

City of Edgerton, Kansas
Minutes of City Council Regular Session
July 22, 2021

A Regular Session of the City Council (the Council) was held in the Edgerton City Hall, 404 E. Nelson, Edgerton, Kansas on July 22, 2021. The meeting convened at 7:00 PM with Mayor Roberts presiding.

1. ROLL CALL

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

With a quorum present, the meeting commenced.

Staff in attendance:

- City Administrator Beth Linn
- City Attorney Lee Hendricks
- Planning and Zoning Coordinator Chris Clinton
- Development Services Director Katy Crow
- Accountant Justin Vermillion
- Public Works Director Dan Merkh
- CIP Manager Brian Stanley
- Public Works Superintendent Trey Whitaker
- Marketing and Communications Manager Kara Banks

2. WELCOME

3. PLEDGE OF ALLEGIANCE

Mayor Roberts read a letter from Ron Conus delivered to City Hall on July 21, 2021. In the letter Councilmember Conus resigned from the Council effective immediately. Councilmember Longanecker moved to accept the resignation of Councilmember Conus, Councilmember Brown seconded the motion. Councilmember Conus' resignation was accepted, 3-0.

Consent Agenda

4. Approve Minutes from July 8, 2021 Regular City Council Meeting
5. Final Acceptance of Homestead Lane Intersection Improvements
6. Accept Concurrence to Bid the Community Development Block Grant (CDBG) 7th and Nelson Sanitary Sewer Project

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

Regular Agenda

7. **Declaration.** No Councilmember had anything to declare at this time.

Business Requiring Action

8. **CONSIDER ORDINANCE NO. 2086 AUTHORIZING OPERATION OF ALL-TERRAIN VEHICLES, GOLF CARTS, LOW SPEED VEHICLES, WORK-SITE UTILITY VEHICLES AND MICRO UTILITY TRUCKS ON THE STREETS WITHIN THE CORPORATE LIMITS OF THE CITY OF EDGERTON, KANSAS SUBJECT TO SPECIFIC RESTRICTION AND REQUIREMENTS; PROVIDING FOR THE REPEAL OF PORTION OF ARTICLE 14, SECTION 114 OF THE STANDARD TRAFFIC ORDINANCE, AS AMENDED, REGULATING THE ABOVE-NAMED VEHICLES AND REPEALING ALL ORDINANCES IN CONFLICT THEREWITH**

Mayor Roberts stated he will allow public comment after City Staff presentation.
Councilmember Lewis joined the meeting at 7:03 PM.

Ms. Beth Linn, City Administrator, addressed the Council. She stated in September of 2020, the Council held a work session to discuss possible regulations to allow various types of vehicles on City streets. Additionally, in January of 2021, City Staff brought forward several topics for additional direction from the Council in working with the City Attorney to draft the regulations and Sheriff's Office for consideration in enforcement of draft regulations. Those draft regulations were provided in the packet for this meeting.

Ms. Linn explained Sections 1 through 5 of the regulations define the types of vehicles included in this section of Code as defined by the Standard Traffic Ordinance (STO). These sections included definitions from the STO as it is written today. She added Section 9 references that should the definition of any of those be updated in a future version of the STO, then the City's definition would be updated and amended as well. Ms. Linn listed the vehicles as All-Terrain Vehicle (ATV), Golf Carts, Low-Speed Vehicle, Work-Site Utility Vehicle, and Micro Utility Truck. She added that based on the recommendations from the City Attorney and Sheriff's Office, the draft regulations prohibit straddled ATVs. If the Council would prefer to remove that prohibition, then Section 1(b) would need to be stricken from the ordinance.

Ms. Linn said Section 6 defines the regulations for operation of the vehicles. A valid driver's license without any restrictions is needed and the vehicles may be operated from sunrise to sunset. She stated all Kansas motor vehicle seat belt and child safety seat or booster seat regulations apply, regardless of whether they have been factory installed or not. All of the vehicles are required to have headlights, taillights, and at least one rear view mirror, regardless of whether they have been factory installed or not.

