

**City of Edgerton, Kansas**  
**Minutes of City Council Regular Session**  
**July 28, 2022**

A Regular Session of the City Council (the Council) was held in the Edgerton City Hall, 404 E. Nelson, Edgerton, Kansas on July 28, 2022. The meeting convened at 7:06 PM with Mayor Roberts presiding.

**1. ROLL CALL**

Clay Longanecker	present
Josh Lewis	present
Josh Beem	present
Josie Stambaugh	present via telephone
Deb Lebakken	present

With a quorum present, the meeting commenced.

Staff in attendance:      City Administrator, Beth Linn  
   City Attorney, Lee Hendricks  
   Planning and Zoning Coordinator/Deputy City Clerk, Chris Clinton  
   Public Works Director, Dan Merkh  
   Public Works Superintendent, Trey Whitaker  
   Development Services Director, Katy Crow  
   Accountant, Justin Vermillion  
   Capital Improvement Project Manager, Brian Stanley  
   Finance Director, Karen Kindle

**2. WELCOME**

**3. PLEDGE OF ALLEGIANCE**

**Consent Agenda** (*Consent Agenda items will be acted upon by one motion unless a Council member requests an item be removed for discussion and separate action*)

4. Approve Minutes from July 14, 2022 Regular City Council Meeting
5. Approve Agreement to Terminate Contract for Services for Construction of Wastewater Improvements and Transportation and Treatment of Wastewater in an Area Between the City of Edgerton, Kansas and Gardner, Kansas.
6. Approve Appointment of Bill Malloy to the Edgerton Planning Commission for a term ending in September 2024.

Councilmember Lebakken made motion to approve the consent agenda, seconded by Councilmember Longanecker. The items were approved, 5-0.

**Regular Agenda**

7. **Declaration.** At this time Councilmembers may declare any conflict or communication they have had that might influence their ability to impartially consider today's issues.

There were no declarations made by the Councilmembers.

8. **Public Comments.** The City of Edgerton encourages public participation in local governance issues. To facility an efficient and effective meeting, persons wishing to address the City Council must sign-up before the meeting begins. Speakers must provide their name and address for the record and are limited to three (3) minutes. The maximum time limit for all speakers will be thirty (30) minutes. Comments on personnel matters or matters pending before court/other outside tribunals are not permitted. Any comments are for informational purposes only. No action will be taken. The Mayor may modify these provisions , as necessary. The Mayor may limit any unnecessary, off-topic, or redundant comments or presentations. Speakers should address their comments to City Councilmembers only and should not speak to fellow audience members. City Council members should conduct themselves in a civil and respectful manner. Disruptive conduct may result in removal from the meeting.

There were no public comments made at this time.

### **Business Requiring Action**

9. **CONSIDER RESOLUTION NO. 07-28-22A AUTHORIZING THE ACQUISITION OF IMPROVEMENTS TO THE SEWERAGE SYSTEM OF THE CITY; AND PROVIDING FOR THE PAYMENT OF THE COSTS THEREOF.**

Ms. Karen Kindle, Finance Director, approached the Council. She stated earlier this meeting the Council approved the agreement to terminate the contract for services for construction of wastewater improvements and transportation and treatment of wastewater between the City of Edgerton and the City of Gardner. The City of Edgerton will purchase all interests the City of Gardner has in the Cooperative Facilities as defined by the agreement including Gardner's contractual right to use the Cooperative Facilities and their right to utilize the specified percentage of capacity at the Cooperative Facilities. This purchase will terminate all responsibilities of the two (2) cities as described in the contract.

Ms. Kindle explained Resolution No. 07-28-22A authorizes the project, provides for the payment of the project costs, includes a description of the project and the cost of the project, and denotes how the project will be funded. The resolution indicates that the entire project cost will be funded with General Obligation (GO) Bonds. This allows the City maximum flexibility to pay some of the cost from other sources and only finance a portion of the project with GO Bonds. She stated City staff recommends financing the buyout payment to include an initial payment and then funding from GO Bonds with \$450,000 from the Sewer System Development Fund, \$450,000 from the Economic Development Fund, and \$3,600,000 from GO Bonds with a ten (10) year term, with annual debt service to be paid from the Logistics Park Kansas City (LPKC) Phase II Economic Development Fee. Ms. Kindle explained none of the buyout contract will be funded by the wastewater fund nor general wastewater utility customers or rates. She stated this is the first step in the GO Bond process.

