

**EDGERTON CITY COUNCIL
MEETING AGENDA
CITY HALL, 404 EAST NELSON STREET
June 25, 2020
7:00 P.M.**

Call to Order

1. **Roll Call** ____ Roberts ____ Longanecker ____ Conus ____ Lewis ____ Smith ____ Beem
2. **Welcome**
3. **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 for June 11, 2020 Regular City Council Meeting
5. Approve Concurrence to Bid the Homestead Lane Intersection Improvements
6. Approve Application FP2020-01, Final Plat for DeLong Trucking, Generally Located at 32612 W. 191st Street, Edgerton, Kansas

Regular Agenda

7. **Public Comments.** Persons who wish to address the City Council regarding items not on the agenda and that are under the jurisdiction of the City Council may do so when called upon by the Mayor. Comments on personnel matters and matters pending before court or other outside tribunals are not permitted. Please notify the City Clerk before the meeting if you wish to speak. Speakers are limited to three (3) minutes. Any presentation is for informational purposes only. No action will be taken.
8. **Declaration.** At this time Council members may declare any conflict or communication they have had that might influence their ability to impartially consider today's issues.

Business Requiring Action

9. **CONSIDER RESOLUTION NO. 06-25-20A PROVIDING FOR A DEADLINE OF JULY 7, 2020 FOR REMOVAL OF YARD NUISANCES AT 502 E 2ND STREET, EDGERTON, KANSAS PURSUANT TO EDGERTON CITY CODE CHAPTER VIII, ARTICLE 3 AND ALLOWING FOR THE CITY TO ABATE THE COSTS ASSOCIATED WITH THE REMOVAL OF SAID NUISANCES**

Motion: _____ Second: _____ Vote: _____

10. **CONSIDER RESOLUTION NO. 06-25-20B DEEMING THE PROPERTY LOCATED AT 502 E. 2ND STREET, EDGERTON, KANSAS AN IMMEDIATE HAZARD PURSUANT TO EDGERTON CITY CODE CHAPTER IV, ARTICLE 4, SECTION 4-412**

Motion: _____ Second: _____ Vote: _____

11. **CONSIDER RESOLUTION NO. 06-25-20C PROVIDING FOR A HEARING TO DISCUSS A POSSIBLE DANGEROUS AND UNFIT STRUCTURE EXISTING AT 502 E**

2ND STREET IN THE CITY OF EDGERTON, JOHNSON COUNTY, KANSAS PURSUANT TO CITY OF EDGERTON CITY CODE, CHAPTER IV, ARTICLE 4, SECTION 4-405

Motion: _____ Second: _____ Vote: _____

12. Report By The City Administrator

13. Report By the Mayor

14. Future Meeting Reminders:

- July 9th: City Council Meeting – 7:00 PM
- July 14th: Planning Commission Meeting – 7:00 PM
- July 23rd: City Council Meeting – 7:00 PM
- August 11th: Planning Commission Meeting – 7:00 PM
- August 13th: City Council Meeting – 7:00 PM
- August 27th: City Council Meeting – 7:00 PM

15. 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, PUBLIC WORKS DIRECTOR, AND CITY ADMINISTRATOR FOR THE PURPOSES OF PENDING LITIGATION

Motion: _____ Second: _____ Vote: _____

16. Adjourn Motion: _____ Second: _____ Vote: _____

EVENTS

June 27th: Low-Cost Animal Vaccination Clinic – 8:30 AM to 1:30 PM RESERVATIONS ARE REQUIRED – Visit petvaccinationclinic.eventbrite.com to make a reservation

July 3rd: Community Picnic and Fireworks Show (Park Opens at 5:00 PM, Fireworks around 9:45 PM)

July 15th: Senior Lunch and BINGO – 12:00 PM to 2:30 PM

July 28th: Municipal Court

City of Edgerton, Kansas
Minutes of City Council Regular Session
June 11, 2020

A Regular Session of the City Council (the Council) was held in the Edgerton City Hall, 404 E. Nelson Edgerton, Kansas on June 11, 2020. The meeting convened at 7:01 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
- Development Services Director Katy Crow
- Finance Director Karen Kindle
- Public Works Director Dan Merkh
- Marketing and Communications Manager Kara Banks
- Mike Mabrey Utilities Superintendent

2. WELCOME

3. PLEDGE OF ALLEGIANCE

CONSENT AGENDA

4. Approve Minutes for May 28, 2020 Regular City Council Meeting.
5. Approve Agreement with BG Consulting for Engineering Design Services for the 1st Street and West Meriwood Lane Stormwater Repair Project
6. Approve Ordinance No. 2039 Amending Section 14-205 of Article 2 of Chapter XIV of the City Code to Include Parking Restrictions on East Nelson Street/Sunflower Road

Mayor Roberts removed Item 6 from the Consent Agenda.

Councilmember Longanecker motioned to approve the Consent Agenda Items 4 and 5, motion seconded by Councilmember Lewis. The Consent Agenda was approved, 5-0.

Mayor Roberts stated he removed Item 6 because the ordinance number should be 2040. He explained the no parking area would be from 6th Street to the entrance to Martin Creek Park. The no parking area has been done temporarily in the past and it isn't a safe place to park so it is best to make the no parking area permanent. Councilmember Smith motioned to approve Ordinance No. 2040 amending Section 14-205 of Article 2 of Chapter XIV of the

City Code to include parking restrictions on East Nelson street/Sunflower Road.
Councilmember Longanecker seconded the motion. Ordinance No. 2040 was approved, 5-0.

REGULAR AGENDA

7. Public Comments.

There were no public comments made at this time.

8. Declaration.

There were no declarations made at this time.

BUSINESS REQUIRING ACTION

9. CONSIDER ADDING A LOAN PROVISION TO THE CITY'S 457 RETIREMENT PLAN

Ms. Karen Kindle, Finance Director, spoke before the Council. She stated in May of 2013, the City partnered with the Kansas Public Employees Retirement System (KPERS) to offer an IRS section 457 retirement plan to City employees. The 457 plan is a way for employees to voluntarily contribute pretax dollars to the retirement savings via payroll deduction. Employees are immediately 100% vested in their account balance since it is their money that is contributed.

She explained under the IRS guidelines, the City may add a provision to the plan to allow loans. There are two types of loans available, general purpose loans and loans for the purchase of a principal residence. The general-purpose loans can be for anything, the term can be twelve (12) to sixty (60) months, and the maximum loan amount is \$50,000 or 50% of the employee's account balance, whichever is less. The Loans for the purchase of a principal residence can only be used for that purpose. Ms. Kindle stated there are documentation requirements the employee must meet to obtain the loan. The term is 12 to 240 months with the same loan amount available as the general-purpose loans. Payments must be made at least quarterly. If payments are not made, the loan could be deemed a distribution and taxed accordingly.

