

**EDGERTON CITY COUNCIL
MEETING AGENDA
CITY HALL, 404 EAST NELSON STREET
February 25, 2016**

Call to Order

1. **Roll Call** ____ Roberts ____ Longanecker ____ Crooks ____ Troutner ____ Brown ____ Crist
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. Approve City Council Meeting Minutes February 11, 2016

Regular Agenda

6. **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.
7. **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.
8. Donation Request from Edgerton Girl Scouts

Business Requiring Action

9. **CONSIDER RESOLUTION NO. 02-25-16A DETERMINING THE INTENT OF THE CITY OF EDGERTON, KANSAS, TO ISSUE ITS INDUSTRIAL REVENUE BONDS IN THE APPROXIMATE AMOUNT OF \$8,000,000 TO PAY THE COST OF ACQUIRING, CONSTRUCTING AND EQUIPPING A COMMERCIAL FACILITY FOR THE BENEFIT OF CY EDGERTON LLC**

Motion: _____ Second: _____ Vote: _____

10. **PUBLIC HEARING REGARDING PROPOSED IMPROVEMENTS TO THE CITY'S WATER SYSTEM**

11. **CONSIDER RESOLUTION NO. 02-25-16B AUTHORIZING THE COMPLETION OF AN APPLICATION TO THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT REGARDING A LOAN FROM THE KANSAS PUBLIC WATER SUPPLY LOAN FUND**

Motion: _____ Second: _____ Vote: _____

12. CONSIDER ORDINANCE NO. 1011 AMENDING ARTICLE 4 OF CHAPTER I OF THE EDGERTON, KANSAS MUNICIPAL CODE TO REVISE PROVISIONS PERTAINING TO INVESTMENT OF THE CITY'S IDLE FUNDS

Motion: _____ Second: _____ Vote: _____

13. CONSIDER RESOLUTION NO. 02-25-16C APPOINTING CITY OFFICIALS RESPONSIBLE FOR IMPLEMENTATION OF CITY INVESTMENT MANAGEMENT PROGRAM

Motion: _____ Second: _____ Vote: _____

14. CONSIDER AN INVESTMENT ADVISORY AGREEMENT WITH COLUMBIA CAPITAL MANAGEMENT, LLC

Motion: _____ Second: _____ Vote: _____

15. Report by the City Administrator

16. Report by the Mayor

17. Future Meeting/Event Reminders:

- March 8th 7:00 PM – Planning Commission Meeting
- March 10th 7:00 PM – City Council Meeting
- March 16th Noon – Senior Lunch
- March 24th 7:00 PM – City Council Meeting

18. CONSIDER RECESSING INTO EXECUTIVE SESSION PURSUANT TO K.S.A. 75-4319 (b) (6) FOR PRELIMINARY DISCUSSION RELATED TO ACQUISITION OF REAL PROPERTY TO INCLUDE CITY ATTORNEY AND CITY ADMINISTRATOR

Motion: _____ Second: _____ Vote: _____

RECONVENE INTO OPEN SESSION

19. Adjourn Motion: _____ Second: _____ Vote: _____

**City of Edgerton, Kansas
Minutes of City Council Regular Session
February 11, 2016**

A Regular Session of the City Council was held in the Edgerton City Hall, 404 E. Nelson, Edgerton, Kansas on February 11, 2016. 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
Darius Crist	present
Clay Longanecker	present
Cindy Crooks	present
Jody Brown	present

With a quorum present, the meeting commenced.

Staff in attendance:

- City Administrator Beth Linn
- Community Development Director Kenny Cook
- City Attorney Patrick Reavey
- Utility Superintendent Mike Mabrey
- Johnson County Sheriff Department Representative

2. WELCOME

3. PLEDGE OF ALLEGIANCE

AGENDA

4. Agenda Approval

MEETING MINUTES

5. Approval of City Council Meeting Minutes January 28, 2016

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

Motion was approved, 5-0.

6. PUBLIC COMMENTS

7. DECLARATION

No declarations

DONATION REQUEST

8. Donation request from Gardner Edgerton High School Class of 2016 Project Graduation was considered.

Angela VanDeBerghe, Co-President of Gardner Edgerton High School Class of 2016 Project Graduation was present to address the Mayor and Council about a donation. Ms. VanDeBerghe asked for \$500.00 or more. She then told about the Graduation Night activities and explained that they bring in blow-ups and they are \$ 500.00 to \$700.00 for the evening. The council suggested that they donate \$700.00 and sponsor one of the larger blow-ups.

Motion by Crooks, seconded by Longanecker, to approve a seven hundred donation for this year.

Motion was approved, 5-0.

BUSINESS REQUIRING ACTION

PURCHASE OF OUTDOOR WARNING SIGNAL

9. PURCHASE OF AN OUTDOOR WARNING SIGNAL FROM BLUE VALLEY PUBLIC SAFETY THROUGH MID AMERICA REGIONAL COUNCIL'S METRO BID LIST WAS CONSIDERED.

Utility Superintendent Mike Mabrey explained the choices for the warning signal pole, galvanized, concrete or wood, as was discussed at the last meeting. The prices for the galvanized and the concrete are more expensive than the wood.

Motion by Crooks, seconded by Brown, to install the outdoor warning signal on a concrete pole.

Motion was approved, 5-0.

LANDWORKS – PARKS MASTER PLAN

10. A SCOPE OF WORK WITH LANDWORKS STUDIO INC. FOR DEVELOPMENT OF A PARKS MASTER PLAN WAS CONSIDERED.

Tegan Meadors, Parks and Recreation Coordinator, gave some background information and a description of the Parks Master Plan. There are five phases and Landworks will be doing an update as they complete each phase. Mr. Meadors introduced Kelly VanElders with Landworks and he explained more about the phases that the plan will use. The Mayor stated that this is a great first step.

Motion by Longanecker, seconded by Troutner, to approve the scope of work with Landworks Studio Inc. for Development of a Parks Master Plan.

Motion was approved, 5-0.

PUBLIC HEARING – IMPROVEMENTS WASTEWATER SYSTEM

11. PUBLIC HEARING REGARDING PROPOSED IMPROVEMENTS TO THE CITY'S WASTEWATER SYSTEM

Mayor Roberts opened the public hearing at 7:19 pm. The Public meeting was held earlier in the evening at 6:45 pm. The public hearing was to discuss and offer the public a chance to ask questions. The public hearing was closed at 7:20 PM.

ALTERNATIVES FOR PROPOSED IMPROVEMENTS TO THE EWWTP PROJECT

12. PROJECT ALTERNATIVES FOR PROPOSED IMPROVEMENTS TO THE CITY'S WASTEWATER SYSTEM (CONVERSION OF EDGERTON WASTEWATER TREATMENT PLANT PROJECT) WAS CONSIDERED.

After some discussion it was the decision of the council to table this item.

Motion by Brown, seconded by Crist, to table this item.

Motion was approved, 5-0.

AGREEMENT WITH BG CONSULTANTS – LPKC SEWER INTERCEPTOR PROJECT

13. AN AGREEMENT WITH BG CONSULTANTS FOR CONSTRUCTION ADMINISTRATION AND OBSERVATION SERVICES FOR THE LPKC SEWER INTERCEPTOR PROJECT WAS CONSIDERED.

Beth Linn, City Administrator presented information about the LPKC Sewer Interceptor Project. The City of Edgerton is partnering with Edgerton Land Holding Company to construct the LPKC Sewer Interceptor, a new gravity sewer interceptor main from Homestead Lane just north of 199th street to provide sanitary sewer service to Inland Port XIV. The possible tenant requires sanitary sewer service by April 15th. Kansas Department of Health and Environment requires full-time inspection for construction of any sanitary sewer main. Therefore this project will require full-time inspection. Staff recommends using BG Consultants for the inspections.

Motion by Longanecker, seconded by Crooks, to approve the agreement with BG Consultants for Construction Administration and Observation Services for LPKC Interceptor Sewer Project.

Motion was approved, 5-0.

REVISE PROVISIONS TO CODE- KEEPING OF ANIMALS WITHIN THE CITY

14. CONSIDER ORDINANCE NO. 1010 AMENDING CHAPTER II OF THE EDGERTON, KANSAS MUNICIPAL CODE TO REVISE PROVISIONS PERTAINING TO THE KEEPING OF ANIMALS WITHIN THE CITY WAS CONSIDERED.

