

**City of Edgerton, Kansas**  
**Minutes of City Council Regular Session**  
**June 25, 2020**

A Regular Session of the City Council (the Council) was held in the Edgerton City Hall, 404 E. Nelson Edgerton, Kansas on June 25, 2020. The meeting convened at 7:06 PM with Mayor Roberts presiding.

**1. ROLL CALL**

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

With a quorum present, the meeting commenced.

Staff in attendance:

- City Administrator Beth Linn
- City Attorney Lee Hendricks
- City Clerk/Planning and Zoning Coordinator Chris Clinton
- Development Services Director Katy Crow
- Finance Director Karen Kindle
- Public Works Director Dan Merkh
- Public Works Superintendent Trey Whitaker
- Marketing and Communications Manager Kara Banks
- Animal Control/Codes Enforcement Officer Charlie Lydon

**2. WELCOME**

**3. PLEDGE OF ALLEGIANCE**

**CONSENT AGENDA**

4. Approve Minutes for June 11, 2020 Regular City Council Meeting.
5. Approve Concurrence to Bid the Homestead Lane Intersection Improvements
6. Approve Application FP2020-01, Final Plat for DeLong Trucking, Generally Located at 32612 W. 191<sup>st</sup> Street, Edgerton, Kansas

Councilmember Longanecker motioned to approve the Consent Agenda, motion seconded by Councilmember Conus. The Consent Agenda was approved, 3-0.

**REGULAR AGENDA**

**7. Public Comments.**

Caleb Flake from McClure Engineering thanked the Council and City Staff for their time and help with the Site Plan and Plats for the DeLong Companies.

**8. Declaration.**

There were no declarations made at this time.

**BUSINESS REQUIRING ACTION**

**9. CONSIDER RESOLUTION NO. 06-25-20A PROVIDING FOR A DEADLINE OF JULY 20, 2020 FOR REMOVAL OF YARD NUISANCES AT 502 EAST 2<sup>ND</sup> STREET, EDGERTON, KANSAS PURSUANT TO EDGERTON CITY CODE CHAPTER VIII, ARTICLE 3 AND ALLOWING FOR THE CITY TO ABATE THE COSTS ASSOCIATED WITH THE REMOVAL OF SAID NUISANCES**

Ms. Katy Crow, Development Services Director, and Mr. Charlie Lydon, Animal Control/Code Enforcement Officer, approached the Council. She stated the property located at 502 E. 2<sup>nd</sup> Street has had numerous code enforcement violations over the past five (5) years. In August of 2015, the owner of the property passed away. Ms. Crow explained property taxes entered a delinquent status and were not paid for several years. In April of 2018, City Staff brought before the Governing Body Resolution No. 04-26-18A which allowed the City to move forward in abating the onsite nuisances which were in violation of Edgerton City Code Chapter VIII, Article 3, Section 8-308. Prior to the City bringing in resources to abate said nuisances, a family member of the deceased property owner moved to action and cleaned up the trash and debris. Ms. Crow explained in 2019, tall grass and weeds violations continued to occur on this parcel, which resulted in the assessments for the mowing costs being added to the property tax role for this property.

She stated the property was sold through the tax sale process on October 29, 2019. Per the Deputy Director of Legal for Johnson County, there was a 120-day redemption period due to an Internal Revenue Service (IRS) tax lien. Ms. Crow said pursuant to that requirement, the Sheriff's Deed was signed on March 18, 2020. The deed was then recorded, and the ownership updated on the tax rolls listing the new owner as R-7 Capital Funding, LLC located at 921 E. Hayward Avenue in Independence, Missouri. Ms. Crow explained deed documents do not list an individual's name.

