

**City of Edgerton, Kansas**  
**Minutes of City Council Regular Session**  
**October 10, 2024**

A Regular Session of the City Council was held in the Edgerton City Hall, 404 E. Nelson, Edgerton, Kansas October 10, 2024. The meeting convened at 7:00PM with Mayor Roberts presiding.

**1. ROLL CALL**

Clay Longanecker	present
Josh Lewis	present
Deb Lebakken	present
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
- Assistant to the City Administrator, Kara Banks
- Assistant to the City Administrator, Trey Whitaker
- Public Works Foreman, Chase Forrester
- Senior Accountant, Justin Vermillion
- CIP Project Manager, Holly Robertson
- Building Inspector, Jim Brown

**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 September 26, 2024 Regular City Council Meeting

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

**Regular Agenda**

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

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

**Business Requiring Action**

**7. CONSIDER A NO COST CHANGE ORDER TO EXTEND THE PROJECT COMPLETION DATES TO CM CONCRETE FOR CONSTRUCTION OF THE GLENDELL ACRES PARK IMPROVEMENTS PROJECT.**

Ms. Robertson addressed the Council. She stated Council approved an updated project budget in February and in July, staff presented an update related to the award from the waste tire grant that reduced the total contract amount of CM Concrete by contracting the safety surfacing installation to Ecoturf Playground Surfacing. In accordance with the City's Purchasing Policy, the City Administrator has approved a deduction of \$44,490 from CM Concretes construction contract.

The contract with CM Concrete included a substantial completion date of October 1, 2024 and a final completion date of October 31, 2024. Construction is ongoing at the project site with signs, garden bed preparation, plantings, 50% of seeding, and about 150 feet of sidewalk remaining. She stated they did just visit the project site after publication of the packet and it's closer to 90% completed on some items. The contractor is requesting a contract extension of 30 days for a substantial completion of October 31, 2024 and final completion of November 29, 2024.

The contractor has provided a list of delays, those items have been included in the packet. The project inspector and design team have reviewed the descriptions of the requested schedule change and do not have any objections. The extension is reasonable per project engineer and inspector. According to the contract, for every calendar day the project is not completed beyond the October 1<sup>st</sup> substantial completion date, liquidated damages of \$1,000 would be due billed to the contractor. Typically these funds are withheld from payment to the contractor. Should the extension be awarded to the contractor, liquidated damages would start to occur after the updated contract dates.

City staff will continue to monitor the schedule and progress closely over the next couple weeks to ensure compliance with contractual requirements.

Councilmember Longanecker stated the missing parts were those ordered by the city, which would mean the delays were the City's fault.

Mr. Merkh stated the parts were ordered, but they were not mailed. He stated the neither the contractor nor the City were to blame for the parts not arriving on time.

Councilmember Longanecker asked for clarification about the deduction.

Ms. Linn stated staff removed the safety surfacing from the contract because it was procured separately through Ecoturf, which made it easier to manage the grant funds.

Councilmember Longanecker stated he does not remember the excessive rain that was mentioned, but he is sure it happened.

Mayor Roberts asked if Dan could give a high-level overview of how the weather is tracked.

Mr. Merkh stated staff works with the county with something called storm watch. There are rain gauges throughout the county, which track rainfall amounts.

Councilmember Lewis confirmed the completion date is being moved to November 30<sup>th</sup>.

Ms. Robertson stated the final completion will be the end of November with substantial completion being the end of October.

With no further questions or comments Mayor Roberts requested a motion to approve the no-cost change order to extend the project completion dates to CM Concrete for Glendell Acres Park Improvements Project.

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

**8. CONSIDER CHANGE ORDER #18 TO CONTRACT WITH COMBES CONSTRUCTION FOR \$70,927 TO CONSTRUCT A DUMPSTER ENCLOSURE FOR THE GREENSPACE PROJECT**

Ms. Robertson stated in July 2023, City Council awarded the contract with Combes Construction for the construction of The Greenspace Project for just over \$6.7 Million. Construction began in August 2023.

