

**City of Edgerton, Kansas**  
**Minutes of City Council Regular Session**  
**December 10, 2020**

A Regular Session of the City Council (the Council) was held in the Edgerton City Hall, 404 E. Nelson Edgerton, Kansas on December 10, 2020. The meeting convened at 7:01 PM with Mayor Roberts presiding.

**1. ROLL CALL**

Ron Conus	absent
Clay Longanecker	present via video conference
Josh Lewis	absent
Katee Smith	present via video conference
Josh Beem	present via video conference

With a quorum present, the meeting commenced.

Staff in attendance:

- City Administrator Beth Linn
- City Attorney Lee Hendricks via video conference
- City Clerk Alexandria Clower
- Development Director Katy Crow
- Finance Director Karen Kindle via video conference
- Accountant Justin Vermillion via video conference
- Public Works Director Dan Merkh
- Marketing and Communications Manager Kara Banks via videoconference
- Customer Service Specialist II Veronica Huffman via videoconference

**2. WELCOME**

**3. PLEDGE OF ALLEGIANCE**

**CONSENT AGENDA**

4. Approve Minutes for November 12, 2020 Regular City Council Meeting
5. Approve the Renewal of a Cereal Malt Beverage License Application for 2021
6. Approve Letter of Understanding with Johnson County Human Services for 2021 Utility Assistance
7. Approve Ordinance No. 2054 Amending Chapter XIV, Article 2 of the Municipal Code of the City of Edgerton, Kansas to Replace Code Section 14-203 and Repeal All Other Ordinances or Parts of Ordinances in Conflict Therewith
8. Approve Ordinance No. 2055 Amending Chapter VIII, Article 3, Section 8-309 of the Municipal Code of the City of Edgerton, Kansas and Repealing All Ordinances or Parts of Ordinances in Conflict Therewith
9. Approve Resolution No. 12-10-20A Establishing Fees and Rates for Permits, Licenses and Services Within the City of Edgerton, Kansas
10. Approve a Contract Renewal with Strategy, LLC for IT Services

Councilmember Longanecker requested items number 9 and 10 be removed for further questions.

Councilmember Longanecker motioned to approve the Consent Agenda with items 9 and 10 being removed for further discussion, motion seconded by Councilmember Smith. The Consent Agenda was approved, 3-0.

On item 9, Councilmember Longanecker asked what was changed. Ms. Beth Linn, City Administrator, stated the city updated the fee schedule to reflect sufficient fees for moving of buildings and wastewater sewer application fee. She stated the new fee schedule will also reflect abatement fees for tall grass and weeds, allowing for the fee to escalate when they become a repeat offender. This fee schedule would also reflect plan review fees for public improvements. The City currently has staff and outside contractors review plans, this would allow for the time used to review such plans, be paid for by the person/company pulling the permit.

Councilmember Longanecker motioned to approve the Consent Agenda Item Number 9, motion seconded by Councilmember Smith. Motion was approved, 3-0.

On item 10, Councilmember Longanecker asked if the difference in the amounts budgeted for 2021 could be clarified. Ms. Karen Kindle, Finance Director, stated with CARES funding the city was able to accelerate computer replacements that were scheduled to take place in 2021. The savings in these replacements will cover the difference. Ms. Kindle stated there is a small increase in the licensing fees due to the city moving to the government-only Microsoft licensing. She stated the pricing in the contract is changing because Strategy, the City's IT team, will now handle the Microsoft licensing for the city due to the migration to the cloud.

Councilmember Longanecker motioned to approve the Consent Agenda Item Number 10, motion seconded by Councilmember Smith. Motion was approved, 3-0.

## **REGULAR AGENDA**

### **11. Public Comments**

- Alexandria Clower, City Clerk, read a call from Travis Lewis, at 18100 Edgerton Rd. for public comments. He stated he would like Council to reconsider closing ballfields between November 1 and February 28. He says that the fields should be open year-round unless maintenance is being performed, especially this year during the pandemic. He added that tax dollars go to support the fields and that this is an amenity that the kids should be allowed to access whenever the weather is nice. He stated he would like to see this changed immediately.

