

**City of Edgerton, Kansas  
Minutes of City Council Regular Session  
September 24, 2020**

A Regular Session of the City Council (the Council) was held in the Edgerton City Hall, 404 E. Nelson Edgerton, Kansas on September 24, 2020. The meeting convened at 7:00 PM with Mayor Roberts presiding.

**1. ROLL CALL**

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

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
- Finance Director Karen Kindle
- Development Services Director Katy Crow
- Public Works Director Dan Merkh
- Public Works Superintendent Trey Whitaker
- Marketing and Communications Manager Kara Banks
- Customer Service Representative/Court Clerk Alex Clower
- Accountant Justin Vermillion

**2. WELCOME**

**3. PLEDGE OF ALLEGIANCE**

**CONSENT AGENDA**

4. Approve Minutes for September 10, 2020 Regular City Council Meeting
5. Approve Ordinance No. 2047 adopting a Recommendation by the City Planning Commission to Approve Rezoning Application ZA2020-01 Comprising Approximately 11.2 Acres of Land at 33364 W. 191<sup>st</sup> Street [Generally Located South and West of the Intersection of 191<sup>st</sup> Street and Waverly Road] in Edgerton, Kansas From Johnson County "RUR" (Rural District) Zoning to City of Edgerton "L-P" (Logistics Park) Zoning District

Councilmember Longanecker motioned to approve the Consent Agenda, motion seconded by Councilmember Lewis. The Consent Agenda was approved, 5-0.

**REGULAR AGENDA**

**6. Public Comments**

- There were no public comments made at this time.

## 7. **Declarations**

- There were no declarations made by any of the Councilmembers.

### **BUSINESS REQUIRING ACTION**

#### **WALK ON ITEM: CONSIDER THE RESOLUTION 09-24-20B PROVIDING FOR A HEARING TO DISCUSS A POSSIBLE DANGEROUS AND UNFIT STRUCTURE EXISTING AT 502 EAST 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. Katy Crow, Development Services Director, spoke to the Council. She stated on August 13, 2020, the Governing Body held a public hearing to discuss a possible dangerous and unfit structure existing at 502 east 2<sup>nd</sup> Street pursuant to Chapter IV, Article 4, Section 4-405 of the Edgerton Municipal Code. During the hearing, the owner of record at that time, R-7 Capital Funding LLC, did not appear and did not show cause as to why the structure should not be condemned, ordered repaired or demolished. She explained at the conclusion of the hearing, the Governing Body directed City Staff to prepare a resolution to declare the structure as dangerous, unsafe or unfit for human use or habitation with the owner being given thirty (30) days to either repair, alter, improve, or demolish the structure. On August 27, 2020, City Staff returned to Council with Resolution 08-27-20A which gave the owner, R-7 Capital Funding LLC, until September 28, 2020 to abate the conditions and demolish or remove the structure.

Ms. Crow said on September 16, 2020 the owner of record for 502 E. 2<sup>nd</sup> Street in Edgerton, Kansas changed to Mr. Juan Abundiz and Ms. Visenta Hernandez. On September 21, 2020, City Staff along with the City's contracted building inspector, GBA, performed a walkthrough of the property with the new owners. While Mr. Abundiz and Ms. Hernandez have indicated their intent to bring the structure into compliance, the property remains in the same unsafe and dangerous condition that it was when owned by R-7 Capital Funding LLC.

Ms. Crow stated 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 findings to the Governing Body. Upon receipt of this report, and pursuant to Chapter IV, Article 4, Section 4-401, should the Governing Body of the City of Edgerton agree with the public officer's report and find said 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 explained the City Attorney has prepared this resolution pursuant to Section 4-405 of the Edgerton City Code to set the date and time for such a hearing. The resolution must be published once each week for two consecutive weeks, and 30 days must elapse between

the last publication and the date set for the hearing. Publication of the resolution will occur on September 30, 2020 and October 7, 2020 with a public hearing set for November 12, 2020 at 7:00 PM. She said City Staff recommends approval of this resolution in order to continue moving forward the process to abate this nuisance.