In concurrence with the Edgerton development code, a dumpster enclosure is required for The Greenspace. The enclosure was not included in the construction contract with Combes Construction. City Staff and the project architect evaluated multiple locations, orientations, and finishes for the dumpster enclosure. The attached exhibit shows the recommended dumpster enclosure layout. The design for the dumpster enclosure was finalized in September 2024 and sent to Combes Construction to provide a cost estimate for construction. Combes has prepared a cost estimate as Change Order #18 of \$70,927.

Councilmember Lewis asked why this was not previously included in construction contract.

Ms. Linn stated it was an error. The dumpster enclosure should have been included, but it was omitted.

Councilmember Lewis asked where something like this is originated during the process.

Ms. Linn stated this would have been something included during bid process at the beginning, but it was mistakenly left out of the design documents.

Mayor Roberts stated the architect has not billed the City for the design for this. Without the City paying for the design, he stated he is more comfortable because we would have had to pay for it in construction bid at the beginning had it been done correctly.

Councilmember Lewis stated he just wanted to make sure we are not paying for their error.

Councilmember Longanecker asked if there are any potential future conflicts with the location of the enclosure.

Mr. Merkh stated the location is in the best position with the highest chance to remain in the same spot moving forward.

Mayor Roberts stated staff did tremendous job making sure it is in compliance with our own code.

With no further questions or comments, Mayor Roberts requested motion to approve Change Order #18 to the Contract with Combes Construction for \$70,927 to Construct the Dumpster Enclosure for The Greenspace.

Councilmember Longanecker moved to approve, seconded by Councilmember Malloy. The motion carried, 5-0.

#### **9. CONSIDER ACCEPTANCE OF A PROPOSAL FOR DIGITAL SIGN AT THE GREENSPACE WITH SIGNS ETC. FOR \$20,220.79.**

Mayor Roberts stated this item will be tabled and brought back at a future council date. He requested motion to table the item.

Councilmember Longanecker moved to approve the motion, seconded by Councilmember Lewis. The motion to table this item to a future council date was approved, 5-0.

#### **10. Report by the City Administrator**

- 312 E 5<sup>th</sup> St. Update

Mr. Moore addressed the Council. He stated in May, Council adopted a resolution declaring the property dangerous and unsafe if not brought into compliance by the first set date of June 10<sup>th</sup> to abate. Council has extended the deadlines several times with the most recent to today. That extension included two conditions. The first condition was that staff was to receive the structural engineer report, which was received on October 2<sup>nd</sup>. The second condition was that staff be granted access to inspect the structure by October 7<sup>th</sup>; however, only today has staff received word from the management team to set up a time for a meet and greet. He stated this does not meet the conditions for the extension granted. The owners have also paid the outstanding utility bill.

He stated since previous council meeting, the City's Building Inspector Jim Brown was able to review the report and agreed with the findings. They generally align with the inspection report included. There is foundation damage which needs to be repaired. Staff received an email on October 4<sup>th</sup> from the owners representative stating they are wanting to repair the property. The property owner representative was not able to make it tonight.

Ms. Linn stated Council members can see an email from the representative, which will be included as exhibit in the minutes. The email does give additional info about their plans.

Councilmember Longanecker stated the email says the work will be done in 5-6 weeks and he is concerned that the timeline is not correct because it has taken the owners six months to get to this point.

Mayor Roberts stated he would encourage councilmembers to read the letter provided prior to making a decision. (Exhibit A)

Councilmember Longanecker stated at the last meeting Council told the owner's representative that the City would proceed with the condemnation process if they didn't follow the stipulations listed and they have only done half.

Councilmember Lebakken expressed concern about the late reaction and timing of the email.

Councilmember Longanecker stated it feels like there is a threat in the email too.

Mr. Luckman stated Council has a few options to move forward. Staff can look into contractors to go onto property and repair, which likely ends with the structure torn down. Council can also give the owners another extension. He stated Council is within the boundaries of the original resolution approved, which gave direction of condemnation. If the owners are interested in preserving the structure, they can file some sort of injunction and the courts can work out what happens next.

Councilmember Longanecker asked if we start the condemnation process, does that typically take six weeks.