### **12. Declarations**

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

13. **Announcement.** Welcoming of Veronica Huffman, City of Edgerton Customer Service Specialist and Court Clerk.

Councilmember Conus joined via video conference at 7:10PM

**BUSINESS REQUIRING ACTION**

14. **PUBLIC HEARING REGARDING A POSSIBLE DANGEROUS AND UNFIT STRUCTURE EXISTING AT 502 EAST 2ND STREET IN THE CITY OF EDGERTON, JOHNSON COUNTY, KANSAS PURSUANT TO CITY OF EDGERTON CITY CODE, CHAPTER IV, ARTICLE 4, SECTION 4-407**

The owners of the home on 2<sup>nd</sup> Street, Mr. Abundiz and Ms. Hernandez, addressed the council. Mr. Abundiz stated they have been working to update and fix the structure located at 502 E 2<sup>nd</sup> Street. He stated new headers were added to replace what was diminished in previous structure and they have also replaced all joints on top and sub floors. He stated they are currently working to replace the roof and siding, with the exterior being their main goal to finish within the next couple months.

Mayor Roberts opened a public hearing regarding a possible dangerous and unfit structure located at 502 E 2<sup>nd</sup> St. at 7:15PM

Mayor Roberts closed the public hearing at 7:16PM with no public comments made.

Councilmember Conus lost partial connection at 7:16 PM. He could hear but was unable to make comments.

15. **CONSIDER 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 4-407**

Ms. Katy Crow, Development Services Director, addressed the council. She gave a summary timeline for the recent actions related to the structure at 502 E 2<sup>nd</sup> Street. She stated per the City's code, this structure is still considered dangerous and unfit allowing the governing body to declare it an unsafe structure and monitor the progress the homeowners intend to make.

Ms. Crow stated pursuant to Chapter IV, Article 4, Section 4-407, and upon conclusion of this public hearing, the governing body must decide whether the structure under consideration is dangerous, unsafe, or unfit for human use or habitation. She stated findings must be in writing and the owner or agent will be notified to either repair or demolish or

remove the structure. She stated the governing body must provide a timeframe for the owner to abate the condition.

Ms. Crow stated if repair, alteration, or improvement of the structure can be made at a cost which shall not exceed 50 percent of the fair market value of the structure, the owner of the property shall, within the time specified in the order, repair, alter or improve the structure to render it safe and fit for human use or habitation, or shall vacate and close the structure until such time as he or she has complied with the order. She stated if the repair, alteration, or improvement of the structure cannot be made at a cost of 50 percent or less of its fair market value the owner shall, within the timeframe specified in the order, remove or demolish the structure.

Ms. Crow stated that should the owner fail to comply with the time specified in the order, the city may cause the structure to either be repaired, altered, improved, or demolished.

Ms. Crow stated, based on the cooperation from the property owners to date, the progress the property owners have made in renovating the structure and the active building permit, staff recommends a longer time frame for abatement be allowed, such as six months or one year. She stated additionally, staff would recommend additional metrics to monitor the project's progress, including maintaining an active building permit, monthly progress reports provided in writing to staff, or monthly progress inspections.

Mayor Roberts asked if that six (6)-month timeframe could be extended, if needed. Ms. Crow stated yes that it would come back to council after the first 6 months with updates, and council at that time could decide to extend.

Mayor Roberts stated his recommendation would be to allow a 6-month timeframe with monthly reports brought to council by city staff.

Councilmember Longanecker made motion to declare the structure at 502 E. 2nd Street unfit with direction to staff to prepare a resolution requiring the structure to be code compliant within six months and the stipulation that the owner provide access to the property for staff to provide the council monthly updates. Motion seconded by councilmember Smith. Motion was approved 3-0.

