

City of Edgerton, Kansas
Minutes of City Council Regular Session
February 12, 2015

A Regular Session of the City Council was held in the Edgerton City Hall, 404 E. Nelson, Edgerton, Kansas on February 12, 2015. 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
Jody Brown	present
Frances Cross	present
Cindy Crooks	present
Clay Longanecker	absent

With a quorum present, the meeting commenced.

Staff in attendance: City Administrator Beth Linn
 Community Development Director Kenny Cook
 City Attorney Patrick Reavey

Consultants in attendance: Johnson County Sheriff's Department
 Johnson County Fire District
 Bond Counsel Scott Anderson
 Financial Advisor Jeff White

2. WELCOME AND PLEDGE OF ALLEGIANCE

Girl Scout Troop #773 came forward to lead the Pledge of Allegiance

3. CONSENT AGENDA

- Agenda approval
- City Council Meeting Minutes January 8, 2015
- City Council Meeting Minutes January 22, 2015

Motion by Crooks, seconded by Cross, to approve the Consent Agenda.

The motion was approved, 4-0.

4. PUBLIC COMMENTS

Ginger Crist, 510 W. Braun, was present to inform the Mayor and council about "Joy Closet" a clothing closet sponsored by First Presbyterian Church located in Gardner, Kansas. They accept donations of clothes, sheets and etc. and sell their items for a small price. Vouchers were handed

out to everyone present to shop for free. They will be extending their hours soon, and are looking for volunteers. They accept leftovers from City Wide Garage Sales. Anyone needing community service hours may contact the "Joy Closet."

5. DECLARATIONS BY COUNCIL MEMBERS

None

6. DONATION REQUEST FROM GIRL SCOUTS FOR EASTER EGG HUNT WAS CONSIDERED.

Becky Blankenship and Girl Scout Troop #773 were present to ask for a donation for the annual Easter Egg Hunt. They asked for \$500.00 this year. They are adding a separate place for kids with special needs to be able to participate this year. The date of the Easter Egg Hunt is March 28th, 2015 and a rain out date of April 4th, 2015.

Motion by Crooks, seconded by Cross, to approve a donation to the Girl Scouts in the amount of \$500.00.

The motion was approved, 4-0.

7. ORDINANCE NO. 991 AUTHORIZING THE CITY OF EDGERTON, KANSAS, TO ISSUE INDUSTRIAL REVENUE BONDS (ELHC XI, LLC PROJECT) SERIES 2015, IN AN AGGREGATE MAXIMUM PRINCIPAL AMOUNT NOT TO EXCEED \$34,000,000, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COST OF ACQUIRING, PURCHASING, CONSTRUCTING, INSTALLING AND EQUIPPING A COMMERCIAL PROJECT, CONSISTING OF A WAREHOUSE AND DISTRIBUTION FACILITY, INCLUDING LAND, BUILDINGS, STRUCTURES, IMPROVEMENTS, FIXTURES, MACHINERY AND EQUIPMENT; AUTHORIZING THE CITY TO ENTER INTO A TRUST INDENTURE WITH THE TRUSTEE SET FORTH THEREIN; AUTHORIZING THE CITY TO ENTER INTO A LEASE AGREEMENT WITH ELHC XI, LLC; AUTHORIZING THE CITY TO ENTER INTO A BOND PURCHASE AGREEMENT IN CONNECTION WITH THE BONDS, AND AUTHORIZING AND APPROVING THE EXECUTION OF CERTAIN DOCUMENTS AND THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF THE BONDS WAS CONSIDERED.

Scott Anderson, Bond Counsel for the City of Edgerton, was present to inform Mayor and Council about the Industrial Revenue Bonds and Property Tax Abatement for ELHC XI Project. The IRB for ELHC XI is not to exceed 34,000,000. The property for ELHC XI is located on approximately 46.2 acres of land at the southeast corner of 191st Street and Waverly Road in Edgerton, Kansas. A public hearing was held to the City on November 20, 2014.

