

City of Edgerton, Kansas
Minutes of City Council Regular Session
April 9, 2020

A Regular Session of the City Council (the Council) was held in the Edgerton City Hall, 404 E. Nelson Edgerton, Kansas on April 9, 2020. The meeting convened at 7:00 PM with Mayor Roberts presiding.

1. ROLL CALL

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

With a quorum present, the meeting commenced.

Staff in attendance:

- City Administrator Beth Linn
- City Attorney Lee Hendricks via videoconference
- City Clerk/Planning and Zoning Coordinator Chris Clinton
- Development Services Director Katy Crow via videoconference
- Finance Director Karen Kindle via videoconference
- Public Works Director Dan Merkh
- Marketing and Communications Manager Kara Banks via videoconference

2. WELCOME

Mayor Roberts welcomed a representative from the Johnson County Sheriff's office and Johnson County Fire District Number One. He listed City Staff who is present in person and who is joining the meeting via videoconference. Mayor Roberts outlined some guidelines for the meeting. He requested all speakers to speak slowly and clearly, this may cause a slower pace to the meeting than the City is accustomed to. Mayor Roberts asked for all remote participants to have their microphones muted while not speaking and to turn the video feed off as to not distract people who are present. He explained minutes are being taken in person so there are no technical issues disrupting the proceedings of the meeting. Councilmembers were asked to be conscious of the technical limitations and state their name so they can be acknowledged and recognized. Mayor Roberts stated there are to be no email chains between councilmembers so there can be no subsequent meetings attached to this meeting so the City can comply with the Kansas Open Meetings Act (KOMA). Mayor Roberts informed the audience that they are to speak from their seats to remain socially distant as the seats are spaced at least six (6) feet apart and utilize the designated speaking area if comments are to be made.

Mr. Merkh recommended people who call in via Microsoft Teams to mute themselves as well. Mayor Roberts stated all the councilmembers besides Councilmember Longanecker should be on videoconference, but callers can mute themselves by dialing star six (*6).

Councilmember Longanecker inquired if Councilmembers Beem and Conus were on videoconference as he did not hear their responses during roll call. Mayor Roberts stated all members of the Council are present as he can see who is on the videoconference, but some did not unmute their microphones in time to answer roll call.

3. **PLEDGE OF ALLEGIANCE**

CONSENT AGENDA

4. Approve Minutes for March 26, 2020 Regular City Council Meeting.
5. Approve Agreement with Raftelis Financial Consultants for Utility Rate Study Update.

Councilmember Longanecker motioned to approve the Consent Agenda, motion seconded by Councilmember Smith. The Consent Agenda was approved, 5-0.

REGULAR AGENDA

6. **Public Comments.**

There were no public comments made at this time.

7. **Declaration.**

None of the Councilmembers had any declarations at this time.

BUSINESS REQUIRING ACTION

8. **CONSIDER ORDINANCE NO. 2036 AUTHORIZING BOND DOCUMENTS AND THE ISSUANCE OF THE CITY'S INDUSTRIAL REVENUE BONDS (ELHC VII, LLC PROJECT) SERIES 2020, FOR THE PURPOSE OF FINANCING AND PROVIDING TAX ABATEMENT FOR A WAREHOUSE AND DISTRIBUTION FACILITY**

Mr. Scott Anderson, Bond Council, addressed the Council. He stated the City received an application for property tax abatement from ELHC VII, LLC for a project located in Logistics Park Kansas City (LPKC), consisting of an approximately 952,000 square foot warehouse and distribution facility, to be located at 30901 W. 185th Street, Edgerton, Kansas (the "Project").

