

**City of Edgerton, Kansas**  
**Minutes of City Council Regular Session**  
**August 10, 2023**

A Regular Session of the City Council (the Council) was held in the Edgerton City Hall, 404 E. Nelson, Edgerton, Kansas August 10, 2023. The meeting convened at 7:00PM with Mayor Roberts presiding.

**1. ROLL CALL**

Clay Longanecker	present
Josh Lewis	present
Josh Beem	absent at roll call, arrived at 7:28PM
Deb Lebakken	present
Bill Malloy	present

With a quorum present, the meeting commenced.

Staff in attendance:

- City Administrator, Beth Linn
- City Attorney, Lee Hendricks
- City Clerk, Alex Clower
- Assistant City Administrator, Meagan Borth
- Marketing & Communications Manager, Kara Banks
- Public Works Director, Dan Merkh
- Development Services Director, Zachary Moore
- Finance Director, Karen Kindle
- Accountant, Justin Vermillion
- Recreation Coordinator, Brittany Paddock

**2. WELCOME.** Mayor Roberts welcomed all in attendance.

**3. PLEDGE OF ALLEGIANCE.** All present participated in the 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 27, 2023 Regular City Council Meeting.
5. Consider Ordinance No. 2142 Amending Chapter XIV of the Edgerton, Kansas Municipal Code to Incorporate the 2023 Standard Traffic Ordinance, Subject to Existing Local Traffic Provisions in the City Code Which Supplement and/or Modify Certain Sections Thereof
6. Consider Ordinance No. 2143 Amending Chapter XI, Article I, Section 11-101 of the Code of the City of Edgerton, Kansas, Concerning the Uniform Public Offense Code
7. Approve Concurrence to Bid 2023 CDBG – 1st And Martin Sanitary Sewer Rehabilitation Project

Councilmember Lewis moved to approve the Consent Agenda. Councilmember Lebakken seconded the motion. The consent agenda was approved, 4-0.

**Regular Agenda**

8. **Declaration.** There were no declarations made.

9. **Public Comments.** There were no public comments made.

10. **Presentation.** Streetlight Inventory and Study

Mr. Merkh introduced Josh Pudlowski with Olsson to present the study. He stated this will be used as launchpad for priorities for future projects based on the citizen survey as we move forward.

Mr. Pudlowski thanked the Council for having him. He stated this study came about based on the citizen survey and some dissatisfaction with street lighting within the community. He stated the study will provide standards moving forward.

He stated the city has 294 streetlights within city limits. Using a collector app, their staff went out to document each fixture including pictures, type of pole, light type, condition, etc. He stated the Evergy-owned lights are generally within the residential city limits, whereas the lighting at LPKC is city-owned. He stated the lighting in LPKC is very good and meets high standards. He stated the remaining approximately 120 lights belong to Evergy and are leased to the city.

Councilmember Longanecker asked how many lights are out at the intermodal.

Mr. Merkh stated about 174 included inside LPKC, without including those in parking lots.

Ms. Linn stated this number also includes those along 207<sup>th</sup> Street and along Homestead.

Councilmember Longanecker asked if all the ones owned by Edgerton are newer ones.

Mr. Pudlowski stated correct. He stated when creating this draft study they looked at standards from the Illuminating Engineering Society (IES) and the recommended best practices, as well as lighting standards from surrounding local jurisdictions. He stated this document will allow for a quick reference to make sure when items are brought in they can look at plan requirements and standards to make it easier for staff to review.

He stated as they looked at deficiencies within the existing lighting, he stated most were found in the residential area and most are Evergy-owned lights. He stated the Edgerton-owned lighting is newer and was meeting the illumination criteria.

Mr. Merkh stated as we move forward in this process, although Edgerton owned lighting is sufficient now, it would be good to have standards to look at moving forward. He used Homestead Lane as an example that while the current lighting is sufficient, if there were any type of pedestrian conflict, this would then change the category to out of compliance.

Mayor Roberts stated what is the trigger point for low to medium.

Mr. Pudlowski stated if a surplus of people begin using the trail, that could then escalate the need of lighting there; however that is not a problem today. He stated medium range lighting is typically what's seen in shopping centers due to the volume of people. He stated there are some areas not meeting minimum level.

Mr. Merkh referenced the map provided and stated this is due to there being insufficient lighting down co-op road.

Mr. Pudlowski stated they surveyed some local jurisdictions for maintenance costs. He stated currently, per city pole Edgerton is paying \$45 per fixture to maintain and run with a lease rate at about \$233 per pole.

