

**City of Edgerton, Kansas**  
**Minutes of City Council Regular Session**  
**February 11, 2021**

A Regular Session of the City Council (the Council) was held in the Edgerton City Hall, 404 E. Nelson Edgerton, Kansas on February 11, 2021. The meeting convened at 7:00 PM with Mayor Roberts presiding.

**1. ROLL CALL**

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

With a quorum present, the meeting commenced.

Staff in attendance:

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

**2. WELCOME**

**3. PLEDGE OF ALLEGIANCE**

**Consent Agenda**

4. Approve Minutes from January 28, 2021 Regular City Council Meeting
5. Accept Deed of Dedication and Temporary Construction Easement for the 207<sup>th</sup> Street Grade Separation Project

Councilmember Longanecker motioned to approve consent agenda, seconded by Councilmember Beem. The consent agenda was approved 4-0 with Councilmember Lewis absent.

**Regular Agenda**

**6. Public Comments.**

Mayor Roberts called forward persons present to make public comment. Wayne Davis, 29080 W 199<sup>th</sup> Street came forward to comment on upcoming zoning matters at properties across the street from his house and down to 215<sup>th</sup> Street. Mr. Davis stated he wanted to share some of his thoughts about that property and also the infrastructure for that area. Mr. Davis read the

guidelines for the L-P District as they relate to adjacency to residential use. He stated they are not good neighbors. Mr. Davis represented that the Edgerton UDC discourages residential uses next to the L-P District and he also believes the opposite is true. Mr. Davis stated that 80 families are affected by rezoning of these properties. He does not want the lights, noise, or truck traffic. He stated that he believes a 1.3M SF warehouse will probably be a 24/7 operation. Mr. Davis states that the UDC says that development should not be located near areas that do not have thoroughfares capable of carrying truck traffic. Mr. Davis wants the conflict minimized by truck uses. Mr. Davis stated that his argument is that infrastructure in the area isn't good. Mr. Davis states that he has spoken with Ryan Sims at Johnson County Public Works regarding the condition of Gardner Road. Per Mr. Davis, both bridges are 2 lane bridges with allowances for shoulders and no extra lanes. Per Mr. Davis the service life of the bridges is 40-50 years. Mr. Davis stated that he was told by Mr. Sims that because Gardner and Edgerton are annexing properties along that road, Johnson County is pulling back on their commitment to improving the road. Mr. Davis states that he was told the County had plans to put shoulders on the road in spring of 2021 but they are no longer going to do that. Mr. Davis stated he was at the Planning Commission meeting on February 9 and he thought that the gentleman and lady on the committee were good to evaluate the infrastructure problems they were concerned about.

Frank Bannister, 19815 S. Gardner Road, also spoke regarding a zoning matter. Mr. Bannister stated that coming before the council on March 11 is a huge, huge issue. He stated that the council members probably knew that the Planning Commission voted against approval of the request to rezone approximately 600 acres. Mr. Bannister stated that eighty-five families received letters over the Christmas holidays and a meeting was held on January 12 that was continued to this week. Mr. Bannister stated that the Planning Commission voted no and he thinks they were seeing the unreasonableness of putting logistics operations in hundreds of families front and backyards. Mr. Bannister realizes the intermodal wants to grow but not on the backs of residents that have lived in the area for as long as five generations. Mr. Bannister stated that the council should be thinking about the gravity of this issue for not just the city of Edgerton and the intermodal but the families east about four miles. Mr. Bannister stated that they are neighbors and there is a contention growing. He asked that the council consider the negative impact and the citizens in the area.

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.

At this time Mayor Roberts addressed persons from the public going to Planning Commissioners homes to deliver documentation. He stated that he was concerned there could be a risk of liability to the City from such activity and he would prefer if any documents would be brought to City Hall for Staff to distribute to the Planning Commission members. Mayor Roberts stated that NorthPoint would also be required to do the same.

Mr. Bannister asked for clarification. He asked if it was illegal to visit Planning Commissioners homes.

City Attorney Lee Hendricks replied that the City's concern is that we had specific concerns brought forth by the Planning Commission regarding visits to their homes. The Planning Commission was told the importance of hearing what the public had to say and Mr. Hendricks

again reiterated that the best method to communicate that to them is through the city. Mr. Hendricks strongly echoed the mayor's concerns about the contact stating that if NorthPoint had contacted Planning Commissioners at their home, and the public had not, the public would be upset by that contact. Mr. Hendricks reiterated that everything that comes forth and is delivered to City Hall will be distributed to the council members. He stated that Planning Commissioners are unpaid volunteers and multiple members of that body stated they felt uncomfortable with people coming to their homes. Karen Bannister, 19815 S. Gardner Road, asked if it was illegal to do so. Mr. Hendricks told her it was not but that there should also be a realization that NorthPoint could do the same.