Ms. Kindle said administration of the loan is handled by Empower Retirement which is the company KPERS contracts for 457/401a retirement plan administration. Employees apply online directly with Empower and all loan approvals are handled by Empower. A \$100 loan fee is paid by the employee from the loan amount at the time of approval. She explained loan repayment can be done via payroll deduction or debited directly from the employee's personal bank account via ACH payments. The City can only offer one repayment method for all loans. Ms. Kindle stated if an employee leaves the City and has a loan, City Staff and the employee will work with Empower to set up the ACH payments from the employee's bank account. City Staff recommends the ACH payment method as it is the simplest and requires the least amount of City staff resources. Ms. Kindle stated the Governing Body needs to approve the addition of the provision, and an authorized representative of the plan must sign the KPERS loan policy document. The City must also notify Empower of the loan repayment method selected.

Ms. Kindle explained employees automatically have the option for a hardship withdrawal per plan documents and IRS regulations. These are not loans and the amounts are not repaid. The hardship withdrawals are treated as distributions and taxed accordingly. She said there are special circumstances employees must prove in order to obtain a hardship withdrawal. The main test is that it is an extraordinary and unforeseeable circumstance resulting from events beyond the employee's control that is not covered by insurance, liquidating assets, or stopping contributions to the plan. Ms. Kindle said some examples are funeral expenses for the employee or a dependent, medical expenses, or property loss caused by a natural disaster that is not covered by insurance. She stated the 401a plan established in February 2019 to hold the City's matching contributions is not eligible for loans. The City Attorney has reviewed and approved the KPERS Plan Loan Policy Document.

Mayor Roberts stated he agrees with the City Staff recommendation to use the ACH payment to be used for loan payment, so City Staff is not involved in the process from start to finish. Councilmember Lewis motioned to approve adding a loan provision to the City's 457 Retirement Plan with the ACH repayment to be utilized, seconded by Councilmember Smith. The loan provision was added, 5-0.

10. CONSIDER MASTER SERVICES AGREEMENT WITH GEORGE BUTLER ASSOCIATES, INC (GBA) FOR BUILDING PERMIT PLAN REVIEW AND BUILDING PERMIT INSPECTION SERVICES

Ms. Katy Crow, Development Services Director, addressed the Council. She stated the City currently has a consulting agreement with Institute for Building Technology and Safety (IBTS) for site plan review and building inspection services. This contract has been in place since August 23, 2018 and was initially entered into as a backup for the full-time building inspector to cover inspections if he was out of the office. She said in October of 2019, the City's full-time Building Inspector resigned his position. IBTS has been performing the plans review and inspection portion of the Building Inspector position in the meantime, but there are other aspects to the position that are not being adequately fulfilled, such as codes interpretations, answering code requirement questions, and document filing.

Ms. Crow stated at this time City Staff would like to establish services with GBA in order to efficiently handle building permit plan review and building inspection requests. Current City Staff do not have the expertise necessary to perform building permit plans review or building inspection services. Having an additional third-party service provider in place will provide a seamless service delivery to Edgerton residents, business owners, and commercial developers.

Ms. Crow said the draft proposed service agreement with GBA has been reviewed by the City Attorney. It is still a draft as there are some edits required pursuant to City Staff's and City Attorney's reviews. She said City Staff recommends approval of the Master Services Agreement pending any changes or recommendations from the City Attorney.

Ms. Crow stated she reached out to the City's insurance provider to ensure the coverage of GBA and the City are compatible. She explained the limited liability clause is in the agreement and GBA requires it to remain in the agreement. Many other firms have included those clauses in their agreements. The limited liability clause is to limit GBA the amount

they can be exposed to in a legal dispute. Mr. Lee Hendricks, City Attorney, stated he has seen these clauses in more and more contracts. He explained the amount GBA is being limited to is amount the City pays them for the services. Mr. Hendricks said a contract the Council recently approved had a limited liability clause, but the City and the other party agreed to a set amount instead of a sliding scale. This clause does help keep the contracted services provider's insurance cheaper.

Mr. Hendricks requested the Council consider a change in the policy with how these clauses should be addressed. Typically, the City has the clause completely removed from the contract. He is requesting the Council allow himself, City Staff, and the Mayor to negotiate these clauses going forward. Mayor Roberts said the City has taken a hard stance to remove these clauses but it could be beneficial for the City to weigh the pros and cons of each agreement to see if it needs to be taken out of each contract. Councilmember Longanecker said he understands the flexibility needed by others to negotiate contracts. Councilmember Conus asked the status of those negotiations with GBA. Mayor Roberts answered this particular contract is low risk for the City as GBA would be considered a representative of the City. Mr. Hendricks agreed and said the clause in this contract does not bother him, but the City should continue to negotiate whenever possible. He recommends the City counters with a set dollar amount, similar to the contract approved on the Consent Agenda.

Councilmember Lewis asked if GBA would be secondary to the contracted services with IBTS. Ms. Linn answered GBA would become the primary inspector as City Staff needs a more reliable service. Mayor Roberts said he has received many calls regarding the services rendered. Ms. Linn explained the Building Inspector position has not been filled due to the ongoing pandemic. City Staff is looking towards the future and attempting to forecast what construction activity might look like. She said as of now it is increasing. Ms. Linn said the service with GBA would be like that of BG Consultants as there would be many people assigned to Edgerton.

Mayor Roberts said negotiating the terms of the limited liability clause should be done before it is brought to the Council. Councilmember Conus stated he wants to limit the clauses as much as possible because there is always risk in everything. Mayor Roberts agreed and said it will depend on each project. Mr. Hendricks explained the clause has been removed 30-40% of the time, but the City always asks it to be removed. The City should request it be removed and see what the other party says then the City can negotiate amounts. Mayor Roberts said the practice of always requiring it be removed could cost the City good contracts in the future.

Councilmember Lewis said he has no problem with City Staff, Mr. Hendricks, and Mayor Roberts negotiating the terms of the liability clauses as it would allow the process to move more efficiently. Councilmember Longanecker motioned to empower City Staff, in concert with the Mayor and City Attorney, the ability to negotiate liability clauses in contracts based on the assessment of risk, to then bring forth a final draft to the City Council. Councilmember Conus seconded the motion. City Staff, the City Attorney, and the Mayor were empowered to negotiate liability clauses in contracts before the contract is presented to the Council, 5-0.