Mr. Abundiz stated he works for a construction company in Missouri and knows there are issues with foundation among other things. He has called a foundation company and work will begin on getting the foundation stabilized. He and Ms. Hernandez want to reinforce all of the wood damage on the interior by bracing it with laminated veneer lumber (LVL) to help stabilize the studs and beams inside the home. The exterior will be waterproofed, and the roof is to be replaced. Mr. Abundiz explained limbs have fallen on the house and that has led to the roof being damaged and allows water access into the house. This water has led to the foundation sinking. He said they plan on replacing all of the plumbing and electrical in the house. The building inspector said the panel will need to be changed to be weatherproof as it is on the exterior. The front and side porches are to be redone to be safe and useable.

Mayor Roberts inquired if they are going to restore the house to what it was or alter it. Mr. Abundiz answered they want to restore it to how it was built. Mayor Roberts asked if he has a timeframe for the work to be done. Mr. Abundiz replied they hope to have a majority of the work completed by December. Mayor Roberts asked if it could take longer than that. Mr. Abundiz stated it is possible, but they want to be done in a year at the most. Mayor Roberts stated he would love to see the house restored to its former glory and it has been a nuisance for almost ten (10) years. He stated Mr. Abundiz and Ms. Hernandez have done more to the property in one (1) weekend than what has been done the last five (5) years.

Mayor Roberts said this proposed resolution can be revisited later if needed and there is a good property owner who wants to maintain the house and property. Councilmember Longanecker agreed he would like to see the house restored. He inquired to how long a building permit would give the property owner to repair the house. Ms. Crow answered City Code requires an inspection at least every 180 days, if an inspection is not done, then the permit expires. She stated City Staff can provide the Council quarterly updates to inform the Council the progress of the property. There have been some repaired windows and the property owners seem to know what needs to be done and are willing to do to get the property into compliance. Councilmember Longanecker stated he knows LVL can be pricy right now, but is happy to have a property owner willing to put forth the work. Councilmember Lewis agreed and likes to see the City improve. Mayor Roberts said it is good for the property owner to improve the lot and not the City. Ms. Crow informed the Council Mr. Abundiz and Ms. Hernandez do plan on living in the house once the repairs are completed. Mr. Abundiz stated that is correct and they love the structure and layout of the house. Ms. Crow stated City Staff did mention the code violations on the property. Mr. Abundiz stated they are aware they cannot use the Recreation Vehicle (RV) as living quarters even if they are able to repair it from the poor condition it is in. Councilmember Smith said it is great Mr. Abundiz and Ms. Hernandez have the know-how and help to make the house livable and wished them luck.

Ms. Crow stated the resolution will follow the same process as the previous one did. It will be published twice and the public hearing will be at least thirty (30) days after the second

publication, making the November 12, 2020 Council meeting the first available public hearing date. Ms. Crow explained at the public hearing, the property owner can provide an update on the work that has been done. Mayor Roberts inquired if the resolution is not approved, what is the timeframe of getting back to the public hearing point again. Mr. Lee Hendricks, City Attorney, answered the approval of the resolution is not the Council taking action on the property but to get back to this point would take over two (2) months. Mayor Roberts stated he does not want the City to do anything more with the property and would like to see the new property owners rehabilitate the property.

Councilmember Longanecker motioned to approve Resolution No. 09-24-20B 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. Councilmember Conus seconded the motion. Resolution No. 09-24-20B was approved, 5-0.

**8. PUBLIC HEARING REGARDING THE CREATION OF A COMMUNITY IMPROVEMENT DEVELOPMENT (CID) DISTRICT FOR ON THE GO TRAVEL CENTER**

Mr. Scott Anderson, Bond Council, approached the Council. He stated the Developer, My Store III, Inc., is constructing a truck stop, truck parking, truck maintenance facility, truck wash, restaurants, and associated infrastructure improvements on 12.162 acres located in the northeast corner of Interstate 35 (I-35) and Homestead Lane. The Developer and the City previously entered into an Amended and Restated Development Agreement to set forth certain agreements with respect to the development. Mr. Anderson said the agreement provides that the Developer will develop the project and the City will consider various incentives, including a 1% CID sales tax with the proceeds going to the City to reimburse the City for certain public infrastructure improvements. He explained the City has taken all of the steps to create the CID up to this point. After an ordinance is approved, it must be recorded with the County.