### **Business Requiring Action**

#### **8. CONSIDER RECOMMENDATION TO AWARD THE BID FOR CONSTRUCTION OF THE 207<sup>TH</sup> GRADE SEPARATION AND AUTHORIZE THE MAYOR TO EXECUTE THE CONTRACT**

Mr. Dan Merkh, Public Works Director, addressed the council and requested they consider an award for bid for the construction of the 207<sup>th</sup> Street Grade Separation. He also requested the Mayor execute the contract and authorize the agreement.

Mr. Merkh reviewed the timeline for the project to date, stating that at the 2017 Capital Improvement Program Work Session, the City Council provided direction to allocate \$15,000,000 from Johnson County Assistance Roads System (CARS) and the Public Infrastructure Fund from LPKC Phase I for 2018, 2019, and 2020. At the November 8, 2017 City Council Meeting, the Council approved the design of the "Off-Alignment" bridge presented by HDR and chose to forego the acceptance of federal funding in order to free up time for staff and decrease the cost of federal prevailing wage requirements. At the January 11, 2018 City Council Meeting, the Council approved the Preliminary Design Agreement with HDR for design services for the 207<sup>th</sup> Street Grade Separation Project.

On February 14, 2018 City Council approved an amendment to the owner-engineering agreement between the City and HDR, Inc. for the Final Design of the project. The 207<sup>th</sup> Street Grade Separation Project (design, construction, inspection, utility relocations, right-of-way acquisition, etc.) is funded entirely from CARS and the Public Infrastructure Fund as part of the City's agreements with BNSF Railway and Edgerton Land Holding Company for Logistics Park Kansas City (LPKC). No city general fund dollars will be used for this project.

On January 20, 2021 City Staff with the City Engineer held a public bid opening with a total of four bids being received. The bid summary was listed in the staff memo presented for this item. Mr. Merkh reviewed that information stating that Pyramid Contractors had the lowest bid at \$7,021,895.00. The project engineer has reviewed the bid and declared that Pyramid is qualified to complete this project. The bid amount is within the amount budgeted for this project and the bid was made using the city's standard docs as approved by City Attorney. The documents are on file with the city clerk.

Mr. Merkh stated that staff recommends acceptance of the lowest and best bid for this project.

Mayor Roberts stated the off-grade crossing had been talked about since he was a young boy. He views this as a monumental step forward as the construction of the bridge will have a direct impact on public safety. He thanked staff and the engineering firms for the phenomenal amount of work performed to date with more to be done. He looks forward to the substantial completion of the grade separation project by the end of the year. Mayor Roberts reminded the council that earlier in the process they had chosen the off-alignment bridge design so that 207<sup>th</sup> Street to Braun could stay open with uninterrupted access during construction of the project. Mayor Roberts stated he looks forward to the project moving forward.

Councilmember Smith motioned to approve, motion seconded by Councilmember Longanecker. The recommendation to approve the bid for the 207<sup>th</sup> Street Grade Separation project to Pyramid Contractors was approved, 4-0.

## **9. CONSIDER AGREEMENT WITH BG CONSULTANTS FOR THE DESIGN OF 8<sup>TH</sup> ST. AND BRAUN ST. INTERSECTION IMPROVEMENTS**

Mr. Dan Merkh, Public Works Director, addressed the council and requested they consider entering into an agreement with BG Consultants for the design of 8<sup>th</sup> Street and Braun Street intersection improvements. Mr. Merkh reminded the council that on March 8, 2018 they had approved the Downtown Edgerton Plan which included recommendations for the truck traffic routing through town in the near term, mid-term, and long-term. Items listed in the mid-term included the 207<sup>th</sup> Grade Separation Project and in the long-term, improvements to the intersection of 8<sup>th</sup> Street and Braun Street. An excerpt from that plan was included in the packet.