Mr. Merkh stated Evergy values each fixture between \$2,500 - \$3,500 and when staff approached Evergy they had said they are not doing anymore sell outs.

Mr. Pudlowski stated the alternates shown could change moving forward to help with budget costs. He added he is not sure what grounds Evergy has to stop the city from being able to say they want new lighting and ask that Evergy removes their fixtures. He stated staff would also need to look at ideas for maintenance moving forward. Currently it costs about \$18 per fixture to maintain, but those costs could escalate once the City nears 1,000 fixtures.

Mr. Merkh stated these are some of the metrics the City could use moving. He stated there may be enough work between traffic and street lights to have a specific employee to be trained and handle the maintenance of it instead of contracting out.

Councilmember Longanecker asked if all the wooden poles that have lights also have power lines.

Mr. Merkh stated there's probably a good amount that will require some type of change to the structure.

Mr. Pudlowski stated he does not have a number handy, but they did make note of those during the study.

Mayor Roberts stated typically the power poles are in the alleys and street lights are on the poles. He stated there are some that may have power lines with them, but not many. He stated they might run in to more phone lines and cable lines.

Councilmember Lewis asked if there was any way to have Evergy update lights for a lesser cost.

Mr. Pudlowski stated they updated around 2018, so they're fairly new.

Councilmember Longanecker asked if this is something the city currently has a contract on.

Ms. Linn stated there is a lease agreement through franchise, however the agreement currently needs to be updated which is why this seemed like the perfect door to begin conversations

about purchasing, updating, etc. She stated staff would recommend the purchase for the city to have ownership and our own fixtures and poles. She stated even if staff had ownership of fixture, we would still have to contact Evergy to maintain.

Councilmember Lewis asked if the City has created a standard for residential lighting.

Ms. Linn stated yes, council voted on pole, lighting, etc. at a previous meeting.

Mr. Merkh stated it is included in the packet with draft info. He stated residential is safety lighting, whereas a major section of roadway would be continuous lighting.

Ms. Linn pulled up a picture of the approved standard specs going forward.

Mayor Roberts asked what the cost would be to purchase Evergy lights.

Mr. Pudlowski stated roughly \$250,000, including buy-out.

Councilmember Lewis asked if we would then have to put in more lights.

Ms. Linn stated we would likely schedule where and when we could replace specific lights, likely with a road replacement project.

Mayor Roberts stated he would like to know the options from Evergy and what can be negotiated. He stated he is in favor of replacement on street reconstruction projects, not just chip seal or UBAS, so those larger projects could then also include light replacement.

There were no further questions or comments.

### **Business Requiring Action**

#### **11. CONSIDER ORDINANCE NO. 2144 AMENDING ARTICLE 4 – COMMERCIAL ZONING DISTRICTS - OF THE UNIFIED DEVELOPMENT CODE (UDC) OF THE CITY OF EDGERTON, KANSAS AND CONSIDER ORDINANCE NO. 2145 AMENDING ARTICLE 7 – CONDITIONAL USES – OF THE UDC AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH**

Mr. Moore addressed the Council. He gave a brief overview of the ordinances for approval. He stated both ordinances are regarding updates to the Unified Development Code, the first ordinance for discussion is Ordinance 2145, which will include changes to the chapter for Conditional Uses. He stated this update will not change any standards, or specifications, it will just update the code to reference Conditional Uses in the correct place and make the code more uniform throughout.

With no questions or comments, Mayor Roberts requested motion to approve Ordinance No. 2144, amending article 7 of the UDC, Conditional Uses.

Mr. Moore then gave an overview of the ordinance to amend the UDC to include downtown commercial zoning to include downtown permitted sidewalk sales with specifications. He stated this will bring visual attention to downtown businesses and allow for sidewalk sales throughout the year, with a permit. He stated this permit would be annual and they must identify a sales plan with sketch when submitting the permit.

Councilmember Beem stated how wide is the sidewalk now.

Mr. Moore stated about 7.5 feet, however with updates to The Greenspace, sidewalk design will be 10 feet.

Mayor Roberts asked this would be for a year long commitment and they could put sales out any day they choose with specific items listed and they would be allowed anytime. He confirmed this is only for downtown district though, correct?

Mr. Moore confirmed that sidewalk sales would only be allowed downtown.

Councilmember Malloy asked if they must list every item they plan to sell.

Mr. Moore stated no, they would have to note what types of items they have to sell, but not individual items.

