

City of Edgerton, Kansas
Minutes of City Council Regular Session
September 12, 2024

A Regular Session of the City Council was held in the Edgerton City Hall, 404 E. Nelson, Edgerton, Kansas September 12, 2024. The meeting convened at 7:00PM with Mayor Roberts presiding.

1. **ROLL CALL**

Clay Longanecker	present
Josh Lewis	absent
Deb Lebakken	absent
Bill Malloy	present
Ron Conus	present

With a quorum present, the meeting commenced.

Staff in attendance:

- City Administrator, Beth Linn
- City Clerk, Alex Clower
- City Attorney, Todd Luckman
- Public Works Director, Dan Merkh
- Parks and Recreation Director, Levi Meyer
- Development Services Director, Zach Moore
- Director of Finance, Karen Kindle
- Assistant to the City Administrator, Kara Banks
- Assistant to the City Administrator, Trey Whitaker
- Recreation Superintendent, Brittany Paddock

Bond Counsel, Scott Anderson

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 August 22, 2024 Regular City Council Meeting
5. Approve Application PUD2024-0101, Revised Final PUD Plan/Plat for Dwyer Farms, Phase 2, located southwest of the intersection of Braun Street/207th Street and W. 8th Street/Edgerton Road, Edgerton, Kansas
6. Approve Resolution No. 09-12-24A Approving the Mayoral Appointment for Certain Public Officials for the City of Edgerton, Kansas
7. Approve Concurrence to Bid 2024 CDBG Sanitary Sewer Rehabilitation Project

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

Regular Agenda

8. **Declaration.** There were no declarations made.
9. **Public Comments.** There were no public comments made.

Business Requiring Action

10. CONSIDER RESOLUTION NO. 09-12-24B AUTHORIZING THE CITY OF EDGERTON, KANSAS TO CONSENT TO A PARTIAL ASSIGNMENT OF A TIF AND A CID DEVELOPMENT AGREEMENT AND AUTHORIZING THE AMENDMENT OF BOND DOCUMENTS FOR THE EDGERTON CROSSING WOODSTONE PROJECT

Mr. Anderson addressed the Council. He stated most are familiar with Woodstone project. He stated the City has previously entered into TIF and CID, a portion of TIF comes from CID Sales Tax. He stated Woodstone sold a portion to Maverik for a travel center, at the time the City did a partial assignment from Woodstone to Maverik. He stated with respect to Maverik site, they're taking on the responsibility of developing, and are now purchasing another 2.5 acres to make the project site a bit bigger. He stated the resolution for consideration does what we've previously done and allows for a partial assignment and allows the Mayor to execute the agreements. He stated this doesn't change the agreement with Woodstone in any other way, they're still obligated to develop within the timelines of the agreement.

Councilmember Conus asked if they've started anything yet.

He stated there is no building yet.

Mayor Roberts stated the roads are in and it looks a lot different.

With no further questions or comments, Mayor Roberts requested a motion to approve Resolution No. 09-12-24B, authorizing the partial assignment of a TIF and CID development agreement and authorizing the amendment of bond documents for Edgerton Crossing Woodstone Project.

Councilmember Longanecker moved to approve the motion, seconded by Councilmember Conus. Resolution No. 09-12-24B was approved, 3-0.

11. CONSIDER ORDINANCE NO. 2167 ADOPTING THE PLANNING COMMISSION'S RECOMMENDATION TO APPROVE THE RENEWAL OF A CONDITIONAL USE PERMIT (CU2024-0100) ALLOWING BILLBOARD FOR AD TREND, LLC ON THE PROPERTY LOCATED AT 36450 FRONTAGE ROAD, EDGERTON, KANSAS

Mr. Moore addressed the council. He stated as introduced, the next two items on the agenda if approved will issue two permits to allow for the continuous use of billboards on the property located just at 36450 Frontage Road, just off I35. He stated these billboards existed since 2010 and the current conditional use is set to expire this year so the owners are requesting extension

of conditional use for another 5 years. He stated this was reviewed and approved by both staff and planning commission against the golden criteria and City Code. A Public Hearing was held with planning commission in which the commission recommended approval.

With no questions or comments, Mayor Roberts requested motion to approve Ordinance No. 2167, approving the renewal of Conditional Use Permit, CU2024-0100.

Councilmember Malloy moved to approve the motion, seconded by Councilmember Longanecker. Ordinance 2167 was approved, 3-0.