**16. CONSIDER A PUBLIC SERVICE AGREEMENT WITH JOHNSON COUNTY FIRE DISTRICT NUMBER 1, JOHNSON COUNTY, KANSAS**

Ms. Beth Linn, City Administrator, addressed the council. She stated in August 2020, Johnson County Fire District #1 (JCFD1) appeared before the City of Edgerton Governing Body to request a waiver of Development Fees associated with the construction of the new fire station facility located at 33364 W 191<sup>st</sup> Street, Edgerton, Kansas.

Ms. Linn stated this new facility will include a fire station with bays, a bunkhouse, administrative offices, and meeting rooms. She stated the project was approved by Edgerton Planning Commission on September 8, 2020. She stated this station will serve Logistics Park Kansas City, along with the residences in the associated service area and Big Bull Creek Park. She stated this new facility will be called Station 123.

Ms. Linn stated, the JCFD1 currently operates Edgerton Station located at 400 E 3<sup>rd</sup> St. in downtown Edgerton. This station provides fire protection and EMS services to the residences and business community of Edgerton. She stated, during discussion of the new station on August 27, 2020, Assistant Chief Dennis Meyers appeared before the Governing Body and requested the Development Fees for the new station be waived. She stated, in addition, Chief Meyers confirmed the construction of this new facility would not cause the closing of the existing Edgerton Station.

Ms. Linn stated the agreement brought forth to council outlines the agreement to waive Edgerton Development Fees while keeping the Edgerton Station in operation. She stated the agreement contains a provision that if at any time JCFD1 decides to close down Edgerton Station, they will be responsible for repayment of the waived Development Fees. This includes the continued provision of services currently offered by Edgerton Station, including but not limited to, fire protection and EMS services.

Mayor Roberts stated this agreement finalizes that the station in Edgerton will not close or move. In addition, it moves the JCFD1 cooperate headquarters to Edgerton City Limits.

Councilmember Longanecker motioned to approve the Agreement with Johnson County Fire District No. 1, motion seconded by councilmember Smith. Motion was approved 3-0.

**17. CONSIDER RESOLUTION NO. 12-10-20B CONSENTING TO THE ASSIGNMENT OF BASE LEASE, LEASE AGREEMENT AND OTHER BOND DOCUMENTS IN CONNECTION WITH THE CITY'S INDUSTRIAL REVENUE BONDS**

Scott Anderson, Bond Council, addressed the council. The City has issued industrial revenue bonds for the ELHC XXI Project. Every time the City issues bonds, the ELHC entity leases the project to the City, and the City then subleases the project back to the ELHC entity. This gives the City the necessary legal interest in the project which is required by Kansas statutes to issue bonds.

Mr. Anderson stated the ELHC XXI project is currently subleased to UPS. UPS has an option to purchase the property from ELHC XXI. UPS has exercised that option. The resolution approves the assignment of the ELHC XXI project to BT-OH, LLC, a Delaware limited liability company. This entity is an affiliate of UPS.

Mr. Anderson stated the city has to consent to the assignment because it is currently under a lease agreement. He stated this assignment is identical to what has been done in past approvals. This resolution approves assignment assumption, bond documents to UPS and also authorizes Estoppel Certificates, which means there are no defaults under the documents.

Councilmember Smith motioned to approve Resolution No. 12-10-2020B. Motion seconded by councilmember Longanecker. Motion was approved 3-0.

**18. CONSIDER A GOVERNMENT ENFORCEMENT SERVICES AGREEMENT FOR JOHNSON COUNTY LOCAL HEALTH OFFICER ORDERS AND COUNTY BOARD OF HEALTH ORDERS**

Ms. Linn addressed the council. She stated on November 13, 2020 the Johnson County Board of Public Health issued Order No. 002-20. This order went into effect at 12:01am, on Monday, November 16<sup>th</sup> and will remain in effect through 11:59pm, on Sunday, January 31, 2021, unless it is amended, revoked or replaced.