Mr. Luckman stated the condemnation process has already started. The time has now passed, and council has the right to abate.

Ms. Linn stated in this instance, council can take action and if the decision tonight is to demolish the building, the process would then start for staff to obtain bids and come back to council for authorization.

Councilmember Lewis asked what the costs are associated with this process.

Mr. Luckman stated typically everyone bears their own fees in court ruling.

Ms. Linn stated the cost of demo would likely fall back on the property.

Councilmember Longanecker asked Mr. Luckman what he thinks the best course of action would be.

Mayor Roberts stated he is frustrated and wants the home to be liveable or torn down, but he does not want to be in the same position with a deteriorating home six months from now.

Mr. Luckman stated an extension could be granted for another 5-6 weeks.

Councilmember Lewis stated he would like to extend but with guarantees that they put money into it.

Mr. Luckman stated you could also put in a requirement for a bond, credit, etc. to be posted within a certain time frame to make sure the owners are liable for work to be done.

Mayor Roberts stated he likes the idea of having a letter of credit as guarantee.

Mr. Moore stated it is roughly \$18,00 to do all the work through the estimate they have provided.

Mr. Brown, Building Inspector, stated what they have outlined to make certain repairs do not address the others issues as well. The structural engineer report states the house is not livable so that leaves the question of what else will have to be done to make this a livable environment.

Mayor Roberts agreed.

Mr. Brown stated after doing this for many years and seeing many structures like this, he cannot see where the return of investment is here.

Mayor Roberts stated even if they do the foundation work that they have bids on, the home is still uninhabitable.

Mr. Luckman stated nothing in any of the info they have provided gives an estimate to repair the entire property.

Ms. Linn stated staff has not been granted access, which is part of the problem.

Mayor Roberts stated he finds it ironic that the webpage of the owner company states, "right the first time, on time, not just a motto, it's their commitment".

Councilmember Malloy asked how many extensions have they been given.

Mr. Moore stated this will be six.

Ms. Linn stated based off the report provided, the entire house will need to be renovated.

Mr. Brown stated he knows the engineer that issued the report and he trusts his findings. When he says the entire house needs renovated, he can only imagine that the wiring, plumbing, etc. everything needs repair.

Mayor Roberts asked if there were any further questions.

With no further questions or comments, Mayor Roberts recommended motion to move that the findings of the City Council are that Lakeview Loan Servicing LLC has failed to meet deadlines established to abate, repair, or demolish the structure. The City should proceed to demolish as allowed by Section 4-1109 of the City Code and assess all costs associated back to the property.

Councilmember Lebakken moved to approve, seconded by Councilmember Malloy. The motion carried, 5-0.

**WALK ON:** Updates from Public Works

Mr. Merkh stated he has just a few updates he'd like to bring forward.

The not to exceed change order for asphalt work at The Greenspace was approved for \$28,000, but this actually came in at \$18,000.

The trade in value for the truck brought forward at the last meeting is around \$15,000-\$16,000, so the vehicle will be traded in to then go toward the purchase of the new vehicle. The plan is to pick up the new truck next week.

The lead and copper inventory will be submitted well before the deadline. There are no addresses flagged for any immediate next steps. The EPA released the next steps and staff will begin researching what those next steps are.

**11. Report by the Mayor**

Mayor Roberts mentioned that Meat Inferno this year was the best year yet. He stated it was the most BBQ teams the City has had. He stated he thinks the teams that came out and all the people that came and participated had a great time.

Ms. Linn stated Brittany will be back to give an update on how the event went. She stated she does agree though, the event went very well.

Mayor Roberts gave kudos to everyone. KidsQ was great, it looks like all kids had fun, and this year they did pork chops for the backyard contest. The band was great too.

Ms. Linn stated it is definitely a team event but the face of it is the BBQ Queen, Brittany. She does a fantastic job.

Mayor Roberts stated he went around to a lot of teams and many mentioned this was the best run event they have ever been to and said they are coming back.

**12. Future Meeting Reminders**

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

**13. Adjourn**

Councilmember Lebakken moved to adjourn, seconded by Councilmember Longanecker. The meeting was adjourned at 7:45PM with a 5-0 vote.