Ms. Linn outlined Section 7 which sets limitations on roads and streets and insurance requirements. The vehicles can only be operated on City roads and streets with a speed limit of thirty-five (35) miles per hour (MPH) or less. Users are required to have an annual City permit and will need to verify proof of liability insurance. The permit will need to be displayed prominently on the rear of the permitted vehicle and needs to be visible when the vehicle is driven. Proof of liability insurance is to be carried while the vehicle is in operation and produced upon request from law enforcement. Ms. Linn explained any violation of the ordinance may be cause for revocation of the City issued permit by the City Administrator

with notice provided to the owner, operator, or dealer. A permit that has been revoked may be appealed to the Governing Body by filing a written appeal to the City Clerk within five (5) business days of written notice of revocation. The Governing Body may choose to hear or refuse to hear the appeal. Any owner or operator may apply for a City permit and must complete an application, attach a copy of the proof of insurance, agree to obey all sections of the ordinance, and pay the associated fee. Permits will be renewable annually with the application and fee paid on or before January 15th.

Ms. Linn stated Section 8 of the ordinance provides the regulation for how the vehicles should be driven or operated on roadways laned for traffic. Section 10 deems any violation of any provision of the ordinance as a traffic infraction. She said the draft ordinance was prepared by the City Attorney and if passed, City Staff will bring forward a revision to the Annual Fee Resolution at the August 12, 2021 Council meeting to add the Unconventional Vehicle Permit Fee based on the fee amount recommended by the Council.

Mr. Chad Courtois, 526 Heather Knoll Drive, stated he has concerns regarding Section 1. He stated with the definition provided of an ATV, by not allowing straddled vehicles, the City would allow go-carts or other homemade vehicles. He believes removing Section 1 would make the ordinance more inclusive. Mr. Courtois stated he also concerns regarding the hours of operation. He stated the highlight of this ordinance would being able to drive to and from City events. He also hopes the Council decides on a one-time fee with a lower renewal fee.

Councilmember Longanecker stated the sun sets later in the day during the summer and earlier in the winter and that can be tricky to enforce. Councilmember Lewis inquired what the time is listed on the noise ordinance. Ms. Linn explained the noise ordinance addresses amplified noise like music. She read Chapter XI, Article 6, Section 11-602 noting that there is not a time outlined in the section. Section 11-603, which covers prima facie violations, notes a violation between the hours of 10:00 p.m. and 8:00 a.m.

Councilmember Brown inquired why lights are required when the vehicles can only be driven during the daytime. Mr. Lee Hendricks, City Attorney explained during the discussions of this ordinance, it was decided lights could be needed during inclement weather. Councilmember Brown asked why break lights or turn signals were not included in the required equipment. He stated he believes that equipment should be required like all other vehicles. He explained aftermarket turn and break light kits are available.

Councilmember Lewis stated there are no seatbelts on many ATVs. Ms. Linn stated the current ordinance does not allow straddled vehicles, but if Section 1 is removed, then the seatbelt section should be edited as well. Mr. Hendricks agreed with Ms. Linn.

Mr. Hendricks looked up the definition of different kind of vehicles in the STO. He explained there is no definition for go-cart but can be added. Commissioner Lewis stated a regulation for engine sizes could be added as well. Mr. Courtois inquired what ATV can't be straddled. Mr. Hendricks stated it was best for the City to use the definition in the STO as it stays consistent, and the City adopts the STO by another ordinance and can then update the definition of an ATV then. Mr. Courtois stated the only ATV that is not straddled is a go-cart. Mr. Charlie Crooks, 102 E McDonald Street, inquired if there was a bumper height

requirement for vehicles. Mr. Courtois pointed out a side-by-side is defined as a work site utility vehicle. Councilmember Brown said the Kubota the City owns would be considered a work site utility vehicle. Councilmember Beem asked Mr. Courtois what he would classify his side-by-side as. Mr. Courtois replied it would be classified as a work site utility vehicle per this ordinance.