The Animal ordinance has been discussed at several council meetings and workshops, several items have been changed and updated. Some of the new changes are Dangerous animals, Urban Chickens, the Definitions, Categories of registrations, maximum number of domestic animals, and regulations for animal breeders. With more discussion and questions, the Mayor requested that we move on and come back to this topic later in the meeting.

15. REPORT BY THE CITY ADMINISTRATOR

OPTIONS FOR SOCIAL MEDIA PRESENCE

Becky Freetly r with Candid Marketing made a presentation regarding Options for Social Media Presence. She presented a power point presentation with lots of good information about Face book, Twitter and several other types of social media. She presented the pros and cons of social media and what it can do for the City of Edgerton. Other items to consider are the time frame in which replies are expected, and who would be in charge in answering the questions. Ms. Freetly presented lots of information to consider and think about. Perhaps consider this at budget time this year.

Beth Linn, City Administrator has been appointed to the board of the Johnson County Parks and Recreation.

16. REPORT BY THE MAYOR

None

17. FUTURE MEETING/EVENT REMINDERS:

- February 15th Presidents' Day City Hall Closed
- February 17th Noon – Senior Lunch
- February 17th 5:30-7:00 Southwest Johnson County EDC Annual Meeting at Johnson County Community College, Regnier Center
- February 18th 6:00 pm – Mayor's State of the City Address at Edgerton City Hall
- February 22nd 4:30-7:00 pm Big Bull Creek Public Open House at New Century Field house
- February 25th 7:00 pm – City Council Meeting

BACK TO ITEM #14 – ORDINANCE No. 1010

After review by City Attorney, Patrick Reavey there is some revisions that need to be made. These changes were reviewed and discussed by Mayor and Council.

Motion by Brown to adopt Ordinance #1010 as written, except incorporate revisions to sections 2-102, 2-105, and 2-202, which revisions have been provided to the City Clerk.

Motion was approved, 4-1

Council member Crooks does not agree with the Pit Bull Breed being removed.

EXECUTIVE SESSION- ATTORNEY CLIENT RELATIONSHIP**18. RECESSING 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 CITY ADMINISTRATOR AND CITY ATTORNEY.**

Motion by Brown, seconded by Crooks, to recess into executive session for twenty five minutes.

Motion was approved, 5-0.

Meeting recessed at 8:55 pm.

Motion by Crooks, seconded by Crist, to return to regular meeting.

Motion was approved, 5-0.

Meeting reconvened at 9:22 pm.

Motion by Crooks, seconded by Crist to return to executive session for ten minutes.

Motion was approved, 5-0.

Meeting recessed at 9:23 pm.

Motion by Crooks, seconded by Troutner, to return to regular meeting.

Meeting reconvened at 9:34 pm.

Motion by Crooks, seconded by Crist to return to executive session for ten minutes.

Motion was approved, 5-0.

Meeting recessed at 9:35 pm.

Motion by Crooks, seconded by Crist, to return to regular meeting with no action taken.

Motion was approved, 5-0

Meeting reconvened at 9:41 pm.

During executive session, Citizen Mike Sleister came to the city hall wanting to go into the meeting. After the meeting reconvened Mr. Sleister was allowed to come into the meeting room. The Mayor allowed him to have a few minutes to address the council about the animal ordinance that was passed earlier in the evening. Mayor Roberts explained to Mr. Sleister that the ordinance was passed earlier in the meeting.

Motion by Crooks, seconded by Brown, to recess into executive session for ten minutes to include Scott Anderson Bond Counsel, City Attorney and City Administrator.

Motion was approved, 5-0.

Meeting recessed at 9:55 pm.

Motion by Crooks, seconded by Crist to return, no action taken.

Motion was approved, 5-0

Meeting reconvened at 10:07 pm.

Motion by Crooks, seconded by Brown to recess into executive session for five minutes to include Scott Anderson Bond Counsel, City Attorney and City Administrator.

Motion was approved, 5-0.

Meeting recessed at 10:08 pm.

Motion by Crooks, seconded by Brown, to return to regular meeting, no action taken.

Motion was approved, 5-0.

Meeting reconvened at 10:13 pm.

AGENDA ADDITION

19. TO APPROVE CONCURRENCE TO BID THE MONTROSE PHASE II CONSTRUCTION PROJECT WAS CONSIDERED.

Motion by Longanecker, seconded by Brown to approve concurrence to bid the Montrose Phase II Construction Project.

Motion was approved, 5-0

20. Adjourn

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

Motion was approved, 5-0.

Meeting adjourned at 10:30 pm.

CITY OF EDGERTON, KANSAS

COUNCIL AGENDA ITEM

Council Meeting Date: February 25, 2016

Agenda Item: Resolution of Intent

Subject: Illinois Transport/CY Edgerton LLC

Hearing Notice Published: Not Required for Sales Tax Only IRBs

Summary:

The City has received an application for the issuance of industrial revenue bonds from CY Edgerton LLC (Illinois Transport). CY Edgerton desires to construct a surface container storage lot and make improvements to buildings currently located at the project site at 32355 W. 191st Street in Edgerton, Kansas.

CY Edgerton is requesting that the bonds be issued so that the project is eligible for a sales tax exemption on construction materials and personal property. Bond Counsel estimates that the sales tax exemption certificate will save Transpec approximately \$350,000 in project costs. The City will require a \$25,000 origination fee for issuing the industrial revenue bonds.

CY Edgerton is not requesting any ad valorem property tax abatement at this time. No ad valorem property tax abatement will be granted for this project unless a future request for such abatement is received from CY Edgerton and the Governing Body votes to grant such abatement at that time.

Public Hearing/Cost-Benefit Report

KSA 12-1749d only requires a cost-benefit report and public hearing for the issuance of industrial revenue bonds when the project will be eligible for an exemption from ad valorem taxation. Accordingly, a cost-benefit report has not been completed and a public hearing is not being held.

RESOLUTION NO. 02-25-16A

A RESOLUTION DETERMINING THE INTENT OF THE CITY OF EDGERTON, KANSAS, TO ISSUE ITS INDUSTRIAL REVENUE BONDS IN THE APPROXIMATE AMOUNT OF \$8,000,000 TO PAY THE COST OF ACQUIRING, CONSTRUCTING AND EQUIPPING A COMMERCIAL FACILITY FOR THE BENEFIT OF CY EDGERTON LLC

WHEREAS, the City of Edgerton, Kansas (the "City"), desires to promote, stimulate and develop the general welfare and economic prosperity of the City and its inhabitants and to further promote, stimulate and develop the general welfare and economic prosperity of the state of Kansas; and

WHEREAS, the City is authorized and empowered under the provisions of K.S.A. 12-1740 to 12-1749d, inclusive (the "Act"), to issue industrial revenue bonds to pay the cost of certain facilities (as defined in the Act) for the purposes set forth in the Act and to lease or sublease such facilities to private persons or entities; and

WHEREAS, CY Edgerton LLC, a Kansas limited liability company (the "Company"), has requested the City to issue its industrial revenue bonds in the approximate principal amount of \$8,000,000 (the "Bonds"), for the purpose of financing the cost of acquiring, constructing, improving and equipping a surface container storage lot and constructing improvements to buildings currently located on the site (the "Project") located at 32355 W. 191st Street, Edgerton, Kansas, and to sublease the Project to the Company all pursuant to the Act; and

WHEREAS, it is found and determined to be advisable and in the interest and for the welfare of the City and its inhabitants that the City issue the Bonds pursuant to the Act, such Bonds to be payable solely out of rentals, revenues and receipts derived from the sublease of the Project by the City to the Company, or its successors or assigns, as lessee; and

WHEREAS, the City is not considering granting an exemption from ad valorem taxes for the Project at this time;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:

Section 1. Approval of Project. The Governing Body of the City finds and determines that the acquisition, construction and equipping of the Project will promote, stimulate and develop the general welfare and economic prosperity of the City through the promotion and advancement of commercial development of the City and the issuance of the Bonds to pay such costs will be in furtherance of the public purposes set forth in the Act.

Section 2. Intent to Issue Bonds. The Governing Body of the City determines and declares the intent of the City to assist the Company in completing the Project through the issuance of the Bonds pursuant to the Act.