Ms. Crow said Codes Enforcement has continued to monitor the property for basic maintenance and cleanliness since the ownership change. Between January and March of this year, the parcel continued to amass multiple piles of yard waste, miscellaneous debris, and automotive tires. The growth of yard waste piles in an indicator that someone is adding to them. She stated the same camper trailer that was on the property in 2018 is still onsite. The exterior is covered with mold and City Staff has not entered the property to determine if the trailer is secure and weather or rodent tight. Ms. Crow explained there is an inoperable vehicle due to expired tags on the property. The presence of those items is a violation of Sections 8-308 and 8-403 of the Edgerton City Code. She explained an Order of Violation for these sections of the City Code were sent via certified mail to the owner on April 2, 2020. The letter was returned to City Staff labeled as unclaimed and the Postal Service was unable to forward it.

Ms. Crow informed the Council that between April and June of this year, the property has had multiple tall grass and weeds violations. On April 23, 2020, a "Notice to Remove" was sent to the owner via certified mail and a public notice was posted in the Gardner News.

The letter and public notice informed the owner of the nuisance and provided a time frame of ten (10) days to abate the condition. The letter sent via certified mail was sent to the owner's address in Independence, Missouri and a letter was sent via regular mail to the property address in Edgerton and to a corporation with the same name at an address in Oklahoma City, Oklahoma which has an authorized agent for mail receipt. The letters sent via regular mail have not been returned. Ms. Crow stated the inoperable vehicle was removed early May of 2020. The tall grass and weeds have not been taken care of and the City has maintained the grass on the property since May 4, 2020. Ms. Crow explained the abatement costs to date are \$341.48.

Ms. Crow stated the City Attorney has prepared Resolution No. 06-25-20A pursuant to Section 8-311 of the Edgerton City Code. City Staff would recommend the Governing Body approve the resolution to find the existence of the yard nuisances a violation of the City Code and remand the property owner to abate the nuisances by July 20, 2020. This allows for the publication twice of Resolution No. 06-25-20A on July 1, 2020 and July 8, 2020 and the requisite 10 days after publication. Ms. Crow said should the deadline not be met, the approved resolution authorizes the City, by its agent, to abate the conditions causing the violations and remove the nuisance from the property pursuant to Section 8-311 of the Edgerton City Code. Ms. Crow explained Resolution No. 06-25-20A states that should it be necessary to abate these conditions, any and all costs incurred by the City, including attorneys' fees, shall be charged against the property as provided in Section 8-314, by having the City Clerk certify the costs of cleanup to the Johnson County Clerk to be collected by the County Treasurer and paid to the City as other City taxes.

Councilmember Longanecker inquired who maintains the lot at this time. Ms. Crow answered City Staff hires a contractor to mow the lot. Councilmember Longanecker asked if the City has received any correspondence from the property owner. Mr. Lydon answered City Staff has not received any replies. The Deed does not list a person, only the company of R-7 Capital Funding as the property owner. Councilmember Conus inquired if anybody lives on the property. Mr. Lydon replied nobody has resided in the house for at least twenty-five (25) years. Councilmember Conus inquired if the property owner would read the publishing in the newspaper. Mr. Lee Hendricks, City Attorney, answered the City has attempted to contract the property owner but they have not responded so it is best for the City to go an extra route. He stated this could either go to municipal court with fines or the route City Staff has elected due to the lack of correspondence from the property owner. Ms. Crow said City Staff have sent notices through the regular mail and certified mail. The resolution will be published two weeks in a row and posted on the property. Mayor Roberts said the City prefers the property owner to maintain the lot and structure clean it up. Councilmember Longanecker stated the property has been in a state of disrepair for too long and needs to be addressed. Ms. Crow stated she wished the house could be renovated but the damage is too extensive. Mr. Hendricks clarified the deadline for the property owner to abate the nuisances will be July 20, 2020 and not July 7, 2020 as posted on the agenda. Councilmember Longanecker requested clarification on when the City could take action on the property. Mr. Hendricks answered that the City could take action 10 days after the second publication of the resolution.

Councilmember Longanecker motioned to approve Resolution No. 06-25-20A.  
Councilmember Smith seconded the motion. Resolution No. 06-25-20A was approved, 3-0.