Councilmember Longanecker asked if Master Deputy Brad Johnson had anything to add regarding the regulations. Master Deputy Johnson stated the National Highway Traffic Manual (NHTM) states all vehicles are required to be equipped with lights and the bumper needs to be fifteen (15) to seventy-two (72) inches off the ground. He explained the NHTM sets the standard nationally. The first draft of the ordinance was an entry point and drafted using ordinances from other nearby cities. Master Deputy Johnson stated these ordinances have been challenged in courts and been upheld and changing the language too much would allow for challenges again. He strongly recommended the ordinance not allow any vehicles that sit below the visibility of drivers of larger trucks. There are truck routes and lifted trucks that drive throughout the City and sometimes those drivers can not see the Ford Explorer he drives. He said drivers on dirt bikes and 3- or 4-wheelers have proven to be more reckless than those in other types of vehicles. There have been accounts of people on dirt bikes and 3-or 4-wheelers driving across yards and off streets. Drivers are less likely to take a vehicle such as a work site utility vehicle through yards. Mr. Courtois said people who do that are not registered to drive these vehicles. Master Deputy Johnson countered with people who are registered to drive a car still drink and drive. He stated just because people are registered to drive vehicles does not mean they obey the laws all the time. Mayor Roberts said the Council wants to pass this ordinance for responsible adults. He sees people who are not obeying the law already and this ordinance will hold people accountable for their actions and does not ruin the quiet way of life in Edgerton.

Councilmember Longanecker asked Master Deputy Johnson if he was comfortable with how the ordinance is written. Master Deputy Johnson answered he is comfortable with all of the vehicles except ones that can be difficult to see like dirt bikes, 3- or 4-wheelers, or go-carts. Mayor Roberts stated the ordinance does not name go-carts specifically, but similar vehicles are defined in the STO. Mr. Hendricks stated it is possible to exclude go-carts and he is looking up a definition to include in the ordinance. Mr. Courtois added Section 1 should be removed because the only ATV that can't be straddled is a go-cart. Mr. Hendricks explained the City used the definition of an ATV from the STO. He said there may be vehicles that can be straddled that are not go-carts. The STO is created by League of Municipalities and the definition would not be written the way it is if that was not the case. Councilmember Brown asked Mr. Hendricks if any of the cities he represent allow straddled ATVs. Mr. Hendricks replied one city did but it was retracted after injuries and the only allowance is for the city staff.

Councilmember Beem asked if farmers can use these types of vehicles to do tasks. Mr. Hendricks replied the issue arises when the driver leaves their own property to drive along City streets. Councilmember Brown inquired if the rules in the unincorporated County are different. Mr. Hendricks answered the County allows for many types of vehicles to be used, but when the driver enters the City limits, then they would have to obey the City's ordinances. Mr. Darius Crist, 510 W Braun Street, asked about farmers who own cattle

within the City limits. Mr. Hendricks replied if the vehicles are used on City streets, they would need to obey the ordinance.

Councilmember Longanecker said he has received complaints about 4-wheelers being driven in the City. Councilmember Lewis said the vehicles are loud regardless of which one is used.

Councilmember Beem inquired what the penalties would be. Ms. Linn answered it is outlined in the ordinance. Mayor Roberts added it can be edited as well. Ms. Linn explained all traffic violations will be handled like all traffic violations in other vehicles and will be dealt with in municipal court. Ms. Linn added the ordinance does have a way to have the permit revoked and read the relevant section. Commissioner Brown asked who the City official is. Ms. Linn replied it would be the City Administrator or the Acting City Administrator in her absence. Ms. Linn explained minor infractions will be traffic tickets but if the permit holder becomes unruly or puts others at risk, the permit it can be revoked.

Mr. Courtois restated to simplify the ordinance, Section 1 should be removed. He said there is no need to have that section in there because it would remove the need for any additional language regarding go-carts. He believes there are no straddle-free ATVs so Section 1 should be removed. Councilmember Brown stated he would be okay with removing Section 1, however, the addition of taillights, break lights, and turn signals should be added to the required equipment. Councilmember Lewis said all new vehicles have those included. Councilmember Brown stated there are kits that can be purchased to add the equipment to an older model. Councilmember Lewis said his vehicle has the equipment. Councilmember Brown said his did not and he had to purchase the kit. Councilmember Lewis stated he does not think the turn signals should be added. Councilmember Longanecker said he likes the turn signals being added to the required equipment. Councilmember Lewis requested the ordinance be reviewed in a year. Councilmember Beem thought it should be reviewed in six (6) months.