Section 3. Provision for the Bonds. Subject to the conditions of this Resolution, the City will (i) issue its Bonds to pay the costs of acquiring, constructing, improving and equipping the Project, with such maturities, interest rates, redemption terms and other provisions as may be determined by ordinance of the City; (ii) provide for the sublease (with an option to purchase) of the Project to the Company; and (iii) to effect the foregoing, adopt such resolutions and ordinances and authorize the execution and delivery of such instruments and the taking of such action as may be necessary or advisable for the authorization and issuance of the Bonds by the City and take or cause to be taken such other action as may be required to implement this Resolution.

Section 4. No Ad Valorem Tax Exemption. While the Company may request an exemption from ad valorem taxes for the Project at a future date, the City is not considering any such request at this time. No exemption from ad valorem taxes shall result from the issuance of the Bonds without Governing Body approval authorizing such exemption.

Section 5. Conditions to Issuance. The issuance of the Bonds and the execution and delivery of any documents related to the Bonds are subject to:

- (i) obtaining any necessary governmental approvals;
- (ii) agreement by the City, the Company and the purchaser of the Bonds upon (a) mutually acceptable terms for the Bonds and for the sale and delivery thereof, and (b) mutually acceptable terms and conditions of any documents related to the issuance of the Bonds and the Project, including, but not limited to, provisions relating to the security for the payment of the Bonds and provisions relating to the maintenance of the Project;
- (iii) agreement by the City and the Company on mutually acceptable terms and conditions of a payment-in-lieu of tax agreement;
- (iv) payment of all costs of issuance of the Bonds and all other costs and fees of the City, including the City's origination fee; and
- (v) compliance with the Act relating to the issuance of industrial revenue bonds and ad valorem tax exemption.

Section 6. Sale of the Bonds/Authority to Proceed. The sale of the Bonds shall be the responsibility of the Company, but arrangements for the sale of the Bonds shall be subject to the City's approval. The Company is authorized to proceed with the acquisition and completion of the Project (provided all other City approvals and permits have been obtained) and to advance such funds as may be necessary to accomplish such purposes, and to the extent permitted by law, the City shall reimburse the Company for such expenditures out of the proceeds of the Bonds, when and if issued. Notwithstanding such authorization, the Company proceeds at its own risk and if for any reason, the Bonds are not issued, the City shall have no liability to the Company for any reason. The Act provides that the City may only issue the Bonds by adoption of an ordinance authorizing the Bonds and providing for the terms and details of the Bonds. The City has not yet adopted an ordinance. This Resolution only evidences the intent of the current Governing Body to issue Bonds for the Project. Nothing herein shall be construed as a guaranty by the City that the Bonds will be issued.

Section 7. Assignment. The Company may, without the consent of the City but with advance written notice to the City, assign all or a portion of its interest in this Resolution to any Affiliated Entity or, with the prior written consent of the City, to another entity, provided such assignee intends to acquire, equip and construct the Project. For the purposes of this Resolution, "Affiliated Entity" means any entity or person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company. "Control," when used with respect to a particular entity or person, means the possession, directly or indirectly, of the power to direct or cause the direction of management and policies of such entity whether through the ownership of voting stock, by contract or otherwise. The Company may assign all or a portion of its interest in this Resolution to any party that is not an Affiliated Entity only with the consent of the City.

Section 8. Limited Obligations of the City. The Bonds and the interest thereon shall be special, limited obligations of the City payable solely out of the rents, revenues and receipts of the City derived from the sublease of the Project to the Company. The Bonds shall not constitute a general obligation of the City, the State of Kansas or any other political subdivision thereof, shall not constitute a pledge of the full faith and credit of the City, the State of Kansas or any other political subdivision thereof and shall not be payable in any manner by taxation.

Section 9. Origination Fee. The City will charge an origination fee of \$25,000 for the issuance of the Bonds. The origination fee shall be due in full at the time the Bonds are issued. If the Company requests an exemption for ad valorem taxes for the Project and the City grants such request, the City may amend the origination fee for issuing the Bonds at that time.

Section 10. Multiple Series. The Company may elect to issue the Bonds in multiple series. All Bonds or series of Bonds issued under this Resolution must be issued prior to December 31, 2017. If the Bonds are issued in multiple series, the origination fee shall be charged each time a series of Bonds is issued.

Section 11. Further Action. SA Legal Advisors LC, Bond Counsel for the City, and officers and employees of the City, are authorized to work with the purchaser of the Bonds, the Company, their respective counsel and others, to prepare for submission to and final action by the City all documents necessary to effect the authorization, issuance and sale of the Bonds and other actions contemplated hereunder.

Section 12. Effective Date. This Resolution shall take effect and be in full force immediately after its adoption by the Governing Body of the City.

ADOPTED February 25, 2016.

CITY OF EDGERTON, KANSAS

Mayor

(Seal)

ATTEST:

City Clerk

Approved as to form:

Scott W. Anderson, Bond Counsel

AGENDA ITEM INFORMATION FORM

Agenda Item: Consider Resolution No. 02-25-16B Authorizing the Completion of an Application To The Kansas Department Of Health And Environment Regarding A Loan From The Kansas Public Water Supply Loan Fund

Department: Utilities

Background/Description of Item: On November 12, 2015, Edgerton City Council approved the selection of Neptune as Preferred Vendor for Automated Meter Reading Project and authorized staff to submit the project to Kansas Department of Health and Environment as requested project for approximately \$300,000.

This project will include the replacement and upgrade of every water meter in the City of Edgerton system to Advanced Metering Infrastructure (AMI) system. The AMI system provides utilities accurate daily reads, daily flags for leak, tamper, and reverse flow detection, consumption data to assist conservation programs, and final daily reads that eliminate truck rolls for off-cycle automatic meter reading. Additionally it provides historical consumption graphs (both daily and monthly) to assist in addressing high water bill concerns.

The project budget of \$300,000 includes purchase of all the hardware and software for the advanced metering infrastructure, portion of the utility rate study and administrative support of completing the application. Staff anticipates using existing staff for installation of the new meters.

To be eligible for funding through the Kansas Public Water Supply Loan Fund, the city is required to first hold a public hearing as included on the City Council agenda. Following the conclusion of that hearing, City Council may consider Resolution No. 02-25-16B that allows the loan application to be prepared and executed.

The enclosed draft Resolution No. 02-25-16B has not yet been approved by City Attorney. City Attorney will review any suggested changes during February 25, 2016 City Council meeting.

Enclosure: Draft Resolution No. 02-25-16B

Related Ordinance(s) or Statute(s):

Recommendation: Resolution No. 02-25-16B Authorizing the Completion of an Application To The Kansas Department Of Health And Environment Regarding A Loan From The Kansas Public Water Supply Loan Fund

Funding Source: Kansas Public Water Supply Loan Fund

Prepared by: Beth Linn, City Administrator
Date: February 22, 2016

RESOLUTION NO. 02-28-16B

A RESOLUTION AUTHORIZING THE COMPLETION OF AN APPLICATION TO THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT REGARDING A LOAN FROM THE KANSAS PUBLIC WATER SUPPLY LOAN FUND

WHEREAS, the City of Edgerton, Kansas (the "City") is a duly incorporated city of the third class organized under the laws of the state of Kansas (the "State") which operates a public water supply and distribution system (the "System"); and

WHEREAS, the City Council (the "Governing Body") of the City has heretofore determined in to be in the best needs of the customers of the System to undertake certain modifications and improvements (the "Project") to the System; and

WHEREAS, the pursuant to K.S.A. 65-163c *et seq.* (the "Act"), the Kansas Department of Health and Environment ("KDHE") administers the Kansas Public Water Supply Loan Fund (the "Fund") from which loans are made to certain qualified Municipalities (as said term is defined in the Act) to finance modification and improvements to public water supply systems; and

WHEREAS, the City has heretofore made an application to KDHE for a loan in an amount not to exceed \$300,000 (the "Loan") to finance the Project; and

WHEREAS, the Governing Body has conducted a public hearing this date on the advisability of proceeding with the completion of the application for the Loan and desires to authorize the appropriate officials of the City to accomplish the completion process.

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

Section 1. Loan Application. The Mayor and City Clerk of the City are hereby authorized to cause to be prepared and to execute a Loan Application, including all attachments thereto (jointly, the "Application"); in substantially the form presented to the Governing Body this date, in order to provide financing for the Project. The Application shall be forwarded to KDHE as soon as possible.

Section 2. Further Proceedings. The Mayor, City Clerk and the other officers and representatives of the City are hereby authorized and directed to take such other action as may be necessary to complete the Application and to coordinate processing of a loan agreement for the Loan (the "Loan Agreement"); provided that the authorization to execute the Loan Agreement shall be subject to further resolution of the Governing Body.