He explained the City has previously adopted Resolution No. 07-08-10A on July 8, 2010, Resolution No. 04-25-13A on April 25, 2013, and Resolution No. 04-09-15A on April 9, 2015 (collectively, the "Resolution of Intent") expressing the intent of the City to issue its industrial revenue bonds in multiple series, the aggregate amount of all series not to exceed \$1,000,000,000 to finance the costs of acquiring, constructing, reconstructing, improving and equipping various projects within The Logistics Park-KC for the benefit of Edgerton Land Holding Company, LLC, or its assigns (the "Developer"). The City adopted Resolution No. 01-23-20C on January 23, 2020 (the "Assignment Resolution") consenting to the assignment of \$45,000,000 of the Developer's interest in the Resolution of Intent to ELHC VII, LLC for the Project. Prior to adopting the Assignment Resolution, the City held a public hearing on the Project and considered the cost-benefit report.

Mr. Anderson stated the Ordinance authorizes the City to issue up to \$45,000,000 of industrial revenue bonds for the Project. This bond issue is commonly referred to as a “buy your own bonds bond issue.” ELHC VII will be both the lessee on the project and the owner of the bonds. When the bonds are issued, ELHC VII will lease the project site to the City as is required by state law in order to issue industrial revenue bonds. The City will then sublease the project back to ELHC VII. ELHC VII will be obligated to repurchase the project at the conclusion of the tax abatement.

He informed the Council the bonds will be limited obligations of the City. This means that the City makes payments on the bonds to ELHC VII as the owner of the bonds only to the extent the City receives payments from ELHC VII pursuant to the lease. If lease payments from ELHC VII are insufficient to cover scheduled debt service on the bonds, the City is not obligated to make up any shortfall from any other funds of the City. The bonds are not a general obligation of the City and do not count against the City’s debt limit. Mr. Anderson outlined the documents the Ordinance authorizes the City to enter into.

Mr. Anderson said the Project is to be completed this summer other than the tenant improvements on the interior of the warehouse. The Developer has requested the bonds be issued this spring. He said these are similar to bonds that have been issued throughout projects in LPKC.

Councilmember Longanecker motioned to approve Ordinance No. 2036, seconded by Councilmember Smith. Ordinance No. 2036 was approved, 5-0.

9. Report by the City Administrator

Ms. Beth Linn, City Administrator, stated she has nothing to report for this meeting.

10. Report by the Mayor

- Report on Impact of COVID-19 to City Operations

Mayor Roberts said this is going to be a joint report with Ms. Linn. He said the Board of County Commissioners (BOCC) has put out a COVID-19 dashboard that shows the number of tests conducted and the percentage of positive cases. Mayor Roberts stated the dashboard shows 12.5% of the tests done in the 66021 ZIP Code have come back positive, but that equates to less than five (5) positive cases. He said the 66030 shows a 0% positive test, but he is aware of five (5) to (10) cases in that zip code. Mayor Roberts stated this is a test site and it will look different when the full site is up and operational. The BOCC does plan on showing the number of confirmed cases. The dashboard will also show what hospital beds and ventilators are available so the status of the hospitals will be known. Mayor Roberts acknowledged there are a lot of models showing when the peak of the pandemic is supposed to happen in this area, but the top six (6) models all give different dates. Even after the peak, it is possible for this to happen again as well.

Mayor Roberts stated he and Ms. Linn have drafted a memorandum that outlines what has been done on many levels to stop the spread of COVID-19.

Mayor Roberts said at the Federal level, the Centers for Disease Control and Prevention (CDC) has recommended the use of a cloth face covering in public setting where other social distancing measures are difficult to maintain, especially in areas of significant community-based transmission. Mayor Roberts explained the City is adhering to this recommendation as the City Staff present is all wearing masks. Social distancing is still widely recommended by keeping at least six (6) feet between yourself and other people outside of your home and avoiding crowded areas and mass gatherings. Mayor Roberts said the meeting area was set up to have chairs six (6) feet apart to meet this recommendation.

Mayor Roberts said it has been difficult to keep up with the State as things are changing quickly due to some political struggles. Mayor Roberts recommend community leaders practice social distancing and any church service be attended virtually or under the guidance of social distancing.