Ms. Linn stated this order has provisions about the types of public spaces that will require 6 feet of physical distancing and limits mass gatherings to 50 people or 50 percent of capacity allowed by a building's fire codes (whichever is less). The order prohibits certain types of large-scale events and contains provisions for restaurants and bars, recreational and youth organized sports, and fitness centers/health clubs to maintain 6' of physical distancing within their establishments. Individuals within a public space must maintain 6' of social distancing from other individuals, unless they live in the same household.

Ms. Linn stated following the issuance of this order, Johnson County contacted the cities in Johnson County requesting that each city enter into a Government Enforcement Services Agreement to allow Johnson County the authority to enforce the public health order within the corporate city limits in Edgerton. Without this Agreement, Johnson County would not have the authority to enforce within the city limits of Edgerton.

Mayor Roberts opened meeting up for comments.

Justin Everson, Co-Owner of the Full Draw Bar and Grill, addressed the council. He stated businesses like theirs are hurting from Johnson County telling small business owners to shut their doors at certain times, capacity, etc. By the City opting into this Agreement with Johnson County, he said it puts their business at risk for fines set by the county and ultimately puts their business at risk of closing.

Councilmember Conus logged back on at 7:42PM

Councilmember Conus asked what the county order consisted of and if there would be any fines. Ms. Linn responded the county has requested the city opt into an enforcement agreement of the Public Health Order and fines would be collected, but they would go to the county.

Councilmember Conus motioned to decline the Government Enforcement services Agreement for Johnson County Local Health Order. Motion to decline seconded by councilmember Beem.

Government Enforcement Services Agreement was rejected, 4-0

**19. CONSIDER AN AGREEMENT WITH THE JOHNSON COUNTY SHERIFF'S DEPARTMENT FOR THE PROVISION OF LAW ENFORCEMENT SERVICES FOR FISCAL YEAR 2021**

Ms. Beth Linn, City Administrator, addressed the council. She stated the City of Edgerton contracts with the Johnson County Sheriff's Department to provide law enforcement services to the citizens of Edgerton. The services as described in the agreement for 2021 are identical as services provided in 2020 including the "Power Shift". She stated the agreement includes providing law enforcement duties customarily rendered by the Sheriff under the statutes of this State and the ordinances of the City. The County shall furnish and supply all necessary labor, supervision, equipment, communication facilities and supplies necessary to maintain these services.

Ms. Linn stated the agreement states that generally the level of service shall be the same that is provided for the unincorporated area of the County by the Sheriff with the specific agreement that such service shall be provided within the Edgerton district on a full-time basis, twenty-four (24) hours a day. She stated a fully-manned patrol car shall ordinarily be stationed in the Edgerton district and an additional fully-manned patrol car or patrol cars shall be available as needed from adjacent districts.

Ms. Linn stated the Edgerton district shall have the following boundaries: the Johnson County line on the west and south; 167th Street on the north; and Gardner Road/Center Street to the east.

Ms. Linn stated the 2021 Agreement also includes the same language from 2020 in Addendum Number 1 for the "Power Shift" which is a second patrol unit assigned to the residential area of Edgerton for 40 hours each week.

Ms. Linn stated the City shall provide the Sheriff with sufficient advance notice of community events that may result in attendance by large numbers of people, that may result in the blocking of roadways or in significant vehicular traffic or that may result in

increased levels of law enforcement services to appropriately police the event. Additional costs for services shall be paid as allowed by the agreement.

Ms. Linn stated the terms of this agreement state the City shall provide (a) an attorney serving as municipal judge; (b) an attorney to prosecute all contested cases; and (c) a designated qualified court clerk to supervise the court docket and take responsibility for all court records. If the City fails to meet the above-mentioned standards, it is agreed that City ordinances will not be enforced by the Sheriff.