Section 3. Further Authority. This Resolution shall be in full force and effect from and after its adoption.

Adopted by the Governing Body of the City of Edgerton, Kansas on February 25, 2016.

(SEAL)

Donald Roberts, Mayor

ATTEST:

Janeice Rawles, City Clerk

APPROVED AS TO FORM:

Patrick G. Reavey, City Attorney

AGENDA ITEM INFORMATION FORM

Agenda Item: Consider Ordinance No. 1011 Amending Article 4 of Chapter I of the Edgerton, Kansas Municipal Code to Revise Provisions Pertaining to Investment of the City's Idle Funds

Department: Administration

Background/Description of Item: Article 4 of the Edgerton City Code provides for the investment of the City's idle funds. Several sections of the current City Code are not in compliance with Kansas Statutes. Staff worked with Columbia Capital, City's Financial Advisor, and City Attorney to draft changes to Article 4 to reflect current Kansas Statutes.

Additionally, staff worked with Financial Advisor and City Attorney to update the city's investment policy. This policy previously existed as a stand-alone policy similar to other policies adopted by City Council for finance items such as purchasing policy and purchasing card policy. As time moves on and administrations change, it can be difficult to insure these stand-alone policies remain in practice. Therefore, City Attorney and staff recommend inclusion of the investment policy into City Code.

If the Governing Body approves the new code provision regarding investments, it allows better opportunity for the City to partner with our financial advisor on an investment management program. Additional items for consideration regarding that investment management program will be including on the February 25th City Council meeting.

The enclosed draft ordinance will update Article 4 of the Edgerton City Code to better reflect Kansas statutes and to clarify the implementation of the investment program.

Enclosures: Draft Ordinance No. 1011

Related Ordinance(s) or Statute(s): Article 4 of Chapter I of the Edgerton, Kansas Municipal Code

Recommendation: Approve Ordinance No. 1011 Amending Article 4 of Chapter I of The Edgerton, Kansas Municipal Code to Revise Provisions Pertaining to Investment of the City's Idle Funds

Funding Source: N/A

Prepared by: Karen Kindle, Accountant
Date: February 22, 2016

ORDINANCE NO. 1011

AN ORDINANCE AMENDING ARTICLE 4 OF CHAPTER I OF THE EDGERTON, KANSAS MUNICIPAL CODE TO REVISE PROVISIONS PERTAINING TO INVESTMENT OF THE CITY'S IDLE FUNDS

WHEREAS, the governing body believes it is in the best interest of the city to appoint designated city officials to invest and manage the city's idle funds, and to authorize said officials to work with third party professionals in maximizing the city's earnings on said idle funds; and

WHEREAS, the governing body believes the city should have a published investment policy for the city's idle funds; and

WHEREAS, some of the provisions of Article 4 need to be revised to comport with state statutes.

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

SECTION 1: Article 4 of Chapter I of the Edgerton, Kansas Municipal Code is hereby amended to state the following:

ARTICLE 4. INVESTMENT OF IDLE FUNDS

1-401. PURPOSE AND GOALS. It is the purpose of this article to set forth the public policies of the city relating to the investment of public moneys, and establish procedural requirements as to investment management practices. The objective of the investment policy and program of the city shall be as follows:

- (a) The safeguarding of all public moneys shall be of the highest priority. Public money shall not be invested or managed in any matter which would jeopardize the safety of the principal;
- (b) Consistent with the requirement of safety, the objective of the investment program shall be to aggressively manage and invest all public moneys to maximize net earnings, consistent with the public responsibility to secure maximum, safe investment return possible from moneys assigned to its stewardship, to relieve demands on the property tax and to otherwise reduce the cost of public services. (Code 1984)

1-402. INVESTMENT OF IDLE FUNDS. Temporarily idle moneys of the city not currently needed may be invested consistent with Kansas law and the City's

investment policy, which shall be established and amended from time to time by the governing body.

1-403. PROCEDURES AND RESTRICTIONS. The governing body shall appoint from time to time one or more city officials to administer the City's investment program (the Authorized Officials). Such Authorized Officials shall periodically report to the governing body as to the amount of monies available for investment and the period of time such amounts will be available for investment. The Authorized Officials shall provide for an investment program either directly or through one more contracts with qualified third parties to limit the amounts invested, and schedule the maturities of investments, so that the city will, at all times, have sufficient monies available on demand deposit to assure prompt payment of all city obligations. (Code 1984)

1-404. CUSTODY AND SAFEKEEPING. Securities purchased pursuant to this article shall be under the care of the Authorized Officials appointed in §1-403 and shall be kept by such officer consistent with Kansas law. Securities in the original or receipt form shall be held in the name of the city, and their redemption, transfer, or withdrawal shall be permitted only upon the written instruction of the Authorized Officials. Securities not held in the custody of a bank or trust company shall be personally deposited by Authorized Officials in a safety deposit box in the name of the city in a bank or trust company, access to which shall be permitted only in the personal presence and under the signature of any two of the following; mayor, city clerk, city treasurer, or the president of council. (Code 1984)

1-405. SALE OR TRANSFER. If, in order to maintain sufficient monies on demand deposits in any fund as provided in section 1-403, it becomes necessary to transfer or sell any securities of such funds, the Authorized Officials may transfer said securities to any other fund or funds in which there are temporarily idle monies, or shall sell such securities, and for such purpose they shall have authority to make any necessary written direction, endorsement or assignment for and on behalf of the city. (Code 1984)

1-406. INTEREST ON TIME DEPOSITS. The city clerk shall deposit the interest earned on invested idle funds to the various city funds in an amount proportionate to the actual amount invested from each such fund, unless otherwise provided by law. (Ord. 547, Sec 1)

1-407. CITY INVESTMENT POLICY. The City's Investment Policy is as follows:

(a) SCOPE

These procedures shall apply to the investment activities of the City of Edgerton, Kansas

and the financial assets of all funds entrusted to its care.

(b) PURPOSE

The City's investment program will invest financial assets as directed by the City Administrator. In order of importance, the primary objectives of all such investments shall be the safety of principal, maintenance of adequate liquidity, and return on investment. The City Administrator may delegate his/her responsibilities under this Purpose to third-parties approved by the governing body.

(c) OBJECTIVES

The City of Edgerton recognizes that effective cash management is an integral component of good financial management. It shall be the policy of the City that funds deemed idle, based on projected cash flow, be invested in a manner that seeks to maximize their productivity until such time as they are needed for the operations of the City. The City's investment portfolio shall be designed and managed in accordance with this policy to ensure public trust and be consistent with state and local laws. Investments shall be at the highest rates obtainable at the time of the investment, within the limitations of the law and the city's prudent investment policy in accordance with the following criteria.

SAFETY: Safety of principal will be the foremost objective of the investment program for the City of Edgerton. Each investment will be made in a manner, which ensures the preservation of capital in the portfolio. The City shall diversify (where prudent judgment dictates) its investments so that reliance on any one issuer (financial institution) or investment type will not place an undue burden on the City.

LIQUIDITY: The City of Edgerton shall remain sufficiently liquid so as to meet all operating needs and expenses. The City will consider liquidity as a priority, while still recognizing the need to maximize yield. Early redemption risk shall be minimized by diversification of investment types.

RETURN ON INVESTMENT: The investment portfolio shall be designed to attain a market-average rate of return throughout budgetary and economic cycles, taking into account the City's investment risk constraints, state statutes and cash flow needs of the City. Investments shall be made at the highest rates obtainable at the time of investment, within the limitation of the law and the City's prudent investment policy.

(d) PRUDENCE

All investment officials shall use the prudent person rule when investing City funds. The rule states that "investments shall be made with judgment and care, under

circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.”

Those involved in the investment process shall seek to act responsibly as custodians of the public trust. Investment officials shall avoid any transaction that might impair public confidence in the effectiveness of the government of the City of Edgerton.

Investment officers acting in accordance with written procedures and exercising due diligence shall be relieved of personal responsibility for a specific security’s credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

(e) LEGAL AUTHORITY—IDLE FUNDS NOT COVERED BY K.S.A. 10-131.