Mr. Anderson stated all of the CID sales tax proceeds are going to the City to reimburse the City for certain public infrastructure improvements, such as the full access intersection at West 200<sup>th</sup> Street and Homestead Lane. The City may want the Developer to agree to provide certain information in connection with the CID sales tax. If this Ordinance is approved, the City may be asked at a future meeting to approve a short-form CID development agreement with the Developer to provide certain financial information and perform other duties.

Mayor Roberts opened the public hearing. There were no public comments made. Mayor Roberts closed the public hearing.

**9. CONSIDER APPROVING ORDINANCE NO. 2048 THE CREATION OF A COMMUNITY IMPROVEMENT DISTRICT (ON THE GO TRAVEL PLAZA) AND LEVYING A CID SALES TAX WITHIN SUCH DISTRICT**

Mr. Anderson stated all of the retailers located in the CID will collect the same amount of sales tax plus 1 penny per dollar. These pennies will go to the State then allocated into a fund the City can use to reimburse itself for public improvements done within the CID. The

estimates show just over \$1,700,000 being generated for the City and the tax is to take effect on January 1, 2021 and be in place for twenty-two (22) years.

Councilmember Lewis motioned to approve Ordinance No. 2048, the creation of a CID (on the Go Travel Plaza) and levying a CID sales tax within such District. Councilmember Longanecker seconded the motion. Ordinance No. 2048 was approved, 5-0.

**10. CONSIDER APPROVING RESOLUTION NO. 09-24-20A ESTABLISHING FEES AND RATES FOR UTILITIES WITHIN THE CITY OF EDGERTON, KANSAS**

Ms. Karen Kindle, Finance Director, spoke before the Council. She stated in 2020, Rafetelis Financial Consultants (RFC) completed the annual update to the rate study for both the water and wastewater utilities. In their report, RFC recommends a small rate increase in each year of the forecast period in order to avoid large rate increases in the later years of the forecast period. She explained the 2021 rate increase of sixty-one cents (\$0.61) for water and eighty-nine cents (\$0.89) for wastewater were recommended by RFC and approved by the Council on August 13, 2020 in the 2021 Budget. The total rate increase for the typical Edgerton customer is \$1.50 per month, which is less than a cup of coffee, a gallon of gas, or a candy bar. Ms. Kindle stated RFC also completed the annual update to the rate study for the wholesale wastewater rate as required in the City's Agreement to provide Wastewater Treatment for the City of Gardner. RFC recommends a small rate increase to the wholesale wastewater rate of twenty-nine cents (\$0.29) per 1,000 gallons. This would equate to a total rate increase of \$1,305 for 2021 for wholesale wastewater. The proposed resolution will formally adopt the rate increases and take effect on January 1, 2021.

Ms. Kindle stated there is one more change to the Fee Resolution. The Extension Fee for a Temporary Certificate of Occupancy (TCO) has been added to the resolution. Edgerton Municipal Code Chapter IV, Article 1, Section 4-102 adopted the "Code of Regulations for Buildings and Construction," 2010 Edition. The Code states a TCO may be issued for sixty (60) days with an additional thirty (30) days being granted upon written request and the payment of a \$100 fee. This fee is not included in the Fee Resolution and as a housekeeping item, should be added under the Zoning and Development Fees section that starts on page twelve (12).

Councilmember Longanecker requested clarification on a chart provided. He inquired if Edgerton's utility rates will be less than some nearby cities. Ms. Kindle stated that is correct. Mayor Roberts asked if the chart includes the increases for 2021. Ms. Kindle answered all of the information provided reflect the rates for 2021. Councilmember Longanecker clarified the City is comparing the rate of consumption as gallons to gallons. Ms. Kindle replied that is correct.

Councilmember Longanecker motioned to approve Resolution No. 09-24-20A establishing fees and rates for utilities within the City of Edgerton, Kansas. Councilmember Beem seconded the motion. Resolution No. 09-24-20A was approved, 5-0.