Councilmember Lewis requested City sponsored events be added to the allowed times. Councilmember Brown asked if the sunup to sundown timeframe should be changed. Councilmember Longanecker recommended it be left for now and can be reviewed when the ordinance is reviewed. Mayor Roberts said adding City sponsored event times can be approached when major events are held. Councilmember Lewis inquired if the Council would need to approve or deny the use of these vehicles before each recreation event the City holds. Mr. Hendricks stated an exception for City sponsored events that go beyond sundown can be added, but a set time, such as midnight, should be added.

Councilmember Longanecker motioned to approve Ordinance No. 2086 authorizing the operation of all-terrain vehicles, golf carts, low speed vehicles, work-site utility vehicles and micro utility trucks on the streets within the corporate limits of the City of Edgerton, Kansas subject to specific restrictions and requirements; providing for the repeal of portion of Article 14, Section 114 of the Standard Traffic Ordinance, as amended, regulating the above-named vehicles repealing all ordinances in conflict therewith and the addition of turn signals and break lights, with the removal of Section 1, and to include an time exemption to allow use to and from City sponsored events. Councilmember Lewis seconded the motion. Ordinance No. 2086 was approved without Section 1, the inclusion of turn signals and break lights, and the time exemption, 4-0.

Councilmember Lewis requested the ordinance be reviewed in one year. Councilmember Beem inquired about the specific time for City sponsored events. Mayor Roberts said the time will be revisited sooner if it becomes an issue.

Ms. Linn said the fee will need to be decided next. Currently, the permit will be valid for one calendar year. Councilmember Brown stated the permit being good for one calendar year is good. Councilmember Lewis inquired what the fees are for surrounding communities. Councilmember Brown asked about the City of Paola. Mr. Courtois replied his research showed the initial permit is \$100 then twenty-five dollars (\$25) to renew yearly. Councilmember Lewis asked if the fee is increased for infractions. Mr. Hendricks explained there are fines and court fees if a user receives a traffic citation. Councilmember Beem said he does not want to keep giving permits if they keep getting tickets. Mayor Roberts stated that could lead to the permit being revoked. He asked if there is there a time frame before the operator can get the permit reinstated. Mr. Hendricks explained the operator will have to come before the Council. Councilmembers Lewis and Beem said \$100 is a good fee. Mayor Roberts stated his son-in-law told him the City of Osawatomie has a fee of \$260 per year. Councilmember Longanecker suggested the fee be like that of a regular vehicle where the older the vehicle is, the cheaper the fee would be. Mr. Courtois said Osawatomie has a fee of \$25 per year. Councilmember Lewis suggested an initial permit fee of \$100 then a renewal fee of \$25. Mayor Roberts added that would be if the permit holder does not have any infractions. Mr. Hendricks asked what the renewal fee would be if the permit holder has had infractions. Councilmember Beem recommended if a permit holder is found guilty of an infraction on these vehicles within the previous calendar year, then the renewal fee would be \$100. He asked if this was similar to the chicken permit where the permit expires a year after the issuance date. Ms. Linn replied all of the permits will expire at the end of the calendar year. Mr. Crooks asked if the fees would be the same for somebody who lives outside the City. Mr. Hendricks replied the City ordinance would have to be followed by everybody regardless of where they live. Ms. Linn said staff will bring back the recommended fees for the unconventional vehicles at the next Council meeting on August 12.

