52 feet to a point on the Northeast side right-of-way of Highway 135 as recorded in Book 208, Page 134; thence South 13 degrees 37 minutes 55 seconds West along the said Highway right-of-way, 737.13 feet (dashed) 737.07 feet to a point; thence South 64 degrees 51 minutes 34 seconds West along said Highway right-of-way, 509.00 feet to a point; thence South 85 degrees 02 minutes 40 seconds West along said Highway right-of-way, 401.52 feet to a point; thence North 10 degrees 04 minutes 17 seconds West along said Highway right-of-way, 802.56 feet to a point; thence North 15 degrees 12 minutes 50 seconds East along said Highway right-of-way, 141.15 feet to a point; thence North 88 degrees 57 minutes 08 seconds East along said Highway right-of-way, 116.35 feet to a point; thence North 0 degrees 38 minutes 21 seconds West along said Highway right-of-way, 76.41 feet to the TRUE POINT OF BEGINNING and containing 25,972 acres, more or less.

Plank Property C-2

Description:

Part of the North One-Half of the Northwest One-Quarter of Section 10 Township 15 South Range 22 East of the 6th Principal Meridian, Johnson County, Kansas, being more particularly described as follows:

Commencing at the Northwest corner of the Northwest One-Quarter of said Section 10 Township 15 South Range 22 East; thence South 02 degrees 03 minutes 48 seconds East along the West line of the said Northwest One-Quarter a distance of 993.99 feet to a point; thence North 87 degrees 35 minutes 22 seconds East 280.85 feet to the True Point of Beginning of the North described tract; thence North 03 degrees 38 minutes 23 seconds West along the Highway right-of-way for Homestead Lane as now established, a distance of 54.71 feet to a point; thence North 87 degrees 34 minutes 53 seconds West along said right-of-way a distance of 180.59 feet to a point; thence North 08 degrees 11 minutes 20 seconds East a distance of 788.74 feet along said right-of-way to a point; thence North 16 degrees 15 minutes 31 seconds East (per right-of-way document South 65 degrees 15 minutes 38 seconds West) a distance of 302.29 feet to a point; thence North 88 degrees 24 minutes 31 seconds East along said Highway right-of-way and along a line parallel to the North line of the said Northwest One-Quarter (per right-of-way document South 88 degrees 24 minutes 21 seconds West) a distance of 400.00 feet to a point; thence North 56 degrees 58 minutes 36 seconds East (per right-of-way document South 88 degrees 24 minutes 31 seconds West) a distance of 100.48 feet to a point (that is 25 feet South of the North line of the said Northwest One-Quarter; thence South 02 degrees 13 minutes 33 seconds East a distance of 1399.72 feet to a point on the line of the South One-Half of the said Northwest One-Quarter; thence South 88 degrees 12 minutes 35 seconds West along the North line of the South One-Half of the said Northwest One-Quarter; thence South 88 degrees 12 minutes 35 seconds West along the North line of the South One-Half of the said Northwest One-Quarter (per right-of-way document South 65 degrees 15 minutes 38 seconds West) a distance of 400.00 feet to a point; thence North 56 degrees 58 minutes 36 seconds East (per right-of-way document South 88 degrees 24 minutes 31 seconds West) a distance of 100.48 feet to a point; thence North 87 degrees 35 minutes 22 seconds West a distance of 362.18 feet to the True Point of Beginning and containing 19,278 acres, more or less.

Plank Property 10

Description:

Part of the North One-Half of the Northwest One-Quarter of Section 10 Township 15 South Range 22 East of the 6th Principal Meridian, Johnson County, Kansas, being more particularly described as follows:

Commencing at the Northwest corner of the Northwest One-Quarter of said Section 10 Township 15 South Range 22 East; thence South 02 degrees 03 minutes 48 seconds East along the West line of the said Northwest One-Quarter a distance of 993.99 feet to a point; thence North 87 degrees 35 minutes 22 seconds East 280.85 feet to a point; thence North 03 degrees 38 minutes 23 seconds West along the Highway right-of-way for Homestead Lane as now established, a distance of 54.71 feet to a point; thence North 87 degrees 34 minutes 53 seconds West along said right-of-way a distance of 180.59 feet to a point; thence North 08 degrees 11 minutes 20 seconds East a distance of 788.74 feet along said right-of-way to a point; thence North 16 degrees 15 minutes 31 seconds East (per right-of-way document South 65 degrees 15 minutes 38 seconds West) a distance of 302.29 feet to a point; thence North 88 degrees 24 minutes 31 seconds East along said Highway right-of-way and along a line parallel to the North line of the said Northwest One-Quarter (per right-of-way document South 88 degrees 24 minutes 21 seconds West) a distance of 400.00 feet to a point; thence North 56 degrees 58 minutes 36 seconds East (per right-of-way document South 88 degrees 24 minutes 31 seconds West) a distance of 100.48 feet to a point (that is 25 feet South of the North line of the said Northwest One-Quarter; thence South 02 degrees 13 minutes 33 seconds East a distance of 1399.72 feet to a point on the line of the South One-Half of the said Northwest One-Quarter; thence South 88 degrees 12 minutes 35 seconds West along the North line of the South One-Half of the said Northwest One-Quarter (per right-of-way document South 65 degrees 15 minutes 38 seconds West) a distance of 400.00 feet to a point; thence North 56 degrees 58 minutes 36 seconds East (per right-of-way document South 88 degrees 24 minutes 31 seconds West) a distance of 100.48 feet to a point; thence North 87 degrees 35 minutes 22 seconds West a distance of 362.18 feet to the True Point of Beginning and containing 15,860 acres, more or less.

SCHLAGE & ASSOCIATES, P.A.
Engineers - Surveyors - Landscape Architects
1425 West 107th Street - Kansas City, Kansas 64116
913-881-1100
WWW.SCHLAGE-ASSOCIATES.COM
Surveying Division of Schlage & Associates, P.A.
1425 West 107th Street - Kansas City, Kansas 64116

ZONING EXHIBIT
PLANK, MIDDLETON PROPERTY
PART OF NW. 1/4 OF SECTION 10, T 15S, R 22E
JOHNSON COUNTY, KANSAS

DATE	BY	REVISION	DESCRIPTION
10/1/2011	AS	1	INITIAL DRAFT
10/1/2011	AS	2	REVISIONS
10/1/2011	AS	3	REVISIONS
10/1/2011	AS	4	REVISIONS
10/1/2011	AS	5	REVISIONS
10/1/2011	AS	6	REVISIONS
10/1/2011	AS	7	REVISIONS
10/1/2011	AS	8	REVISIONS
10/1/2011	AS	9	REVISIONS
10/1/2011	AS	10	REVISIONS
10/1/2011	AS	11	REVISIONS
10/1/2011	AS	12	REVISIONS
10/1/2011	AS	13	REVISIONS
10/1/2011	AS	14	REVISIONS
10/1/2011	AS	15	REVISIONS
10/1/2011	AS	16	REVISIONS
10/1/2011	AS	17	REVISIONS
10/1/2011	AS	18	REVISIONS
10/1/2011	AS	19	REVISIONS
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10/1/2011	AS	97	REVISIONS
10/1/2011	AS	98	REVISIONS
10/1/2011	AS	99	REVISIONS
10/1/2011	AS	100	REVISIONS

SHEET
1
OF 1

AGENDA ITEM INFORMATION FORM

Agenda Item: Consider Resolution 10-09-14B of the City of Edgerton, Kansas, Requesting The Board Of County Commissioners Of Johnson County, Kansas, To Make Certain Findings Regarding The Annexation Of Property

Department: Administration

Background/Description of Item: Paul and Naomi Middleton, owner, Vivan Plan, agent of Parcel # 2F221510-1001 located generally on the southeast corner of 199th Street and Homestead Lane have submitted a Consent for Annexation Form to request annexation into the City of Edgerton. The Consent for Annexation Form is attached with a map of the parent parcel (shown in red) and a plot plan including the anticipated zoning requested by the property owners.