Submitted by Alex Clower, City Clerk



**Beth Linn**

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**From:** Ashlee Yager <Ashlee.Yager@southlaw.com>  
**Sent:** Thursday, October 10, 2024 4:42 PM  
**To:** Zach Moore  
**Cc:** Amy Trentadue; Todd Luckman; Beth Linn  
**Subject:** 312 E. 5th Street | SL 236031 | October 10, 2024, City Council Meeting Owner Update  
**Attachments:** Project Estimate and Timeline.pdf; 2024-25 Accord 25 - R&R - Mortg Specialist.pdf; Contractor's W-9.pdf; Receipt #R00019323

Good afternoon, Zach:

I hope you have had a nice week. I am providing this email and the attached support in lieu of my attendance at the Council Meeting this evening. Hopefully this is sufficient to answer all of the outstanding questions. However, please feel free to call my work cell phone during the meeting if the you or the Council has anything to discuss ~~913.602.1302~~. I do have young children, and my husband is traveling. Since the council meeting is around their bedtime, I would appreciate a quick text if you will be calling so I am able to make myself available. Thank you for understanding.

- Lakeview has decided to repair the subject property, and a Contractor has been secured to complete the repairs to the foundation and install the Bilco doors. The estimated timeline for completion is 5-6 weeks, and the project estimate and timeline is attached for convenience. Also, attached is the a copy of the contractor's certificate of liability insurance and W-9.
- Upon information and belief, the appropriate permits were or should be requested this week for the work to commence and hopefully be completed in the estimated timeframe.
- Upon information and belief, the outstanding utility bill has been paid. The receipt showing proof of payment is attached.
- The structural engineering report (SER) was provided to the City of Edgerton on 10/2/2024.
- The City's 9/26 requests were relayed to the property owner on 9/27, which then relayed the requests to its vendor that maintains and has access to the subject property. On 10/2/2024, an email was received from the City of Edgerton requesting dates and times to visit the subject property. A response was provided as soon as possible (I had unexpectedly been out of the office with a personal emergency) that provided the correct contacts to secure a date and time for the City Building Engineer to gain access to the property prior to 10/7/2024. I believe the City has been in contact with the same vendor at least since June 2024 regarding the City's requests for immediate action items (i.e., fallen trees, location of trash bins, safety concerns, and similar items). Upon information and belief the City and the owner's vendor have been provided authority to work together and discuss a time and date for the City Building Engineer to visit the property.

This has been a long process for all parties. The investment the owner has made to have counsel attend every City Council meeting where this Resolution was discussed to date; to resolve large issues such as removal of a decaying camper, fallen trees, security of the basement egress doors, and additional requests through these months; and to address action items and continue open communication with the City through Counsel is evident of its commitment to address the issues with this subject property. I have not seen any other owner, representative of an owner, or proxy for an a property owner present with the same level of commitment at these City Council meetings. A quick drive around Edgerton shows that this is not the only property with years of deferred maintenance. My client has owned this property less than a year and has worked and continues to work to restore it to a level where it can benefit the community.

Lakeview has now committed to repairing the subject property, provided a reasonable timeline for the project to be completed, committed to repairing or securing other safety concerns in or around the property, and secured a Contractor to complete the work. Our ask is that the City Council find this reasonable and provide a resolution that

allows Lakeview the time to complete the required repairs that are estimated to take 5-6 weeks, but as you know, projects can vary and project timelines are generally adaptable, especially during the fall and winter months.

Based on this, the new owner as of 2024 is committed to addressing the issues with this Property. It has a right to improve its private property, and it will take the steps necessary to defend or request that it be provided the opportunity to do so. There is a pragmatic solution here that allows the owner to repair the subject property, which is a positive for all parties involved.

Again, please do not hesitate to contact me if there is any additional information I can provide to aid in your report to the City this evening. I look forward to receiving an update from you if we do not discuss this matter further. Thank you for your time.

Ashlee

**Ashlee Yager**, Senior Attorney - Litigation

Admitted in MO & KS

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