**10. CONSIDER RESOLUTION NO. 06-25-20B DEEMING THE PROPERTY LOCATED AT 502 E 2<sup>ND</sup> STREET, EDGERTON KANSAS AN IMMEDIATE HAZARD PURSUANT TO EDGERTON CITY CODE CHAPTER IV, ARTICLE 4, SECTION 4-412**

Ms. Crow and Mr. Lydon addressed the Council. She said this is the same property as Resolution 06-25-20A. In addition to the violations presented before the Council, there are also multiple broken or missing windows. It appears the front door of the house is either ajar or missing. City Staff has not entered the property to determine the condition of the interior. She explained pursuant to Edgerton City Code Chapter IV, Article 4, Section 4-412, the Governing Body may direct the public officer to erect barricades or cause the property to be vacated, taken down, repaired, shored, or otherwise made safe without delay. Such action may be taken without prior notice or hearing to the property owner.

Ms. Crow stated the City Attorney has prepared Resolution No. 06-25-20B pursuant to Section 4-412 of the Edgerton City Code. City Staff recommends the Council approve the resolution to find the existence of broken windows and unsecured doors a violation of the City Code and instruct the public officer and Codes Enforcement Officer to cause the property to be made safe without delay. The resolution also has the same provision as Resolution No. 06-25-20A with regards to the fees incurred by the City.

Mayor Roberts asked when the property could be secured. Mr. Hendricks stated the City's Code allows immediate action to take place with no publishing or correspondence and can be done before the July 20, 2020 deadline. Councilmember Conus stated he is concerned about kids and teens entering the property and getting hurt.

Councilmember Conus motioned to approve Resolution No. 06-25-20B. The motion was seconded by Councilmember Smith. Resolution No. 06-25-20B was approved, 3-0.

**11. CONSIDER RESOLUTION NO. 06-25-20C PROVIDING FOR A HEARING TO DISCUSS A POSSIBLE DANGEROUS AND UNFIT STRUCTURE EXISTING AT 502 E 2<sup>ND</sup> STREET IN THE CITY OF EDGERTON, JOHNSON COUNTY, KANSAS PURSUANT TO CITY OF EDGERTON CITY CODE, CHAPTER IV, ARTICLE 4, SECTION 4-405**

Ms. Crow and Mr. Lydon explained to the Council the owner of the property has been unresponsive to notifications sent regarding the upkeep and maintenance of the property. The City Code provides that when it appears to the public officer that the structure is dangerous, unsafe, or unfit for human habitation, they may report such finding to the Governing Body. Ms. Crow said upon receipt of the report, and pursuant to Chapter IV, Article 4, Section 4-401, should the Governing Body of the City find a structure unfit for human use or habitation because of dilapidation, defects, unsanitary conditions, or conditions which provide a general blight upon the neighborhood or surrounding properties, the Governing Body may fix a time and place at which the owner, the owner's agent, any lienholder of record and any occupant of the structure may appear and show cause why the structure should not be condemned and ordered repaired or demolished.

Ms. Crow stated the City Attorney prepared Resolution No. 06-25-20C pursuant to Section 4-405 of the Edgerton City Code to set the date and time for the hearing. The resolution

must be published once each week for two consecutive weeks, and thirty (30) days must elapse between the last publication and the date set for the hearing. Publication of the resolution will occur on July 1, 2020 and July 8, 2020 with a public hearing set for Thursday, August 13, 2020 at 7:00 PM. City Staff would recommend approval of Resolution No. 06-25-20C in order to continue moving forward with the process to abate this nuisance.