As stated in the resolution, the above described property does not satisfy the “adjoining” requirement for annexation pursuant to K.S.A. 12-520(a)(3) because it only adjoins land that was annexed into the City pursuant to K.S.A. 12-520c. Therefore, the City of Edgerton must request the consideration of this annexation, if the resolution is approved, be approved by the Johnson County Board of County Commissioners. The Governing Body would base this request on the finding that such annexation, at the request of the property owner, is advisable, desirable, beneficial, and in the interest of the public.

If the resolution is approved, the City would request that the Board of County Commissioners of Johnson County, Kansas, find and determine that the annexation of such land will not hinder or prevent the proper growth and development of the area or that of any other incorporated city located within Johnson County, Kansas, all as provided in K.S.A. 12-520c.

Enclosure: Resolution No. 10-09-14B
 Consent for Annexation
 Property Map
 Requested Zoning Map

Related Ordinance(s) or Statute(s): K.S.A. 12-520

Recommendation: Approve Resolution 10-09-14B of the City of Edgerton, Kansas, Requesting The Board Of County Commissioners Of Johnson County, Kansas, To Make Certain Findings Regarding The Annexation Of Property

Funding Source: N/A

Prepared by: Beth Linn, City Administrator
Date: October 3, 2014

RESOLUTION NO. 10-09-14B

A RESOLUTION OF THE CITY OF EDGERTON, KANSAS, REQUESTING THE BOARD OF COUNTY COMMISSIONERS OF JOHNSON COUNTY, KANSAS, TO MAKE CERTAIN FINDINGS REGARDING THE ANNEXATION OF PROPERTY.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS:

SECTION 1. The Governing Body of the City of Edgerton, Kansas, hereby finds that a Consent for Annexation (attached as **Exhibit A**) for the tract of land described as part of the Consent has been presented to the City by the record title owners of the land.

SECTION 2. The Governing Body further finds that the above described land does not satisfy the "adjoining" requirement for annexation pursuant to K.S.A. 12-520(a)(3) because it only adjoins land that was annexed into the City pursuant to K.S.A. 12-520c. The Governing Body further finds that such annexation, at the request of the property owner, is advisable, desirable, beneficial, and in the interest of the public.

SECTION 3. The land described as part of **Exhibit A** is currently zoned Johnson County Rural District (RUR) but, after annexation into the City, the owner will be seeking a City of Edgerton Zoning designation split to include Heavy Service Commercial (C-2) and Logistics Park (L-P), and the intended use of the land after annexation is for development of a commercial business such as truck stop, truck/car wash or other permitted use in the C-2 district and warehouse/distribution center or other permitted use in the L-P district.

SECTION 4. The City of Edgerton, Kansas, hereby respectfully requests that the Board of County Commissioners of Johnson County, Kansas, find and determine that the annexation of such land will not hinder or prevent the proper growth and development of the area or that of any other incorporated city located within Johnson County, Kansas, all as provided in K.S.A. 12-520c.

SECTION 5. Once a hearing is scheduled before the Board of County Commissioners of Johnson County, Kansas, the City will publish the attached Notice of Hearing in the City's official newspaper, said Notice to be published at least seven (7) days before the scheduled hearing.

ADOPTED AND APPROVED by the Governing Body of the City of Edgerton, Kansas, this 9th day of October, 2014.

Donald Roberts, Mayor

ATTEST:

Janeice L. Rawles, City Clerk

APPROVED AS TO FORM:

Patrick G. Reavey, City Attorney

Exhibit A

CONSENT FOR ANNEXATION

(Adjoining Property by Request)

TO: The Governing Body of the City of Edgerton, Kansas.

The undersigned owner of record of the following described land hereby petitions the Governing Body of the City of Edgerton, Kansas to annex such land to the City. The land to be annexed is described as follows:

[Insert full legal description]

See attached

The undersigned further warrants and guarantees that they are the only owner of record of the land.