1. All investments purchased under this policy shall be governed by K.S.A. 12-1675, *et seq.*, K.S.A. 12-1677(b), *et seq.* and K.S.A. 10-131, *et seq.*, as applicable.
2. With respect to the City’s idle funds not covered by K.S.A. 10-131, the City shall first offer idle funds for deposit in commercial banks and savings and loans with physical locations within the city of Edgerton pursuant to KSA 12-1675:
 - (a) Savings deposits, time deposits, open accounts, certificates of deposit or time certificates of deposit with maturities of not more than two years (including certificates of deposits under the CDARS program) in banks, savings and loan associations and savings banks which have main or branch offices located within the corporate boundaries of the City, such institutions being those listed in **Attachment A** (the “Bank Deposits”); or
 - (b) Repurchase agreements with banks, savings and loan associations and savings banks, which have main or branch offices located within the corporate boundaries of the City, for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof.
- (3) In the event banks, savings and loan associations and savings banks eligible for investments in savings deposits, time deposits, open accounts, certificates of deposit or time certificates of deposit with maturities of not more than two years cannot or will not make such investments available to the City at interest rates equal to or greater than the rate set forth in K.S.A. 12-1675a(g), the City may then invest idle

funds not covered by K.S.A. 10-131 in the following:

- (a) Direct obligations of or obligations that are insured as to principal and interest by the United States or any agency thereof, not including mortgage-backed securities, with maturities as the governing body shall determine, but not exceeding two years. Such investment transactions shall only be conducted with banks, savings and loan associations and savings banks; the federal reserve bank of Kansas City, Missouri; or with primary government securities dealers which report to the market report division of the federal reserve bank of New York, or any broker-dealer engaged in the business of selling government securities which is registered in compliance with the requirements of section 15 or 15C of the securities exchange act of 1934 and registered pursuant to K.S.A. 17-12a401, and amendments thereto;
- (b) The municipal investment pool fund established in K.S.A. 12-1677a, and amendments thereto;
- (c) Multiple municipal client investment pools managed by the trust departments of banks which have main or branch offices located in Johnson County or with trust companies incorporated under Kansas law which have contracted to provide trust services under the provisions of K.S.A. 9-2107 with banks that have main or branch offices located in Johnson County; or
- (d) General obligation municipal bonds or other general obligations issued by any municipality of the state of Kansas as defined in K.S.A. 10-1101.

(f) LEGAL AUTHORITY—BOND AND TEMPORARY NOTE PROCEEDS

Bond and note proceeds, as well as the balances in a capital improvement fund created pursuant to K.S.A 12-1,118, may be invested in accordance with K.S.A. 10-131. Permitted investments include:

1. Investments authorized by KSA 12-1675 *et seq.*
2. Municipal investment pool.
3. Direct obligations of the United States government or agency thereof.
4. Temporary notes of the City.

5. Interest-bearing time deposits in commercial banks located in Johnson County.
6. Obligations such as the Federal National Mortgage Association, Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation or other qualified obligations.
7. Money market funds investing solely in US Treasuries and Agencies.
8. Receipts evidencing ownership interest in US Treasuries and Agencies.
9. Repurchase agreements for securities described in (3) or (6).
10. Municipal bonds or other obligations issued by any Kansas municipality bearing that municipality's general obligation.
11. Bonds of any Kansas municipality that have been advance refunded and are fully secured as to payment of principal and interest by US Treasuries and Agencies.

The City will credit interest earned on bond proceeds toward the payment of principal and interest on such bonds or to pay project costs for the bond-financed project.

(g) SECURITY FOR DEPOSITS

All deposits of City monies will be secured by the bank, trust company, savings and loan, or federally chartered savings bank pursuant with KSA 9-1402 in the following manner:

1. All deposits shall carry FDIC, or
2. If deposits on-hand at any eligible depository of the City exceed the then applicable FDIC insurance limit, such depository is required to pledge collateral, including securities with a market value equal to not less than 100% of City deposits on hand (less the FDIC insurance limit per institution).
3. In addition to those methods of collateral posting described in KSA 9-1402(b) and KSA 9-1402(c), depositories may pledge eligible securities against City deposits pursuant to KSA 9-1402(d), limited to those listed below. The City may, at its sole discretion, reject any pledged securities proposed by any institution, except for those provided in subsections a and b of the below list:
 - a. A personal bond of the bank, savings and loan association or savings bank in double the amount which may be on deposit at any given time.
 - b. A corporate surety bond of some surety corporation authorized to do business in this state, which bond shall be in an amount equal to the public moneys or funds on deposit at any given time less the amount of

such public moneys or funds which is insured by the federal deposit insurance corporation or its successor and such bond shall be conditioned that such deposit shall be paid promptly on the order of the municipal corporation or quasi-municipal corporation making such deposits.

- c. Direct obligations of or obligations insured by the United States Government. (By policy, market value equal to or exceeding 100% of deposits on hand.)
- d. Bonds of any Kansas municipality or quasi-municipality that have been refunded in advance of their maturity and are fully secured by an irrevocable escrow consisting of non-callable US Treasuries and Agencies. (By policy, market value equal to or exceeding 100% of deposits on hand.)
- e. Bonds of the State of Kansas. (By policy, market value equal to or exceeding 102% of deposits on hand.)
- f. General obligation bonds of any Kansas municipality. (By policy, market value equal to or exceeding 102% of deposits on hand.)
- g. Revenue bonds of any Kansas municipality or quasi-municipality. (By policy, market value equal to or exceeding 105% of deposits on hand.)
- h. Temporary notes of any Kansas municipality or quasi-municipality. (By policy, market value equal to or exceeding 102% of deposits on hand.)

With respect to subsections c through h, the City will generally reject any security which does not carry a price on the Bloomberg Professional Service or which requires a dealer quotation to determine a price.

4. Custody of Collateral.

- a. The City may, at its sole discretion, permit the Federal Reserve Bank or the Federal Home Loan Bank of Topeka to hold such pledged securities on its behalf with joint custody receipts to be issued for all securities pledged to the City.
- b. Alternatively, the City may designate a Kansas bank or trust company not affiliated with the financial institution pledging the securities to serve as the City's third-party collateral agent.
- c. The City will use its best efforts to perfect its lien in pledged securities pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(h) DESIGNATION OF DEPOSITORIES AND CUSTODIANS

The City of Edgerton may deposit idle funds with depositories having offices located in the City of Edgerton as provided by K.S.A. 9-1401. Prior to any deposit with such firms, the governing body shall pass a resolution naming the banks that shall serve as

a depository of City funds. A list of qualified depositories so appointed is included as **Attachment A** to this Policy.

The City will perfect all securities, including those acquired by repurchase agreements, in its name and may use a third-party custodian, including the State Treasurer or such other custodian as appointed by the City Administrator, to hold such securities.

(i) INVESTMENT SAFEGUARDS

1. **PORTFOLIO COMPONENTS:** The City will manage its investments at the pooled cash level, using four portfolios: (1) a portfolio sized to meet the maximum typical monthly cashflow needs of the City; (2) a portfolio sized to meet the extraordinary cashflow needs of the City, including the periodic payment of debt service; (3) a portfolio related to the investment of bond proceeds and idle cash of a multiyear capital improvements fund; and (4) a portfolio intended primarily to provide investment income.
2. **ETHICS AND CONFLICT OF INTEREST:** Those involved in the investment process shall refrain from personal business activity that could conflict with the proper executions and management of the investment program, or that could impair their ability to make impartial decisions. Investment and management staff shall refrain from undertaking personal investment transactions with the same individual with which business is conducted on behalf of the City.
3. **AUDIT REVIEW:** Investment staff will prepare such reports as required for the City's external auditor to review statutory compliance and internal controls.