Mr. Merkh stated that since the approval of this plan, staff has observed the difficulty for truck traffic in particular to navigate the intersection of West 8<sup>th</sup> Street and Braun Street while remaining on the pavement. While the Downtown Edgerton Plan recommends improvements to this intersection be considered long-term, based on current conditions staff recommends limited improvements to the intersection now to improve the safety and operation of truck traffic in this area.

Mr. Merkh represented that the construction of the 207<sup>th</sup> Grade Separation this year will likely increase the traffic that utilizes the intersection of 8<sup>th</sup> Street and Braun Street. Staff is requesting that with the economy of scale of the project, there is an opportunity to have construction within the same timeframe. The construction portion of this project came in below budget which provides available funding for this project. The agreement is for the amount of \$24,500, coming from the Public Infrastructure Funds allocated to the 207<sup>th</sup> Street Grade Separation Project. If council approves, staff anticipates beginning the design of the project immediately with construction to be completed in 2021 or early 2022.

Mayor Roberts stated he had been contacted quite a bit by the resident at 8<sup>th</sup> Street and Braun. They often have truck tracks in their yard and have to repair their grass on a regular basis. Mayor Roberts stated that even farm trucks can cause damage due to the constraints of the current intersection design.

Councilmember Beem asked if this was Glyn and Janice Powers home. Mayor Roberts concurred and Councilmember Smith thanked him for clarification.

Councilmember Longanecker motioned to approve, motion seconded by Councilmember Smith. The recommendation to approve the agreement for BG Consultants to design the intersection of 8<sup>th</sup> Street and 207<sup>th</sup> Street was approved, 4-0.

#### **10. CONSIDER ORDINANCE NO. 2060 ADOPTING THE PLANNING COMMISSION'S RECOMMENDATION TO APPROVE AN AMENDMENT TO THE EDGERTON UNIFIED DEVELOPMENT CODE**

Ms. Katy Crow, Development Service Director, addressed the council. She stated the City of Edgerton's Uniform Development Code (UDC) was adopted to encourage the most appropriate use of land and to insure the logical and compatible growth of various districts within the City. She stated the UDC is intended to implement the planning goals and policies contained in the Comprehensive Plan 2000-2020, other planning documents, and policies of the City Council and Planning Commission.

Ms. Crow stated the current UDC was initially adopted in 2004 with Ordinance 758 and has been revised several times. The most recent revisions occurred in September 2019 with changes made to Article 4, Commercial Zoning Districts. She stated it has been the goal of city staff to continue reviewing and revising the UDC so that it remains relevant as it relates to the growth and development within the boundaries of the City of Edgerton, while complimenting Edgerton's Comprehensive Plan and the Governing Body's vision for the growth of Edgerton.

Ms. Crow stated to date, the City of Edgerton has received three requests from Logistics Park tenants to place above ground fuel tanks on their sites. Two of these requests were made after the initial Final Site Plan was approved by the Planning Commission. She stated, as noted in the UDC Article 10, Site Plan and Design Standards, these changes were considered significant modifications which required review and approval by the Planning Commission. As part of this approval process, it was stipulated that the equipment be fully screened from the view of all adjacent parcels and any public right of way.

Ms. Crow stated staff has received multiple requests for this same type of site plan amendment and because of this, staff has evaluated the UDC to see how above ground fuel tanks should be addressed. She stated within the City of Edgerton, a Logistics-Park (L-P) zoning designation specifically states that limitations are placed on the uses in this district to significantly restrict the outside activities and outside storage materials, noise, vibration, smoke, pollution, fire and explosive hazard, glare and other potentially adverse influences. This zone is intended for industrial parks and larger, cleaner types of industries and any manufacturing uses should be conducted within a totally enclosed building.

Ms. Crow stated while the above ground fuel tanks that have been approved through the Planning Commission process have been screened from view, the presence of this type of equipment, even with screening, detracts from the overall aesthetics of parcels in the Logistics Park. In addition, above ground fuel tanks can become a safety hazard if not properly maintained.

Ms. Crow stated in revising the content of Article 5 for Logistics Park zoned parcels, staff noted that in keeping with the intent of the zoning designation description, any fuel tanks should be buried underground. She stated this would help retain the clean look and feel of the sites and would contribute to the overall safety of having an onsite fuel tank. She stated tanks installed below ground would require identification on either the Final Site Plan or a Revised Final Site Plan if installed after the initial Site Plan approval. Installation of any below ground fuel tanks would require adherence to all applicable building codes and all plans would be reviewed for code compliance.