OWNER OF LAND TO BE ANNEXED:

Paul Middleton and Naomi
Middleton Co-Grantor Trust
Paul Middleton, Co-Trustee

Printed Name

Vivian L. Plank trustee

Signature

9-23-14

Date

Paul Middleton and Naomi
Middleton Co-Grantor Trust
Naomi Middleton, Co-Trustee

Printed Name

Vivian L. Plank trustee

Signature

9-23-14

Date

Vivian Plank

Signature

Date

The North Half of the Northwest Quarter of Section 10, Township 15, Range 22, in Johnson County, Kansas, and

The North 25 Acres of Southeast Quarter, Northwest Quarter Section 10, Township 15, Range 22, Johnson County, Kansas and

The West Half ($W \frac{1}{2}$) of the South Half ($S \frac{1}{2}$) of the Northwest Quarter ($NW \frac{1}{4}$), and the South Fifteen Acres (S 15 Acres) of the East Half ($E \frac{1}{2}$) of the South Half ($S \frac{1}{2}$) of the Northwest Quarter of Section Ten (10), Township Fifteen (15) Range Twenty Two (22), Johnson County, Kansas, containing Fifty Five (55), acres, more or less, and

All of Lot 6 Except the South 514.50 feet of the east 121.7 feet; and except the South 145 feet of the West 100.3 feet of the East 222 feet of County Clerk's subdivision of the $NW \frac{1}{4}$ of Section 7, Township 15, Range 22, in Johnson County, Kansas.

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing shall be held by the Johnson County Board of County Commissioners on **[Thursday, _____, 2014, at 9:30 a.m.,** in the Commission Hearing Room, on the third floor of the Johnson County Administration Building, 111 South Cherry Street, Olathe, Kansas, to consider the request and landowner's consent to annex a tract of land within an unincorporated area of Johnson County, Kansas into the corporate limits of the City of Edgerton, Kansas, pursuant to K.S.A. 12-520c. The Tract is located generally on the southeast corner of Homestead Lane and 199th Street, and is legally described as follows:

The North Half of the Northwest Quarter of Section 10, Township 15, Range 22, in Johnson County, Kansas, and

The North 25 Acres of Southeast Quarter, Northwest Quarter Section 10, Township 15, Range 22, Johnson County, Kansas and

The West Half (W $\frac{1}{2}$) of the South Half (S $\frac{1}{2}$) of the Northwest Quarter (NW $\frac{1}{4}$), and the South Fifteen Acres (S 15 Acres) of the East Half (E $\frac{1}{2}$) of the South Half (S $\frac{1}{2}$) of the Northwest Quarter of Section Ten (10), Township Fifteen (15) Range Twenty Two (22), Johnson County, Kansas, containing Fifty Five (55), acres, more or less, and

All of Lot 6 Except the South 514.50 feet of the east 121.7 feet; and except the South 145 feet of the West 100.3 feet of the East 222 feet of County Clerk's subdivision of the NW $\frac{1}{4}$ of Section 7, Township 15, Range 22, in Johnson County, Kansas.

Any person wishing to appear at the public hearing to give evidence, comment, or testimony regarding the proposed annexation may do so. Any person with questions regarding the annexation may call Richard Lind, Assistant County Counselor at 913-715-1900 between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday.

Johnson County complies with the Americans with Disabilities Act. If you have a disability and need special arrangements for the public hearing, please call 913-715-2200 at least 48 hours prior to the hearing.



Johnson Co AIMS Map

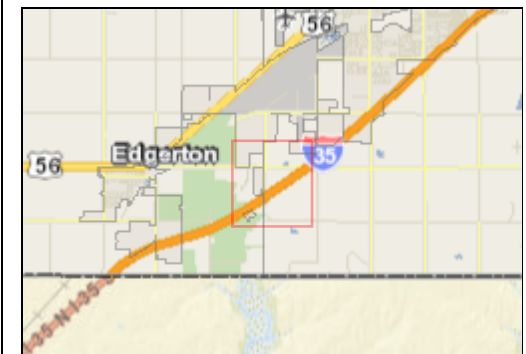
LEGEND

AIMS Imagery: Current Imagery (2012)