Mr. Hendricks stated the City will continue to negotiate the terms of the clause with GBA. Ms. Linn asked the Council if they would allow the mayor to sign the agreement with a set amount not to exceed \$500,000 limitation liability. Councilmember Smith motioned to approve the Master Services Agreement with GBA for building permit plan review and building permit inspection services pending any changes from the City Attorney and authorize the Mayor to sign the Agreement. The motioned was seconded by Councilmember Longanecker. The Master Services Agreement was approved pending any changes made by the City Attorney, and the Mayor was authorized to sign the Agreement, 5-0.

Councilmember Longanecker inquired as to why the Building Inspector position has not been filled. Ms. Linn answered there are concerns as the pace of development is unknown at this time. The City does not want to hire for a position that might not have work to be done. She said she would like to see the level of development activity to continually increase before hiring a new staff member. Ms. Crow explained a contracted service would still be needed as backup to a full time Building Inspector. Councilmember Longanecker asked about the cost of the contracted service. Ms. Crow answered while GBA might cost more, City Staff believes GBA has the staff to devote to Edgerton. Councilmember Longanecker asked if IBTS did not have the staff. Ms. Crow replied they do not, and the City has been letting the developers and residents down. Mayor Roberts explained a Building Inspector is to protect the residents and everybody in a building they inspect. If City Staff does not feel the services are meeting those standards, it is best for the City to contract with a company who can meet those standards.

11. Report By The City Administrator

Ms. Linn stated she does not have anything to report at this time.

12. Report by the Mayor

- Report on Impact of COVID-19 to City Operations

Mayor Roberts said meetings and calls have backed off regarding the pandemic and other issues have taken precedence. Mayor Roberts requested City Staff to keep everybody up to date on all of the guidelines that the insurance company says the City needs to follow. Ms. Linn said City Staff is back at work in Edgerton and some items are in place to promote social distancing. The City is taking some hall rentals with a waiver and shelter rentals are increasing.

Ms. Linn stated the City is preparing for the 3rd of July Community Picnic and Fireworks Show. Ms. Linn stated the Council will have a new role this year. Two Guys and A Grill will be cooking and serving the food this year. Inflatable games are being brought in and the Council will be attending to those. She said there are some other adjustments that have been made to bring the community together yet be understanding of what is going on with COVID-19. Mayor Roberts said not serving food will help the Council interact with the public more. Mayor Roberts said food will be served and the games will be opened up around 6:00 PM at the 3rd of July Community Picnic. He said this is a great small-town event and City Staff has improved it over the years. Ms. Linn explained little to no contact activities is what the staff is looking for. She anticipates a lot of people showing up due to it being a Friday and an observed holiday for

many. She stated many cities have canceled or reduced their event while Edgerton's is mostly the same as previous years. Ms. Linn said there will be plenty of things to do so people can do whatever they are comfortable with. Mayor Roberts said the community is ready to get out and about.

Mayor Roberts said there were no furloughs of City Staff, but also no new hires either. Sales taxes were up 18% for the last month that was provided to the City. Ms. Linn said property tax information will be provided next at the next Council meeting. Mayor Roberts said he has heard it has been the same.

13. Future Meeting Reminders:

- June 25th: City Council Meeting – 7:00 PM
- July 9th: City Council Meeting – 7:00 PM
- July 14th: Planning Commission Meeting – 7:00 PM
- July 23rd: City Council Meeting – 7:00 PM
- August 11th: Planning Commission Meeting – 7:00 PM
- August 13th: City Council Meeting – 7:00 PM
- August 27th: City Council Meeting – 7:00 PM

Mayor Roberts explained the seniors are going to have a drive by lunch this month.

Ms. Linn stated on Saturday June 20, 2020, there will be a parade starting at 11:00 AM to congratulate the graduating seniors from Gardner-Edgerton High School. Signs will be posted along Nelson Street and she would like to see people line the streets. Councilmember Smith asked if people could toss candy at the graduates like a reverse parade. Mayor Roberts replied there are safety concerns with that but something could be done in a safe manner. Councilmember Smith said she can make some small grab bags to hand out to the graduates as they go by.

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, Public Works Director, and the City Administrator for the purposes of ongoing litigation for fifteen (15) minutes. Councilmember Beem seconded the motion. The meeting recessed into executive session at 7:56 PM, 5-0.

Councilmember Smith motioned to return to open session. Councilmember Longanecker seconded the motion. Open session resumed at 8:11 PM, 5-0.

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, Public Works Director, and the City Administrator for the purposes of ongoing litigation for ten (10) minutes. Councilmember Beem seconded the motion. The meeting recessed into executive session at 8:11 PM, 5-0.

Councilmember Smith motioned to return to open session. Councilmember Longanecker seconded the motion. Open session resumed at 8:21 PM, 5-0.

Councilmember Longanecker motioned submit payment to the Owens at 410 West Braun Street in the amount of \$435,000 and \$500 to THS Investments LLC at the Sunflower Ridge Development in conjunction with the condemnation proceedings. Seconded by Councilmember Beem. The motion carried, 5-0.

Councilmember Longanecker motioned to empower the Mayor to sign and release payment for the settlement agreement in conjunction with the condemnation proceedings to Phillips Pipeline not to exceed \$3,500. Councilmember Smith seconded the motion. The motion carried, 5-0.

Motion to in conjunction with condemnation proceedings. Owens 410 Braun 435k THS investments 500 at sunflower ridge development.

14. **Adjourn**

Councilmember Smith motioned to adjourn the meeting, seconded by Councilmember Longanecker. The motion carried and the meeting adjourned at 8:22 PM, 4-0.

EVENTS

June 23rd: Municipal Court

June 27th: Low-Cost Animal Vaccination Clinic – 8:30 AM to 1:30 PM RESERVATIONS

ARE REQUIRED – Visit petvaccinationclinic.eventbrite.com to make a reservation

July 3rd: Community Picnic and Fireworks Show (Park Opens at 5:00 PM, Fireworks around 9:45 PM)

City Council Action Item

Council Meeting Date: June 25, 2020

Department: Public Works

Agenda Item: Consider Concurrence to Bid the Homestead Lane Intersection Improvements

Background/Description of Item:

On August 22nd, the Edgerton City Council created a Tax Increment Financing (TIF) Redevelopment District generally located at the northeast and northwest corners of Interstate 35 and Homestead Lane. The district plan for the Redevelopment District includes commercial retail facilities such as truck stops/travel plazas, truck maintenance facilities, restaurants, hotels and other transportation and workforce related services.

On November 14, 2019 City Council Approved the Agreement with BG Consultants for the engineering and design services for Homestead Lane Intersection Improvements. This project consists of providing full access into the parcels on either side of Homestead Lane at 200th Street.