(j) INVESTMENT PROCEDURES

1. The City will create and review, at least once annually, a list of banks, savings and loan associations and savings banks which have main or branch offices located within the corporate boundaries of the City (the "Local Banks"). The City Administrator will seek approval by the Governing Body for any changes to the list of Local Banks.
2. The City will seek assurance from broker-dealers from which it seeks investment offers that such broker-dealers are qualified to do business in the state of Kansas (the "Qualified Dealers").
3. For any period, not to exceed two months, in which the City projects to have net new idle cash available for investment under KSA 12-1675 (the "Periodic Subscription"):

- a. The City will bid such expected amounts to all Local Banks consistent with the requirements of K.S.A. 12-1675.
- b. If one or more Local Banks are unable to completely invest the Monthly Subscription at interest rates at or exceeding the rates listed at <https://pooledmoneyinvestmentboard.com/investmentrates.html> for comparable terms, the City may invest in alternative permitted investments listed in Section (f) above.
- c. The City may issue requests for offers:
 - i. for specific investments at specific terms (for example, a two-year certificate of deposit);
 - ii. in a “proposals wanted” format, where the City identifies the terms and amounts of investments desired and responding bidders identify proposed securities matching those requirements (for example, any permitted security maturing during February and March of 2014); and
 - iii. in any other manner not inconsistent with State law or this policy that promotes open and fair competition for the City’s investments.
- d. For any investments placed through Qualified Dealers, the City will send bid specifications to no fewer than three (3) Qualified Dealers, except for US Treasuries which may be bid to two (2) or more Qualified Dealers.
- e. The City will conduct all bids for securities through Local Banks or Qualified Dealers in writing and will maintain a record of all such bids, including a list of firms to which bid specifications were sent, a list of those responding and details on bids received, accepted and rejected. The City shall maintain such records for the current and most recent fiscal years.
- f. The City will generally accept the bid for the lowest-cost/high-yielding investment but may also consider differences in final maturity for each security offered, the impacts of call provisions and credit quality of securities offered.
- g. The City will settle all securities purchases on a delivery-versus-payment (“DVP”) basis, by wiring Federal funds to its custodian on the date of settlement of such securities.
- h. Notwithstanding any other requirement herein, the City may accept unsolicited offers for investments that, in the opinion of the City Administrator or his/her designee, allow the City to meet its overall

investment objectives and might not be available if the City were to use its normal bidding process. The City Administrator or his/her designee will use his/her best efforts to ensure the pricing on such unsolicited offers is reasonable given market conditions and other similar securities in the market.

4. At any time the City has funds available for investment under KSA 10-131:
 - a. The City may issue requests for offers:
 - i. for specific investments at specific terms (for example, a two-year certificate of deposit);
 - ii. in a “proposals wanted” format, where the City identifies the terms and amounts of investments desired and responding bidders identify proposed securities matching those requirements (for example, any permitted security maturing during February and March of 2014); and
 - iii. in any other manner not inconsistent with State law or this policy that promotes open and fair competition for the City’s investments.
 - b. The City may, but is not required to, bid such or all of such amounts to Local Banks in such terms as the City determines.
 - c. For any investments placed through Qualified Dealers, the City will send bid specifications to no fewer than three (3) Qualified Dealers, except for US Treasuries which may be bid to two (2) or more Qualified Dealers.
 - d. The City will maintain a record of all such bids, including a list of firms to which bid specifications were sent, a list of those responding and details on bids received, accepted and rejected. The City shall maintain such records for the current and most recent fiscal years.
 - e. The City will settle all securities purchases on a delivery-versus-payment (“DVP”) basis, by wiring funds to its custodian on the date of settlement of such securities.
 - f. Notwithstanding any other requirement herein, the City may accept unsolicited offers for investments that, in the opinion of the City Administrator or his/her designee, allow the City to meet its overall investment objectives and might not be available if the City were to use its normal bidding process. The City Administrator or his/her designee will use his/her best efforts to ensure the pricing on such unsolicited offers is reasonable given market conditions and other similar securities in the market.

(k) DIVERSIFICATION & CREDIT QUALITY

1. The City imposes no restrictions on the amount of Bank Deposits it can hold in its investment portfolio.
2. The City imposes no restrictions on the amount of U.S. Treasury or Agency obligations (including receipts evidencing ownership in such securities) it can hold in its investment portfolio.
3. The City limits the amount of repurchase agreements it can hold to no more than 50% of its portfolio.
4. The City limits the amount of investments in the Municipal Investment Pool to no more than 30% of its portfolio, except in the months of January, February, July and August of each year (during which months the City may use the MIP to hold funds pending deposit with the State Treasurer for payments of principal and interest on its bonds).
5. The City imposes no restrictions on the amount of municipal refunding bonds with principal and interest fully secured by an irrevocable deposit of US Treasuries and Agencies it can hold in its portfolio.
6. The City limits the amount of Kansas general obligation bonds with a credit rating below “A3”, “A-”, or “A-” from Moody’s, Standard and Poor’s or Fitch, respectively, to no more than 10% of its portfolio.
7. The City limits the amount of Kansas general obligation bonds with a credit rating of “A3”, “A-”, or “A-” or higher from Moody’s, Standard and Poor’s or Fitch, respectively, to no more than 35% of its portfolio.

The above policies shall remain in full force and effect until amended at the direction of the governing body. If, after adoption of this policy, there is any conflict of this policy with Kansas’ laws and/or statutes, the Kansas laws and/or statutes will dictate.

ATTACHMENT A

Banks, savings and loan associations and savings banks which have main or branch offices located within the corporate boundaries of the City:

INSTITUTION	ADDRESS	PHONE
Central Bank of the Midwest	405 E. Nelson	913-856-1070

SECTION 2: Repeal. Former Article 4 of Chapter I 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 25th DAY OF FEBRUARY, 2016.

Donald Roberts, Mayor

ATTEST:

Janeice Rawles, City Clerk

APPROVED AS TO FORM:

Patrick G. Reavey, City Attorney

AGENDA ITEM INFORMATION FORM

Agenda Item: Consider Resolution No. 02-25-16C Appointing City Officials Responsible For Implementation of City Investment Management Program

Department: Administration

Background/Description of Item: Resolution No. 02-25-16C appoints the city officials responsible for implementation of the city investment management program. This resolution is the second step in updated the city's policy regarding investment of idle funds. By adopting this resolution, the governing body of the City appoints the City Administrator and the Community Development Director as administrators ("Qualified Administrators") of the City's investment management program.

This resolution also provides authority to those Qualified Administrators to open or close bank and brokerage accounts in the City's name and may transfer, endorse, sell, assign, set-over and deliver securities and bank products in the name of the City, purchase securities and bank products in the name of the City and make, execute and deliver any and all written instruments necessary or proper to effectuate the powers conferred by this resolution, so long as such actions are consistent with the Pertinent State Statutes. Finally, it provides the Qualified Administrators ability delegate some or all of their investment management duties to other City employees or to third-parties when such third-parties have entered into formal arrangements with the City to do so.

City Attorney has reviewed and approved the draft resolution attached.

Enclosures: Draft Resolution 02-25-16C

Related Ordinance(s) or Statute(s): Article 4 of Chapter I of the Edgerton, Kansas Municipal Code

Recommendation: Consider Resolution No. 02-25-16C Appointing City Officials Responsible For Implementation of City Investment Management Program

Funding Source: N/A

Prepared by: Karen Kindle, Accountant

Date: February 11, 2016

RESOLUTION NO. 02-25-16C

A RESOLUTION APPOINTING CITY OFFICIALS RESPONSIBLE FOR IMPLEMENTATION OF CITY INVESTMENT MANAGEMENT PROGRAM.

WHEREAS, the Code of the City of Edgerton, Kansas (the "Code"), provides the Governing Body of the City with the power to appoint one or more authorized officials to implement and administer the City's investment program; and

WHEREAS, the Code permits the investment program to be administered by City staff or by third parties; and

WHEREAS, the Governing Body wishes to formalize its direction that the City Administrator implement a comprehensive investment management program; and

WHEREAS, all activities conducted within the investment management program will be performed in concert with applicable state statutes, including but not limited to K.S.A. 12-1675 *et seq.*, K.S.A 12-1677b *et seq.*, and K.S.A. 10-131 (the "Pertinent State Statutes").

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:

Section 1. Appointment of Officials Responsible for Administering the City's Investment Management Program. The governing body of the City hereby appoints the City Administrator and the Community Development Director as administrators ("Qualified Administrators") of the City's investment management program.

Section 2. Authority to Manage Accounts and Make Investments. Each Qualified Administrator may open or close bank and brokerage accounts in the City's name and may transfer, endorse, sell, assign, set-over and deliver securities and bank products in the name of the City, purchase securities and bank products in the name of the City and make, execute and deliver any and all written instruments necessary or proper to effectuate the powers conferred by this resolution, so long as such actions are consistent with the Pertinent State Statutes.

Section 3. Authority to Delegate. The Qualified Administrators are further authorized to delegate some or all of their investment management duties to other City employees or to third-parties when such third-parties have entered into formal arrangements with the City to do so. Any such delegates must possess the necessary skills and abilities to capably administer the duties assigned to them in the reasonable determination of a Qualified Administrator. Notwithstanding the powers conferred by this paragraph, no one other than a Qualified Administrator is permitted to open or close any bank or brokerage account on behalf of the City.