Councilmember Longanecker requested clarification on the time frame shown in the provided material. Ms. Kindle replied the provided information is misprinted as the time for the bonds will be twenty (20) years since the requirement is twelve (12) or more years.

Mayor Roberts inquired if the City of Gardner approved of the project. Ms. Linn answered they have.

Councilmember Longanecker moved to approve Resolution No. 07-28-22A, Councilmember Lewis seconded the motion. Resolution No. 07-28-22A was approved, 5-0.

**10. CONSIDER RESOLUTION NO. 07-28-22B AUTHORIZING THE OFFERING FOR SALE OF GENERAL OBLIGATION BONDS, SERIES 2022A, OF THE CITY OF EDGERTON, KANSAS.**

Ms. Kindle spoke before the Council. She explained this resolution authorizes the offering for sale of the Series 2022A GO Bonds; authorizes the financial advisor and the bond counsel to prepare and issue a Notice of Bond Sale which describes the terms of the GO Bonds; directs and authorizes the City Clerk to publish the Notice of Bond Sale; and directs and authorizes City staff, the Financial Advisor, and the Bond Counsel, to prepare a Preliminary Official Statement related to the Bonds. The resolution also authorizes the Mayor, Finance Director, and/or other City officers to approve the form of the Preliminary Official Statement, which explains the bonds and the City; annually provide certain financial and operating data to comply with the Municipal Securities Rule Making Board continuous disclosure requirements; and execute other documents that may be necessary for the purchaser of the bonds to comply with Security and Exchange Commission rules. Ms. Kindle stated the resolution also authorizes the Mayor, Financial Director, and/or other City officers, the Financial Advisor and Bond Counsel, to take such other actions that may be necessary to carry out the sale of the bonds.

Ms. Kindle explained the sale of the bonds will be a competitive sale as required by Kansas statutes. The Preliminary Official Statement will be posted on September 1, 2022. A week later on September 8, 2022, the competitive bond auction and Council consideration of the Ordinance and/or Resolution authorizing the final terms of the Bonds will take place. The Final Official Statement, which includes the terms of the bonds from the auction, will be posted on September 15, 2022. On September 22, 2022, the Bonds will close, and payment will be issued to the City of Gardner.

Councilmember Longanecker moved to approve Resolution No. 07-28-22B, Councilmember Lebakken seconded the motion. Resolution No. 07-28-22B was approved, 5-0.

**11. CONSIDER RESOLUTION NO. 07-28-22C AUTHORIZING THE OFFERING FOR SALE OF GENERAL OBLIGATION TEMPORARY NOTES, SERIES 2022A, OF THE CITY OF EDGERTON, KANSAS**

Ms. Kindle addressed the Council. She stated the City issued temporary notes in 2019 to finance a portion of the 2019 Street Reconstruction Project. A portion of the principal that was due was paid off and the City renewed those notes for 2 more years in September of 2020 by issuing the Series 2020A Temporary Notes. When the 2020 notes were issued, the City added funding for the Homestead Lane and 200<sup>th</sup> Street Intersection Project. She said at this time, the principal portion related to the 2019 Street Reconstruction Project has been paid off and slightly more than half the principal remains for the Homestead Lane and 200<sup>th</sup> Street Intersection Project. The Series 2020A Temporary Notes mature on October 1, 2022.

Ms. Kindle explained the Homestead Lane and 200<sup>th</sup> Street Intersection Project is to be funded with revenue from the Homestead Lane Retail Tax Increment Financing (TIF) District. However, the revenue is received over time and revenue received thus far has not been sufficient to pay off the remaining principal for the project. The notes will need to be renewed. City staff has begun working with the City's financial advisor and the City's bond counsel to renew the notes for a term of 2 years. She said the sale will be negotiated like the sale of both the 2019 and 2020 Temporary Notes. The City's financial advisor will solicit quotes via a bank direct purchase Request for Qualification (RFQ) process, will analyze the quotes received and will recommend a bank for the City to approve.