For this project, The City of Edgerton in conjunction with BG Consultants will administer the project including the bidding process and construction oversight, City staff will bring any agreements for inspection duties during the project at a later council meeting. Staff anticipates the bidding schedule as follows.

- Concurrence to bid from City Council (pending approval): June 25, 2020
- Advertisement for Bidding: August 3, 2020
- Bid Opening: August 18, 2020
- Award Bid: August 28, 2020 (pending approval)

At the future Council Meeting on August 27, 2020 staff will provide the results for the bidding process.

Design and construction of this intersection are an eligible expenses for reimbursement from the Tax Increment Financing (TIF) Redevelopment District. Staff will work with City's Bond Counsel to complete the steps necessary to include this project in the TIF Project Plan.

Related Ordinance(s) or Statue(s):

Funding Source: Homestead Lane Retail Tax Increment Financing District

Budget Allocated: Reimbursable Expense – Homestead Lane Retail Tax Increment
Financing District

Finance Director Approval: x 
Karen Kindle, Finance Director

<p>Recommendation: Approve Concurrence to Bid the Homestead Lane Intersection Improvements</p>

Enclosed: N/A

Prepared by: **Dan Merkh** * Public Works Director

City Council Action Item

Council Meeting Date: November 14, 2019

Department: Public Works

Agenda Item: Consider Agreement With BG Consultants For The Design Of Homestead Lane Intersection Improvements

Background/Description of Item:

On August 22nd, the Edgerton City Council created a Tax Increment Financing (TIF) Redevelopment District generally located at the northeast and northwest corners of Interstate 35 and Homestead Lane. The district plan for the Redevelopment District includes commercial retail facilities such as truck stops/travel plazas, truck maintenance facilities, restaurants, hotels and other transportation and workforce related services.

In support of these future functions, the City of Edgerton worked with the Kansas Department of Transportation (KDOT) to study the current and future traffic projections within the TIF District. KDOT controls the access along Homestead Lane from I-35 to 199th Street. That traffic study confirmed the ability to allow a full access intersection on Homestead Lane, between I-35 and 199th Street. Based on current development projections, the intersection would be permitted as full access with dedicated turn lanes, but no traffic signal. Future traffic counts could warrant the installation of traffic signals.

As part of the Redevelopment District Plan, the City of Edgerton plans to design and construct this new intersection on Homestead Lane to provide full access (from both southbound and northbound traffic) into the parcels on either side of Homestead Lane. This Agreement with BG Consultants will provide design and bidding services for the intersection. Design services will include survey, engineering design of the transportation infrastructure (typical pavement section, stormwater, intersection, entrance into private property, traffic signal conduits, pavement markings, etc). Bidding services include preparing plans for bid, reviewing submitted bids and providing a recommendation for award. The Fee for these services is \$120,000 plus reimbursable expenses.

Design and construction of this intersection are a eligible expenses for reimbursement from the Tax Increment Financing (TIF) Redevelopment District. Staff will work with City's Bond Counsel to complete the steps necessary to include this project in the TIF Project Plan.

If approved, staff anticipates beginning the design of the project immediately and plans to release the project for bid in the first quarter of 2020.

Related Ordinance(s) or Statue(s): N/A

Funding Source: Retail Tax Increment Financing District

Budget Allocated: N/A

Finance Director Approval: x 
Karen Kindle, Finance Director

<p>Recommendation: Approve Agreement With BG Consultants For The Design Of Homestead Lane Intersection Improvements</p>
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Enclosed: Proposed Agreement with BG Consultants

Prepared by: Beth Linn, City Administrator

City Council Action Item

Council Meeting Date: June 25, 2020

Department: Community Development

Agenda Item: Consider Application FP2020-01, Final Plat for DeLong Trucking, Generally Located at 32612 W. 191st Street, Edgerton, Kansas.

Background/Description of Item: On April 2, 2020 the City of Edgerton received Application FP-2020-01 for the Final Plat of DeLong Trucking, located at 32612 W. 191st Street, Edgerton, Kansas.

This parcel was annexed into the City of Edgerton on March 25, 2010. The Planning Commission held a public hearing with regards to the rezoning (Application RZ-11-19-12) of this parcel from Johnson County RUR to City of Edgerton I-H (Heavy Industry) on December 11, 2012. The Governing Body approved the rezoning on December 27, 2012 (Ordinance 934).

Preliminary Plat Application PP2020-01 was submitted to, and approved by, the City of Edgerton Planning Commission on June 9, 2020. Final Plat Application FP2020-01 was also reviewed by the Edgerton Planning Commission and was recommended for City Council acceptance at the same meeting.

This final plat includes approximately 20.951 acres, broken down as follows:

- Lot 1 – 19.443 acres
- Tract A – 1.508 acres
- Total – 20.951

Previous development on this parcel was allowed through the Lot Split process. Today the City of Edgerton is shown as the owner of the first parcel in Johnson County AIMS. At the time this property was initially developed using Industrial Revenue Bonds, the State of Kansas required that the property be held in the City's name and leased back to the owner. This allowed the development to qualify for the abatements granted. For this reason, the City's bond counsel has requested the City be a signer on the Final Plat. The applicant is platting the two parcels together, so that they may expand operations to the east.

Staff, including City Engineer, has reviewed the revised Final Plat submittal for compliance with the approved Preliminary Plat and requirements in Section 13.3 of Article 13 of the Edgerton UDC. The applicant's engineer has updated the Final Plat as required by stipulations listed in the staff report and the updated Final Plat is included here.

Related Ordinance(s) or Statute(s): K.S.A. 12-715b, K.S.A. 12-741, et. Seq. to K.S.A. 12-771 – Establishment of the Unified Development Code

Funding Source: N/A

Budget Allocated: N/A

Finance Director Approval: N/A

<p>Recommendation: Approve Application FP2020-01, Final Plat for DeLong Trucking, Generally Located at 32612 W. 191st Street, Edgerton, Kansas.</p>

Enclosed:

- Revised Final Plat received June 11, 2020.
- Staff Report from June 9, 2020 Planning Commission including Final Plat Application FP2020-01.
- Excerpt of June 9, 2020 Planning Commission Meeting Minutes – DeLong Preliminary and Final Plat portions only

Prepared by: Katy Crow, Development Services Director

FINAL PLAT OF
DELONG TRUCKING
PART OF THE SOUTHWEST QUARTER SECTION 34, TOWNSHIP 14, RANGE 22
CITY OF EDGERTON, JOHNSON COUNTY, KANSAS

DESCRIPTION:

All that part of the Southwest quarter of Section 34, Township 14 South, Range 22 East, and part of a tract of land described as the J. A. Pearce Tract in the 1892 Re-Survey of said Section Township and Range, City of Edgerton, Johnson County, Kansas, said tract of land being more particularly described as follows:

Commencing at the Southwest corner of the Southwest quarter of said Section 34; thence N 88° 10' 27" E along the South line of said quarter section, a distance of 232.30 feet to the Point of Beginning; thence continuing N 88° 10' 27" E along said South line and also along the South line of said J.A. Pearce Tract, a distance of 1095.14 feet to the Southwest corner of the Final Plat of MIDWEST GATEWAY, a subdivision of land in the City of Edgerton, Johnson County, Kansas; thence N 2° 16' 29" W along the West line of said MIDWEST GATEWAY, a distance of 1170.30 feet to the Northwest corner of said MIDWEST GATEWAY; thence S 53° 52' 24" W, a distance of 683.46 feet to a point on the West line of said J. A. Pearce Tract; thence N 1° 52' 40" W along said West line, a distance of 85.90 feet; thence S 53° 52' 24" W, a distance of 407.79 feet to a point of curvature; thence Southwesterly along a curve to the left, having a radius of 461.00 feet, a central angle of 40° 11' 07" and an arc distance of 323.33 feet to a point of non-tangency; thence S 1° 49' 33" E, a distance of 383.68 feet to the Point of Beginning, containing 912.60± Sq. Ft. or 20.95± Acres.

DEDICATIONS:

The undersigned proprietor of the described tract of land has caused the same to be subdivided in the manner as shown on the accompanying plat, which subdivision shall hereafter be known as "DELONG TRUCKING."

The undersigned proprietor of said property shown on this plat does hereby dedicate those portions of the streets and roadways shown as West 191st Street together with all other parcels and parts of land indicated on this plat, and not heretofore dedicated, as streets, terraces, roads, drives, lanes, avenues, courts, places, etc., for public use as public ways or thoroughfares; subject to the right hereby reserved to the present owner and its successors and assigns for the location, construction and maintenance of conduits, water, gas and sewer pipes, poles and wires under, over and along said roadways.

The undersigned proprietor of said property shown on this plat hereby certifies that all prior existing easement rights on land to be dedicated for public use and public ways and thoroughfares running to any person, utility or corporation have been absolved except that same person, utility or corporation shall retain whatever easement rights they would have as if located in a public street.

IN TESTIMONY WHEREOF, the undersigned proprietor has hereunto subscribed its name.

Owner: The DeLong Company, Inc. a Wisconsin Corporation

(Patrick DeLong, Board Member)

STATE OF } SS
COUNTY OF }

This instrument was acknowledged before me on this _____ day of _____, 2020, the undersigned, a Notary Public in and for said County and State aforesaid, came Patrick DeLong, Board Member, to me personally known to be the same person who executed the within instrument and duly acknowledged the same to be their free act and deed.

Notary Public My Appointment Expires: _____
Printed Name: _____

AREAS			
Lot 1	846,917 ± SQ. FT.	19.443 ± ACRES	
R/W	65,682 ± SQ. FT.	1.508 ± ACRES	
Total	912,609 ± SQ. FT.	20.951 ± ACRES	

APPROVED BY, the Zoning Administrator of the City of Edgerton, Kansas, this _____ day of _____, 2020.

Katy Crow

APPROVED BY, the Planning Commission of the City of Edgerton, Kansas, this _____ day of _____, 2020.

John Daley, Chair

APPROVED BY, the City Engineer of the City of Edgerton, Kansas, this _____ day of _____, 2020.

David Hamby

The City is signing at the request of DeLong Companies.

APPROVED BY, the Governing Body of the City of Edgerton, Kansas, this _____ day of _____, 2020.

Donald Roberts, Mayor ATTEST: Chris Clinton, City Clerk

I hereby certify that the information shown hereon is based on a field survey performed under my supervision in February, 2020.

By: STAN W. LLOYD KS-LS 827

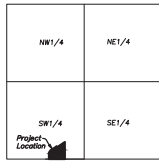
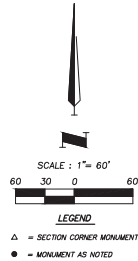
GENERAL NOTE:

Bearing shown hereon are based on the State Plane Coordinate System NAD 1983, Kansas North Zone. CAP=0.999943479.

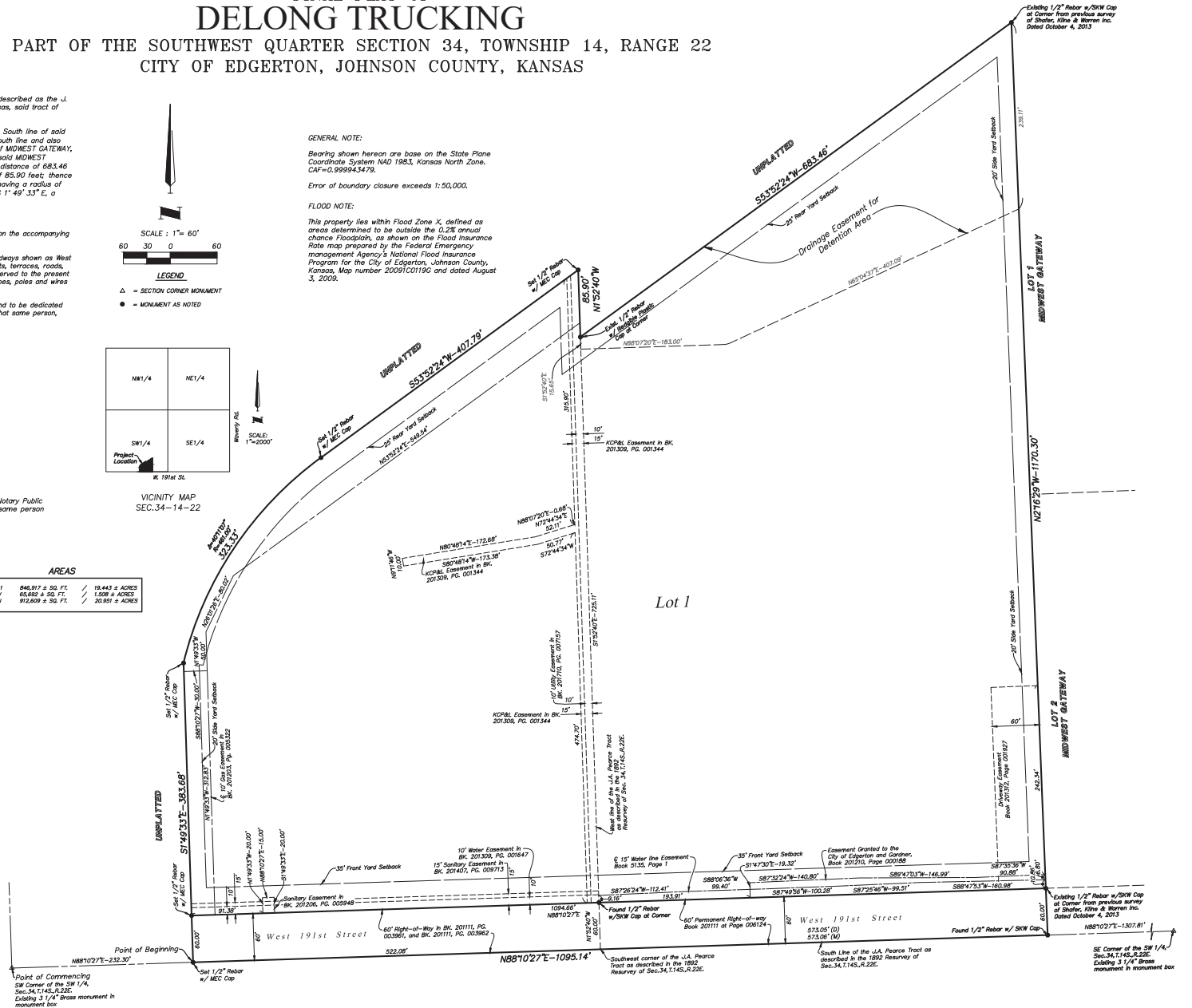
Error of boundary closure exceeds 1:50,000.