PASSED by the Governing Body of the City on February 25, 2016 and **APPROVED AND SIGNED** by the Mayor.

(SEAL)

Donald Roberts, Mayor

ATTEST:

Janeice L. Rawles, City Clerk

APPROVED AS TO FORM:

Patrick G. Reavey, City Attorney

AGENDA ITEM INFORMATION FORM

Agenda Item: Consider an Investment Advisory Agreement with Columbia Capital Management, LLC

Department: Administration

Background/Description of Item: This Agreement is the third step in updating the city's investment program. Updating the city's investment of idle funds policies allows the City to consider contracting with the City's Financial Advisor to provide additional services with regard to investment of funds. Staff recommends the appointment of Columbia Capital Management, LLC to serve as the City's third-party investment manager.

Among its services as third-party investment manager, Columbia Capital will:

- Design the structure of the City's investment management program
- Ensure the City's compliance with the statutory "bank first look" requirement for the investment of idle funds
- Manage the custody of securities owned by the City
- Provide portfolio management services
- Account for and report on the City's investment
- Value bank collateral of the City's deposits
- Coordinate any required reporting with the City's external auditors

Columbia Capital provides similar services to a number of other Kansas communities, including Prairie Village, Roeland Park and Merriam.

Columbia Capital proposes fees of \$1,000 per calendar quarter until the City's cash and investments exceed \$8 million on average. At that point, its fees will be calculated as 0.15% of the City's total cash and investments per year, paid quarterly. Staff anticipates additional revenue generated by the investment program will fund the investment management services.

The enclosed Investment Advisory Agreement has been reviewed and approved by the City Attorney.

Enclosures: Draft Investment Advisory Agreement

Related Ordinance(s) or Statute(s): Article 4 of Chapter I of the Edgerton, Kansas Municipal Code

Recommendation: Approve an Investment Advisory Agreement with Columbia Capital Management, LLC

Funding Source: General – General Government – Financial Services

Prepared by: Karen Kindle, Accountant

Date: February 11, 2016

INVESTMENT ADVISORY AGREEMENT

This Investment Advisory Agreement (this “Agreement”), made as of this ____ day of _____, 2016, by and between the City of Edgerton, Kansas (the “City”) and Columbia Capital Management, LLC (the “Adviser”).

WITNESSETH

WHEREAS, the City is duly constituted city of the third class of the State of Kansas; and

WHEREAS, the City seeks to properly manage and invest the idle funds and bond proceeds of the City pursuant to Kansas law, including but not limited to K.S.A. 12-1675 *et seq.* and K.S.A. 10-131 *et seq.*; and

WHEREAS, the City desires to appoint the Adviser as the investment adviser to assume the responsibilities of investment management of the pooled cash of the City including all idle funds, cash, deposits, investments, capital accounts and bond proceeds (the “Accounts”); and

WHEREAS, the City has the right pursuant to K.S.A. 12-1675(e)(2) to appoint one or more third-party custodians to hold cash and securities in its name and intends to appoint a custodian to further this Agreement (the “Custodian”).

NOW THEREFORE, in consideration of the mutual promises and agreements herein contained, the City and the Adviser hereby agree as follows:

- 1. Appointment of Adviser.** The City hereby appoints Adviser to act as the investment adviser with respect to the assets in the Accounts. Adviser does hereby accept said appointment as an investment adviser under the Accounts. By accepting such appointment, Adviser agrees that at all times it shall act in accordance with the terms and conditions of this Agreement and all other provisions of law applicable to this undertaking.
- 2. Fiduciary.** In addition to, but not in lieu of any and all applicable fiduciary standards imposed under federal or state law, Adviser shall act as a fiduciary with respect to the assets it manages pursuant to this Agreement. As a fiduciary, Adviser shall perform its duties under this Agreement with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in an enterprise of like character and with like aims.

3. Investment Management Services.

- a. Adviser's scope of services shall include:
 - i. Providing recommendations to the City regarding updating, developing and maintaining an investment policy for the City, consistent with various Kansas statutes pertaining to deposits, investments and collateral management. Philosophically, the City's investments will be evaluated for safety, liquidity and yield, in that order, with the recognition that ensuring adequate liquidity is also often the best way to preserve principal (safety).
 - ii. Implementing an investment strategy that allocates the City's pooled cash into multiple subportfolios with the investments in each subportfolio targeted to the unique needs for and statutory constraints on those subportfolios. Subordinate to the core investment goals of preserving principal and providing adequate liquidity, Adviser shall seek to maximize income from the portfolio that the City can use to support its operations.
 - iii. Adviser will ensure the City is compliant with all Kansas statutory requirements, including K.S.A. 12-1675 et seq., giving local banks a "first look" at the City's investment opportunities.
 - iv. Monitoring and marking-to-market the collateral posted by the City's bank depositories on a weekly basis to ensure compliance with state law and City policy.
 - v. Selecting investment securities for the City's portfolio, consistent with state law and the City's investment policy.
 - vi. Providing monthly portfolio reporting to the City, including information on holdings, transactions, portfolio income and performance.
 - vii. Working with the city attorney to draft an ordinance designating certain of the City's funds as multi-year capital funds.
 - viii. Providing the City with general market information, ad hoc reporting and other routine requests related to investment management.
- b. Adviser shall invest and otherwise manage the assets held by the City, its banks and any Custodian in the Accounts. Responsibility for the investment and management is assigned to Adviser by the City.

Adviser shall have sole discretion with respect to investment of funds in the Accounts without prior consultation with the City; however, Adviser shall be bound by such written investment policy objectives and guidelines for the management of the assets as shall from time to time be provided to Adviser by the City. Adviser shall have the authority to select the brokerage firms, consistent with the requirements of K.S.A. 12-1675(b)(4), through which orders will be placed. Adviser may combine orders for the Accounts with orders for other accounts or funds under management. Adviser shall effect all purchases and sales of securities in a manner consistent with the principles of best execution, taking into account net price (including commissions) and execution capability and other services that the broker or dealer may provide. Adviser shall use investment strategies designed to ensure that all securities transactions are executed in such a manner that the total explicit and implicit costs and total proceeds in every transaction are the most favorable under the circumstances. Adviser shall issue suitable instructions to the Custodian with respect to deliveries and payments.

4. Duties of the City. In order to fully effect this agreement, the City agrees to:

- a. Timely provide Adviser with balances, account statements and interest earned on the City's funds and accounts.
- b. Upon request, provide Adviser with historical account balances and monthly account cash flows to permit Adviser to properly determine required liquidity.
- c. Upon request and with reasonable notice, respond to Adviser's requests to move money via Federal Reserve wire or other means between the City's various accounts as necessary to effect the investment plan.

5. Custodian. Pursuant to K.S.A. 12-1675(e)(1), the City shall instruct the Custodian to deliver securities sold and pay for securities purchased, including all expenses relating to the purchase and sale of such securities, such as brokerage commissions and transfer taxes, in accordance with copies of confirmations provided to the Custodian by Adviser.

6. Potential Conflicts of Adviser. It is understood that Adviser will be acting in a similar capacity for other institutional clients, including other municipal governments in Kansas and that investments and reinvestments for the Accounts of the City may differ from those made or recommended with respect to the accounts and clients even though the investment objectives may be the same or similar; however, Adviser shall allocate investment opportunities among clients on a fair and equitable basis. In addition, Adviser serves as financial advisor to municipal governments within and beyond

Kansas that issue bonds, including, in the case of Kansas issuers, bonds eligible for investment by the City. To prevent any appearances of favoring an issuer client over an investment client, or of favoring an investment client over an issuer client, it is the policy of Adviser to not purchase bonds of a client issuing bonds in the primary market on behalf an investing client or to purchase callable bonds of an issuer client at any time on behalf of an investing client. This policy serves to protect both clients from potential conflicts but may limit investment opportunities for the City from time to time.

7. Directions to Adviser. The names, titles and authorities of the individuals authorized to act on behalf of the City with respect to the Accounts and this Agreement are set forth in ***Schedule A*** to this Agreement, which is attached hereto and incorporated herein, and which may be amended in writing at any time by the City with notice provided to Adviser. Adviser may include information regarding the Accounts in aggregate performance data of Adviser that does not identify the City.

