

City of Edgerton, Kansas
Minutes of City Council Regular Session
June 24, 2021

A Regular Session of the City Council (the Council) was held in the Edgerton City Hall, 404 E. Nelson, Edgerton, Kansas on June 24, 2021. The meeting convened at 7:02 PM with Mayor Roberts presiding.

1. ROLL CALL

Ron Conus	present
Clay Longanecker	absent
Josh Lewis	absent
Josh Beem	present
Jody Brown	present

With a quorum present, the meeting commenced.

Staff in attendance:

- City Administrator Beth Linn
- Acting City Attorney Tiffany Thomas
- City Clerk Alexandria Clower
- Development Services Director Katy Crow
- Finance Director Karen Kindle
- Accountant Justin Vermillion
- Public Works Director Dan Merkh
- Public Works Superintendent Trey Whitaker
- Marketing and Communications Manager Kara Banks
- Recreation Coordinator Brittany Paddock

2. WELCOME

3. PLEDGE OF ALLEGIANCE

Consent Agenda

4. Approve Minutes from June 10, 2021 Regular City Council Meeting

Councilmember Brown moved to approve the Consent Agenda, seconded by Councilmember Beem. The Consent Agenda was approved, 3-0.

Councilmember Longanecker joined via telephone at 7:03PM

Regular Agenda

5. Declaration. None

6. Recognition of Katee Smith, former City Council Member

*RECESS FOR RECEPTION TO RECONGIZE KATEE SMITH FOR SERVICE
AND DEDICATION TO THE CITY OF EDGERTON*

Mayor Roberts recited a proclamation to recognize Katee Smith for her service and dedication to the City of Edgerton, proclaiming June 24, 2021 as Katee Smith Day.

Ms. Smith stated it has been an honor for her to serve the community of Edgerton the last few years and she is thankful to everyone she has worked with. She stated she will miss living in Edgerton but will continue to be around for events.

Mayor Roberts requested a short recess at 7:07 PM.

Mayor Roberts returned the meeting to open session at 7:15 PM.

Business Requiring Action

7. CONSIDER APPROVAL OF U.S. DEPARTMENT OF THE TREASURY CORONAVIRUS LOCAL FISCAL RECOVERY FUND AWARD TERMS AND CONDITIONS AND THE ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Ms. Karen Kindle, Finance Director, addressed the council. She stated in March 2021 President Biden signed the American Rescue Plan Act (ARPA), which provides grant funds for state and local governments. The grant funds are sent directly to units of government with populations greater than 50,000. She stated for units of government with less population, called Non-entitlement Units (NEUs), the funds will be sent to the state, who will then distribute the funds to the NEUs. The distribution amount is determined by population. She stated half of the amount is to be received prior to July 31, 2021 and the other half will be received 12 months later. She stated city matching funds are not required.

Ms. Kindle stated the city's allocation is \$270,644.58. She stated the Treasury Department has issued final guidance and staff is attending webinars from the Kansas Recovery Office to learn about the eligible uses for the funds and other administrative requirements. Staff will bring further information and recommendations regarding the city's allocation to the CIP discussions later this fall. She stated the attached document shows the four categories of eligible uses.

Ms. Kindle stated to receive the funds, the City Council must approve two agreements and submit the signed copies to the State of Kansas as soon as possible. These two agreements are the U.S. Department of the Treasury Coronavirus Local Fiscal Recovery Fund Award Terms and Conditions as well as the Assurances of Compliance with the Title VI of the Civil Rights Act of 1964.

Ms. Kindle stated the City Attorney has reviewed and approved these agreements.

Councilmember Brown moved to approve the Agreements related to the American Rescue Plan Act. Seconded by Councilmember Longanecker. The Agreements were approved, 4-0.

8. CONSIDER LEASE AGREEMENT WITH JOHNSON DRIVE DUPLEX I, LLC, FOR CITY OFFICES LOCATED AT 312B E. NELSON STREET IN EDGERTON, KS

Ms. Karen Kindle addressed the council. She stated in June 2018, City Council approved a three-year lease for offices at 312B E. Nelson to provide office space for city staff that could not be accommodated at other city facilities. There are now four staff members housed at this location as well as a conference room.

Ms. Kindle stated staff has negotiated a lease renewal with Johnson Drive Duplex I, LLC, for a lease term of July 23, 2021 to July 22, 2026. The lease rates start at \$1,038 per month with an increase of 3% each year throughout the lease period.

Ms. Kindle stated the City Attorney has reviewed and approved these agreements.

Ms. Kindle stated the current lease is a 3-year lease with a 3% escalation as well.