Motion by Cross, seconded by Longanecker, to approve Ordinance No. 991 authorizing the City of Edgerton, Kansas to issue industrial revenue bonds (ELHC XI, LLC Project) series 2015, in an aggregate maximum principal amount not to exceed \$34,000,000 for the purpose of providing funds to pay the cost of acquiring, purchasing, construction, installing and equipping a commercial project, consisting of a warehouse and distribution facility, including land, buildings, structures, improvements, fixtures, machinery and equipment; authorizing the city to enter into a trust indenture with the trustee set forth therein; authorizing the city to enter into a lease agreement with ELHC XI, LLC; authorizing the city to enter into a bond purchase agreement in connection with

the bonds, and authorizing and approving the execution of certain documents and the taking of other action in connection with the issuance of the bonds.

The motion was approved, 4-0.

- 8. ORDINANCE NO. 992 AUTHORIZING THE CITY OF EDGERTON, KANSAS, TO ISSUE INDUSTRIAL REVENUE BONDS (ELHC XII, LLC PROJECT) SERIES 2015, IN AN AGGREGATE MAXIMUM PRINCIPAL AMOUNT NOT TO EXCEED \$29,000,000, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COST OF ACQUIRING, PURCHASING, CONSTRUCTING, INSTALLING AND EQUIPPING A COMMERCIAL PROJECT, CONSISTING OF A WAREHOUSE AND DISTRIBUTION FACILITY, INCLUDING LAND, BUILDINGS, STRUCTURES, IMPROVEMENTS, FIXTURES, MACHINERY AND EQUIPMENT; AUTHORIZING THE CITY TO ENTER INTO A TRUST INDENTURE WITH THE TRUSTEE SET FORTH THEREIN; AUTHORIZING THE CITY TO ENTER INTO A LEASE AGREEMENT WITH ELHC XII, LLC; AUTHORIZING THE CITY TO ENTER INTO A BOND PURCHASE AGREEMENT IN CONNECTION WITH THE BONDS, AND AUTHORIZING AND APPROVING THE EXECUTION OF CERTAIN DOCUMENTS AND THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF THE BONDS WAS CONSIDERED.**

Scott Anderson, Bond Counsel for the City of Edgerton, was present to inform the Mayor and Council about the Industrial Revenue Bonds and Property Tax Abatement for ELHC XII Project. The IRB for ELHC XII is not to exceed 29,000,000. The property for ELHC XII is located on approximately 39.5 acres of land at the southeast corner of 191st Street and Waverly Road in Edgerton, Kansas. A public hearing was held on November 20, 2014.

Motion by Crooks, seconded by Brown, to approve Ordinance No. 992 authorizing the City of Edgerton, Kansas to issue industrial revenue bonds (ELHC XII, LLC Project) series 2015, in an aggregate maximum principal amount not to exceed \$29,000,000 for the purpose of providing funds to pay the cost of acquiring, purchasing, construction, installing and equipping a commercial project, consisting of a warehouse and distribution facility, including land, buildings, structures, improvements, fixtures, machinery and equipment; authorizing the city to enter into a trust indenture with the trustee set forth therein; authorizing the city to enter into a lease agreement with ELHC XII, LLC; authorizing the city to enter into a bond purchase agreement in connection with the bonds, and authorizing and approving the execution of certain documents and the taking of other action in connection with the issuance of the bonds.

The motion was approved, 4-0.

- 9. FINAL ACCEPTANCE OF CHANGE ORDER NO. 2 EDGERTON QUIET ZONES PROJECT (NELSON STREET AND 199TH STREET) WAS CONSIDERED.**

Beth Linn, City Administrator, gave some background information about the Quiet Zone Project and announced that on January 2, 2015 the City of Edgerton issued the Notice of Establishment that started the required 21 day waiting period for the quiet zones to begin. Both quiet zones officially went into effect at 12:01 am on January 24, 2015. Staff has notified the design engineer of the project and of the errors and omissions made during design of the project. The City has requested \$6447.00 be reimbursed by the design engineer for additional work required in Change Order No. 2

to bring the zone into compliance. City Attorney Patrick Reavey agrees that the amount is reasonable and if payment is not received in the required time frame, that legal fees will be added.