He stated the State stay at home order is not as strong as the one issued by Johnson County as it lacks clarity if it is forcible locally or not. The Executive Order that establishes Kansas Essential Function Framework outlines what must remain operational during the stay home order. Mayor Roberts explained City government functions fall into the essential category.

Ms. Linn stated the State has expanded the list of places that returning travelers must home quarantine after visiting. She explained there are other areas in the nation that have more cases. Ms. Linn said the State will expand testing but has provided guidance on how to prioritize who gets tested first. The State has also updated the guidelines for people who have mild symptoms. The patient is to self-isolate at home for seven (7) days after the onset of the illness or for seventy-two (72) hours after the fever is resolved without the aid of medication, whichever is longer.

Mayor Roberts said the Kansas Attorney General (AG) has said the KOMA requirements still need to be met. The meetings can happen online but still open to the public. He said there are many ways to have a meeting, but the public must be allowed to be involved, either in person or online. Mayor Roberts said Minutes are being taken and are always provided after they are approved.

Mayor Roberts said the District Court in Johnson County is completely virtual. This is affecting the City's cases going before the Court. He said the Municipal Court has been affected as cases have been continued from March to April. City Staff is researching in ways to hold a virtual court here in Edgerton.

Mr. Lee Hendricks, City Attorney, stated Mayor Roberts was correct when he stated KOMA is still in effect. The AG's office has released a lot of documents that state KOMA is still in effect and municipalities must take reasonable approach to meet the requirements. The numbers of public attending meetings are lower across the State, but they still need to be allowed to participate. Mayor Roberts said the League of Kansas Municipalities stated that the meetings still need to be held at least once per month, per

State Statute. Mr. Hendricks replied that is correct and small cities can do the basics, but the meetings still need to be held at least once a month.

Ms. Linn stated Kansas Statute prescribes power to the Mayor to declare a state of local disaster emergency upon finding that a disaster has occurred, or the threat there is imminent within a City of the third class. Ms. Linn explained the Mayor has done so and has taken steps to enact ways for the City to help slow the spread of the disease. All City events have been canceled for March and April. Last meeting, the Council discussed the suspension of utility disconnects and the suspension of any delinquent penalty while the Statewide stay at home order is in effect. Ms. Linn said the Mayor closed City Hall to the public starting March 24, 2020 during the stay at home order as well. All City of Edgerton employees have been declared "Emergency Responders" as is defined by the Families First Coronavirus Response Act. This allows for extra sick time and an expansion of the Family and Medical Leave Act if the employee or a member of their household becomes ill with COVID-19.

Ms. Linn stated with those Executive Orders, the operations of the City have changed. City Hall is more remote now. Any employee who could work from home, now is. The phones still ring like the employee was stationed at City Hall. City Hall may be closed to the public, but it is still operational. There are some employees who still need to be in Edgerton. Those employees have been dispersed throughout City locations to social distance public works and park maintenance employees from one another. Any meeting City Staff has is done either through email, phone or Microsoft Teams, like the Council meetings. Ms. Linn said City Staff are wearing cloth masks whenever in public.

Ms. Linn explained City Staff has started monitoring certain categories of revenues and limiting certain categories of expenditures to assist the City in analyzing which revenues and expenditures may be impacted by COVID-19 related actions from multiple layers of governments. Ms. Linn stated the City has received the January remittance of ad valorem property tax. The State legislature has discussed delaying the second payment to July, a month later than normal. Mortgage companies will most likely still make these payments on time, but if it is delayed, then the remittance to the City will be delayed by two (2) or three (3) months. The LPKC Payment in Lieu of Taxes (PILOT) payments are collected the same as ad valorem property tax, but if payments are not made, then the abatement can be revoked. Ms. Linn said City Staff does not expect any delays in those payments. The City will most likely see a decrease in the amount of sales tax the City gets from the County, which are submitted to the City two months after it is collected. City Staff will not know the impact of this until May or June. Ms. Linn explained City Staff does not anticipate a decline in industrial permits. A small dip in revenues is expected as Council decided not to charge delinquent fees on utility bills while the stay at home order is in effect.