FLOOD NOTE:

This property lies within Flood Zone X, defined as areas determined to be outside the 0.2% annual chance Floodplain, as shown on the Flood Insurance Rate map prepared by the Federal Emergency Management Agency's National Flood Insurance Program for the City of Edgerton, Johnson County, Kansas, Map number 20091C0119C and dated August 3, 2009.



VICINITY MAP
SEC. 34--14--22



McCLURE ENGINEERING COMPANY

11051 STRANG LINE ROAD
LENEXA, KANSAS 66215
(913) 888-7800 WWW.MCCRESULTS.COM

DEVELOPER:
The DeLong Company, Inc.
32612 W 191st Street
Edgerton, KS 66021
Phone: (913) 854-7191

PROJECT NO. 190938-000 [190938-000 FPD.dwg] June 12, 2020 szl

STAFF REPORT

June 9, 2020

To: Edgerton Planning Commission
Fr: Chris Clinton, Planning and Zoning Coordinator
Re: **FP2020-01** Final Plat for *DeLong Trucking* located at 32612 W 191st Street, Edgerton, Kansas.

APPLICATION INFORMATION

Applicant: Caleb Flake, Agent
DeLong Company
32612 W. 191st St
Edgerton, KS 66021

Property Owners: The DeLong Companies
214 Allen St
PO Box 552
Clinton, WI 53525

Requested Action: Final Plat approval for *DeLong Trucking*

Legal Description: SW 1/4 of Section 34, Township 14 South, Range 22 East, and part of a tract of land described as the J.A. Pearce Tract in the 1892 Re-Survey of said Section, Township and Range in Johnson County, Kansas; see attached application for complete legal description.

Site Address/Location: 32612 West 191st Street, Edgerton, KS 66021

Existing Zoning and Land Uses: Existing zoning – I-H (Heavy Industrial) District; eastern half is currently undeveloped.

Existing Improvements: Grain storage operation

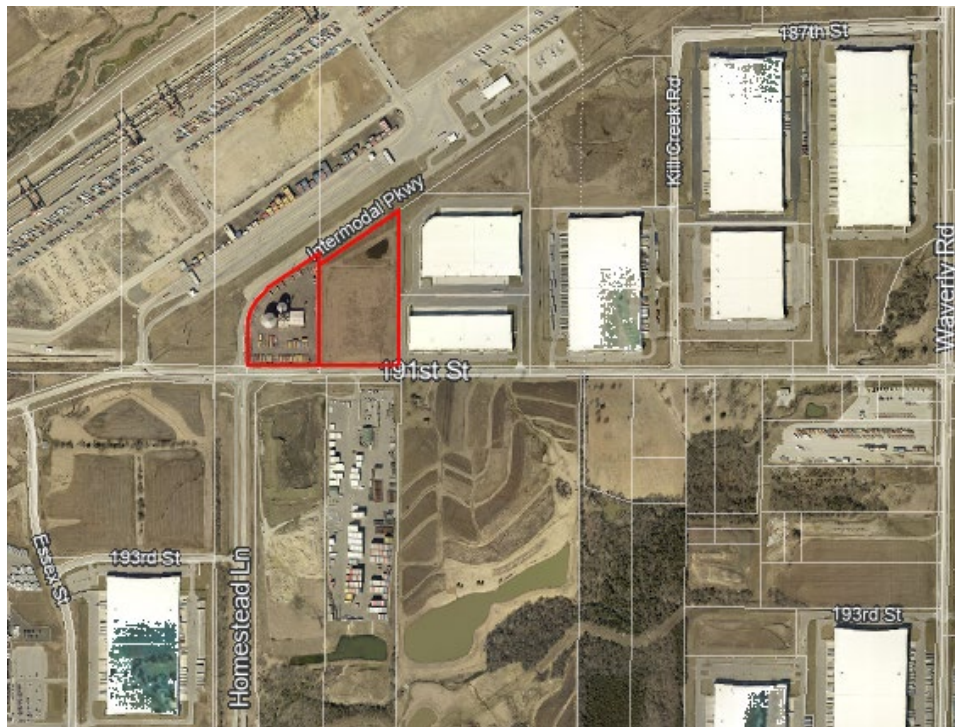
Site Size: Approximately 20.95 Acres

PROJECT DESCRIPTION

Application **FP2020-01**, Final Plat for *DeLong Trucking*, requests approval for one (1) lot. The new lot would have frontage along the north side of West 191st Street right-of-way. This Final Plat request is being made in preparation of an expansion to the east side of the plat from the current grain operations on the west side. This Final Plat request aligns with the request made with Preliminary Plat Application PP2020-01, also presented to the Planning Commission on June 9, 2020. This Final Plat application joins two (2) existing parcels into one (1). Previous development

on this parcel was allowed through the Lot Split process. Today the City of Edgerton is shown as the owner in Johnson County AIMS. At the time this property was initially developed using Industrial Revenue Bonds, the State of Kansas required that the property be held in the City's name and leased back to the owner. This allowed the development to qualify for the abatements granted.