**11. CONSIDER GENERATOR MAINTENANCE CONTRACT WITH FOLEY EQUIPMENT**

Mr. Dan Merkh, Public Works Director, addressed the Council. He stated in July 2020, City Staff solicited bids for onsite generator maintenance for five (5) of the six (6) generators the Utility Department uses to provide backup power to lift stations and the treatment plant. The sixth generator is still under warranty. Upon completion of the warranty period, City Staff will obtain a maintenance contract for that generator as well. Mr. Merkh explained generators are relied upon when there is an interruption of power. Maintenance includes inspections every 6 months to include the checking of oil, filters, coolant, and taking fuel samples. There is also a two (2) hour load bank test, which puts the generator under a load to ensure it can handle the power demands should a power interruption occur. Three (3) quotes were submitted, as required by the City's purchasing policy. City Staff recommends the selection of the lowest and best bid from Foley Equipment. These agreements are for 3 years, and include language summarizing the Kansas Cash Basis Law, as provided by the City Attorney.

Councilmember Longanecker inquired if this task could not be performed by City Staff. Mr. Merkh answered the City does not have the equipment to perform the load bank tests. Councilmember Smith asked if the price shown was for each year. Mr. Merkh replied it is for all 3 years.

Councilmember Smith motioned to approve the generator maintenance contracts with Foley Equipment. The motion was seconded by Councilmember Longanecker. The maintenance contracts were approved, 5-0.

## **12. CONSIDER JOHNSON COUNTY CORONAVIRUS RELIEF FUND SUBRECIPIENT GRANT AGREEMENT**

Ms. Kindle, spoke before the Council. She stated on March 27, 2020, the President signed the Coronavirus Aid, Relief and Economic Security Act (CARES Act) which provides \$150 billion in direct aid specifically for COVID-19 related expenses to state and local governments with a population greater than 500,000 people. Johnson County has received \$116 million in CARES Act funding and has set aside \$17 million for cities within the county to help with COVID-19 related expenses. Each city's allocation is based on population. The cities receive their share of the allocation by submitting reimbursement requests for expenses incurred. Ms. Kindle said to be eligible to receive its share of the funding, the City must sign the Johnson County Coronavirus Relief Fund Subrecipient Grant Agreement. The agreement contains the stipulations related to the grant funds including the City's responsibilities, requirements for access to and maintenance of records, audit requirements, repayment of unspent funds, and other requirements. She explained the City expects to have less than \$750,000 in federal grant awards in 2020, so the City will not be required to include the federal single audit procedures for its 2020 audit. The agreement is under review by the City Attorney. Mr. Hendricks stated it is a uniform agreement and it needs to be signed to procure the grants from Johnson County.

Mayor Roberts inquired if the City would need to repay any funds it receives. Mr. Hendricks answered no. Councilmember Lewis asked if there are any additional stipulations. Ms. Beth Linn, City Administrator, stated there are not but City Staff has put forth a lot of time and effort into the reimbursement requests and the cost of City Staff time might start outweighing the amount of reimbursed funds the City can get. Mayor Roberts stated he

would have preferred the County divide the funds and disbursed them to the cities instead of the reimbursement program that has been instituted.

Councilmember Lewis motioned to approve the Johnson County Coronavirus Relief Fund Subrecipient Grant Agreement. Councilmember Smith seconded the motion. The agreement was approved, 5-0.

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

- Marketing and Communications Quarterly Update

Ms. Kara Banks, Marketing and Communications Manager, addressed the Council. She said it has been a year since the launch of Edgerton's social media pages. She said the City's Facebook page has 774 likes, 821 people follow the City's page, and the City's posts have reached 4,243 people within the last 30 days. The pages with the highest amount of people reached are the suspicious behavior post, the grading beginning for the new 56 Highway Multi-Use Trail, the Cops'n'Bobbers preview post, the utility diffuser post, and the post regarding the water main break. Lewis said it is fantastic. Ms. Banks stated the City's events are reaching many people on Facebook and people are responding to them as well. Ms. Banks explained since the start of tracking users on the City's website on September 1, 2020, the site has trended between 500-750 users per week. Fridays, Mondays, and Tuesdays are the most popular days for the City's website. They typically do this in the morning hours. The top pages in the last ninety (90) days are job openings and City Council agendas.