Councilmember Longanecker asked if the policing services alone have gone up in price. Ms. Karen Kindle, Finance Director, stated the price dropped roughly \$1,300.00 a year.

Councilmember Longanecker motioned to approve the Agreement with Johnson County Sheriff's Office, motion seconded by councilmember Smith. Motion was approved 4-0.

**20. CONSIDER A RELOCATION AND REIMBURSEMENT AGREEMENT WITH KPC PIPELINE, LLC FOR THE 207TH STREET GRADE SEPARATION PROJECT**

Mr. Dan Merkh, Public Works Director, addressed the council. He stated the 207<sup>th</sup> grade Separation Project is scheduled for construction in 2021. He stated part of this schedule is to coordinate utility relocation with KPC Pipeline LLC.

Mr. Merkh stated proposed grades for 207<sup>th</sup> require the adjustment of the pipelines to maintain clearance and minimum depths. Plans were provided to KPC in early 2020 in order for them to review and accept the proposed changes.

Mr. Merkh stated the cost for KPC Pipeline to relocate the pipeline starts at an estimate of \$448,000. He stated the City makes payment based on the estimate, and KPC Pipeline starts work. Upon completion of the work, if the actual costs are lowered, funds are returned to the City. If the actual costs are greater, a new cost is submitted to the City for payment. He stated the project budget includes sufficient funding for this cost.

Mr. Merkh stated staff is working with KPC Pipeline along with the City Attorney to finalize the draft agreement and would recommend the City Council authorize the Mayor to sign the Agreement pending approval from the City Attorney.

Councilmember Longanecker motioned to authorize Mayor Roberts to sign the finalized agreement with KPC Pipeline pending approval of the City Attorney. Motion seconded by councilmember Conus. Motion was approved 4-0.

**21. CONSIDER ORDINANCE NO. 2056 AMENDING CHAPTER VIII, ARTICLE 4, OF THE CITY CODE OF THE CITY OF EDGERTON, KANSAS AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH**



Ms. Katy Crow, Development Services Director, addressed the council. She stated on October 22, 2020 the Governing Body held a Work Session to review the City of Edgerton Municipal Code as it relates to several code enforcement topics. She stated pursuant to discussions held during the work session and review of the code section with the City Attorney, City Staff updated this Chapter and Article of the Municipal Code.

Ms. Crow explained the changes made to the code. She stated the title changed to read Junked/Inoperable Motor Vehicles on Private Property. This will encompass all inoperable vehicles on private property, not just those in a junked state. She stated inoperable vehicles located on the public street are handled through the Sheriff's Office and those that are on private property are handled through the City of Edgerton Code Enforcement.

Ms. Crow stated the definition of Motor Vehicles was expanded to include recreational vehicles, trailers, truck campers, boats and jet skis. She stated that the section of code where fully operable vehicles could be in violation if not moved for 30 days was removed.

Ms. Crow stated the storage of vehicles at a business enterprise will be moved to the Unified Development Code, because of reference to zoning regulations and vehicle screening, both topics governed by the UDC.

Ms. Crow stated in reference to requests for a hearing on a violation of this section, "or its designated representative" was added to allow the Governing Body to designate a representative to act on their behalf. The hearing process referenced in Section 8-412 is not meant to be a judicial hearing and the judge for the City of Edgerton may not be named as the designated representative, but the Governing Body may name the City Attorney to act in this role.

Ms. Crow stated a Restoration Permit was added to the code, which allows a resident to perform restoration work on a vehicle without being in violation of the code. This permit would have a fee component that is set and approved by the Governing Body. Ms. Crow stated this permit does not pertain to regular maintenance performed on a daily basis, just those that meet the criteria of being considered an inoperable vehicle in our city code.