Motion by Crooks, seconded by Brown, to approve the Final Acceptance of Change Order No. 2 Edgerton Quiet Zones Project (Nelson Street and 199th Street).

The motion was approved, 4-0.

10. PURCHASE OF A TRUCK FOR ANIMAL CONTROL/CODE ENFORCEMENT OFFICER THROUGH THE MID AMERICA REGIONAL COUNCIL'S METRO VEHICLE BID LIST WAS CONSIDERED.

Kenny Cook, Community Development Director, presented information about the purchase of a truck for animal control/code enforcement. During preparation of the 2015 budget, a replacement truck for the Animal Control/Code Enforcement Officer was included. The current truck is a 1999 Ford Ranger in poor condition. Mr. Cook read an extensive list of problems with the Ford Ranger, indicating that a new truck is needed. Staff recommends the purchase of a 2015 Ford F150 Super Cab 4 X 4, with power windows, a 2.7 Eco boost V6 engine, and Cab Steps. The truck would be purchased through the Mid America Regional Council's Metro Vehicle bid list from Shawnee Mission Ford in the amount of \$24,399.

After much discussion and explanation about why so much truck now, the decision of the Council was to table the approval of the purchase of a new truck for Animal Control/Code Enforcement until the next meeting. They would like to have prices on used trucks for comparison.

Motion by Crooks, seconded by Troutner, to table purchase of truck for animal control/code enforcement officer until February 26, 2015.

The motion was approved, 4-0.

11. ORDINANCE NO. 993 PROVIDING FOR THE RANGE OF SALARIES AND COMPENSATION OF VARIOUS CITY OFFICERS AND EMPLOYEES OF THE CITY OF EDGERTON, KANSAS WAS CONSIDERED.

Beth Linn, City Administrator, provided information about the changes in the Ordinance for the range of salaries and compensation of various city officers and employees of the City of Edgerton, Kansas. The three changes at this time are the City Attorney, Municipal Court Judge and Prosecuting Attorney. The travel time has also been removed.

Motion by Crooks, seconded by Cross, to approve Ordinance No. 993 providing for the range of salaries and compensation of various city officers and employees of the City of Edgerton, Kansas, with no travel time.

The motion was approved, 4-0.

12. RESOLUTION NO. 02-12-15A APPROVING AN AGREEMENT WITH THE SECRETARY OF THE KANSAS DEPARTMENT OF TRANSPORTATION AND BNSF RAILWAY COMPANY FOR A GRANT FOR A ROAD CONSTRUCTION PROJECT FOR THE LOGISTICS PARK KANSAS CITY WAS CONSIDERED.

In October 2014, the Edgerton City Council approved a Letter of Intent with the Kansas Department of Transportation (KDOT) and Burlington Northern Santa Fe (BNSF) Regarding KDOT's financial contribution toward the costs to construct Waverly Road, from US-56 to 199 Street, including a grade separation. A summary of the major terms of the agreement include: the Project Scope and cost not to exceed thirty million dollars; method of construction and control of the project; and design-build method of construction. The project is a City of Edgerton led project therefore the method for acquisition of right-of-way and design criteria used for construction are determined by the City. The only funding source used for repayment of the project is LPKC Utility Sales Tax. No general fund or other city dollars will be used for this repayment.

Motion by Crooks, seconded by Brown, to approve Resolution No. 01-12-15A approving an agreement with the Secretary of the Kansas Department of Transportation and BNSF Railway company for a grant for a road construction project for the Logistics Park Kansas City.

The motion was approved, 4-0.

13. DESIGN-BUILD AGREEMENT WITH CLARKSON CONSTRUCTION COMPANY FOR WAVERLY ROAD PROJECT WAS CONSIDERED.

In October 2014, the Edgerton City Council approved a letter of intent with the Kansas Department of Transportation and Burlington Northern Santa Fe Railroad regarding KDOT'S financial contribution toward the costs to construct Waverly Road, from US/56 to 199th Street, including a grade separation. The City received five submittals that were due in December 2014. In January 2015 the selection committee selected the Clarkson-HDR team as the best, most qualified team for the project.