Councilmember Longanecker moved to approve the Lease Agreement with Johnson Drive Duplex I, LLC for City Offices at 312B E Nelson St. Seconded by Councilmember Beem. The Lease Agreement was approved, 4-0.

9. CONSIDER ORDINANCE NO. 2082 AMENDING CHAPTER VIII, ARTICLE 2, SECTION 8-207 OF THE CITY CODE OF THE CITY OF EDGERTON, KANSAS AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH

Ms. Katy Crow, Development Service Director, addressed the council. She stated after a review of the City of Edgerton Municipal Code, the Judge, Prosecutor and City Staff noted that there is no minimum daily fine amount listed for a violation of Chapter VIII, Article 2, Health and Nuisance. She stated having an expressly outlined minimum daily amount sets the starting point by which fines may be assessed so that the Judge may appropriately assess a penalty amount for violations.

Ms. Crow stated the amendment provides the necessary language to update this section of the code and a draft copy of Ordinance No. 2082 is include in the packet. She stated the City Attorney has reviewed this ordinance with no changes made.

Ms. Beth Linn, City Administrator, stated as the code is written today, there is not a minimum penalty for the offenses related to this section, so the fine amount could be zero. She stated by the time a defendant gets to court, the City is looking for a fine amount and a consequence. The Codes Department alone has generally spent months already trying to work with the defendant to get into compliance.

Ms. Crow stated one section of the code has the minimum fine amount, the other two sections did not. Approving this ordinance would create a more cohesive code book and fine amounts throughout.

Mayor Roberts stated court business has increased and the city is seeing more violations. He would like to see that the consequences be painful enough that the person does not want to come back to court and that they become compliant instead of fighting City codes. He stated by this point in the process, the City has already given the resident opportunity to fix the problem.

Councilmember Longanecker moved to approve Ordinance No. 2082. Seconded by Councilmember Brown. The Ordinance was approved, 4-0.

10. CONSIDER ORDINANCE NO. 2083 AMENDING CHAPTER VIII, ARTICLE 4, SECTION 8-409 OF THE CITY CODE OF THE CITY OF EDGERTON, KANSAS AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH

Ms. Crow stated similar to the above-mentioned Ordinance, this Ordinance will be updating the Junked and Inoperable Motor Vehicles section, allowing for a minimum daily fine to be set for violations related to this section of the code.

Councilmember Brown moved to approve Ordinance No. 2083. Seconded by Councilmember Longanecker. The Ordinance was approved, 4-0.

11. Report by the City Administrator

- Monthly Report on 502 E 2nd Street

Ms. Crow stated a fifth walk through was completed by city staff on June 24, 2021 to review the status of the project. Since the last walk-through and update provided, the owner has lined the house walls and around the deck area with OSB and added new deck supports and plans to use composite decking materials for the deck floor and stair treads. She stated the owner has said over the next week they plan to focus on the roof and siding.

Ms. Crow stated in addition, Everygy has been out to disconnect service to the home so the homeowner can continue working in the area where the electrical meter and panel was located. She stated the homeowner is upgrading to a 200 AMP service so a meter set will be required when the homeowner gets to that stage. She stated additionally, Everygy removed some tree limbs that were over the power lines which posed a risk during inclement weather.

Ms. Crow stated the homeowner has been in contact with several HVAC contractors but has been unable to schedule one to come out due to the extreme heat and summer weather. The HVAC contractors he has spoken with have told him that they need to do their work before plumbing and electrical, so Mr. Abundiz is waiting to move forward with that work until the HVAC is installed.

Ms. Crow stated staff again told Mr. Abundiz that the resolution does set a deadline of July 22, 2021 for the house to no longer be considered an unsafe or dangerous structure. She requested Council's direction on how to proceed and if a new resolution should be brought forward on July 22, extending the deadline for the work to be completed. Staff will have one more walk through and report to provide at the July 8 City Council meeting which would be prior to the deadline set by the initial resolution.

Ms. Crow stated that the owner has said he believes he will be able to finish the exterior of the home by the deadline, but the interior will not be complete and believes the interior will be completed closer to the fall.

Mayor Roberts stated as long as the owners are making progress, he would like to see Council consider extending the deadline.

Councilmember Beem stated the house is looking better than it did.

All Council agreed that because work is progressing, they would like to work with Mr. Abundiz and extend the date given to allow him more time to complete the house.

Ms. Crow asked if Council would like to see a new resolution with an extension given or if Council would like to see results at the next council meeting.

