

City of Edgerton, Kansas
Minutes of City Council SPECIAL Session
July 16, 2026

A Special Session of the City Council was held in the Edgerton City Hall, 404 E. Nelson, Edgerton, Kansas on July 16, 2026. The meeting convened at 7:00 PM with Mayor Roberts presiding.

1. ROLL CALL

Donald Roberts	Present
Clay Longanecker	Present
Josh Lewis	Present
Deb Lebakken	Present
Bill Malloy	Present
Ron Conus	Absent

With a quorum present, the meeting commenced.

Staff in attendance:

- City Administrator, Beth Linn
- City Attorney, Todd Luckman
- Assistant to the City Administrator, Trey Whitaker
- Assistant to the City Administrator, Kara Banks
- City Clerk, Dusti Callahan
- CIP Project Manager, Rhoderic Montgomery
- Development Services Director, Zach Moore
- Finance Director, Karen Kindle
- Senior Accountant, Justin Vermillion

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. Confirm Request for a Special Meeting of the Edgerton City Council

Councilmember Lewis motioned to approve the consent agenda, seconded by Councilmember Malloy. The motion carried 4-0 by the following vote:

Yes: Longanecker, Lewis, Lebakken, Malloy

Absent: Conus

Regular Agenda

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5. Declaration.

Mayor Roberts stated he has seen plenty on social media and emails over this discussion. He is here for the facts of this particular issue, and he will make his decision based on those.

Councilmember Lewis stated he wanted to address the public since he seems to be a main focal point lately. It was brought to his attention that some individuals have suggested he abstain from voting on matters related to the data center project based on his employment. After review, he is not aware of any current contract, business relationship, or financial interest involving his employer and the proposed project that would create a conflict of interest requiring him to abstain from voting. As an elected official, he has a responsibility to evaluate the facts, consider the interests of the community, and carry out those duties entrusted by the residents he represents. He will participate in discussions and vote on matters related to this project unless information comes to light that would require another action. If any conflict were to arise, he would address so openly and appropriately. Mr. Lewis stated he remains committed to transparency, integrity, and making decisions based on what he believes is in the best interest of Edgerton and the residents.

Business Requiring Action

6. CONSIDER THE APPEAL BY DAMAC DIGITAL SOLUTIONS KANSAS, LLC OF THE EDGERTON PLANNING COMMISSION'S DENIAL OF FINAL SITE PLAN APPLICATION FSP2026-0002.

Mayor Roberts read aloud how this appeal process and meeting will work.

DAMAC representative, Charles Renner, attorney with Husch Blackwell, presented. Mr. Renner stated the application included text and visuals clearly indicating generator fuel tanks would be below ground, which is in compliance with City Code. This was the reasoning for Planning Commission denial. The described generator "pods" with integral "belly" or sub-base tanks housed under the generator skid; showing side views to demonstrate below-grade tank placement. Mr. Renner emphasized their submission complied with the code, and accepted staff conditions previously. He stated the Planning Commission's scope for site plan review is limited and argued that the Commission improperly relied on "discomfort" about a data center use rather than a code deficiency, effectively bypassing staff's technical review process. The outcome requested was to allow the process to continue with staff and applicant completing the next steps toward a final approved site plan. He asked Council to approve the appeal so remaining technical work can proceed.

The Edgerton City Staff report was read aloud by City Administrator, Beth Linn. Staff performed a standard review with City Engineer, Johnson County Fire District #1, and GBA. All

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recommended approval with conditions based on submitted materials. UDC 5.2.H.4 states "Any exterior fuel tank must be located below ground" and the below-ground tanks must meet IBC/IFC/KDHE standards and be shown on final site plans. Staff noted that some plan review items are detailed technical items, like road compaction, door sizes, electrical outlets, permits, etc, that are part of subsequent plan and building permit steps, not necessarily resolved at Planning Commission site plan vote. Staff observed applicant provided documentation about generator pods and below-grade fuel storage and confirmed the requirement to meet applicable building and environmental standards. Planning Commission voted to deny the application because the submitted plan did not meet the city's regulations regarding the requirement that fuel tanks must be located underground. The applicant recognized the requirement for underground tanks during the Commission meeting, but did not include this stipulation in their proposal, resulting in the denial. The report concludes that applicants are subject to all applicable city codes, even if not explicitly stated in the report, and the installation of tanks must comply with those codes.