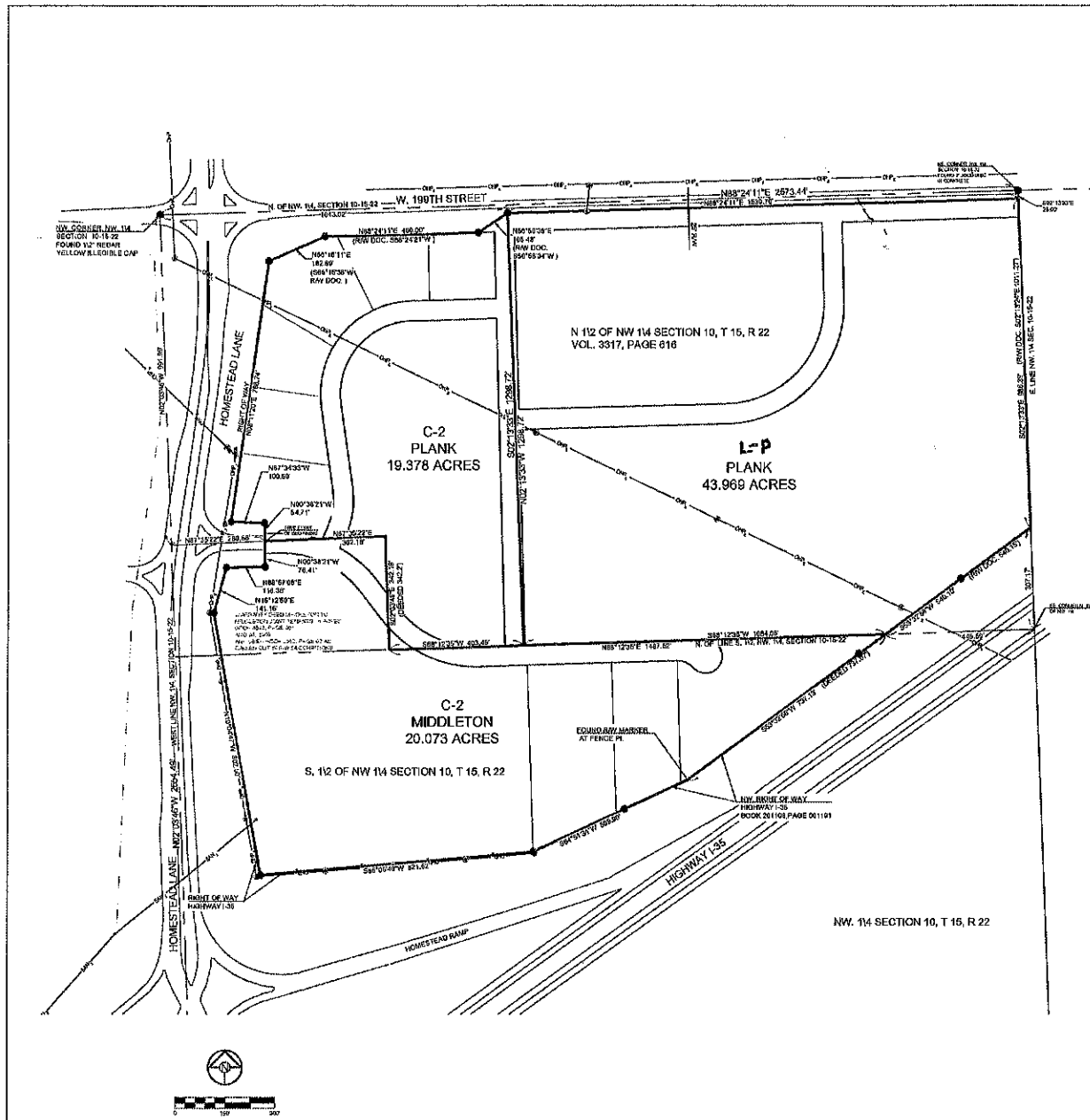
Parcel Line

Lot Line

Original Lot Line



Disclaimer: No person shall sell, give, reproduce, or receive for the purpose of selling or offering for sale, any portion of the data provided herein. Johnson County makes every effort to produce and publish the most current and accurate information possible. Johnson County assumes no liability whatsoever associated with the use or misuse of such data, and disclaims any representation or warranty as to the accuracy and currency of the data.