Mayor Roberts stated he would like to see results and if possible, leave the time period blank to fill it in at the July 8th meeting.

Ms. Crow stated staff will work to prepare the resolution to bring back at the next meeting along with a final update on the structure.

- Presentations by Representatives for 2022 Budget Requests
 - Miami County Conservation District

Ms. Lesley Rigney with Miami County Conservation District addressed the council. She stated as part of the Hillsdale Watershed Coalition, all the work they do is done in three sub-watersheds: Rock Creek, Bull Creek and Little Bull Creek. She stated Bull Creek is the largest and contributes the most run off. She stated they currently work off a TMDL (Total Max Daily Load) which was updated in 2014. She stated in 2016, the district became the sponsor for the Hillsdale Watershed Restoration and Protection Strategy (WRAPS) which is made up of cities/counties, conservation districts, water suppliers, etc. who have a stake in the health of the watershed. She stated the newest impairment is urban development. She stated the first 2 years WRAPS met the load reduction goals related to phosphorus, nitrogen and harmful algae blooms, and in recent years they have developed new strategies to combat the pollutants such as fencing in agricultural areas, soil testing by farmers, and phosphorus subsurface placement. She stated although load reductions are being met, the state can see that they are under more challenges than just agriculture. She stated WRAPS is working to establish more wetlands near urban development and stabilize stream banks. She stated from year-to-year certain sites are monitored and because of mass volumes of flow through the streams, degradation and bank cutting is common and makes it difficult to reach those same spots. She stated although resources are out there like Stream Bank Safe Projects, they are huge and expensive projects. She stated unfortunately they are also limited in the amount of work that can be done because of the shortage of boots on the ground. She stated they just hired an Urban Conservationist that helps look for ways to maximize conservation areas in urban surroundings such as rain gardens, native landscaping, etc. She stated the budget request is the same as years past at \$5,000.

Councilmember Longanecker questioned whether the problems stemmed specifically from farming.

Ms. Rigney stated the impairment is related to farming. But they are seeing concerns change from agricultural to physical parameters such as larger flows, higher speed,

temperature, etc. She stated these new parameters create a whole different suite of pollutants.

Councilmember Longanecker asked her to clarify the different pollutants.

Ms. Rigney stated off agricultural land, pollutants would be nutrients put into the soil and applied to the field. Urban pollutants could be the temperature of the water off the roadway, roof, oils, salts, heavy metals, etc. that create a completely different impact on aquatic life.

Councilmember Longanecker stated it seems like nothing is good and everything is bad.

Ms. Rigney stated there will always be some kind of pollutant, there is no way around that.

Councilmember Longanecker asked how to deal with temperature run off.

Ms. Rigney stated a big part would be best management practices adjacent to road and around urban development, especially in large commercial developments. She stated there is 100-plus acres of roof top and pavement in this jurisdiction and currently there is no way to get the brown water recharged. She stated there needs to be a reconnect of the water table to the water source and well-established best management practices should be considered.

Councilmember Longanecker asked for clarification, stating that some practices for slowing down the runoff might be retention ponds.

Ms. Rigney stated there are options beyond retention ponds that would need to occur to fix the temperature issues.

Councilmember Conus asked if there are any other organizations that could address these issues and come to present to council.

Ms. Rigney suggested getting in touch with people from Mid America Regional Council (MARC) as well as the American Public Works Association (APWA). She stated the cities of Olathe and Lenexa have good practices in place that might be worth looking into. She stated constructed wetlands are a good practice because they digest pollutants and allow for ground recharge. She stated there are surrounding cities that are larger and required to have these in their commercial and urban development areas. She stated Edgerton is not required because their population has not met the level, although their commercial development has.

Councilmember Longanecker stated he would like to see a presentation on the numbers involved in and around this jurisdiction as well as surrounding cities that have these practices in place.

Ms. Rigney stated she would be happy to give the presentation or put the city in touch with someone who can.

Mayor Roberts requested clarifications about statements made by Chris Cardwell, who spoke during a couple public hearings on behalf of Miami County Conservation, in regards to soil health that is being dangerously compromised by runoff from rooftops and pavement.

Ms. Rigney stated Mr. Cardwell is new and generally she would not send someone to speak on her behalf, but she was out of the country. She stated she thinks he might mean that WRAPS puts so much time and effort into soil health that it is becoming touchy because some land that was recently annexed was land that was in the program in the last 5 years. She stated they are dumping thousands of dollars into soil health and in less than 5 years the soil is under pavement.