Councilmember Conus inquired what would be done with the recreational vehicle (RV) on the parcel. Ms. Crow replied it would be removed. Councilmember Conus asked where it would be relocated to. Mr. Hendricks answered it would most likely end up in a trash dump. Councilmember Conus inquired if the City could be held responsible for removing the property. Mr. Hendricks replied the property owner could sue for the property but that is very unlikely due to the City taking all of these steps. Mayor Roberts said he does not know how many owners there have been of the property, but none have maintained this property. Mr. Lydon stated he knows of at least 5 since he has been employed by the City. Councilmember Smith asked what the final outcome would be of the property. Mr. Hendricks answered there would be a resolution up for consideration following the public hearing and it would establish another deadline to have the structure addressed. Councilmember Longanecker asked if the property could be fully addressed by the fall. Ms. Beth Linn, City Administrator, replied it is a possibility. Mr. Hendricks stated it is important for the citizens to see the City take a hard stance on these issues, so properties are maintained. Ms. Crow informed the Council only Resolution No. 06-25-20A is required to be posted on the property, but all of the approved resolutions will be posted. Mayor Roberts requested City Staff take all precautions when posting the resolutions on the property.

Councilmember Smith motioned to approve Resolution No. 06-25-20C. The motion was seconded by Councilmember Longanecker. Resolution No. 06-25-20C was approved, 3-0.

## **12. Report by The City Administrator**

- Ms. Crow provided an update on the status of the upcoming vaccine clinic. She stated Mr. Lydon and Ms. Kara Banks, Marketing and Communications Manager, have been working diligently to provide this service while meeting the recommendations of social distancing. She said the event will be at Martin Creek Park and explained how the traffic will flow during the event. She stated Mr. Lydon was able to prepare the rabies certificates ahead of time due to the reservation process. Ms. Crow said there were three (3) appointments for each fifteen (15) minute time slot for a maximum of four (4) pets per appointment. Some extra slots have become available for residents. They can call City Hall to be added into a time slot. Ms. Crow explained a staging area will be set up for those who do not have a reservation. Mayor Roberts requested an update after the event to see how the event went. Ms. Crow said the residents seem to like the reservation idea instead of waiting in line. Mayor Roberts said this is a popular event and residents have come from other municipalities to partake in the event, but this year the reservation process made it easier to put Edgerton residents first.
- Mr. Hendricks stated last month his firm started as the City Prosecutor due to the previous one resigning. He explained as part of prosecutorial discretion defendants may be allowed to amend their speeding tickets to have the moving violation reduced to a non-moving violation by paying the associated court costs and double the fee. He stated this would only be for drivers who have a previously unremarkable record. Mr. Hendricks

requested the Council guide him on the approach of the prosecutor's discretion and outline when an amendment could and could not be offered. He suggested that drivers with a CDL and those caught speeding in a school zone should not be allowed to amend their tickets. He stated CDL drivers should be held to a higher standard and due to the elevated risk to children in school zones, amendments should not be offered in those cases. Mr. Hendricks recommends the Council provide a policy on when the amendments could be offered up to a set amount over the speed limit. He used the example of drivers ticketed for twenty (20) miles per hour (MPH) or less over the speed limit could be offered the amendment.

Councilmember Longanecker inquired if a driver is issued a citation for 15 MPH over the speed limit if their license is suspended. Mr. Hendricks stated it is not. Mayor Roberts said 20 MPH over the posted speed limit is really fast so it might be best to use a percentage of the speed, such as 10% of the posted number. Councilmember Longanecker said the highways in the County are dangerous due to people speeding on them as well.

Mr. Hendricks stated officers rarely right tickets 10 MPH or under, so if the posted speed limit is 45 MPH, then to be eligible for the amendment, the driver would be going under 10 MPH over the limit and most likely not ticketed. He cautioned the court might have to be extended due people fighting tickets if there is no amendment policy in place. He stated a common policy is 15 MPH or less amendment policy.