12. CONSIDER ORDINANCE NO. 2168 ADOPTING THE PLANNING COMMISSION'S RECOMMENDATION TO APPROVE THE RENEWAL OF A CONDITIONAL USE PERMIT (CU2024-0101) ALLOWING BILLBOARD FOR AD TREND, LLC ON THE PROPERTY LOCATED AT 36450 FRONTAGE ROAD, EDGERTON, KANSAS

With no questions or comments, Mayor Roberts requested motion to approve Ordinance No. 2168, approving the renewal of Conditional Use Permit, CU2024-0101.

Councilmember Conus moved to approve the motion, seconded by Councilmember Longanecker. Ordinance 2168 was approved, 3-0.

13. PUBLIC HEARING TO DISCUSS A POSSIBLE DANGEROUS AND UNSAFE BUILDING EXISTING AT 301 E 5TH STREET IN THE CITY OF EDGERTON, JOHNSON COUNTY, KANSAS PURSUANT TO RESOLUTION 07-11-24A AND CITY OF EDGERTON MUNICIPAL CODE CHAPTER IV, ARTICLE 11, SECTION 4-1107

Mr. Moore stated in July staff came forward and presented a building officials report with several items listed needing work for this address. He stated the property owner is unable to be in attendance this evening but their written statement was included in the packet. He stated staff has met with property owner on multiple occasions, they have addressed the structural concerns, repaired the roof, worked on the electrical meter and have power to building as well as addressed concerns with tree debris on site. He stated staff is not recommending presenting another resolution at this time to deem this building unsafe, but do have to hold this public hearing statutorily.

Councilmember Longanecker asked if staff has inspected the inside and if it looks to be in better shape and on its way to be livable.

Mr. Moore stated yes, they have made significant progress towards that.

Mayor Roberts opened the public hearing at 7:11PM.

With no comments or questions, Mayor Roberts then closed the public hearing at 7:11PM.

Mayor Roberts stated from a building perspective as a whole, they've done the work. Mayor Roberts asked if there needs to be a motion to state what was needing addressed has been satisfied.

Mr. Luckman stated if the City deems it as owner satisfied and there is no action needed under the code, they can motion to satisfy resolution. He stated sometimes, if there are additional things that need to be checked off, it can be continued, but that doesn't sound like the case here. He stated this doesn't stop the ability of the City that if it were to fall back and be a hazard, the City can then refile.

With no further questions or comments, Mayor Roberts requested motion to satisfy the Resolution No. 07-11-24A establishing the time and place for a public hearing as September 12, 2024 at 7:00PM to determine whether the property at 301 E 5th Street is a dangerous or unsafe structure.

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

Councilmember Conus asked if the city will still plan to have periodic inspections.

Mr. Moore stated that is correct.

Mayor Roberts stated it's hard to force the owner to do interior work, but structural is done and that is the biggest priority.

**14. CONSIDER ORDINANCE NO. 2169 AMENDING ARTICLE 3 –
AGRICULTURAL AND RESIDENCE DISTRICTS - OF THE UNIFIED
DEVELOPMENT CODE (UDC) OF THE CITY OF EDGERTON, KANSAS AND
REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT
THEREWITH**

Mr. Moore stated staff did a review of the UDC, specifically the portion that speaks to R1, single family district. He stated there are a few areas that were identified to clarify as far as design standard, including driveways and fences.

He stated the UDC currently has two standards for driveways. One, is the minimum width of 18ft. He stated staff is not proposing to change that minimum width, but proposing including a maximum width allowed. He stated staff would suggest including a 35% of lot frontage being that width, while also introducing no driveway being greater than 30ft and having a 2.5ft wing on either side where it meets the roadway. He stated the max width at the property line would be 35ft, which is not greater than what's currently allowed at LPKC. He stated the thought process for that is if a trailer truck can fit, a passenger vehicle of any kind then should be able to. He stated the second clarification would be the materials allowed. The Code today states it has to be made of concrete or asphalt, that's been kept there to insure it's pavement but added

new language to stress that gravel materials are prohibited. He stated there is a clause that brick could be accent material but not to be used within the right-of-way area.

Councilmember Longanecker asked if the area is over 50ft from the road, could some other material then be used.

Mr. Moore stated the clause is drafted that once they go back 50ft from the right of way, it's then a case by case basis such as gravel or loose aggregate could be used for larger lot but it has to be reviewed.