Ms. Kindle said this resolution authorizes the offering for sale of the Series 2022A Notes and grants authority for the Mayor to execute a note purchase agreement with the recommended bank within certain parameters. In addition, the resolution authorizes the Mayor, City Administrator, City Clerk, the Finance Director, and other City official, Bond Counsel and the Financial Advisor, to take such other actions that may be necessary to carry out the sale of the Notes. She said on July 29, 2022, the Financial Advisor distributes the bank direct purchase RFQ. The proposals from the banks are due on August 12, 2022. On September 8, 2022, the Council adoption of the Ordinance and/or Resolution authorizing the final terms of the notes and the Note Purchase Agreement will be adopted. The City will close on the Notes on September 22, 2022. Redemption of the Series 2020A Temporary Notes will take place on October 1, 2022.

Councilmember Lewis moved to approve Resolution No. 07-28-22C, and Councilmember Longanecker seconded the motion. Resolution No. 07-28-22C was approved, 5-0.

**12. CONSIDER ORDINANCE NO. 2112 AMENDING CHAPTER VIII, ARTICLE 7 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 Services Director, spoke before the Council. She stated as was noted during the recent Citizen Survey, code enforcement is high on the list of priorities for Edgerton residents. City staff continues to review Edgerton's Municipal Code so that it remains relevant and effective for the code enforcement process.

She explained Chapter VIII, Article 7, titled Minimum Housing Code, is of particular importance because it enables City staff to ensure properties comply with the International Code Council (ICC) International Residential Building Code (IRBC). Recently City staff has encountered housing in Edgerton where front stoops or porches are missing or decks that have pulled away from the residential structure. These dangerous structures and unsafe conditions represent a life safety hazard which can be corrected through the code enforcement process. However, it was recently noted that Chapter VIII, Article 7, Minimum Housing Code, did not contain the same procedures for due process as all other code infractions. Ms. Crow said it required a hearing before the Governing Body as opposed to judicial proceedings before the City of Edgerton Municipal Court. Revising sections 8-712 through 8-718 aligns this section with same procedures used in Chapter VIII, Articles 2 through 4 related to other code violations like health nuisances, inoperable vehicles and tall grass and weeds.

Ms. Crow stated while amending Article 7, City staff noted that other slight corrections and clarifications were needed as it had been twenty-six (26) years since this section was originally adopted. In addition to the language clarifications, Section 8-709(a)(4) was added as there is nothing in Edgerton's Municipal Code today requiring a resident to establish grass, ground cover or other erosion control measures so as to prevent eroding soil from flowing onto adjacent properties, onto sidewalks, and into rights-of-way within fourteen (14) days. The land disturbance code did not have regulations for smaller lots like residential lots.

Councilmember Longanecker inquired if this change will affect properties with or without an active building permit. Ms. Crow answered it will affect all properties, regardless of an active building permit.

Councilmember Lebakken asked about the thirty (30) day timeframe to repair noted violations. Ms. Crow replied if a violation of the minimum housing code is a life safety issue, the code allows up to 30 days for the violation to be abated. She explained the Code Enforcement Officer, Charlie Lydon, will work with residents as long as progress is being made. Councilmember Lebakken inquired what happens if people do not know where to go for help or need financial assistance is needed. Ms. Crow answered the City does not provide references for contractors and this code update is specifically to handle items such as decks falling off or other life safety issues that make a house potentially inhabitable. Mr. Lee Hendricks, City Attorney, added the code does still have the option of a public hearing, but that is the only solution currently. There is no 30-day time frame option, and this could make issues linger. Councilmember Lebakken stated a violation such as this could be a financial burden on a resident. Mayor Roberts said prior issues have been properties that are rentals that have not been maintained. Ms. Linn stated all violations have been on rental properties. Councilmember Beem asked the code update would be applied to all properties or just vacant houses, such as one on Martin Street. Ms. Crow answered all properties would need to be in compliance with this code.