Mayor Roberts stated that the sole cause of blue-green algae is not just the change from rural to urban or even the water temperature. He stated even in non-urbanized environments, blue-green algae cases are higher. He stated it might just be climate, and until numbers are proven, how can one say that the cause is from one certain factor. He stated he has seen a reduction of the nutrient loading levels quite a bit, even in urban areas. He stated phosphorus and nitrates are in fertilizer for lawns, so it is and always will be an issue for water health, but the sources may change.

Ms. Rigney stated anyone can drive through the watershed now and see there are thousands of nutrient crops to help maintain levels. She stated lawn fertilizers used to have phosphorus in them, but most have removed that from packaging.

Mayor Roberts stated because Edgerton is a major contributor to the watershed, he would have liked to have a discussion with the Conservation District about what can be improved rather than hearing these things for the first time during a public hearing. He stated he would like to see proof of pollutants from actual testing. He stated Edgerton holds the largest bioswale in the state of Kansas, right next to BNSF. He stated Edgerton also works with the APWA to look for best management practices. He stated Edgerton is doing more than some people know and he thinks conversations need to be had.

Ms. Rigney stated she receives ten phone calls a week and she has a simple talking point for all of them. She stated WRAPS and Miami County Conservation is not against urban development, but they just want the city and citizens to be informed. She stated when this development started, she would have liked to see a plan that considers natural water resources. She stated part of the resistance that is happening is because there has not been an inclusive planning process to involve everyone. She stated when she talks to people, she tells them she would like to see a plan that has the natural resources protected and more urban best management practices (BMP), more BMP's in parking lots, etc. She stated she is concerned with this development happening because it is in a popular watershed. She stated with the recent annexations and rezonings, the watershed will be at the 20 percent threshold which is critical. She stated that threshold signifies the departure from a rural to an urban landscape and nobody is prepared to deal with that.

Mayor Roberts stated from a personal perspective and someone who has worked in the water department for 26 years, he and his family get their drinking water from Hillsdale, along with every resident in Edgerton, so he does care about this watershed. He stated he

would assume everyone in Edgerton cares. He stated he would like to see a presentation because Edgerton wants to understand and wants to do things right. He stated they could always talk about best management practices and Edgerton will strive to meet those, but there will always be a conflict between nature and urban development. He stated when Mr. Cardwell showed up and spoke during the public hearings, staff and Council were surprised because the concerns he addressed had not been brought up prior to the hearings. He stated as City Council, they have the desire to protect the best interest of the community.

Ms. Rigney stated there are great examples in the surrounding area of processes that have been taken to help maintain watersheds in development areas. She stated she thinks everyone values and recognizes the demand that is happening here in Edgerton and her organization does not take a stance on the development, they just want to inform on the watershed. She stated they would just like to see the watershed taken into account.

Mayor Roberts asked what logistics park in Lenexa is required to have BMPS on impervious surfaces.

Ms. Rigney stated the person to talk to would be Lee Kellenberger. She knows they require BMPs to be there but is not sure about specific locations. She stated she knows they have bioswales and constructed wetlands.

Councilmember Conus asked if each warehouse and parking lot reduces the amount of phosphorus and nitrogen but can create other environmental problems.

Ms. Rigney stated crop to urban eliminates most, if not all nutrient loading. Development changes and gets rid of the nutrient problems but does not get rid of all problems. She stated they would love to work and support the city in any way they can.

Mayor Roberts stated he would assume staff would be willing to meet with Mr. Cardwell and discuss matters related to watershed conservation. He would like to see numbers associated with claims made like "dangerous run off from rooftops and roads". He asked what this meant and where are the numbers to back it up. He stated if massive amounts of pollutants are seen from run off, then he assumes numbers could be shown to support this claim.

Ms. Rigney stated there is not a lot of monitoring due to degradation being so extreme. She stated there have been landowners show pictures of 6-foot bed drop in just a year, but it is difficult to pinpoint the cause when rainfall has been so extreme coupled with drought. She stated because of this, it is hard to tell where the impacts are coming from, but people will assume it is not due to the weather.

Mayor Roberts stated instead of assuming and claims being made, people need to know what is going on and see the numbers associated with them.

Ms. Rigney stated she would be happy to present or find someone to present more information to the Governing Body.

Mayor Roberts stated the request is for \$5,000 and asked if Council was in favor of moving forward with this amount. Councilmembers in attendance nodded. He stated he looks

forward to a presentation at some point and he will personally dig into the current practices in Lenexa and Olathe that have been mentioned.

Ms. Rigney stated another great idea would be stream set-back ordinances. She stated most of Johnson County is required to operate on this sort of ordinance which states development can only occur so many feet away from a stream based upon several factors.