Mayor Roberts questioned the look of sidewalk sales and how some people could be selling things that do not look too appealing. He stated the city took a strong approach against Dollar General and allowing for them to put out their carts with merchandise on them.

Mr. Moore stated there will be language in their permit and during review if staff identifies a problem, stipulations can be added.

Councilmember Lewis asked what the end goal is here.

Mr. Moore stated to attract more attention for the downtown businesses. He stated they would have to tie back to what the uses are in the downtown district.

Ms. Linn stated as long as it's an approved use, this would be a way to help people know the business are there.

Mr. Moore stated there was one instance where staff noticed that the sidewalk sales did not meet code, however staff then went back and thought how it could be nice to have for those businesses.

Ms. Linn stated simply rolling out a cart with items on it is not permitted today. This change would allow the opportunity for the code to allow for temporary sales.

Councilmember Malloy asked if any of these types of permits have been issued before.

Ms. Linn stated not to her knowledge.

Mr. Moore stated they want to increase the opportunity for those types of sales.

Mayor Roberts stated he would like more information on this before council votes, so he would like to table the item for now.

Mayor Roberts then requested motion to table to ordinance 2145 to a future meeting.

Councilmember Lebakken moved to approve the motion, seconded by Councilmember Beem. The motion was approved, 5-0.

## **12. CONSIDER AGREEMENTS WITH HENDERSON BUILDING SOLUTIONS FOR THE GREENSPACE PROJECT TO PROVIDE COMMISSIONING, TAB, AND BUILDING CONTROLS SERVICES DURING THE CONSTRUCTION PHASE**

Mr. Merkh stated in November 2021, the City Council approved an agreement with Henderson Building Solutions (HBS) for owner rep services for The Greenspace project. He stated this agreement included owners rep services only for the pre-construction phase in support of the Phase I Design Services agreement with incite Design Studio. He stated in December 2023, the City Council then approved an agreement with HBS for owners rep services for the construction phase of the project.

He stated as the project includes commissioning for mechanical, plumbing, and electrical systems, staff would recommend entering into an agreement with HBS to provide commissioning, testing, adjusting, and balancing (TAB) as well as building control system and integration for the construction phase of the project. He stated HBS brings significant experience in vertical construction and is crucial to the successful completion of the project, staying within the budget and schedule. He stated included in the packet is the list of services provided within the agreement.

He stated this agreement structures payment for commissioning and TAB services for a lump sum fee of \$48,000. While this amount exceeds the estimate by approximately \$15,000 used to prepare the project budget, there are categories of costs yet to be determined. He stated staff will continue to monitor the project budget and periodically update the Council as costs are set.

He stated building controls services for a lump sum fee of \$148,790, this was originally included in the construction category of the project budget and is within the budgeted amount. He stated this agreement is still pending review, staff would recommend approval of this agreement pending completion of that review.

Ms. Linn stated having a 3<sup>rd</sup> party on behalf of the city is industry standard, this will also allow subject matter experts to provide training for a system that staff is not already familiar with and learn about a new system moving forward.

Councilmember Lewis asked how the estimate was blown up so high.

Ms. Linn stated at the time we asked for estimate, we did not know the scope. Today we know the system, mechanics, etc. to get a better estimate. She stated this particular line item went up, however there is no concern with exceeding the budget.

With no further questions or comments, Mayor Roberts requested motion to approve the agreement upon review completion.

Councilmember Lewis moved to approve the motion, seconded by Councilmember Malloy. The agreement was approved, 5-0.

**13. CONSIDER CHANGE ORDER #1 TO CONTRACT WITH HARBOUR CONSTRUCTION INCORPORATED FOR ASPHALT OVERLAY CONSTRUCTION OF WEST 5<sup>TH</sup> STREET AS PART OF THE 2023 STREET PRESERVATION PROGRAM.**

Mr. Merkh stated in May 2022, Council was presented with the 2022 and 2023 street preservation program, where staff provided several options for that program. He stated in February 2023, Council approved the concurrence to bid for the 2023 street preservation program.

He stated in May 2023, City Council approved the award of bid to Harbour Construction Inc. and in June Council executed a PSA with them for the construction of the asphalt overlay and ultrathin bonded asphalt (UBAS) portion of the 2023 street preservation program for a base bid of \$124,575. He stated the contract included asphalt overlay for West 3<sup>rd</sup> Street from West Edgewood Dr. to West Meriwood and West Meriwood from 1<sup>st</sup> Street to West 3<sup>rd</sup> Street. He stated additionally, the contract scope included UBAS on West 5<sup>th</sup> Street from West Morgan St. to the end of the cul-de-sac.