Subject Property



INFRASTRUCTURE AND SERVICES

1. Current access to the property is via two access points - one from West 191st Street and one from Intermodal Parkway.
2. Utilities and service providers.
 - a. Johnson County Water District #7.
 - b. Sanitary Sewer - City of Edgerton.
 - c. Electrical Service - Evergy.
 - d. Gas Service – Kansas Gas Service.
 - e. Police protection is provided by the City of Edgerton through the Johnson County Sheriff's Office.
 - f. Fire protection is provided by Johnson County Fire District #1.
3. Parcel is located within the Bull Creek watershed.

FINAL PLAT REVIEW

Staff has reviewed the Final Plat submittal for compliance with the Approved Final Plat requirements in Article 13, Section 13.3 of the Edgerton Unified Development Code. Review comments are listed below.

1. The instrument of survey which shows the point of beginning, corners, bearings, courses, distances, exterior boundaries, interior lot boundaries, abandoned lot lines, pins, monuments found or set. All P.I.'s corner, boundaries must be mounted with a 2" x 24" metal bar. *The northern pin in the center of Lot 1 should list the origin, "Plastic Cap at Corner" is insufficient. **Update Final Plat. Confirm monuments have been set after the plat has been recorded with Johnson County Records and Tax Administration.***
2. All easements with widths, and roads with curve data. *The existing sanitary sewer in the northeast corner of Lot 1 needs to be labeled with the Book and Page information from the Johnson County RTA. **Update Final Plat.***
3. Edgerton City Planning Commission chair and secretary approval. *The signature line is missing for Planning Commission Secretary approval. **Update Final Plat.***
4. Certificate of the Register of Deeds. *Certificate needs to be added to plat. **Upon filing Final Plat with Johnson County Records and Tax Administration the Book/Page information will be added.***
5. Surveyor's Certificate and Seal and certificate for survey review by the County Surveyor or designated Land Surveyor. *Plat is not signed or sealed by surveyor. **Applicant has acknowledged and will have the Final Plat signed and sealed upon approval of all governmental bodies.***

RECOMMENDATION

City staff recommends **approval** of Application **FP2020-01** Final Plat for *DeLong Trucking*, subject to compliance with the following stipulations:

1. The commencement of any improvements shall not occur prior to the approval and endorsement of the Final Plat and the submittal to and approval of construction plans for all streets, sidewalks, storm water sewers, sanitary sewers, and water mains contained within the Final Plat by the Governing Body. The property owner and/or developer shall work with City staff to determine the best possible placement for a storm water easement and shall dedicate said storm water easement on the Final Plat.

2. A Public Improvement Inspection Fee, established by the Fee Schedule for the Unified Development Code, shall be submitted with the document of financial assurance as defined in Section 13.7 prior to the commencement of any improvements.
3. The applicant shall meet all requirements of Recording a Final Plat as defined in Section 13.5 of the Edgerton Unified Development Code, including payment of excise tax.
4. The applicant shall meet all requirements of Financial Assurances as defined in Section 13.7 of the Edgerton Unified Development Code.
5. All City Engineer comments related to the Stormwater Management Plan must be addressed.
6. All Final Plat requirements of the City listed above shall be met or addressed prior to recording of the Plat.
7. If the Final Plat is not recorded with the Johnson County Register of Deeds within one year after acceptance by the Governing Body, the plat will expire. Planning Commission re-approval and Governing Body re-acceptance is required for expired Final Plats.

ATTACHMENTS

- Application FP2020-01
- Final Plat, *DeLong Trucking*

☐ RE-REVIEW

NAME OF PROPOSED SUBDIVISION: DeLong Trucking

LOCATION OR ADDRESS OF SUBJECT PROPERTY: W. 191st Street & Homestead Lane

LEGAL DESCRIPTION: (included on plat)

CURRENT ZONING ON SUBJECT PROPERTY: I-H CURRENT LAND USE: NONE

TOTAL AREA: 20.95 Acres NUMBER OF LOTS: 1 AVG. LOT SIZE: 20.95 Sq. Ft.

DEVELOPER'S NAME(S): DeLong Companies PHONE: 608-676-2255

COMPANY: DELONG CO, INC. (THE) FAX: _____

MAILING ADDRESS: 214 Allen Street, PO: Box 552 Clinton, WI 53525

Street	City	State	Zip
214 Allen Street	Clinton	WI	53525

PROPERTY OWNER'S NAME(S): DeLong Companies PHONE: 608-676-2255

COMPANY: DELONG CO, INC. (THE) FAX: _____

MAILING ADDRESS: 214 Allen Street, PO: Box 552 Clinton, WI 53525

Street	City	State	Zip
214 Allen Street	Clinton	WI	53525

ENGINEER'S NAME(S): Caleb Flake PHONE: _____

COMPANY: McClure Engineering Co. FAX: cflake@mecresults.com

MAILING ADDRESS: 1700 Swift Ave. Suite 100, North Kansas City, MO 64106

SIGNATURE OF OWNER OR AGENT: 

If not signed by owner, authorization of agent must accompany this application.

NOTE: Ten (10) copies of the proposed preliminary plat must accompany this application for staff review. One (1) reduced copy (8 ½ x 11) must also be submitted with the application.

FOR OFFICE USE ONLY

Application No.: FP2020-01 Application Fee Paid: \$ 310 Date Fee Paid: 4-2-2020 Receipt # _____

Publication Fee Paid: \$ NA Date Fee Paid: NA Receipt # _____

Received By: Christopher Smith

May 21, 2020

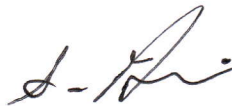
RE: Authorized Agent

To Whom it May Concern:

I hereby declare Caleb Flake of McClure Engineering Company an Authorized Agent for the DeLong Company and grant him authorization to act on my behalf and sign applications related to the parking lot expansion project. More specifically:

- Final Site Plan Case No. FS2020-04
- Preliminary and Final Plats PP2020-01
- Variances
- Site Construction Permits

Sam Hanni
General Manager
The DeLong Company



Signature

5-21-20

Date



PROPERTY OWNER NOTIFICATION AFFIDAVIT

Case No.: FS2020-04 and PP2020-01

I, Caleb J. Flake, of lawful age being first duly sworn upon oath, state:

That I am the Agent (agent, owner, attorney) for the property for which the application was filed and did, not later than twenty (20) days prior to the date of the public hearing scheduled before the Edgerton Planning Commission, mail certified notice to all persons owning property within the notification area (two hundred (200) feet in the City of Edgerton, one thousand (1,000) feet in the unincorporated area of the subject property) in compliance with the Unified Development Code.