Ms. Linn informed the Council that City Staff has placed a hold on the recruitment of four positions. Those positions equate to 20% of the Staff. Even with the impact, City Staff is able to ensure services are still being provided. Once the financial repercussions of COVID-19 are understood, recruitment will continue as financially possible. Ms. Linn stated all continuing education and conference travel has been suspended for City Staff. This is critical to keeping the team current in training and certifications, so these

opportunities will be rescheduled. Ms. Linn stated the Council adopted a policy regarding the level of reserves the City will maintain in the operating funds, General Fund, Water Fund and Sewer Fund. The policy requires the City to maintain between 17% and 25% of budgeted expenditures, excluding transfers. The reserve funds are maintained for emergencies such as the one the City is facing right now. The reserves in all three (3) funds are in compliance of this policy as of March 31, 2020.

Mayor Roberts understands it is a lot of information for the Council to process. He said it is important to keep the Council updated on the process and status of the City. The reduction in City Staff does not include some of the positions the City has open, so the City is closer to about 35% away from being fully staffed. Edgerton should not have as much of an impact financially as other municipalities due to NorthPoint still being busy.

11. Future Meeting/Event Reminders:

- April 14th: Planning Commission Meeting – 7:00 PM
- April 23rd: City Council Meeting – 7:00 PM
- May 5th: Planning Commission Meeting – 7:00 PM
- May 14th: City Council Meeting – 7:00 PM
- May 28th: City Council Meeting – 7:00 PM

12. 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, COMMUNITY DEVELOPMENT DIRECTOR AND CITY ADMINISTRATOR FOR THE PURPOSES OF CONTRACT NEGOTIATIONS.

Mayor Roberts informed the Council this process might be difficult, but City Staff has figured out a way to make it work. He explained the open session videoconference will continue while Ms. Linn sends a new link to a different meeting for the Councilmembers to join after a motion to adjourn carries. Once the executive session is complete, Councilmembers are to rejoin the open session meeting and vote to return to open session.

Councilmember Smith motioned to recess into executive session pursuant to K.S.A. 75-4319 (b)(2) for the purpose of discussing contract negotiations to include the City Attorney, Community Development Director and City Administrator for ten (10) minutes. Councilmember Beem seconded, the motioned carried, 5-0. Open session recessed at 7:55 PM.

Councilmember Longanecker motioned to return to open session, Councilmember Smith seconded the motion. The meeting returned to open session at 8:05 PM, 5-0.

13. 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, PUBLIC WORKS DIRECTOR AND CITY ADMINISTRATOR FOR THE PURPOSES OF PENDING LITIGATION.

Councilmember Smith motioned to recess into executive session pursuant to K.S.A. 75-4319 (b)(2) for the purpose of discussing pending litigation to include the City Attorney, Public Works Director and City Administrator for ten (10) minutes. Councilmember Beem seconded, the motion carried, 5-0. Open session recessed at 8:14 PM.

Councilmember Smith motioned to return to open session, Councilmember Lewis seconded the motion. The meeting returned to open session at 8:24 PM, 5-0.

Mayor Roberts stated City Council and Planning Commission Meetings will be held in this fashion until the stay at home order is lifted. He said this is not preferred but is what is best for the community.

14. **Adjourn**

Councilmember Smith motioned to adjourn the meeting, seconded by Councilmember Longanecker. The motion carried and the meeting adjourned at 8:25 PM.

EVENTS

April 13th: Cooking Class-CANCELED

April 17th: ARTbor Day Contest project photo submission deadline via City's Facebook Page or emailed to Kara Banks (kbanks@edgertonks.org)

April 27th: Camping Day-CANCELED

May 4th: Youth Art Class: Kinetic Sand and Sand Painting

May 11th: Youth Cooking Class-CANCELED