

**City of Edgerton, Kansas**  
**Minutes of City Council Regular Session**  
**May 14, 2020**

A Regular Session of the City Council (the Council) was held in the Edgerton City Hall, 404 E. Nelson Edgerton, Kansas on May 14, 2020. The meeting convened at 7:01 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 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**

**3. PLEDGE OF ALLEGIANCE**

**CONSENT AGENDA**

4. Approve Minutes for April 23, 2020 Regular City Council Meeting.
5. Approve Resolution No. 05-14-20A Updating the Fee Schedule for the City of Edgerton.
6. Consider Agreement with Simplifile.

Councilmember Longanecker motioned to approve the Consent Agenda, motion seconded by Councilmember Smith. The Consent Agenda was approved, 4-0.

**REGULAR AGENDA**

**7. Public Comments.**

There were no public comments made at this time.

**8. Declaration.**

None of the Councilmembers had any declarations at this time.

**9. Proclamation By Mayor Roberts Designating May As Fair Housing Month In The City Of Edgerton, Kansas**

Mayor Roberts designated May 2020 as Fair Housing Month in the City of Edgerton (the City). He stated it is the right thing to do to help the community and allows the City to apply for Community Development Block Grants.

**BUSINESS REQUIRING ACTION**

**10. CONSIDER PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF EDGERTON AND OLSSON, INC FOR 2020 STORMWATER MASTER PLAN**

Mr. Dan Merkh, Public Works Director, spoke before the Council. He stated on February 19, 2020, the City issued a Request for Qualifications seeking engineering teams for the analysis of the stormwater system and development of a Master Plan. The Project included inventory and analysis of the existing storm collections system, existing structures, and existing stormwater corridors. Mr. Merkh explained there will be a component to the Project involving the public. The consultant and City Staff will work to request flooding concerns, compile the data, and develop an appropriate response. The Project will review existing development patterns, as well as target future development and system expansion. The Project is to provide a list of prioritized projects to add to the City's Capital Improvement Plan (CIP) list. Mr. Merkh stated this serves as a roadmap to the City's stormwater system, prioritizing projects to improve existing infrastructure and propose appropriately timed installation of new infrastructure, both to improve efficiencies and be better suited to receive development as it arises.

Mr. Merkh informed the Council the Requests for Qualifications were due April 8, 2020 and interviews with the short-listed teams were conducted on April 20, 2020. The selection committee (the City Administrator, City Engineer, Public Works Director, and Public Works Superintendent) recommends Olsson, Inc. as the best, most qualified team for the project. The selection committee recommends the team based on their existing experience providing these services to municipalities both of similar size and larger populations.

Mr. Merkh explained the draft Professional Services Agreement (PSA) between the City and Olsson for the Project was provided in the Council's packet. The PSA is still under review by both Olsson and the City. All revisions are pending approval from the City Engineer, City's Insurance representative, and the City Attorney.

Mr. Merkh stated the Project budget included in the 2020-2024 Adopted CIP is \$160,000, with all of the funding from the General Fund. City Staff has reviewed the proposed scope, initially making adjustments to end up with a scope that balances good stewardship of funds while having a bill of work that still provides a reliable analysis of our system and tools to use in the future. Mr. Merkh stated after negotiating scope and fee with the consultant, the price for services is \$159,895. Mr. Merkh said he is available for questions, as is Mr. Brent Johnson with Olsson, Inc.

Mayor Roberts inquired to what the difference is between public and private stormwater issues. Mr. Merkh responded it depends on where the stormwater originates. He explained

when stormwater drains along the rear property lines then goes into side yards, it is private. The public stormwater system are the inlets and pipes in the public right-of-way and along the streets. Mr. Merkh said the City will not go into private property to fix any flooding issues caused by stormwater that does not enter the public system. Public input will be taken into consideration to figure out where the flooding issues are and how the City can aid in relieving those issues. Mayor Roberts said some developers might have caused problems in how the land and properties were laid out, but those are problems the City cannot resolve unfortunately.