Councilmember Stambaugh said there have been permits that have been denied issuance and implored City staff to work with residents to get items approved. She added there is one property owner who owns a lot of houses that would violate this code and there has been trouble getting the houses up to code. She claimed she knows of residents who have been denied permits and have had trouble obtaining permits in the past. Councilmember Stambaugh stated she applied to have her roof replaced on her house and was informed the City has a third party contracted to do the building inspections. She said the City has threatened to condemn properties and it should be easier to get the permits to make it easy to maintain properties. Ms. Crow replied that in her five (5) years with the City, she cannot recall a permit getting denied other than for cause as the submittal did not meet the building code. She explained City staff will provide the applicable building code and if the applicant does not want to meet them, then the permit cannot be approved. Ms. Linn said the building code provides outlines for City staff to follow and City staff cannot waive the requirements set by the building code, nor can City staff approve building permits missing certain items. She provided the example of the building code requiring stamped and sealed plans, City staff cannot override that to issue a building permit. Ms. Linn explained one of the Capital Improvement Projects is considering an updated suite of the building codes and

City staff is currently working on that project. She requested that if anyone interacts with City staff and had a permit denied without cause to contact herself or Mayor Roberts.

Mayor Roberts stated the City does not threaten to condemn the property. Mr. Hendricks explained there is a process to condemn a property that includes the passing of resolutions that deem a certain property unfit for occupancy as, per the code, there are aspects of the house that make it unfit for human habitation. He said forty-five (45) to sixty (60) days pass after a resolution before the property could be condemned. City staff has worked with property owners if they come to the hearings to explain why the property should not be condemned. He explained another resolution is approved setting a deadline for repairs to be done. Mr. Hendricks said he cannot remember one house being torn down due to being condemned. He added he would be happy to speak with someone who has been threatened with condemnation.

Councilmember Stambaugh stated tall grass and weeds is also mentioned in the code update and that is not the same as a deck falling off or other life safety issues. She inquired as to what happens if the resident does not repair the property. Ms. Crow answered Mr. Lydon and other City staff will work with the property owner and as long as adequate progress is being made, extensions are granted. She explained there are monthly inspections on some court cases.

Councilmember Longanecker provided the example of the house on the 2<sup>nd</sup> Street that was going to be torn down. A new property owner came forward, and City staff worked with them to rehab the house. Ms. Crow agreed and said it was in the process of being condemned but City staff is still working with new owners to continue progress on the house. She said City staff is aware of the house on Martin Street, which was just purchased by a new owner and the City is working with that new owner to resolve the current violations on the property. Councilmember Longanecker said City staff works with people and does a great job to help keep projects moving forward. Ms. Crow stated the house on 2<sup>nd</sup> Street was an eighteen (18) month process to get it to the point it is at today.

Councilmember Lewis stated the permitting process of working with City staff and the third party contracted services for building inspections and plan reviews for commercial and residential projects is rather simple. He said neither he nor the contractors ever had any issues with the process. It was being completed quickly and professionally. He said there should be no issues with the process of obtaining a permit. Ms. Crow requested residents contact her or Ms. Linn if there are any issues with obtaining a building permit.

Mayor Roberts said there are programs aimed at helping people with property maintenance before items deteriorate and safety concerns come up. He has seen neighbors helping each other in Edgerton to be sure properties are maintained. Councilmember Lebakken stated property owners may not know about those programs. Mayor Roberts replied if a property owner does have concerns about their property they just need to reach out and ask. There are nonprofit programs and County programs the City has donated to in the past.

Councilmember Lewis moved to approve Ordinance No. 2112, Councilmember Longanecker seconded the motion. Ordinance No. 2112 was approved, 5-0.

### 13. Report by the City Administrator

- 2<sup>nd</sup> Quarter Community Development Report

Ms. Crow addressed the Council. She stated twenty-nine (29) building permits were issued in the second quarter. Twenty-one (21) of those permits were residential, and the remaining eight (8) were commercial building permits. Those building permits totaled to a valuation of \$4,744,655 of improvements made. There were thirty-two (32) residential inspections and twenty-nine (29) commercial inspections performed last quarter. Four (4) Temporary Certificates of Occupancy and 2 Certificates of Occupancy were approved by those inspections list the projects. One of those Certificates of Occupancy was for a new warehouse.