- Ms. Linn stated the asbestos inspection at 410 W. Braun Street was completed. There was no asbestos in the structures. She said Johnson County Fire District #1 (JCFD1) training will begin to increase. There will be a lot of training on October 8 through October 12, 2020. She stated the burn days are October 13, 14, and 16, 2020. On October 16, 2020, the structures will be fully burned. Mayor Roberts stated the training is opened up to other districts to use as well and is a huge benefit for nearby cities. He said the Wellsville Fire Department will be joining JCFD1 that will benefit everybody involved. Mayor Roberts explained JCFD1 had to get approval from the Environment Protection Agency (EPA) for the final burn. Councilmember Conus inquired what the time was of the final burn. Ms. Linn replied she was not provided a time.
- Ms. Linn stated there was an Open House for the Stormwater Master Plan earlier this week at Martin Creek Park. She stated surveys have been sent out and the City needs more responses so the areas of focus can be decided on. She said the responses can be done online or mailed.
- Ms. Linn stated surveys regarding recreation programs have been sent as well. These surveys ask citizens what they would use and would like to see in Edgerton. This survey was done by ETC for no cost and sent only to residents that use the online service for utility payments. Mayor Roberts stated it is also available on the citizens' page of Facebook.

### **14. Report by the Mayor**

- Mayor Roberts thanks Master Deputy Brad Johnson for his work in Edgerton. He stated all suspects of a truck and trailer theft are in custody. He also stated his work with the students at Edgerton Elementary School is vital and a shared a photo of cards made by the kids that was posted on Facebook as well.

**15. Future Meeting Reminders:**

- October 8<sup>th</sup>: City Council Meeting – 7:00 PM
- October 8<sup>th</sup>: City Council Work Session Regarding CIP
- October 13<sup>th</sup>: Planning Commission Meeting – 7:00 PM
- October 22<sup>nd</sup>: City Council Meeting – 7:00 PM
- October 22<sup>nd</sup>: City Council Work Session Regarding Code Enforcement

**16. 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 CONTRACT NEGOTIATIONS**

Councilmember Beem 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 and the City Administrator for the purposes of contract negotiations for twenty (20) minutes. Councilmember Smith seconded the motion. The meeting recessed into executive session at 7:44 PM, 5-0.

Councilmember Beem motioned to return to open session. Councilmember Smith seconded the motion. Open session resumed at 8:04 PM, 5-0.

Councilmember Beem 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 and the City Administrator for the purposes of contract negotiations for 5 minutes. Councilmember Smith seconded the motion. The meeting recessed into executive session at 8:04 PM, 5-0.

Councilmember Beem motioned to return to open session. Councilmember Smith seconded the motion. Open session resumed at 8:09 PM, 5-0.

Councilmember Longanecker motioned to accept the Deed of Dedication for the 207<sup>th</sup> Street Grade Separation Project from Mr. Rex and Ms. Sue Pio and authorize a payment of \$300,000. Councilmember Smith seconded the motion. The Deed of Dedication and payment were approved, 5-0.

**17. 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 FOR THE PURPOSES OF NON-ELECTED PERSONNEL**

Councilmember Longanecker 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 for the purposes of non-elected personnel for 1 minute. Councilmember Beem seconded the motion. The meeting recessed into executive session at 8:09 PM, 5-0.

Councilmember Smith motioned to return to open session. Councilmember Longanecker seconded the motion. Open session resumed at 8:10 PM, 5-0.

**18. Adjourn**

Councilmember Longanecker motioned to adjourn the meeting, seconded by Councilmember Beem. The motion carried and the meeting adjourned at 8:12 PM, -0.

**EVENTS**

October 21<sup>st</sup>: Senior Lunch and Bingo at New City Church

October 25<sup>th</sup>: Halloween Party

October 27<sup>th</sup>: Municipal Court