City Attorney, Todd Luckman stated there are two legal determinations, one being whether the Commission's denial was a reasonable application of UDC 10.1.H.8 (the eight standards) given the record, and two, whether the cited regulatory deficiency UDC 5.2.H.4 (requirement for below-ground tanks) was in the scope of the Commission's review at the time of its decision. Council must assess whether Planning Commission improperly drilled into technical code matters beyond their limited site plan scope or whether their discretion to condition/deny was reasonable. Mr. Luckman stated the Council can find one of three options: uphold the denial, reverse/approve the appeal, or remand back to Commission for further fact-finding and clarification. He stated during the initial Planning Commission meeting, he was guiding the Planning Commission to make sure that they understood that they had to tie a finding to Section 10.1.H. DAMAC acknowledged that the fuel tanks had to be underground. What was presented at the Planning Commission meeting was that the tanks were actually above ground. When this issue was brought up, a Planning Commissioner specifically asked the question whether they were above ground. She received an answer, indicating they were belly tanks above ground. He stated there is a factual problem with the idea that the commission was unreasonable in their proceeding with the information they were given. As the appeals body, Council has the ability to look at the facts, minutes, and what is provided to make a determination.

Mr. Renner stated Kansas law and local code distinguish high-level comprehensive-plan consistency from detailed technical regulations. He stated conformance with the comprehensive plan is in line with site design. Kansas law is clear that general language does not mean to drill down on some of those details in that step of the process. The applicant acknowledged the requirement under the L-P District regulations that exterior fuel tanks must be located below ground. He added there was never any indication that DAMAC was not going to follow the code. He argued Mr. Luckman's timeline of a discussion about these tanks was wrong. Planning Commission's rules are clear that decisions shall be based upon facts entered into the record at the public hearing phase of the meeting.

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Councilmember Lewis asked if there is there a definition in code for underground and below grade that might require something different.

Development Services Director, Zach Moore answered there is a definition of grade which is the average level of the finished surface of the ground adjacent to the exterior walls of the building or structure. However, it does not appear that we have a definition for ground.

Councilmember Lewis clarified the terms keeps interchanging so he wanted to know the clear definition based on our code.

Ms. Linn read UDC 5.2.H.4, Any exterior fuel tank must be located below ground. All below-ground fuel tanks must meet a minimum international building code, international fire code, Kansas Department of Health and Environment requirements. Below-ground tanks must be shown on final site plans and must meet the appropriate code requisite and properties.

Mr. Renner stated however this interpretation applies, that is what we have applied to do and what we will do.

Mayor Roberts then asked Mr. Luckman to explain executive session.

Mr. Luckman stated Council has the right as a quasi-judicial body to recess for the purposes of conferring about a result. This is similar to a jury, for example, when a jury goes back into the room and can talk freely about what they think and go back and forth. If Council needs more answers, they can come back and ask whatever questions they may have, then confer again.

Councilmember Longanecker made motion to go into executive session for 20 minutes beginning at 8:00 pm with the mayor and all councilmembers regarding the purpose of conferring about a result, seconded by Councilmember Lebakken. The motion carries 4 – 0 by the following vote:

Yes: Longanecker, Lewis, Lebakken, Malloy
Absent: Conus

Councilmember Longanecker made motion to bring the meeting back to regular session at 8:22 pm with no action taken, seconded by Councilmember Malloy. The motion is carried 4-0 by the following vote:

Yes: Longanecker, Lewis, Lebakken, Malloy
Absent: Conus

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Councilmember Lewis made motion to approve the appeal, citing the applicant's initial April 16, 2026, application and their commitment to comply with UDC, KDHE, IFC, IBC, and other codes without deviations. Councilmember Longanecker seconded the motion.

Mr. Luckman confirmed with Councilmember Lewis if his vote is in reliance upon DAMAC complying with the zoning code and the other building codes he mentioned.

Councilmember Lewis confirmed yes, as stated in their initial application.

Councilmember Lebakken stated she does not like it, but she will go with the laws the City has established.

Mayor encouraged other Council Members to make statements like Councilmember Lebakken if they wished. No additional comments were added.

The motion is carried 4-0 by the following vote:

Yes: Longanecker, Lewis, Lebakken, Malloy
Absent: Conus

7. Adjourn

Councilmember Lewis moved to adjourn, seconded by Councilmember Lebakken. The motion carried 4-0 by the following vote:

Yes: Longanecker, Lewis, Lebakken, Malloy
Absent: Conus

The meeting was adjourned at 8:25 pm.

Submitted by Dusti Callahan, City Clerk.

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