Mayor Roberts asked if it is required or not.

Ms. Rigney stated some jurisdictions have adopted it as a requirement and it may be a positive for Edgerton to use as a city that has more development than surrounding cities with more staff.

Ms. Linn stated city staff will work to get contacts for a presentation for Council.

Ms. Linn stated as a reminder, July 3rd is coming up and closures will look slightly different this year. She stated the park will be shut down all day on Saturday and will not be open to the public until 5 PM to allow crews time to set up. She asked those Councilmembers who are volunteering to let Kara know and if they are volunteering, to show up a half hour early. She stated due to COVID, vendors will be serving the food.

12. Report by the Mayor

Mayor Roberts stated he received a call from Ms. Shirley Hill and has invited her to come speak before Council. He stated she bought Ms. Donna Bratton's old property.

Ms. Hill addressed the council. She stated she has lived in Edgerton since 1995 and purchased this property about a year ago. She stated because the structures were so worn, they had to demolish the previous home to build new. She stated when she first came into Edgerton, the total fees quoted were around \$14,000.00 for system development. She stated after construction, the city will incur no cost, and she does not understand why she would be charged development fees when the development is already there. She stated the fees are very high. She stated the previous home had functioning water and sewer and there is no effort for the city to get water to the property. She stated she is requesting the fees be waived, or a discount given.

Mayor Roberts stated he appreciates Ms. Hill coming in and speaking to council. He stated he would like to talk through this matter with staff and Council.

Ms. Linn stated several years ago, the City adopted a Fines and Fees Schedule and in that schedule all fines and fees addressed take precedence over those that might be specified in the City's Codes. She stated staff has not yet gone back through the code and pulled every reference to a dollar amount to update. She stated the city is in the process of getting new software and through that process, staff has identified properties that may have meters but are not paying the monthly service charge. She stated at one point there were meters that were turned off or terminated and the current code does not allow for this to happen. She

stated how the code reads, a site can be terminated where the meter is no longer on the property, or a meter can be turned off but still be billed for services monthly. This way allows for the property at any point to be connected to services by just coming into city hall and filling out some paperwork. She stated this is what the city calls a demand customer.

Councilmember Beem stated meters are still on the property, so why would Ms. Hill have to pay. He asked Ms. Hill if she was aware that in terminating the services when she bought the property meant she would have to repay these fees.

Mayor Roberts stated although this site has a meter, water has not been on in a long time.

Ms. Linn stated when Ms. Hill first came into City Hall a year or so ago, she was given a breakdown of the fees associated with the demolishing the structure, taking meters out, submitting for a new build, etc. Ms. Linn stated the last time this address had service was in 2012.

Councilmember Brown stated it seems like a lot of money for an existing system.

Mayor Roberts stated the System Development Fee is needed to offset future expansion of facilities and make sure the City has the necessary capital. He stated the monthly service fee is about the maintenance of the system.

Ms. Hill asked for clarification to the code book since the fees are not correct.

Ms. Linn stated that the Fee Resolution, annually updated and reviewed by Council, is the most recent and acting policy for city fees.

Mayor Roberts asked staff to bring back a presentation to help Council better understand how the fees are calculated and what the fees go toward, as well as bring back an item to the next meeting to see if there might be any resolution that the city and Ms. Hill can come to as far as the fees owed.

Mayor Roberts stated he understands the system is existing but because it was out of service for so long, the necessary upgrades and maintenance have not been done. He stated he is not opposed to a resolution waiving or decreasing the fees, but he thinks that Council should take into consideration long-term goals. He referenced Councilmember Longanecker who also built new construction and had to pay the same fees. He suggested a possible redevelopment fee instead which would be calculated differently than a new development fee.

Ms. Linn handed out the new budget calendar and highlighted the Budget Work Session on July 15th. She stated Council will have the numbers before them two weeks prior to this date and the entirety of the Budget will be presented on the 15th.

13. Future Meeting Reminders:

- July 8th: City Council Meeting – 7:00PM
- July 13th: Planning Commission Meeting – 7:00PM

- July 15th: 2022 Budget Work Session – 7:00PM
- July 22nd: City Council Meeting – 7:00PM

14. **Adjourn**

Councilmember Brown moved to adjourn, seconded by Councilmember Beem. All in favor. The meeting adjourned at 8:32 PM.

Submitted by Alexandria Clower, City Clerk

EVENTS

July 3rd: Edgerton's Community Picnic and Fireworks

July 24th: Summer Movie Night

August 7th: Summer Movie Night