Ms. Crow stated on January 12, 2021, the Planning Commission held a public hearing to discuss amending the UDC related to above ground fuel tanks. During this public hearing, an opportunity for the public to provide input was given, in which no public comments were provided. Upon conclusion of the public hearing, the Planning Commission voted 3-1 to recommend the adoption of this change to the Governing Body. The City Attorney has reviewed and approved the UDC change and the Ordinance implementing such change.

Ms. Crow stated any new installation of fuel tanks at the Logistics Park would require installation to be underground. She stated if any existing fuel tanks at the Logistics Park that are currently above ground must be replaced, it would be required that the fuel tank be installed underground.

Councilmember Longanecker asked how many tanks were in the Logistics Park today. Ms. Crow told him that there are currently 3. Two are approved and installed; a third is approved but not yet installed.

Mayor Roberts asked if this would impact tanks approved but not yet installed. Ms. Crow responded that no, anything approved prior to January 1, 2021 that was not yet installed would be allowed to be above ground. However, if those tanks require repair or replacement they would need to be relocated underground.

Councilmember Longanecker motioned to approve Ordinance No. 2060, adopting the Planning Commission's recommendation to approve an amendment to the Edgerton Unified Development Code. Motion seconded by councilmember Beem. The Ordinance was approved 4-0.

## **11. Report by the City Administrator**

- **Fourth Quarter 2020 Financial Report**

Ms. Beth Linn, City Administrator deferred to Karen Kindle, Finance Director, for a report on the fourth quarter financial statements. Ms. Kindle stated that 2020 was certainly an interesting year. She stated that in the first quarter of 2020 we were unsure of what was going to be happening and were trying to determine effects of Covid-19. Fourth quarter 2020 held some really good news. Numbers exceeded revised estimates and exceeded even exceeded what was initially budgeted. Ms. Kindle stated businesses located in Edgerton showed continued success during the pandemic and that is what is the driver behind the better numbers. 96% of property taxes and PILOTS have been collected and this is very positive considering the uncertainty at the beginning of the year.

Under expenditures, Ms. Kindle stated that most of the departments fared about where they were forecast. The Facilities expenditures came in higher but it is because those budget lines incurred expenditures related to CARES ACT like HVAC, cleaning supplies, etc. Ms. Kindle stated that the IT line also looks over budget, but several IT projects were paid using CARES ACT funding. The City of Edgerton did receive miscellaneous reimbursement dollars on the reimbursement side. Ms. Kindle stated that there is an update to the report since it was shared in the packet. Additional credit card expenses were processed as part of the year end process and IT expenses are \$22,000 higher than what they reflect here because of CARES ACT items paid for on city credit cards. Those items will be reimbursed dollar for dollar. Ms. Kindle stated that the fourth quarter financials meet budget requirements and stayed within budget authority.

Ms. Linn added a reminder about revenues related to the LPKC PILOT are included in a lump sum amount with property taxes as Johnson County does not distinguish between the two when the city receives its distribution. She wanted to echo what Ms. Kindle said about sales and use tax. The types of business located at LPKC contribute to that. Ms. Linn reminded the council of the numbers shared during the 2021 budget meetings. Council lowered the Mill Levy with the expectation that due to spending levels, the 2020 budget levels would have a more favorable actual expenditure than forecast. This was the case and the Revenues Over(Under) Expenditures line came in at approximately \$935,000 versus the \$479,000 anticipated amount.

Council member Smith asked about the CARES ACT items and wanted to know if the city purchased it and was then reimbursed. Ms. Linn stated that Edgerton is reimbursed dollar for dollar. Mayor Roberts interjected that all expenditures were approved by the county ahead of time, prior to the city spending the dollars they would be reimbursed for.

Ms. Kindle moved onto discuss the utilities funds. Ms. Kindle stated that for the water fund, 97% of what was estimated was collected. She stated that fines/forfeitures were lower than what it has been in the past due to suspension of reconnect fees during the Covid-19 pandemic. The expenses are more than anticipated because of painting the logo on the water tower, a valve replacement and a water main break. Ms. Kindle stated that the unaudited fund balance is in general in the area of where we thought it would be. It meets reserve requirements and budget authority. Ms. Linn reminded council that they had voted to not charge penalties and reconnect fees for three months in which amounted to just over \$2,000 per month in fines and forfeitures.