8. Management Fees. Adviser will be compensated for its services under this Agreement (a) until the City's typical pooled cash and bond proceeds balances equal \$8,000,000, a monthly fee of \$1,000 billed quarterly and (b) at such time as the City's typical pooled cash and bond proceeds balances equal \$8,000,000, an amount equal to 0.15% of the market value of the Accounts, billed quarterly in arrears based upon the average of the month-end Account balances for such quarter. Market value, including accrued income, will be determinative for the purpose of calculating fees. Such amount shall be the sole compensation owing by reason of investment advisory services under this Agreement. The fee for services for any period less than a full quarterly period will be pro-rated on a daily basis on the annualized fee for the period and, as applicable, on the market value of the portfolio as described on the final date of such period.

9. Insurance. Adviser shall secure and maintain throughout the term of the Agreement professional liability insurance in an amount not less than \$1,000,000.

10. Notice of Events. Adviser shall provide written notice to the City regarding certain events pertaining to the Accounts and/or Adviser. Such notice shall include, at a minimum, the date, identification and description of the event triggering the notice requirement and shall be signed by an authorized party of Adviser.

a. Written notice shall be furnished immediately upon the occurrence of any of the following events:

i. A material adverse change to Adviser's financial condition or status;

- ii. Adviser's insolvency, filing of a petition in bankruptcy, becoming party to an involuntary bankruptcy proceeding, or Adviser making an assignment for the benefit of creditors;
 - iii. Any material violation or incidence of non-compliance with the City's investment policy objectives and guidelines;
- b. Adviser agrees to furnish written notice to the City within ten (10) business days, if any of the following events occur:
 - i. A material change(s) in senior officers or senior personnel involved in the management of the Accounts;
 - ii. A material change(s) in ownership of Adviser, including the addition or departure of any person owning five (5) percent or more of the membership interests in Adviser;
 - iii. Any significant legal actions instituted against Adviser or its members; and
 - iv. Any investigations, examinations or other proceedings commenced by any governmental or regulatory agency, which are not conducted in the ordinary course of Adviser's business, including investigations, examinations or other proceedings involving Adviser's members.

11. Term of Agreement. This Agreement shall commence on the date hereof and shall continue until it is terminated by the City or Adviser. Adviser may terminate this Agreement at any time with sixty (60) days' prior written notice to the City. The City may terminate this Agreement at any time after September 30, 2016, with sixty (60) days' prior written notice. Adviser understands and agrees that Adviser's fiduciary responsibilities under this Agreement extend through the orderly wind-up and transfer of the Accounts to any party or entity designated by the City, and, if Adviser is so directed by the City, such responsibilities may include decisions related to the liquidation or conversion of specific investments within the Accounts. The City's obligation to pay Adviser's fees for investment advisory services shall cease upon the later of: (i) termination of this Agreement, or (ii) completion of the orderly wind-up and transfer of the Accounts and removal of all assets under management.

12. Governing Law. Adviser shall comply with all applicable laws of the State of Kansas and the United States of America. Regulatory reports required under laws applicable to Adviser by any regulatory authority shall be the responsibility of Adviser. This Agreement shall be construed and governed in accordance with the laws of the State of Kansas to the extent that such laws are not pre-empted by the laws of the United States of America. By entering into this Agreement, Adviser agrees to submit to the exclusive jurisdiction of the

state and federal court of Kansas and agrees that any action or proceedings against the City arising out of or in connection with this Agreement shall be instituted in the District Court of Johnson County, Kansas.

13. Notices. All notices required by this Agreement shall be effective:

- a. if sent by certified or registered mail, return receipt requested, by United States express mail, or by courier service, then when actually received;
- b. if sent by facsimile transmission, then on the date sent, provided confirmatory notice is sent via electronic mail;
- c. if sent by electronic mail, then on the date sent;
- d. if delivered by hand, then on the date so delivered.
- e. Notice shall be addressed to the respective parties as follows:
 - i. to the Adviser:

Columbia Capital Management, LLC
c/o Chief Compliance Officer
6330 Lamar, Suite 200
Overland Park, Kansas 66202

- ii. to the City:

City of Edgerton, Kansas
c/o City Administrator
404 East Nelson
Edgerton, Kansas 66021

14. Assignment. No party may assign this Agreement, in whole or in part, nor delegate except as contemplated herein all or part of the performance of duties required of it by this Agreement without the prior consent of the other party, and any attempted assignment or delegation without such consent shall be void.

15. Affiliates. Adviser shall disclose the names and addresses of: (i) Adviser; (ii) any entity that is a parent of, or owns a controlling interest in, Adviser; (iii) any entity that is a subsidiary of, or in which a controlling interest is owned by, Adviser; (iv) any persons who have an ownership or distributive income share in Adviser that is in excess of 5%; or (v) any persons who serve as executive officers of Adviser. Such disclosure shall be provided in ***Schedule B*** to this Agreement, which is attached hereto and incorporated herein.

16. Execution of Originals. This Agreement may be executed in two or more counterparts.

17. No Waiver. A party's failure at any time to enforce any of the provisions of this Agreement or any right with respect thereto, will not be construed to be a waiver of such provision or right, or to affect the validity of this Agreement. The exercise or non-exercise by a party of any right under the terms or covenants herein shall not preclude or prejudice the exercising thereafter of the same or other rights under this Agreement.

18. Legality. If any provision of this Agreement shall be held invalid, illegal or unenforceable, the validity, legality or enforceability of the other provisions of this Agreement shall not be affected, and there shall be deemed substituted for the provision at issue a valid, legal and enforceable provision as similar as possible to the provision at issue.

19. Related Activities. The parties acknowledge Adviser's existing agreement with the City to provide financial advisor services with respect to the City's debt management and debt issuance. In the event Adviser or the City Administrator determines that, as to a particular investment transaction or strategy, Adviser cannot objectively and ethically operate in the dual role of investment Adviser and financial Adviser, then Adviser agrees to so notify the City of this, and the City may retain a substitute financial advisor to provide the City guidance on the particular investment transaction or strategy, and Adviser will abide by the City's direction based on the consult from the substitute financial advisor.

20. Appropriation. Any amount of compensation due according to the terms of this Agreement for which an appropriation is required and for which no appropriation has been authorized by the Edgerton City Council shall not be due and payable and this Agreement shall become null and void as to such compensation unless and until the required appropriation is made.

21. Adviser Certifications, Representations and Acknowledgements. Adviser hereby certifies, represents, and acknowledges as follows:

a. Adviser (i) is registered as an "investment adviser" under the Investment Advisers Act of 1940 as amended (the "Advisers Act"); (ii) will promptly advise the City if at any time during the term of this Agreement Adviser ceases being so registered; and (iii) has delivered to the City a copy of Part II of its Form ADV or comparable Brochure pursuant to the Advisers Act;

b. Adviser is a fiduciary with respect to the assets it manages pursuant to this Agreement;

c. Prior to the execution of this Agreement, Adviser has disclosed to the City any action, event or occurrence that would be reportable in Section 11 of Adviser's next ADV filing with the Securities and Exchange Commission;

d. Adviser and members: (i) are not legally prohibited from contracting with the City and (ii) have no public or private interest, direct or indirect, and shall not acquire directly or indirectly any such interest, which does or may conflict in any manner with the performance of Adviser's obligations under this Agreement;

e. Adviser did not retain a person or entity to influence (i) the outcome of the investment decision made by the City with respect to Adviser or (ii) the procurement of investment advice or services by the City with respect to Adviser, for compensation, contingent in whole or in part, upon the decision or procurement; and

f. Adviser is duly authorized and fully empowered to execute, deliver and perform this Agreement.

IN WITNESS WHEREOF, the parties hereto, have executed this Agreement as of the day and year first above written.

THE CITY OF EDGERTON, KANSAS

{City Seal}

ATTEST:

By: _____
Donald Roberts, Mayor

By: _____
Janeice L. Rawles, City Clerk

APPROVED AS TO FORM:

By: _____
Patrick G. Reavey, City Attorney

COLUMBIA CAPITAL MANAGEMENT, LLC

By _____
Jeff White, Principal

SCHEDULE A—CITY OFFICIALS AUTHORIZED TO TAKE ACTION
UNDER THIS AGREEMENT

City Administrator
Community Development Director

SCHEDULE B—ADVISER NAME, ADDRESS AND OWNERSHIP

Columbia Capital Management, LLC
6330 Lamar, Suite 200
Overland Park, Kansas 66202

Dennis Lloyd	40%
Jeff White	40%
Kelsi Spurgeon	20%