Motion by Brown, seconded by Cross, to approve the Design-Build Agreement with Clarkson Construction Company for Waverly Road Project.

The motion was approved, 4-0.

14. REPORT BY THE CITY ADMINISTRATOR

*Designation of Voting Delegate and Alternate Delegate for 2015 Kansas Rural Water Association Conference

Motion by Crooks, seconded by Cross, to designate Charlie Troutner as Voting Delegate, and Mike Mabrey as the Alternate Delegate.

The motion was approved, 4-0.

*Bridgewater Lake Algae Report – A report was presented from Tegan Meadors, Parks and Recreation Coordinator, about the management options to remove the Algae from the Bridgewater Lake.

*Personnel Manual Section A-C given to Council members to review

* Update on 207th Street Crossing – starting in March 2015 the crossing is scheduled for a complete re-build

*Fourth Quarter 2014 Financial Report and 2014 Year End Financial Report - Fourth Quarter and year end reports were presented and discussed

* Discussion about Deffenbaugh still having trash carts in the City of Edgerton. Deffenbaugh is to be in town on the 2nd of March for one final sweep.

*Discussion about the sludge on the property north of the Edgerton Cemetery

15. Report by the Mayor

Discussion about the Press Release “Public-Private Partnership Forms Logistics Training Center at Logistics Park Kansas City” A partnership including North Point Development, Johnson County Community College, the City of Edgerton, Workforce Partnership, BNSF Railway and the Southwest Johnson County Economic Development Corporation have joined forces to create the Logistics Training Center at LPKC. “The Logistics Training Center at LPKC will be an excellent addition to the City of Edgerton” said Edgerton Mayor Donald Roberts. The training center should be complete in late 2015.

16. FUTURE MEETING/EVENT REMINDERS:

February 16th – City Offices Closed Presidents Day

February 18th Noon – Senior Lunch

February 19th 6pm - Mayor Roberts State of the City Address

February 26th 7:00 pm - City Council Meeting

17. RECESS INTO EXECUTIVE SESSION PURSUANT TO K.S.A. 75-4319 (b) (1) PERSONNEL MATTERS OF NONELECTED PERSONNEL WAS CONSIDERED

The executive session was tabled until the next regular session.

18. ADJOURN

Motion by Crooks, seconded by Brown, to adjourn the meeting.

Meeting adjourned at 8:40 pm.

Janeice L. Rawles, CMC
City Clerk

Approved by the Governing Body on _____

AGENDA ITEM INFORMATION FORM

Agenda Item: Consider Increase to Five Percent (5%) in Video Service Provider Fee with Medicacom Communications Corporation (Mediacom) and Further Authorize the Mayor to execute an acknowledgement with Mediacom

Department: Administration

Background/Description of Item: Mediacom provides cable television services within the City and was operating under Ordinance No. 701, approved in 1999 with an initial 15 year term. In 2006, Kansas Statutes replaced cable television franchising by municipalities with a state franchising process. In September 2014, the Kansas Corporation Commission granted a state-issued video service authorization to Mediacom and at that time, the cable franchise with the City of Edgerton was terminated. Mediacom will comply with the City's right-of-way ordinance as is applicable to Mediacom and not contrary to state and federal laws and regulations.

In accordance with K.S.A. 12-2024, the video service provider shall calculate and pay the video service provider fees to the City upon request with a 5% maximum. The City's franchise fee under Ordinance No. 701 was 3%. An increase to the maximum will match existing utility franchises at 5% (KCP&L, Kansas Gas and Century Link).

If approved, the collection at new rate will commence with the first day of a calendar month that is at least 30 days after the written notice of the fee is submitted with Mediacom and will be paid quarterly. A copy of the acknowledgment accompanies.