Middleton Property C-2

Description:

Part of the Northwest One-Quarter of Section 10, Township 15 South, Range 22 East of the 6th Principal Meridian, Johnson County, Kansas, lying North of Highway 35 as now established, being more particularly described as follows:

Commencing at the Northwest corner of the Northeast 1/4, Section 10, Township 15 South, Range 22 East, thence South 02 degrees 03 minutes 48 seconds East along the West line of the said Northeast 1/4 a distance of 993.99 feet to a point; thence North 87 degrees 35 minutes 22 seconds East, 280.85 feet to the TRUE POINT OF BEGINNING; thence South 87 degrees 35 minutes 22 seconds East, 362.18 feet to a point; thence South 03 degrees 03 minutes 48 seconds East, 342.38 feet (dashed) 342.30 feet to a point on the North line of the South 1/2 of the said Northwest 1/4; thence North 86 degrees 12 minutes 35 seconds East along the said North line, 1497.52 feet to a point on the Northeast side right-of-way of Highway 135 as recorded in Book 208, Page 134; thence South 13 degrees 37 minutes 55 seconds West along the said Highway right-of-way, 737.13 feet (dashed) 737.07 feet to a point; thence South 64 degrees 51 minutes 34 seconds West along said Highway right-of-way, 509.00 feet to a point; thence South 85 degrees 02 minutes 40 seconds West along said Highway right-of-way, 401.52 feet to a point; thence North 10 degrees 04 minutes 17 seconds West along said Highway right-of-way, 802.56 feet to a point; thence North 15 degrees 12 minutes 50 seconds East along said Highway right-of-way, 141.15 feet to a point; thence North 88 degrees 57 minutes 08 seconds East along said Highway right-of-way, 116.35 feet to a point; thence North 0 degrees 38 minutes 21 seconds West along said Highway right-of-way, 76.41 feet to the TRUE POINT OF BEGINNING and containing 25.972 acres, more or less.

Plank Property C-2

Description:

Part of the North One-Half of the Northwest One-Quarter of Section 10 Township 15 South Range 22 East of the 6th Principal Meridian, Johnson County, Kansas, being more particularly described as follows:

Commencing at the Northwest corner of the Northwest One-Quarter of said Section 10 Township 15 South Range 22 East; thence South 02 degrees 03 minutes 48 seconds East along the West line of the said Northwest One-Quarter a distance of 993.99 feet to a point; thence North 87 degrees 35 minutes 22 seconds East 280.85 feet to the True Point of Beginning of the North described tract; thence North 03 degrees 03 minutes 28 seconds West along the Highway right-of-way for Homestead Lane as now established, a distance of 54.71 feet to a point; thence North 87 degrees 34 minutes 53 seconds West along said right-of-way a distance of 180.59 feet to a point; thence North 08 degrees 11 minutes 20 seconds East a distance of 788.74 feet along said right-of-way to a point; thence North 16 degrees 15 minutes 31 seconds East (per right-of-way document South 65 degrees 15 minutes 38 seconds West) a distance of 102.29 feet to a point; thence North 88 degrees 24 minutes 31 seconds East along said Highway right-of-way and along a line parallel to the North line of the said Northwest One-Quarter (per right-of-way document South 88 degrees 24 minutes 21 seconds West) a distance of 400.00 feet to a point; thence North 56 degrees 58 minutes 36 seconds East (per right-of-way document South 88 degrees 24 minutes 31 seconds West) a distance of 100.48 feet to a point (that is 25 feet South of the North line of the said Northwest One-Quarter; thence South 02 degrees 13 minutes 33 seconds East a distance of 1399.72 feet to a point on the line of the South One-Half of the said Northwest One-Quarter; thence South 88 degrees 12 minutes 35 seconds West along the North line of the South One-Half of the said Northwest One-Quarter; thence South 88 degrees 12 minutes 35 seconds West along the North line of the South One-Half of the said Northwest One-Quarter (per right-of-way document South 65 degrees 15 minutes 38 seconds West) a distance of 400.00 feet to a point; thence North 56 degrees 58 minutes 36 seconds East (per right-of-way document South 88 degrees 24 minutes 31 seconds West) a distance of 100.48 feet to a point; thence North 87 degrees 35 minutes 22 seconds West a distance of 362.18 feet to the True Point of Beginning and containing 19.278 acres, more or less.