Ms. Linn stated that was recommended by Planning Commission and really related to the rural residential area.

Councilmember Longanecker stated there's that house north of Meriwood that has a pond and pretty long driveway; if they were to update, would that all then have to be concrete?

Mr. Moore stated this change would not affect the existing condition. The way it's currently drafted, if there were to be an update, they could replace like for like.

Ms. Linn stated they could maintain the current surface.

Mr. Moore stated some houses in town have gravel pad next to their lot, but they don't have connection, they would not be able to increase the gravel surface to cover and cannot add to that.

Ms. Linn stated the key is, it's a legal non-conforming use and was done before the code. They can maintain that in its current state but cannot add on. She stated if they let it go to grass and it goes away, they cannot then go back to gravel. If the use is abandoned, it is then gone.

Mr. Moore stated there is one additional clause for the number of driveways for service to the residence. Staff is recommending that number be limited to one.

Mayor Roberts stated he's not opposed to the gravel piece, it looks different in the community area than it does in the rural residential areas.

Mr. Moore stated these changes would apply to the R1 district, not those in the agricultural district.

Councilmember Longanecker confirmed, the homes around here in the community then.

With no further questions or comments regarding driveways, Mr. Moore then moved on to the change in fence requirements.

Mr. Moore stated with the change, there will be a 25ft set back for gated driveways. He stated as far as standard fencing, it is now clearer with the update the materials allowed and prohibited. He stated the front line of the house, forward and for new development, staff is

proposing a 3.5ft high and 50% opacity, with wire type material being prohibited. He stated staff landed on 3.5ft as recommended due to pricing not changing much in going higher than that and 305ft is the standard eye height. He stated once you move from front line to back and side, standard would be 6ft as the height maximum, allowing materials like Woodstock, chain link, but prohibiting wire type material. He stated staff presented this to Planning Commission and it was recommended for approval without any stipulations.

Mayor Roberts asked if the 25ft set back for the gate is from the Right of Way or Road.

Mr. Moore stated this would typically be a foot back from the sidewalk.

There were no further questions or comments.

Ms. Linn asked if council is interested in approving ordinance as its presented.

Mayor Roberts stated he's interested in removing the piece about the 50ft gravel. He stated he understands having it in the rural residential area, not within he city/community area.

Councilmember Longanecker stated on a case by case basis would be okay, think if they have a definite reason they could come to council and ask.

Mr. Moore then asked if the motion should state that they come to council or write that in with having administrative approval.

Ms. Linn stated she thinks the strongest mechanism for our code to work, is consistency. She stated when you open the gate for case by case basis, what makes case (a) better than case (b).

Mayor Roberts agreed. He stated once you give it to one, then how do you not give it to another. He stated he doesn't like that either, makes it very difficult to be consistent. He stated we know what will happen, everyone will want to argue their point.

Ms. Linn stated she thinks we could edit the ordinance to remove section 'I'. She sated if there came a time where there was something new, we could bring the code back for revision.

Mayor Roberts stated if there is a unique situation, they could go through various process.

Mr. Moore stated that is correct, they could go to board of zoning appeals.

Mr. Luckman it's not just financial reasons too to go through that process, could be odd shaped lot, etc.

Councilmember Conus stated since it only effects the R1 district, he thinks this is acceptable.

Mayor Roberts stated he's hearing motion to approve the ordinance removing section 5.D.I.

With no further discussion, Mayor Roberts requested motion to approve the Ordinance with Section 5.D.I removed.

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

15. CONSIDER CHANGE ORDER TO CONTRACT WITH INCITE DESIGN STUDIO FOR CONSTRUCTION PHASE SERVICES AS PART OF THE GREENSPACE PROJECT FOR \$53,580

Ms. Robertson addressed the council. She stated council approved a contract with Incite Design Studio for the design of The Greenspace. The scope and budget of the project were defined and an update was brought forward in September 2022. She stated in late 2022, the design for The Greenspace was approved with a contract for Phase 2 services. She stated then in February 2023, Council approved the concurrence to bid for construction of The Greenspace and the contract for construction was awarded in July 2023 to Combes Construction. She stated construction phase services are listed within the packet. Supplemental Services were listed in the original contract document as additional costs if required or requested by the Owner. She stated a re-design for the oven hood was required and approved by the City Administrator to accommodate the approved oven for the facility. She stated Third Party Special Inspection Services are also required to ensure quality assurance of the construction materials placed during construction. IDS contracted the inspection and testing services through a third-party contractor and passed the cost to Edgerton without a markup. She stated both these additional services and costs included in this change order are included in the packet details. This change order encompasses modifications encountered at this point in the construction schedule and does not include the final overrun/underrun for the project. She stated currently there are funds available in miscellaneous contingency budget items that could cover this change order within The Greenspace total project cost. She stated it is the recommendation of Staff to approve this change order for construction phase services of The Greenspace to Incite Design Studio for a total cost of \$53,580.