Ms. Crow explained work continues on the Comprehensive Plan. The first meeting of the Steering Committee was held in May and the second one is scheduled for late July. Confluence completed a windshield survey of the existing housing stock in Edgerton. She said the Confluence team was pleased to announce that a vast majority of properties look good and there are a lot of good roofs in the City. The final results of that survey have not been released yet. The final item for the Planning Department is that there was an update to the Development Calendar that now allows City staff to publish the Planning Commission packet 1 week prior to the meeting.

Ms. Crow said animal control spends a lot of time chasing loose dogs as there were forty (40) of them last quarter. Thirteen (13) were initiated by Mr. Lydon as he saw them and the remaining twenty-seven (27) were called into City Hall. She explained these numbers are only loose dogs that the City was involved in. This does not include any the Johnson County Sheriff's office aided in, or posts to social media as those are not monitored by City staff. She said it is important for residents to call the City if they see a loose dog so it can be returned home quickly and safely.

Ms. Crow stated there were seventy-one (71) violation level cases in the second quarter. Sixty-two percent (62%) were initiated by City staff and the other thirty-eight percent (38%) were resident-initiated. 71 cases could have been in court, but due to the diligence by City staff and the ability of Mr. Lydon to work with residents, only 4 of those cases ended up in court. Councilmember Longanecker pointed out that is another great example of how the City works with the residents.

- Draft Records Retention Schedule

Ms. Linn stated Ms. Alex Clower, City Clerk, drafted a retention schedule for City documents that has been distributed for the Council Members to review. Approval of the retention schedule will be on a future agenda.

### 14. **WALK ON ITEM: Consider Encroachment Agreement with KPC Pipeline LLC for Glendell Acres Park Renovation Project**

Mr. Dan Merkh, Public Works Director, addressed the Council. He stated in October 2021, City staff began discussion with KPC Pipeline LLC (KPC) regarding the proposed project for Glendell Acres Park Renovation Project. The project proposes a sidewalk extension to

Edgewood Drive, in doing so, the sidewalk needs to encroach on the easement KPC has for the gas lines that run north to south through town. Mr. Merkh provided a map of the gas line to the Council. He stated on July 27, 2022, City staff received notification from KPC that an agreement has been reached to allow the encroachment as long as it is equal to or greater than a specified distance to be measured horizontally. The City Attorney has reviewed the agreement and suggested revisions are being discussed with KPC. City staff is recommending authorizing the Mayor to sign the agreement after final approval from the City Attorney.

Mayor Roberts stated this agreement has been in the works for a long time with many discussions spread out over months. He is excited to be this point and wants it to move forward. He said he is concerned that if this agreement is not reached then it could delay the project much longer.

Councilmember Longanecker moved to allow the Mayor to sign the agreement with KPC when approved by the City Attorney, Councilmember Lebakken seconded the motion. Approval for the Mayor to sign the agreement was granted, 5-0.

## 15. Report by the Mayor

Mayor Roberts requested Mr. Hendricks discuss a couple of items.

- Mr. Hendricks stated the first item relates to Kansas State Statute 75-4317 and 75-4317(a). During the previous Council meeting, there was a discussion by Councilmember Stambaugh regarding a private Facebook page. He said at that time that his legal recommendation was that the discussion was on a private Facebook page, discussing private matters and thus it is private, and not a City matter. He expressed his concern with social media and the use of social media by council members. He was dismayed that the day after he discussed the dangers of Facebook to elected officials in a Council meeting, he was notified that there were a series of comments by certain councilmembers and the Mayor on a Facebook post after that very meeting. He received an email from Ms. Linn asking if it was a violation of the Kansas Open Meeting Act (KOMA). He said the Council needs to understand how cities can get in trouble by violating KOMA and while this specific situation was not a violation, it is very close to being one. If the communication can be associated with any City business, it can be a violation of KOMA.

Mr. Hendricks read Kansas State Statute 75-4317(a):

A public meeting is defined as used in the open meetings act, "meeting" means any gathering or assembly in person or through the use of a telephone or any other medium for interactive communication by a majority of the membership of a public body or agency subject to this act for the purpose of discussing the business or affairs of the public body or agency.