9. CONSIDER RESOLUTION NO. 07-22-21A PROVIDING A DEADLINE TO RESOLVE A DANGEROUS AND UNFIT STRUCTURE EXISTING AT 502 E. 2ND STREET, IN THE CITY OF EDGERTON, JOHNSON COUNTY, KANSAS PURSUANT TO CITY OF EDGERTON CITY CODE, CHAPTER IV, ARTICLE 4, SECTION 4-407

Ms. Katy Crow, Development Services Director, spoke before the Council. She stated pursuant to Chapter IV, Article 4, Section 4-407, the Governing Body held a public hearing on January 14, 2021 and made the determination that the structure at 502 E. 2nd Street was considered dangerous, unsafe, or unfit for human use or habitation. She explained Resolution 01-14-21D set a time frame of six (6) months for the new owners, Mr. Juan Abundiz and Ms. Vicenta Hernandez to abate the dangerous conditions. In addition, the Governing Body stated that the owners are to provide City Staff with progress updates and City Staff will perform inspection to document the progress. Over the past 6 months, City Staff has provided monthly updates to the Governing Body which included photos and commentary on the progress that had been made.

Ms. Crow said Resolution 01-14-21D provided a deadline of July 22, 2021 for the property to either be brought into compliance or the City of Edgerton, by its agent, would demolish and remove the structure. At the last inspection on July 8, 2021, it was noted by City Staff that while progress continued to move forward, the exterior of the home was not completed. The new roof had not been installed, siding around the exterior walls had not been installed, and the front porch area was still being rebuilt. The interior of the home is also not complete with the absence of mechanical, electrical, and plumbing components. Inclement weather, a shortage of building materials due to the pandemic, and some hardships endured by the owner, such as stolen tools, have slowed their ability to complete the work in a timelier manner. Based upon the direction given at the July 8 Council meeting, the City Attorney has reviewed and approved the resolution presented in the packet for the Governing Body's consideration. The resolution would allow additional time for the owners to complete the exterior work as long as they continue to make progress towards completion. The draft resolution includes a blank for the Council to fill in a deadline based on any additional information provided by the property owner.

Ms. Crow explained should the work not be completed by the new deadline established; the Council could demolish the structure. Any costs associated with the removal of the structure will be charged against the described property as provided in Chapter IV, Article 4, Section 4-411. The City Clerk shall certify to the County Clerk the costs of the associated with the cleanup and the County Clerk shall extend the same on the tax roll so that it shall be collected by the County Treasurer and paid to the City of Edgerton as other City taxes are collected and paid. Ms. Crow provided photos to the Council that are included with these minutes.

Mayor Roberts inquired if this is the same house the Council reviewed earlier this year. He is extremely excited to see the work being done and what has been done. Councilmember Lewis inquired as to when the work might be completed. Mr. Abundiz answered their goal is to be complete by the end of the year. He stated the exterior should be done later this month and sheet rocking will be the largest challenge. Councilmember Longanecker asked if six (6) more months might work. Mr. Abundiz replied most likely. Mayor Roberts said the Council should give a date just to make sure progress continues. Councilmember Beem said he drives by daily to see what's been done and his impressed with what he has seen. Mayor Roberts said it is great to see what has been done. Ms. Crow asked if monthly reports should continue. Mayor Roberts replied that seems to be too frequent at this moment. Councilmember Longanecker agreed and said every other month will suffice. Ms. Crow recommended the second Council meeting of odd numbered months. Councilmember Longanecker and Mayor Roberts agreed with Ms. Crow.

Councilmember Longanecker moved to approved Resolution 07-22-12A providing a deadline of February 24, 2022 to resolve a dangerous and unfit structure existing at 502 E 2nd Street, in the City of Edgerton, Johnson County, Kansas pursuant to City of Edgerton City Code, Chapter IV, Article 4, Section 4-407. Councilmember Lewis seconded the motion. Resolution 07-22-12A was approved, 4-0.

10. Report by the City Administrator

- 2nd Quarter Financial Report

Ms. Karen Kindle, Finance Director, approached the Council. She explained the numbers shown are similar to those shown last week during the budget work session. The 2021 Estimate column was added from last week. This allows City Staff to see what the actual budget is compared to the estimated. Ms. Kindle stated the revenues in the General Fund are on track to meet the estimate. Expenditures halfway through the year are at fifty percent (50%) or below and the transfers will be done in the third quarter of the year. The General Fund is within the budget authority and budget request. She explained this is the same for the Water Fund with no transfers to take place this year. The Sewer Fund is also on track halfway through the year and the City is within the budget authority and budget request with transfers to be done in the third quarter.