He stated Harbour Construction is requesting the UBAS portion of their contract be upgraded to an asphalt overlay at no additional cost to the city. He stated city staff believes this is an improvement to the existing contract as asphalt overlay typically last longer than UBAS and can improve the drainage concerns along W. 5<sup>th</sup> Street.

He stated the requested change order is a significant change in scope, therefore staff is requesting council approval. The scope change includes asphalt overlay instead of UBAS for West 5<sup>th</sup> Street from West Morgan Street to the end of the cul-de-sac. He stated the contract amount will be unchanged from the initial base bid of \$124,575.00 after the change order is approved.

He stated construction is anticipated to begin in September 2023 and substantial completion is anticipated by October 15, 2023 depending on weather. This change order does not include final quantities incurred during construction.

He stated it is the recommendation of staff to approve Change Order #1 for revised construction method of West 5<sup>th</sup> Street from West Morgan Street to the end of the cul-de-sac for the 2023 Street Preservation Project to Harbour Construction Incorporated.

Mayor Roberts questioned this will not be traditional mill and overlay.

Mr. Merkh stated no, they will do edge cut and overlay.

Councilmember Lewis asked why they want to change it out.

Mr. Merkh stated that company has said they will already have the equipment and instead of bringing out different equipment for the other type, they can mobilize all at once and have it completed faster and for the same price. He stated it is new asphalt, so should last longer than UBAS.

Mayor Roberts asked if they would do curb replacement too.

Mr. Merkh stated they will typically bring quantities near the end.

Mayor Roberts asked if we know the quantity estimate or if it will change, will the cost change too.

Mr. Merkh stated the company says it is a direct swap, so no cost change. The material of overlay as well as edge mill is equal to the cost of the UBAS they had quoted.

With no further questions or comments, Mayor Roberts requested motion to approve the change order.

Councilmember Lewis moved to approved, seconded by Councilmember Longanecker. The change order was approved, 5-0.

**14. PUBLIC HEARING FOR RESOLUTION NO. 08-10-23A TEMPORARILY WAIVING CITY PROHIBITION AS TO THE SALE AND CONSUMPTION OF ALCOHOLIC LIQUOR ON CERTAIN PUBLIC PROPERTY FOR MEAT INFERNO EVENT**

Ms. Paddock stated staff is requesting permission for the sale of alcohol for the Meat Inferno event. She stated this year, the Topsy Tavern will be the vendor. She stated the city code prevents the serving of alcohol within 200 feet of public buildings. She stated this will only be on Friday night from 5-10PM.

Mayor Roberts opened the public hearing at 8:18PM

With no questions or comments, Mayor Roberts then closed the Public Hearing at 8:18PM.



**15. CONSIDER RESOLUTION NO. 08-10-23A TEMPORARILY WAIVING CITY PROHIBITION AS TO THE SALE AND CONSUMPTION OF ALCOHOLIC LIQUOR ON CERTAIN PUBLIC PROPERTY FOR MEAT INFERNO EVENT**

With no questions or comments from council, Mayor Roberts requested motion to approve the resolution.

Councilmember Lewis moved to approve the motion, seconded by Councilmember Beem. The motion was approved, 5-0.

**16. CONSIDER RESOLUTION NO. 08-10-23B AUTHORIZING SPECIAL EVENT PERMIT FOR SALE AND CONSUMPTION OF ALCOHOLIC LIQUOR ON CERTAIN PUBLIC PROPERTY WITHIN THE CITY OF EDGERTON, KANSAS**

Ms. Paddock stated along with the public hearing and waiver approval, the sale and consumption of alcohol also requires approval of the special event permit.

With no questions or comments, Mayor Roberts requested motion to approve the resolution.

Councilmember Lewis moved to approve, seconded by Councilmember Beem. The motion was approved, 5-0.

**17. Report by the City Administrator**

- Recreation Update

Ms. Paddock stated the groundbreaking ceremony for The Greenspace will be held downtown on Friday evening. There will be tacos, ice cream, a musician, touch a truck and much more. She stated following the community event will be an event for the kids celebrating back to school with a glow foam party.

Ms. Linn asked Ms. Borth to give a brief overview regarding the citizen complaint of a vehicle parking and not moving on 8<sup>th</sup> & Meriwood.