Councilmember Longanecker asked about issues that arise when water runs onto a neighboring house causing it to flood. Mr. Merkh answered it would be private issue that the neighbors would need to resolve between them. He added if the stormwater originated at a City owned property, then the City would need to find a solution to keep the flood from happening again. Mayor Roberts said there are some drains that are public infrastructure that are located on private property. Councilmember Longanecker inquired what residents should do if something like this happens to them. Mayor Roberts replied it would be a civil matter and the City cannot intervene. Ms. Beth Linn, City Administrator, stated Olsson has done similar projects in many cities and they are the experts on this topic. The City will lean on them and their expertise in educating the residents on different issues regarding stormwater. Mayor Roberts said it becomes a big problem when the private issues cause property damage. Ms. Linn stated Olsson will help the City inform City Staff the best practices and implementing new standards for future development. Mayor Roberts said cities have learned a lot recently about stormwater management. Councilmember Longanecker inquired to if a Stormwater Master Plan has been done for Edgerton in the past. Mayor Roberts answered there has never been a Stormwater Master Plan that encompasses the entire City.

Councilmember Conus stated that multiple resources have shown the economy dropping and the Kansas tax revenue has declined 51%. He stated he has concerns with authorizing spending when revenues are hard to predict at this time because of the pandemic. Ms. Linn replied there has been update from Johnson County regarding the property tax collections. Johnson County has reported that property tax collections are at 96.28% of the 2019 tax roll, which is an increase compared to 96.04% that was collected as of May 2018. Ms. Linn appreciates the concerns Councilmember Conus has raised but the collections are actually higher than expected. The City's portion of the sales tax is delayed, but the portion the City receives will most likely be about the same as last year as it is not a vast majority of revenue for the City. Mayor Roberts agreed Councilmember Conus's concerns are valid, but the City continues to limit spending and the main source of revenue, property tax, is higher than it has been in the past. Councilmember Conus said that helps, but he is still concerned. Councilmember Longanecker inquired if the \$160,000 was to be spread out from 2020 to 2024 or just one year. Mr. Merkh replied it was accepted as part of the 2020-2024 CIP Budget and will be paid just once this year.

Councilmember Longanecker stated he believes the Project is necessary and understands Councilmember Conus's concerns with spending funds, but it has been budgeted for. Mayor Roberts and Councilmember Smith agreed. Councilmember Conus agrees the Master Plan should be done but maybe not at this time with uncertainty in revenue and funds. Mayor Roberts asked what would happens if the Project is delayed. Mr. Merkh replied it is best to

do this type of project during the rainy season so the system can be studied better as spring storms are heavier than storms during the fall. He added it is an industry standard practice to start in the spring. Councilmember Smith asked about postponing the project for a year. Mr. Merkh answered the agreement could be redone for next year but there could be impacts on the budget. Ms. Linn stated there could be implications on any possible residential development as this Master Plan would help the City avoid the issues that are impacting current residential areas.

Councilmember Longanecker inquired to how long it takes to formulate the Master Plan. Mr. Merkh replied it is a year of data collection, then a month or two to compile the data. Councilmember Longanecker asked about waiting to start the Project in July. Mr. Merkh answered it would still skew the data as the spring storms would be missed and the opportunity to see how possible corrections would impact the stormwater system. Ms. Linn said the first year of the project is to make the model, then the second spring is used to see how those changes would affect the system. Mayor Roberts asked when work could begin if the Council approves the Master Plan. Mr. Merkh replied data collection would start within a week or two after the agreement is signed. Mr. Johnson said that is correct. He said the springtime is best time to get data as flooding concerns are fresh on residents' minds and therefore the best time to get public input. Mayor Roberts said he is in favor of moving forward but does understand the concerns about funding. He remembers construction and permits being purchased during the last recession and the City thriving at that time. Mayor Roberts said more and more residential developers are starting to approach the City and this Project would help prevent any future problems and would not hinder any possible growth of the City. He stated the City does have healthy reserves that should not be used for this Project but are there if needed and the City has been taking measures to limit costs. Mayor Roberts recognized flooding and stormwater has been an issue in the past and he wants the City to get ahead of it.

Councilmember Conus appreciated the open and civil discussion that could be had on this topic.

Councilmember Longanecker motioned to approve the Professional Services Agreement between the City of Edgerton and Olsson, Inc for the 2020 Stormwater Master Plan, seconded by Councilmember Smith. The Professional Services Agreement was approved, 3-1, with Councilmember Conus voting nay.