Plank Property 10

Description:

Part of the North One-Half of the Northwest One-Quarter of Section 10 Township 15 South Range 22 East of the 6th Principal Meridian, Johnson County, Kansas, being more particularly described as follows:

Commencing at the Northwest corner of the Northwest One-Quarter of said Section 10 Township 15 South Range 22 East; thence South 02 degrees 03 minutes 48 seconds East along the West line of the said Northwest One-Quarter a distance of 993.99 feet to a point; thence North 87 degrees 35 minutes 22 seconds East 280.85 feet to a point; thence North 08 degrees 30 minutes 21 seconds West along the Highway right-of-way for Homestead Lane as now established, a distance of 54.71 feet to a point; thence North 87 degrees 34 minutes 53 seconds West along said right-of-way a distance of 180.59 feet to a point; thence North 08 degrees 11 minutes 20 seconds East a distance of 788.74 feet along said right-of-way to a point; thence North 16 degrees 15 minutes 31 seconds East (per right-of-way document South 65 degrees 15 minutes 38 seconds West) a distance of 102.29 feet to a point; thence North 88 degrees 24 minutes 31 seconds East along said Highway right-of-way and along a line parallel to the North line of the said Northwest One-Quarter (per right-of-way document South 88 degrees 24 minutes 21 seconds West) a distance of 400.00 feet to a point; thence North 56 degrees 58 minutes 36 seconds East (per right-of-way document South 88 degrees 24 minutes 31 seconds West) a distance of 100.48 feet to a point (that is 25 feet South of the North line of the said Northwest One-Quarter; thence South 02 degrees 13 minutes 33 seconds East a distance of 1399.72 feet to a point on the line of the South One-Half of the said Northwest One-Quarter; thence South 88 degrees 12 minutes 35 seconds West along the North line of the South One-Half of the said Northwest One-Quarter (per right-of-way document South 65 degrees 15 minutes 38 seconds West) a distance of 400.00 feet to a point; thence North 56 degrees 58 minutes 36 seconds East (per right-of-way document South 88 degrees 24 minutes 31 seconds West) a distance of 100.48 feet to a point; thence North 87 degrees 35 minutes 22 seconds West a distance of 362.18 feet to the True Point of Beginning and containing 15.860 acres, more or less.

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 (816) 451-1000
 WWW.SCHLAGE-ASSOCIATES.COM

ZONING EXHIBIT **PLANK, MIDDLETON PROPERTY** **PART OF NW 1/4 OF SECTION 10, T 15S, R 22E** **JOHNSON COUNTY, KANSAS**

DATE	BY	REVISION	DESCRIPTION
10/1/2010	AS	1	INITIAL DRAFT
10/1/2010	AS	2	REVISIONS
10/1/2010	AS	3	REVISIONS
10/1/2010	AS	4	REVISIONS
10/1/2010	AS	5	REVISIONS
10/1/2010	AS	6	REVISIONS
10/1/2010	AS	7	REVISIONS
10/1/2010	AS	8	REVISIONS
10/1/2010	AS	9	REVISIONS
10/1/2010	AS	10	REVISIONS
10/1/2010	AS	11	REVISIONS
10/1/2010	AS	12	REVISIONS
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10/1/2010	AS	98	REVISIONS
10/1/2010	AS	99	REVISIONS
10/1/2010	AS	100	REVISIONS