Enclosure: Acknowledgement with Mediacom
K.S.A. 12-2024

Related Ordinance(s) or Statute(s): Ord. 701 and K.S.A. 12-2014

Recommendation: Approve Increase to Five Percent (5%) in Video Service Provider Fee with Medicacom Communications Corporation (Mediacom) and Further Authorize the Mayor to execute an acknowledgement with Mediacom

Funding Source: N/A

Prepared by: Beth Linn, City Administrator
Date: February 25, 2014



October 17, 2014

Mayor Roberts
City of Edgerton
P.O. Box 255
Edgerton, KS 66021

RE: Mediacom Cable Franchise—Action Required

Dear Mayor Roberts:

Mediacom appreciates the opportunity to provide video service to the citizens of Edgerton. As you may know, in 2006 Kan. Stat. § 12-2023 replaced municipal franchising of cable television service with a streamlined state franchising process. The new law allows existing cable franchise holders to file with the Kansas Corporation Commission for state-issued video service authorization. This letter serves to inform the City of Edgerton that Mediacom's application for state-issued video service authorization was granted by the Kansas Corporation Commission on September 18, 2014. Mediacom's cable franchise with the City of Edgerton terminated upon this state approval.

Pursuant to Section 12-2024 of the statute, a video service provider shall calculate and pay the video service provider fee upon the City of Edgerton written request. Currently, the City of Edgerton's franchise fee is 3%. If the City of Edgerton desires a different percentage, notice must be given to Mediacom. Video service provider fees shall be due on a quarterly basis and shall be calculated as a percentage of gross revenues as defined in section 12-2024 (d).

Additionally, Section 12-2024 requires Mediacom to file the attached Agreement with the City Clerk. Please sign each copy and return one copy to:

Mediacom Communications Corp.
Attn: Kate Hotle
3900 26th Avenue
Moline, IL 61265

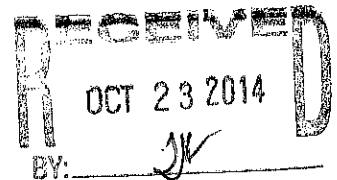
Should you have any questions please feel free to contact me at 309-743-4152.

Sincerely,

Kate Hotle
Manager, Government Relations

Enclosure

Mediacom Communications Corporation
3900 26th Avenue, Moline, IL 61265
Phone: 309.743.4152 Fax: 309.743.4607



MCC Missouri LLC d/b/a Mediacom (“Mediacom”) was granted authorization by the state of Kansas to provide video service in Edgerton, KS on September 18, 2014 and hereby executes this agreement with the City of Edgerton. Mediacom has been providing video service in Edgerton for over ten (10) years. Mediacom may be contacted by the City of Edgerton at the following telephone number 309-743-4152. Mediacom may be contacted by customers at the following telephone number 888-847-6228. Mediacom agrees to update this contact information with the City of Edgerton within 15 calendar days in the event that such contact information changes. Mediacom acknowledges and agrees to comply with the City of Edgerton local right-of-way ordinance to the extent the ordinance is applicable to Mediacom and not contrary to state and federal laws and regulations. Mediacom hereby reserves the right to challenge the lawfulness or applicability of such ordinance to Mediacom. By entering into this agreement, neither the City of Edgerton nor Mediacom’s present or future legal rights, positions, claims, assertions or arguments before any administrative agency or court of law are in any way prejudiced or waived. By entering into the agreement, neither the City of Edgerton nor Mediacom waive any rights, but instead expressly reserve any and all rights, remedies and arguments the City of Edgerton or Mediacom may have at law or equity, without limitation, to argue, assert and/or take any position as to the legality or appropriateness of any present or future laws, ordinances and/or rulings.