11. Report by the Mayor

Mayor Roberts stated there is a proposed project north of Edgerton and west of Gardner for a solar farm. This will be located in unincorporated Johnson County and span into Douglas County. The initial plan is for a 2,000 or more-acre solar farm. The project will be close to Edgerton, and it could limit the growth ability of Edgerton. There is a new proposed zoning designation that would allow Conditional Use Permits (CUP) for solar panels. Mayor Roberts stated he is concerned for the growth of Edgerton. The plan provided shows the solar farm between 183rd Street to 143rd Street and stretching across the County Line into Douglas County. He explained the counties are in negotiations now and making regulations before the start of the project. Mayor Roberts stressed this is not a City of Edgerton project.

Ms. Linn stated Ms. Crow was on a call with other municipal planning directors earlier today and this topic was discussed. Ms. Crow stated there will be a discussion on this at the August 10, 2021 Johnson County Planning Commission meeting. The municipal planning directors have requested a meeting with the Johnson County planning director to get additional information.

Mayor Roberts said he has received some information but not nearly enough. He is under the impression that the County has been working on this project for a few months. He wants to understand the proposed zoning area and does not want the county to limit the protentional growth of Edgerton. There would be a one (1) mile buffer between city limits and the solar farm. Ms. Crow stated there is a public hearing scheduled on September 14, 2021. Ms. Linn stated Johnson County is drafting regulations regarding solar projects prior to this project being brought forth.

Mayor Roberts explained this project could place limits on growing communities. Solar energy farms are not bad but could limit communities such as Edgerton. He requested the Councilmembers and City Staff provide comment regarding this project. Councilmember Longanecker inquired if the applicant of the property will purchase the property. Mayor Roberts replied the land will be leased. Councilmember Lewis asked if the City was to annex the property if the land could be exempt from this project. Mayor Roberts answered some owners of the proposed land are looking forward to the possible monetary gain of the lease agreement and so those property owners may not want to annex into Edgerton. He said Edgerton is growing to the east and residential development could go to the west, but with this project, he is not sure where the development would go.

Ms. Crow added the CUP is to last for twenty (20) years. She is not sure if that is the life of the equipment or just the limits settled on for the CUP. The applicant is NextEra Energy. Ms. Linn inquired if any of the information is available on Johnson County's website. Ms. Crow answered she is not sure. Ms. Linn stated City Staff will try to compile as much information as possible. Mayor Roberts requested Councilmembers look into the project and provide comments.

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 AND CITY ADMINISTRATOR FOR THE PURPOSES OF POTENTIAL LITIGATION

Councilmember Brown moved to recess into executive session pursuant to K.S.A 75-4319(B)(2) to include the City Attorney, City Administrator, and the Finance Director for the purposes of potential litigation for fifteen (15) minutes. Councilmember Beem seconded the motion. The meeting recessed into executive session at 8:19 PM, 4-0.

Councilmember Brown moved to return to open session with no action being taken. Councilmember Lewis seconded the motion. Open session resumed at 8:34 PM, 4-0.

13. Future Meeting Reminders:

- August 10th: Planning Commission Meeting – 7:00PM
- August 12th: City Council Meeting – 7:00PM
- August 26th: City Council Meeting – 7:00PM
- September 9th: Planning Commission Meeting – 7:00PM
- September 14th: City Council Meeting – 7:00PM
- September 23rd: City Council Meeting – 7:00PM

Councilmember Lewis inquired about the poll that the City had on their Facebook page regarding Glendell Acres Park. Ms. Kara Banks, Marketing and Communications Manager, stated it is active until the end of the month. Mr. Dan Merkh, Public Works Director, stated at this moment, there have been roughly seventy (70) responses. Mayor Roberts said the community always provides great feedback in projects like this.

14. Adjourn

Councilmember Beem moved to adjourn, seconded by Councilmember Brown. The meeting adjourned at 8:34 PM, 4-0.

Submitted by Chris Clinton, Planning and Zoning Coordinator

EVENTS

July 23rd: Animal Wonders at City Hall

July 24th: Summer Movie Night & Open House for Glendell Acres
Renovation Project at Glendell Acres Park

August 7th: Summer Movie Night