**11. CONSIDER REVISING 2019 STREET MAINTENANCE PROGRAM TO INCLUDE THE RECONSTRUCTION OF 8<sup>TH</sup> STREET AND EDGEWOOD INTERSECTION**

Mr. Merkh addressed the Council once more. He stated on May 23, 2019, the Council approved the recommendation for the 2019 Streets Maintenance Program to include Ultra-Thin Bonded Asphalt Surface (UBAS) of East 3<sup>rd</sup> Street from 56 Highway to Nelson Street, East 4<sup>th</sup> Street from 56 Highway to East Hulett Street and the first progression of joint sealing of concrete roadway in Logistics Park Kansas City (LPKC). Mr. Merkh stated on September 26, 2019, the Council accepted the UBAS portion of the program. This work was estimated at \$67,890, and the actual work billed came in at \$38,202, leaving \$29,688. Mr. Merkh explained at the September 29, 2019 meeting, the Council also approved the change order for the 2019 Street Reconstruction Project to include the milling of portions of

Edgewood Drive and overlaying portions with varying depths of pavement to repair the significant damage from the previous winter and from the construction activities to the surrounding areas. He stated the intersection of 8<sup>th</sup> Street and Edgewood Drive did receive new overlay asphalt but did not receive significant grade changes. At the time of the change order, City Staff could not verify the cause of the degradation to be holding water or insufficient depth of asphalt. Now that construction is complete, City Staff observes that the intersection holds water, which causes significant damage to the top course of asphalt.

Mr. Merkh said City Staff is recommending utilizing the savings from the UBAS portion of the project to have Miles Excavating Inc. rebuild the intersection with concrete. This work includes regarding portions of the intersection to increase cross slope, causing water to runoff the pavement. Miles Excavating is the contractor that completed the work for the street reconstruction, so they have previously been vetted out by City Staff and the Council. Mr. Merkh stated Miles Excavating has submitted a proposal and scope in the price of \$27,223.25, which is within the cost savings noted before.

Councilmember Longanecker motioned to approve revising the 2019 Street Maintenance Program to include the reconstruction of 8<sup>th</sup> Street and Edgewood Drive intersection not to exceed \$29,688. Councilmember Smith seconded the motion. The revision was approved, 4-0.

**12. CONSIDER RESOLUTION NO. 05-14-20B PURSUANT TO K.S.A. § 26-201 SETTING FORTH THE NECESSITY FOR CONDEMNATION OF PRIVATE PROPERTY AND AUTHORIZING PREPARATION OF A SURVEY AND LEGAL DESCRIPTIONS OF THE PROPERTY TO BE CONDEMNED**

Ms. Linn spoke before the Council. She stated the City is constructing a new full access intersection at Homestead Lane and 200<sup>th</sup> Street just north of Interstate 35 (I-35). The City needs a temporary construction easement on the property located at 20080 Homestead Lane, which is the northwest corner of Homestead Lane and I-35 to remove the existing right-in/right-out entrances and construct the new intersection. City Staff has contacted the property owner and requested the dedication of the easement by June 4, 2020.

Ms. Linn explained a new public sanitary sewer main is being constructed from the existing gravity sewer interceptor on the west side of the property at 20080 Homestead Lane to near the east side of Homestead Lane at 200<sup>th</sup> Street as well. She said the City needs a permanent sanitary sewer easement and temporary construction easement for this Project. City Staff has contacted the property owner and requested the dedication of this easement by June 4, 2020.

Ms. Linn stated City Staff will continue to negotiate easement with the property owner as the preferred method to acquire the easements prior to June 4. In case negotiations do not reach a conclusion that satisfies both parties, City Staff recommends moving forward with the condemnation process.

Ms. Linn informed the Council the first step in that process would be for the Council to pass a resolution confirming the necessity for condemnation and authorizing the preparation of a survey and legal descriptions. Passing the resolution does not prohibit the City from

continuing to negotiate and/or acquire the easements. She said the resolution authorizes the preparation of the legal descriptions.

Councilmember Smith inquired if there was a resident who lived on the property. Ms. Linn answered it is owned by D & J Development and is currently vacant.