City of Edgerton, KS

MCC Missouri LLC

Thomas J. Larsen
Group Vice President, Legal & Public Affairs

Date: _____

Date: _____

Chapter 12: Cities And Municipalities

Article 20: Franchises

Statute 12-2024: Video service provider; notice; agreement; video service provider fee; percentage of gross revenues determined by municipality, limitation; audit; customer billing. (a) A video service provider shall provide notice to each municipality with jurisdiction in any locality at least 30 calendar days before providing video service in the municipality's jurisdiction. Within 30 days of the time notice is delivered to the municipality, the video service provider shall execute an agreement substantially similar to the following, which shall be filed with the city or county clerk and shall be effective immediately:

"[Video Service Provider] was granted authorization by the state of Kansas to provide video service in [Municipality] on [date] and hereby executes this agreement with [Municipality]. [Video Service Provider] will begin providing video service in [Municipality] on or after [date]. [Video Service Provider] may be contacted by the [Municipality] at the following telephone number _____. [Video Service Provider] may be contacted by customers at the following telephone number _____. [Video Service Provider] agrees to update this contact information with [Municipality] within 15 calendar days in the event that such contact information changes. [Video Service Provider] acknowledges and agrees to comply with [Municipality's] local right-of-way ordinance to the extent the ordinance is applicable to [Video Service Provider] and not contrary to state and federal laws and regulations. [Video Service Provider] hereby reserves the right to challenge the lawfulness or applicability of such ordinance to [Video Service Provider]. By entering into this agreement, neither the municipality's nor [Video Service Provider's] present or future legal rights, positions, claims, assertions or arguments before any administrative agency or court of law are in any way prejudiced or waived. By entering into the agreement, neither the municipality nor [Video Service Provider] waive any rights, but instead expressly reserve any and all rights, remedies and arguments the municipality or [Video Service Provider] may have at law or equity, without limitation, to argue, assert and/or take any position as to the legality or appropriateness of any present or future laws, ordinances and/or rulings."

(b) In any locality in which a video service provider offers video service, the video service provider shall calculate and pay the video service provider fee to the municipality with jurisdiction in that locality upon the municipality's written request. If the municipality makes such a request, the video service provider fee shall be due on a quarterly basis and shall be calculated as a percentage of gross revenues, as defined herein. Notwithstanding the date the municipality makes such a request, no video service provider fee shall be applicable until the first day of a calendar month that is at least 30 days after written notice of the levy is submitted by the municipality to a video service provider. The municipality may not demand the use of any other calculation method. Any video service provider fee shall be remitted to the municipality by the video service provider not later than 45 days after the end of the quarter.

(c) The percentage to be applied against gross revenues pursuant to subsection (b) shall be set by the municipality and identified in its written request, but may in no event exceed 5%.

(d) Gross revenues are limited to amounts billed to and collected from video service subscribers for the following:

(1) Recurring charges for video service;

(2) event-based charges for video service, including but not limited to pay-per-view and video-on-demand charges;

(3) rental of set top boxes and other video service equipment;

(4) service charges related to the provision of video service, including, but not limited to, activation, installation, repair and maintenance charges; and

(5) administrative charges related to the provision of video service, including, but not limited to, service order and service termination charges.

(e) Gross revenues do not include:

(1) Uncollectible fees, provided that all or part of uncollectible fees which is written off as bad debt but subsequently collected, less expenses of collection, shall be included in gross revenues in the period collected;

(2) late payment fees;

(3) amounts billed to video service subscribers to recover taxes, fees or surcharges imposed upon video service subscribers in connection with the provision of video service, including the video service provider fee authorized by this section; or

(4) charges, other than those described in subsection (d), that are aggregated or bundled with amounts billed to video service subscribers.

(f) At the request of a municipality, no more than once per year, the municipality may perform a reasonable audit of the video service provider's calculation of the video service provider fee.

(g) Any video service provider may identify and collect the amount of the video service provider fee as a separate line item on the regular bill of each subscriber. To the extent a video service provider incurs any costs in providing capacity for retransmitting community programming as may be required in subsection (h) of K.S.A. 2009 Supp. 12-2023, and amendments thereto, the provider may also recover these costs from customers, but may not deduct such costs from the video service provider fee due to a municipality under this section.

History: L. 2006, ch. 93, § 4; July 1.