Ms. Borth stated a citizen came to speak about their concerns of parking at 8<sup>th</sup> & Meriwood and the safety concern that could come from that. She stated staff then went and spoke to fire and the city engineer regarding this concern. They were all in agreement that both roads are built to current standards. The Fire District said fire trucks need about 12 feet of clearance, so they can safely enter that roadway if necessary. She stated the parked vehicle is over the standard of 20 feet away from the stop sign. She stated nothing in their opinions would constitute changing guidelines as they stand now.

Councilmember Longanecker stated that was his biggest concern too, making sure emergency personnel could get through if they needed.

Ms. Borth stated as long as the vehicle is parked legally- as it is currently- there is no safety concern.

Ms. Beth Gifford stated the City of Spring Hill will tag cars that do not move for a few days. She stated she has called and talked to the city's code enforcement here and been advised that vehicles on the street fall under the Sheriff's Office purview.

Mr. Hendricks stated the 48 hours is for a traffic hazard or unregistered vehicle and inoperable vehicles can be removed after 30 days. He stated it is easier to know if a vehicle goes unmoved on private property, but the street is harder to prove unless there is record to show.

Ms. Gifford stated she knows the vehicle in question does not move. She stated there may be nothing the City could do, but she felt she needed to bring the concern to the Council's attention.

Mayor Roberts stated his concern has always been about public safety. He stated this is not the first time the City has seen a problem with parked vehicles.

Mr. Trig Morley, Interim Fire Chief for Fire District #1, came up to the podium. He stated any on street parking does pose challenges, but they deal with it. He stated there are hundreds of instances where they have to figure out how to maneuver through the streets.

Mayor Roberts stated he would encourage Ms. Gifford to keep watching and report what she can.

With no further discussion, Ms. Linn invited Ms. Paddock back up to give her report on recreation activities.

Ms. Paddock stated they have offered 62 events and programs so far this year to the community with plans to offer even more next year. She stated attendance numbers continue to rise for each event, including senior lunch.

Council members thanked Brittany for the job she does and commended her for the increase in attendance.

There were no further comments.

Mr. Hendricks stated they needed to correct the tabled ordinance, as the Clerk noticed after approval that the numbers were incorrectly listed. He stated 2145 is the conditional use ordinance, which council wanted to approve and 2144 should have been the tabled item.

Mayor Roberts requested motion to revoke the prior motion to approve Ordinance 2144.

Councilmember Lebakken moved to revoke the prior action on Ordinance 2144, seconded by Councilmember Longanecker. The motion was approved, 5-0.

Mayor Roberts requested motion to table discussion on Ordinance 2144 to a later date.

Councilmember Lewis moved to table Ordinance 2144, seconded by Councilmember Longanecker. The motion was approved, 5-0.

Mayor Roberts requested motion to approve Ordinance 2145.

Councilmember Longanecker moved to approve Ordinance 2145, seconded by Councilmember Beem. The motion was approved, 5-0.

- **2<sup>nd</sup> Quarter Finance Update**

Ms. Kindle reviewed the department funds. She stated all funds are where we would expect them to be and within budget authority and reserve requirements.

**18. Report by the Mayor**

Mayor Roberts stated he had no report to give.

**19. Future Meeting Reminders**

Mayor Roberts reminded council of the future meetings for council and planning commission.

**20. CONSIDER RECESSING INTO EXECUTIVE SESSION PURSUANT TO K.S.A. 75-4319(B)(12)) FOR MATTERS RELATED TO SECURITY MEASURES TO INCLUDE CITY ATTORNEY, CITY ADMINISTRATOR AND ASSISTANT CITY ADMINISTRATOR FOR THE PURPOSES OF DISCUSSING SECURITY MEASURES THAT PROTECT PUBLIC AND PRIVATE PROPERTY**

Mayor Roberts stated he would like to recess into executive session pursuant to KSA 75-4319(B)(12) to include City Attorney, City Administrator and Assistant City Administrator for 10 minutes. He stated the open meeting will resume in the council chambers at the conclusion of the executive session.

Mayor Roberts then requested motion to recess into executive session.

Councilmember Lebakken moved to recess into executive session for 10 minutes, seconded by Councilmember Beem.

The meeting recessed into executive session at 8:59PM, 5-0.

Councilmember Beem made motion to return to open session with no action taken, seconded by Councilmember Longanecker.

Open session resumed at 9:09PM, 5-0.

**Adjourn**

Councilmember Beem moved to adjourn, seconded by Councilmember Longanecker. All in favor. The meeting was adjourned at 9:09PM.

Submitted by Alexandria Clower, City Clerk