Mayor Roberts asked if council could designate someone other than governing body for the hearing process for violations. The City Attorney, Lee Hendricks, stated the Governing Body can name an individual now, if they would like. Mayor Roberts stated his recommendation was to name the City Attorney as the designated representative.

Councilmember Longanecker asked for clarification on the restoration permit and fees that could be associated with it. Ms. Crow stated staff recommends the permit fee be set at \$250.00 for 3 months. Mr. Longanecker asked what about an extension amount. Ms. Crow

stated currently how it reads, it would be another \$250.00 but council could approve another amount if desired.

Councilmember Smith made motion to approve the City Attorney as the designated representative for the hearing process and to set the Restoration Permit fee to \$250.00 for 3 months from the date of issuance. Councilmember Longanecker seconded the motion. Motion was approved 4-0.

#### **21.5. CONSIDER ORDINANCE NO. 2057 ANNEXING CERTAIN LAND INTO THE CITY OF EDGERTON, KANSAS**

Ms. Beth Linn address the council. She stated the city has received two consents for annexation from property owners requesting to be inside city limits. Kansas Statute 12-520 states that the governing body of any city, by ordinance, may annex land into such city if that land adjoins the city and written petition for consent for annexation. She stated this property is contiguous to property within the City of Edgerton corporate city limits. Ms. Linn stated one correction is that the city would ask the governing bodies consideration to annex the adjoining right of way adjacent to the property.

Councilmember Longanecker made motion to empower the Mayor to sign Ordinance No. 2057 approving the annexation of certain land into the City of Edgerton, KS pending two items; receipt and verification of ownership of tracts and an updated legal description by the city engineer to reflect the inclusion of adjacent right-of-way. Motion seconded by councilmember Beem. Motion was approved 4-0.

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

- CARES Funding Update - Allocation and Spending

Total reimbursable expenses are just over \$70,000. This includes telework improvements, a significant portion of technology for staff to work at home, councilmembers, etc. Also included is Personal Protective Equipment, payroll expenses such as reimbursement that qualifies for COVID-19 sick leave, and fees for the City Attorney. Funding will be received and must be spent before December 30<sup>th</sup>.

#### **23. Report by the Mayor**

Mayor Roberts asked council for their availability for a special council meeting, likely to be held the following Thursday evening, December 17, 2020 at 7:00 PM.

Councilmembers Longanecker, Smith, Conus and Beem confirmed their availability for the Special Council Meeting to be held December 17<sup>th</sup> at 7:00 PM.

#### **24. Future Meeting Reminders:**

- January 12<sup>th</sup>: Planning Commission Meeting – 7:00 PM
- January 14<sup>th</sup>: City Council Meeting – 7:00 PM
- January 28<sup>th</sup>: City Council Meeting – 7:00 PM
- February 9<sup>th</sup>: Planning Commission Meeting – 7:00 PM
- February 11<sup>th</sup>: City Council Meeting – 7:00PM
- February 25<sup>th</sup>: City Council Meeting – 7:00 PM

**25. 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 PENDING LITIGATION AND 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 pending litigation and contract negotiations for 15 minutes. Councilmember Smith seconded the motion. The meeting recessed into executive session at 8:20 PM after a vote of 4-0.

Councilmember Smith motioned to return to open session with no action being taken. Councilmember Longanecker seconded the motion. Open session resumed at 8:35 PM after a vote of 3-0.

**26. 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 POTENTIAL LITIGATION**

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 and the City Administrator for the purposes of potential litigation for 10 minutes. Councilmember Smith seconded the motion. The meeting recessed into executive session at 8:40 PM after a vote of 3-0.

Councilmember Longanecker motioned to return to open session with no action being taken. Councilmember Smith seconded the motion. Open session resumed at 8:50 PM after a vote of 4-0.

**27. Adjourn**

Councilmember Smith motioned to adjourn the meeting, seconded by Councilmember Longanecker. The motion carried and the meeting adjourned at 8:54 PM, 4-0.