Councilmember Longanecker asked, special inspection services wasn't a known cost.

Ms. Robertson stated it's listed as a supplemental service that they would then have to issue back as a change order to include otherwise the City would have to go out and find a contractor separately. She stated technically it shouldn't go through the contractor because it's checking their work.

Mayor Roberts stated it was in the contract then, just no dollar amount.

Ms. Robertson stated yes, the architect contracted it out.

Mr. Merkh stated if we were to have chosen the contractor, they would have been one of the top contractors we selected as well.

With no further questions or comments, Mayor Roberts requested motion to approve the change order to the contract with Incite Design Studio for construction phase services for a total of \$53,580.

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

16. CONSIDER CHANGE ORDER #16 TO CONTRACT WITH COMBES CONSTRUCTION FOR ADDITIONAL PAVEMENT RELATED TO CONSTRUCTION OF THE GREENSPACE PROJECT

Mr. Merkh addressed the council. He stated in July 2023, the contract was awarded for The Greenspace Project and construction began in August. He stated included in the packet is the City's Purchasing Policy which sets the approval authority for change orders. He stated in March of this year, Council was updated about change orders that were approved within the authority of the City Administrator and at that same meeting, another change order was approved with Council authority. He stated in April of this year, Council approved the change order to rebuild the sanitary sewer connection for the library. He stated since the last update, six change orders were approved with the authority of the City Administrator, these change order details are listed in the council packet.

He stated the purchasing policy requires approval by the Governing Body for Change Order #16. This Change Order is an increase not to exceed (+\$29,728.00) to have Combes Construction and their subcontractors rebuild the asphalt pavement along East 3rd Street where the alley behind the Greenspace will connect to the road and along Martin where the new parking lot entrance will connect to the road. The asphalt in these areas was found to be very thin, less than 2 inches thick in some areas and in poor condition. He stated City Staff requested Combes estimate a maximum not exceed number to restabilize the pavement subgrade and place new asphalt along segments of E 3rd Street and Martin Street.

He stated the design team has reviewed all change orders and finds the costs to be reasonable and appropriate for the scope of work involved. He stated included in the packet is detail showing the previously approved change orders to date and recommended Change Order #16 for consideration by City Council.

He stated if Change Order #16 is approved by City Council, the contract amount would be revised from \$6,761,000.00 to \$6,870,489 (+\$109,489).

He stated the change orders shown encompass modifications encountered at this point in the construction schedule and do not include the final overrun/underrun of quantities for the project. He stated contractually the project substantial completion is set for February of 2025. Any additional change orders, including the final change order, will be forwarded for authorization (as needed by policy) at a future Council date.

He stated in September, 2022 an updated project scope and budget was approved by Council with an overall project cost of \$8,704,500. The change orders with Combes Construction are within the project budget.

He stated it is the recommendation of staff to approve Change Order #16 to Combes Construction for a maximum Not to Exceed of \$29,728.00.

He stated he did want to point out that review was taken of 3rd Street on the West side of The Greenspace, and the existing road has some degradation with a lot of degradation to 3rd. He stated this plan has a not to exceed because we had a price to go to the center line of the road. He stated in that, we want to make sure we connect to sound material, we had the estimate for price to center but there are other options to come up with. He stated the discussion now is to see if there is any direction from council if we were to do a rebuild of the other half.

He stated the first option is a not to exceed, option two would be to continue with this approach but also do a mill and overlay on the West side. He stated, we do not have price yet for this but based on estimates do think that cost would be a total of \$70K including the connection they're talking about but also the base repair.

He stated a complete rebuild from the alley to the north would be around \$250K. He stated we don't have a design to do a full rebuild. He stated in 2020 a PCI was completed and scored 80, today that estimate is around 50.

He stated staff would recommend to at least approve the not to exceed presented so they can get started and then if there is another option council would like to recommend, staff can begin working on the process for that.

Councilmember Longanecker asked if this other option would take care of the problem there.