Councilmember Smith inquired if there was a way to separate it out depending on the location of where the offense occurred. Mr. Hendricks stated that is possible, however it should not be up to the prosecutor to decide the credibility of the reasons people may provide for their actions. Ms. Linn said only a small section of 56 Highway is in Edgerton and none of Interstate 35 is. Mayor Roberts said there are speed drops in the City that need to be patrolled. Mr. Hendrick said he is fine with the Council requesting some information from other municipalities before setting a policy. The Council agreed drivers ticketed for speeding in a school zone and CDL holders should not be able to amend their tickets. Mayor Roberts agreed it is rare for an officer to pull over and ticket a driver for doing 10 MPH or under over the limit. Mayor Roberts said the County has allowed drivers to go on diversion. Mr. Hendricks replied this policy would be only for speeding tickets and the paperwork for a diversion program would not be worth the hassle for the City. The Council agreed to allow amendments to speeding tickets for up to 15 MPH over the posted speed limit.

- Ms. Linn provided sales tax income to the Council. She said overall the tax payments are positive numbers. Mayor Roberts asked if the report was year to date. Ms. Linn answered it is. Mayor Roberts asked if the City's payment increased from last year. Ms. Linn stated it has. Mayor Roberts said he is surprised and is interested to see what the next month brings.

### **13. Report by the Mayor**

Mayor Roberts said the 3<sup>rd</sup> of July Community Picnic is quickly approaching. The Council is to be at Martin Creek Park at 5:30 PM. Mayor Roberts said City Staff has done a lot of work

in a short amount of time to hold this event. He stated the crew has already been prepping for the fireworks display.

**14. Future Meeting Reminders:**

- July 9th: City Council Meeting – 7:00 PM
- July 14th: Planning Commission Meeting – 7:00 PM
- July 23rd: City Council Meeting – 7:00 PM
- August 11<sup>th</sup>: Planning Commission Meeting – 7:00 PM
- August 13<sup>th</sup>: City Council Meeting – 7:00 PM
- August 27<sup>th</sup>: 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 PURPOSE 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 20 minutes. Councilmember Conus seconded the motion. The meeting recessed into executive session at 7:46 PM, 3-0.

Councilmember Smith motioned to return to open session. Councilmember Longanecker seconded the motion. Open session resumed at 8:16 PM, 4-0.

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 Conus seconded the motion. The meeting recessed into executive session at 8:16 PM, 3-0.

Councilmember Smith motioned to return to open session. Councilmember Longanecker seconded the motion. Open session resumed at 8:26 PM, 4-0.

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 Conus seconded the motion. The meeting recessed into executive session at 8:26 PM, 3-0.

Councilmember Smith motioned to return to open session. Councilmember Longanecker seconded the motion. Open session resumed at 8:36 PM, 4-0.

Councilmember Smith motioned to distribute payments in the amount of \$10,400 to the Rogers for easement acquisition at 605 W Morgan Street, \$7,500 to Top Brass, LLC for easement acquisition at 101 W 5<sup>th</sup> Street, and \$7,000 to Deep, LLC for easement acquisition

at 100 W 5<sup>th</sup> Street in preparation for construction of the 56 Highway Multi-Use trail. The motion was seconded by Councilmember Longanecker. The payments were approved, 3-0.

Councilmember Longanecker motioned to approve an additional \$25,000 payment and allowance to retain any personal property for the Owens at 410 W Braun Street in preparation for construction of the 207<sup>th</sup> Street Grade Separation Project. Councilmember Smith seconded the motion. The payment and allowance were approved, 3-0.

## 16. **Adjourn**

Councilmember Smith motioned to adjourn the meeting, seconded by Councilmember Longanecker. The motion carried and the meeting adjourned at 8:38 PM, 3-0.

## EVENTS

June 27<sup>th</sup>: Low-Cost Animal Vaccination Clinic – 8:30 AM to 1:30 PM RESERVATIONS

ARE REQUIRED – Visit [petvaccinationclinic.eventbrite.com](http://petvaccinationclinic.eventbrite.com) to make a reservation

July 3<sup>rd</sup>: Community Picnic and Fireworks Show (Park Opens at 5:00 PM, Fireworks around 9:45 PM)

July 15<sup>th</sup>: Senior Lunch and BINGO – 12:00 PM to 2:30 PM

July 28<sup>th</sup>: Municipal Court