Councilmember Longanecker motioned to approve Resolution No. 05-14-20B pursuant to K.S.A Section 26-201 setting forth the necessity for condemnation of private property and authorizing preparation of a survey and legal descriptions of the property to be condemned. Councilmember Beem seconded the motion. Resolution No. 05-14-20B was approved, 4-0.

### **13. Report By The City Administrator**

Ms. Linn stated she does not have anything to report outside of her joint report with Mayor Roberts.

### **14. Report by the Mayor**

- Report on Impact of COVID-19 to City Operations

Mayor Roberts stated he hopes to be in Phase 2 of the reopening plan by next Council meeting so the Council can meet in person. This would allow a gathering of up to 30 people, but precautions will still need to be taken, such as social distancing and the use of masks.

Ms. Linn stated the White House and the Centers for Disease Control and Prevention (CDC) have released guidance on how to open back up. She stated the CDC has information on that on their website. Ms. Linn explained the reopening plan Kansas Governor Laura Kelly has implemented. She stated a new phase was added, Phase 1.5 that will start on May 18, 2020. This has delayed the phase out of the reopening plan to June 29, 2020 at the earliest. The executive order declaring a local state of emergency and prohibiting utility disconnects has been extended to May 31, 2020. The Council did extend that to include late fees. Ms. Linn said Johnson County is now following the state's reopening plan as the stay at home order was allowed to expire. Ms. Linn stated City Hall is now open as of May 11, 2020 with precautions being taken by City Staff. She said there will be rotating shifts and marks on the floor with tape to adhere to social distancing. A sheet of plexiglass was installed for the protection of City Staff as well. Ms. Linn said Municipal Court will be held in May and City Staff will make the proper changes to ensure social distancing is followed.

Councilmember Conus complimented Ms. Linn on the job she has done with the pandemic. Ms. Linn thanked Councilmember Conus and stated she has a great team that has helped her tremendously. Mayor Roberts agrees City Staff has done a great job. He still has conference calls regarding the pandemic, but it seems like there is more time in between them.

**Future Meeting/Event Reminders:**

- May 28th: City Council Meeting – 7:00 PM
- June 9th: Planning Commission Meeting – 7:00 PM
- June 11th: City Council Meeting – 7:00 PM
- June 25th: City Council Meeting – 7:00 PM
- July 9th: City Council Meeting – 7:00 PM
- July 14th: Planning Commission Meeting – 7:00 PM
- July 23rd: City Council Meeting – 7:00 PM

**15. 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 consultation with an attorney deemed privileged in the attorney-client relationship to include the City Attorney, Public Works Director, and the City Administrator for the purposes of pending litigation for 10 minutes. Councilmember Longanecker seconded the motion. The meeting recessed into executive session at 8:10 PM after a vote of 4-0.

Councilmember Longanecker motioned to return to open session with no action being taken. Councilmember Conus seconded the motion. Open session resumed at 8:20 PM after a vote of 4-0.

**16. 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 Smith 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, Bond Counsel, and the City Administrator for the purposes of contract negotiations for 15 minutes. Councilmember Longanecker seconded the motion. The meeting recessed into executive session at 7:52 PM after a vote of 4-0.

Councilmember Smith motioned to return to open session with no action being taken. Councilmember Longanecker seconded the motion. Open session resumed at 8:07 PM after a vote of 4-0.

**17. Adjourn**

Mayor Roberts highlighted the upcoming events.

Ms. Linn stated Mr. Mike Mabrey, Utilities Superintendent, recently celebrated 30 years of service for the City. She said that it would be longer if his time as a part time employee is included. Mayor Roberts stated it is amazing that he has been with the City that long and

acknowledged that his service has been amazing. Mayor Roberts said Mr. Mabrey has seen the City grow in many ways. Ms. Linn and Mayor Roberts recommend the Council and public congratulate him if they see him around town.

Councilmember Smith motioned to adjourn the meeting, seconded by Councilmember Beem. The motion carried and the meeting adjourned at 8:26 PM, 4-0.

## EVENTS

May 4<sup>th</sup>: Youth Art Class – CANCELED

May 11<sup>th</sup>: Youth Cooking Class – CANCELED

May 16<sup>th</sup>: City Wide Clean-Up

May 26<sup>th</sup>: Municipal Court