Mr. Merkh stated a real repair would require base repair, there are problems with both options including some coordination with the fire district.

Councilmember Longanecker stated he doesn't see a good thought of leaving a part of the road undone to just wait for the road to fall apart a couple years down the road.

Mayor Roberts stated would we build this different than any other option that's presented right now.

Mr. Merkh stated yes, would have to look at options surrounding that but asphalt would be easier to maintain over concrete.

Ms. Linn stated could also look at improved stormwater advance by taking a look at issues with water standing on public vs. private with a potential to do valley gutter there at the curb in front of fire department to get the water to go south.

Mayor Roberts stated plan 1, is a year or two of improvement but then we'll have to go back and fix it. He asked how long plan 2 will last.

Mr. Merkh stated if we could adequate base repair, it would be north of 10 years. He stated asphalt typically has a life of 30 years with mill and overlay.

Mayor Roberts stated and option 3, how long would that last.

Mr. Merkh stated with adequate maintenance, about 30 years.

Mayor Roberts stated what is the score around over on Martin.

Mr. Merkh stated high 80s in 2020 and would likely be slightly less than that now, it's still in pretty good shape.

Ms. Linn stated the piece by the Fire Department is such a small piece of the road but has a ton of use. She stated the key is to balance out the long list of things we want to accomplish with the stewardship of the builders. She stated the recommendation hearing is plan b, secondary to that then is how to finance. Is this then included as part of the project?

Mr. Luckman asked if this was all in the beginning change order and if there were specs in the contract that would apply to reconstruction like this, could do an addendum to the contract.

Mayor Roberts stated is it possible to add into Second Street project.

Ms. Linn stated possible but with complete rebuild option.

Councilmember Malloy stated this makes more sense to him.

Mayor Roberts stated the work has to be done and we have to spend the money to do so, this might be worth looking into.

Mr. Merkh stated yes, it can be added with conversations with the contracts also, there will be costs with it not being connected. He stated there is also some potential for scheduling problems as this has to be done in conjunction with the Fire Department. He stated it's definitely doable, just need to have conversations to set it in stone.

Ms. Linn stated the way this action is worded, it's for a not to exceed roughly \$30K. Is the council direction to minimize to most extent possible and be conservative there in ht connection.

Mayor Roberts stated it's coming back one way or another, can't do full project within The Greenspace, we don't have the engineering for that.

Mr. Merkh stated current contract with RIC for Second Street, this would be only contract that would require a change order for this to happen, would need to define where, when, and costs, etc.

Mayor Roberts stated he thinks we could prioritize this as part of the second street project since it hasn't gone to bid yet.

Ms. Linn stated we could contrast the documents a lot of ways, if we do concrete there vs. asphalt, etc. She asked what the direction of Council would be there.

Mayor Roberts stated he's in favor of doing the minimal amount right now to make it operational and at the best state it can be knowing we can add this as a better construct to the Second Street project.

With no further discussion, Mayor Roberts then requested motion to approve the not to exceed for Change Order #16 for \$29,728.

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

Ms. Linn stated staff will work to bring back information of how further construction there could work with the Second Street project and evaluate what best material should be used there.

17. Report by the City Administrator

- Discussion Regarding Updated Park Regulations

Mr. Meyer addressed the council and handed out a memo regarding code changes for the City parks including park hours, reservation costs, violations, etc.

There were no questions or comments. Mayor Roberts stated it is staffs intent to bring this back in a couple weeks. He stated if there are questions or comments that arise while reviewing, please reach out to Beth so staff can have an answer or solution with legal review if needed, by the next meeting.

Ms. Linn stated with approval of the ordinance, signs will be produced will all info that is needed at the parks.

Mayor Roberts asked if there is anything specific that has to be done regarding tort claims.

Mr. Luckman stated limitations works, there is a generalized test of the statute. He stated as long as you're clearly establishing rules/regulations, then it attaches.

18. Report by the Mayor

Mayor Roberts reported that he met the new owner of the Cottonwood building. He stated the owner seems to want to keep it as an office and his daughter may do some tutoring.

19. Future Meeting Reminders

Mayor Roberts reminded the Council of the future meetings for the Council and Planning Commission.

20. Adjourn

Councilmember Longanecker moved to adjourn, seconded by Councilmember Conus. The meeting was adjourned at 8:21PM with a 3-0 vote.

Submitted by Alex Clower, City Clerk