Ms. Kindle moved onto the sewer fund. She stated that revenues were right about where they were estimated to be and about where was budgeted. She stated that when a new business comes online with a sewer connection the City does not always have good info on how to estimate their flow. She stated that numbers were adjusted down in 2021 and currently they appear to be in line with 2021 estimates. Ms. Kindle stated that expenses related to lift stations /vaults were related to a hoist repair at a lift station and generator repairs to the intermodal lift station generator. Ms. Kindle stated that ending balances are a little bit higher than estimated but the numbers meet the reserve requirement and are within budget authority.

There were no questions.

- Monthly Progress Report on 502 E 2<sup>nd</sup> St.

Ms. Linn deferred to Katy Crow, Development Services Director, for a report on 502 E. 2<sup>nd</sup> Street. Ms. Crow stated that it has been a very rewarding experience to see the progress that has been made on this home since it was first reviewed by council last year. Ms. Crow reminded the council of action taken with Resolution 01-14-21D, passed on January 14, 2021, which requires the owners to resolve the dangerous and unfit structure by July 22, 2021. As part of the requirements to bring this home into compliance with City Code, the Governing Body requires monthly updates which show adequate progress being made.

Ms. Crow stated city staff preformed a walkthrough of the home with the owner on February 5, 2021 to review the status of the project. Ms. Crow reminded the council that at the December 20, 2020 council meeting, Mr. Abundiz, the homeowner stated his intent was to complete the exterior siding of the home prior to December 31, 2020. Ms. Crow stated while on the most recent walkthrough of the home, Mr. Abundiz stated that there was much more damage to the interior of the structure than what they had previously thought. He stated prior to the installation of OSB and exterior siding, they wanted to make all corrections while the framework was still visible. Additionally, Mr. Abundiz stated they would like to continue interior work until a dry weather period presents itself to be able to install the OSB and not risk it getting wet and ruin the progress made.

Ms. Crow provided photos showing the interior progress that has been made since the last walkthrough. She stated staff will conduct another walkthrough prior to the March 11, 2021 council meeting to provide council with another update at that time.

Councilmember Longanecker asked if there was any resolution to adding insulation to crawl space. Ms. Crow said she did not ask that question specifically, but she would on her next inspection and provide an update. Ms. Crow stated that there is one wall support that has been left exposed in the floor to show the connection to the foundation.

Mayor Roberts said that he is pleased with the progress. Councilmembers Conus, Beem and Smith concurred and thanked staff for the follow up report.

## **12. Report by the Mayor**

- Mayor Roberts had no report to give at this time.

## **13. Future Meeting Reminders:** Mayor read upcoming meetings.

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

## **14. CONSIDER 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 ATTORNEY AND CITY ADMINISTRATOR FOR THE PURPOSES OF CONTRACT NEGOTIATIONS**



Councilmember Longanecker motioned to recess into executive session pursuant to K.S.A 75-4319(B)(2) for consultation with an attorney deemed privileged in the attorney-client relationship to include the City Attorney and the City Administrator for the purposes of contract negotiations for 15 minutes. Councilmember Smith seconded the motion. The meeting recessed into executive session at 7:55 PM, 4-0.

Councilmember Longanecker motioned to return to open session with no action being taken. Councilmember Smith seconded the motion. Open session resumed at 8:10 PM, 4-0.

Councilmember Longanecker motioned to recess into executive session pursuant to K.S.A 75-4319(B)(2) for consultation with an attorney deemed privileged in the attorney-client relationship to include the City Attorney and the City Administrator for the purposes of contract negotiations for an additional 5 minutes. Councilmember Smith seconded the motion. The meeting recessed into executive session at 8:10 PM, 4-0.

Councilmember Smith motioned to return to open session with no action being taken. Councilmember Longanecker seconded the motion. Open session resumed at 8:15 PM, 4-0. Councilmember Smith asked if it would be possible for council members to be in-person for the March 11<sup>th</sup> council date. Mayor Roberts stated by early March, many at-risk persons would have had the opportunity to receive the vaccine and with the numbers most recently being under 6 percent in Johnson County, he would like to see Council in-person for March 11<sup>th</sup>. All council members agreed with this decision.

## 15. Adjourn

Councilmember Longanecker motioned to adjourn, seconded by Councilmember Smith. Meeting adjourned at 8:17 PM.

## EVENTS

February 15<sup>th</sup>: City Hall Closed for President's Day

February 18<sup>th</sup>: Annual State of the City

March 20<sup>th</sup>: Low-Cost Animal Vaccine Clinic