He said there are a few aspects of that statute that needs to be broken down. The first part is the majority of the body. He explained for this Council, a quorum is 3 as it is the majority of the voting members, Mayor Roberts is not a voting member and does not



count toward a quorum. The discussion in question is between 3 councilmembers, and therefore, is a quorum and meets the first step of a violation.

The next part of the definition is the discussion of business by a public body and interactive communication in series. He explained interactive communication for the purposes of KOMA requires a mutual or reciprocal exchange to reach an agreement. Mr. Hendricks used the example of sending emails to reach a consensus on an issue. The discussion on the Facebook post was not an attempt to reach an agreement. In his opinion, this fails the second step to be a violation. He said it is possible to conclude 2 of the comments were related, but those comments were not regarding City business. Since he did not see a private Facebook page as a City matter, this discussion was not a City matter. In Mr. Hendricks' opinion, the discussion on the Facebook post fails this criterion and is not a violation of KOMA.

Mr. Hendricks stated he received an email after he stressed his concern on this very topic. He said the City dodged a bullet and that the councilmembers are not in KOMA training at this moment. He explained his representation of the City ends when the meeting is adjourned. He understands the desire to inform and explain matters to the public, but when other councilmembers get involved in a discussion, it is best to discontinue any engagement. The City came close to a KOMA violation. Mr. Hendricks said he typically does a KOMA and Kansas Open Records Act (KORA) training and that has not been completed with the current sitting Council, but it is important for the Council to understand the statute.

Councilmember Stambaugh said the Councilmembers are supposed to represent the City in their professional and personal lives as representative of the public and they are above reproach. She said Councilmember Lebakken and Councilmember Beem were both given cease and desist orders and they both posted on the page in question. She stated Mayor Roberts said it is best to stay off Facebook, but he is on there as well. Regardless as to whoever and whenever they post, it reflects badly on the City as it is now associated with the City. She said there is ongoing investigation with the Sheriff's office to figure out who is responsible for the page. She stated only time will tell if it is a City matter or not. Mr. Hendricks stated he can only speak on if the discussion held last week was a KOMA violation or not. He does not think it was a good idea to comment on any Facebook posts involving that number of councilmembers, and he cannot address private cease and desist orders as he represents the City, not individuals in these circumstances.

Councilmember Stambaugh that whoever is running the page needs to grow up and represent the City best. Mayor Roberts agreed that all of the councilmembers need to represent the City best. That includes not going to the Johnson County Board of Commissioners meeting and blaming other councilmembers for the page.

Councilmember Stambaugh stated Mayor Roberts is misrepresenting what she said. She explained Councilmembers Lebakken and Beem are engaging with the page, and she knows Councilmember Lebakken is using the alias of Anne Stewart to post on the page. Mayor Roberts stated he sees no proof and would like the Councilmembers to be professional even in their personal lives on Facebook. He said he is stating the facts and

stated Councilmember Stambaugh has made slanderous comments that have no facts behind them.

Councilmember Stambaugh stated what she does on her personal time is none of the City's business. Mayor Roberts agreed it is not any of the City's business. Mr. Hendricks agreed as well. Councilmember Lewis inquired as if that was the reason for this discussion. The discussion was to determine if the page and associated posts are City business or not. Mr. Hendricks stated that is correct, and none of it is a City matter.

- Mr. Hendricks stated there has been discussion at Council meetings and by the public regarding an annexation that was being challenged in court. He said not all of the sitting Council members were elected at the time of the annexation in question. He explained there are 2 primary procedures for land to be annexed into a City. The first procedure is done unilaterally when the City initiates the annexation. The other procedure is when the property owner submits an application for annexation by consent.

Mr. Hendricks provided copies of Kansas State Statute 12-520 which outlines the requirements for both unilateral and consent annexation. The first six (6) subsections of the statute are regarding unilateral annexation. It outlines how a City could annex an area if it so chooses to. Mr. Hendricks stated that during his time representing the City the favored approach of the Mayor, Council, and City staff has never been to annex unilaterally. The City has not pushed for annexation when an owner did not consent to that action. Mr. Hendricks explained there is a sixteen (16) step checklist of items and is very involved and labor intensive for the City under a unilateral annexation. A consent annexation is very straight forward. There is no notice that needs to be published or provided and there is no hearing. It is the choice of the property owner to request the annexation and the Council considers an ordinance to approve the annexation.

Mr. Hendricks stated that one point that keeps being discussed is claims of a narrow corridor approach to a consent annexation in Edgerton. Mr. Hendricks stated this language in the statute stems from the ruling in a case called the Board of Sumner County versus the City of Mulvane, Kansas. The City of Mulvane, through a consent annexation, annexed a 100-foot-wide strip of land five (5) miles long to another property the City wanted to annex. The courts ruled that Sumner County did not have legal standing for filing the suit. After that decision, the State legislators added the point. Mr. Hendricks read the statute requirement:

No city may utilize and provision of this section to annex a narrow corridor of land to gain access to noncontiguous tracts of land. The corridor of land must have a tangible value and purpose other than for enhancing future annexation of land by the city.

Mr. Hendricks stated there are 3 elements of this point. Those elements are the definition of a narrow corridor of land, the tangible value of the land, and a purpose other than enhancing future annexation. He explained neither the courts, nor the legislature have provided a formal opinion on what a narrow corridor of land is. The 100-foot-wide strip of land 5 miles long would seem to qualify as a narrow corridor of land, even though the Court did not discuss the issue. A map showing the annexed land

involved in the Edgerton court case was shown. He explained the tract of land does get skinner as the parcel goes east. He cannot give a legal answer at this time, but it is his belief that this doesn't come close to being similar to the narrow corridor involved in the City of Mulvane case.

The second point is the land must have tangible value. He stated he does not know what the tangible value of a 100-foot strip of land would have besides as possible right-of-way. The property annexed into the City of Edgerton, however, has been assessed by Johnson County has an appraised value of \$456,980. It has significant tangible value and, in his mind, fails that second requirement of the statute.

The final point of the requirement is the reason for the annexation has to have a purpose of other than for enhancing future annexations of land by the city. Mr. Hendricks stated that it could be argued that any annexation enhances the chances of future annexations as it expands the City. The Sumner County case was filed because the City of Mulvane explicitly used the annexation to enhance the possibility for annexation. He sees that the Edgerton annexation fails on all three counts of this part of the statute. He does not see any comparison between this annexation and that done by the City of Mulvane that triggered this requirement. He knows it is confusing and those buzz words are used by those in the public. He wanted to share the information so councilmembers could answer those questions in the future.

Mayor Roberts inquired if an illegal annexation would be a road right-of-way only. Mr. Hendricks agreed as it would be more consistent with the 100-foot strip of land. He explained that it might look like a gap on the map for the road, but the road does not stop the city limits. Mayor Roberts used an example and stated if 207<sup>th</sup> Street was annexed just to get another property to abut City Limits, then the annexation would be a bad idea. Mr. Hendricks agreed. Councilmember Lewis asked how the parcel that was annexed into Edgerton ended up that shape. Ms. Linn answered that is how the property owner decided to sell and divide a larger parcel of land. Mr. Hendricks added the seller retained some of the property for another use. Mayor Roberts said it is important for the facts to be shared and informed the Council to contact Mr. Hendricks with any additional questions.

#### **16. Future Meeting Reminders:**

- August 9<sup>th</sup>: Planning Commission Meeting – 7:00PM
- August 11<sup>th</sup>: City Council Meeting – 7:00PM
- August 25<sup>th</sup>: City Council Meeting – 7:00PM
- September 8<sup>th</sup>: City Council Meeting – 7:00PM
- September 13<sup>th</sup>: Board of Zoning Appeals – 6:15PM Beth said correction is 7:45.
- September 13<sup>th</sup>: Planning Commission Meeting – 7:00PM
- September 22<sup>nd</sup>: City Council Meeting – 7:00PM

#### **17. Adjourn**

Councilmember Longanecker moved to adjourn the meeting. Councilmember Lewis seconded the motion. The meeting was adjourned at 8:12 PM, 5-0.