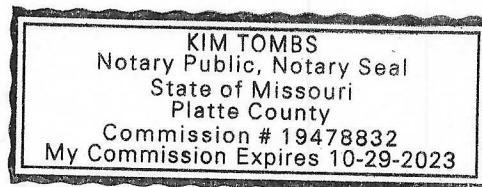
These notices were mailed on the 20th day of May, 2020.

[Signature]
Signature of Agent, Owner or Attorney

Subscribed and sworn to before me this 3rd day of June, 2020.

Kim Tombs - [Signature]
Notary Public

My Commission Expires: 10/29/2023 (SEAL)
Date



Katy Crow

From: Pat DeLong <PDeLong@delongcompany.com>
Sent: Wednesday, April 29, 2020 8:28 AM
To: Katy Crow; Caleb Flake; Sam Hanni
Subject: RE: DeLong - Planning Commission items

Katy,

Per my call with Sam Hanni,
He had asked we send you this,

The DeLong Company gives Permission to sign off on the preliminary and final plats,

Thks,
Pat DeLong



The DeLong Co., Inc.

Patrick DeLong
214 Allen Street
PO: Box 552
Clinton, WI 53525
Office: 608-676-2255 ext:1220
Cell: 815-955-9081

From: Katy Crow <kcrow@edgertonks.org>
Sent: Wednesday, April 22, 2020 5:20 PM
To: Caleb Flake <cflake@mecresults.com>; Pat DeLong <PDeLong@delongcompany.com>; Sam Hanni <SHanni@delongcompany.com>
Subject: RE: DeLong - Planning Commission items

Thanks so much – we look forward to talking to everyone next Tuesday.

Regards,

Katy



Katy Crow • Development Services Director
City of Edgerton, KS
[404 East Nelson • Edgerton, KS 66021](https://www.edgertonks.org)
913.893.6231 x7000 • 913.269.7992 (cell)
www.edgertonks.org

FINAL PLAT OF
DELONG TRUCKING
PART OF THE SOUTHWEST QUARTER SECTION 34, TOWNSHIP 14, RANGE 22
CITY OF EDGERTON, JOHNSON COUNTY, KANSAS

DESCRIPTION:

All that part of the Southwest quarter of Section 34, Township 14 South, Range 22 East, and part of a tract of land described as the J. A. Pearce Tract in the 1892 Re-Survey of said Section Township and Range, City of Edgerton, Johnson County, Kansas, said tract of land being more particularly described as follows:

Commencing at the Southwest corner of the Southwest quarter of said Section 34; thence N 88° 10' 27" E along the South line of said quarter section, a distance of 232.30 feet to the Point of Beginning; thence continuing N 88° 10' 27" E along said South line and also along the South line of said J.A. Pearce Tract, a distance of 1095.14 feet to the Southwest corner of the Final Plat of MIDWEST GATEWAY, a subdivision of land in the City of Edgerton, Johnson County, Kansas; thence N 2° 16' 29" W along the West line of said MIDWEST GATEWAY, a distance of 1170.30 feet to the Northwest corner of said MIDWEST GATEWAY; thence S 53° 52' 24" W, a distance of 683.46 feet to a point on the West line of said J. A. Pearce Tract; thence N 1° 52' 40" W along said West line, a distance of 85.90 feet; thence S 53° 52' 24" W, a distance of 407.79 feet to a point of curvature; thence Southwesterly along a curve to the left, having a radius of 461.00 feet, a central angle of 40° 11' 07" and an arc distance of 323.33 feet to a point of non-tangency; thence S 1° 49' 33" E, a distance of 383.68 feet to the Point of Beginning, containing 912.60± Sq. Ft. or 20.951± Acres.

DEDICATIONS:

The undersigned proprietor of the described tract of land has caused the same to be subdivided in the manner as shown on the accompanying plat, which subdivision shall hereafter be known as "DELONG TRUCKING."

The undersigned proprietor of said property shown on this plat does hereby dedicate those portions of the streets and roadways shown as West 191st Street together with all other parcels and parts of land indicated on this plat, and not heretofore dedicated, as streets, terraces, roads, drives, lanes, avenues, courts, places, etc., for public use as public ways or thoroughfares; subject to the right hereby reserved to the present owner and its successors and assigns for the location, construction and maintenance of conduits, water, gas and sewer pipes, poles and wires under, over and along said roadways.

The undersigned proprietor of said property shown on this plat hereby certifies that all prior existing easement rights on land to be dedicated for public use and public ways and thoroughfares running to any person, utility or corporation have been absolved except that same person, utility or corporation shall retain whatever easement rights they would have as if located in a public street.

IN TESTIMONY WHEREOF, the undersigned proprietor has hereunto subscribed its name.

Owner: The DeLong Company, Inc. a Wisconsin Corporation

(Patrick DeLong, Board Member)

STATE OF } SS
COUNTY OF }

This instrument was acknowledged before me on this _____ day of _____, 2020, the undersigned, a Notary Public in and for said County and State aforesaid, came Patrick DeLong, Board Member, to me personally known to be the same person who executed the within instrument and duly acknowledged the same to be their free act and deed.

Notary Public: My Appointment Expires: _____

Printed Name: _____

AREAS

Lot 1	846,917 ± SQ. FT.	19,443 ± ACRES
R/W	65,692 ± SQ. FT.	1,508 ± ACRES
Total	912,609 ± SQ. FT.	20,951 ± ACRES

APPROVED BY, the Zoning Administrator of the City of Edgerton, Kansas, this _____ day of _____, 2020.

Katy Crow

APPROVED BY, the Planning Commission of the City of Edgerton, Kansas, this _____ day of _____, 2020.

John Daley, Chair

APPROVED BY, the City Engineer of the City of Edgerton, Kansas, this _____ day of _____, 2020.

David Hamby

The City is signing at the request of DeLong Companies.

APPROVED BY, the Governing Body of the City of Edgerton, Kansas, this _____ day of _____, 2020.

ATTEST: _____
Donald Roberts, Mayor Chris Clinton, City Clerk

I hereby certify that the information shown hereon is based on a field survey performed under my supervision in February, 2020.

By: STAN W. LLOYD KS-LS 827

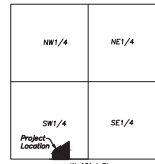
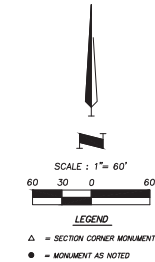
GENERAL NOTE:

Bearing shown hereon are base on the State Plane Coordinate System NAD 1983, Kansas North Zone. CAP=0.999943479.

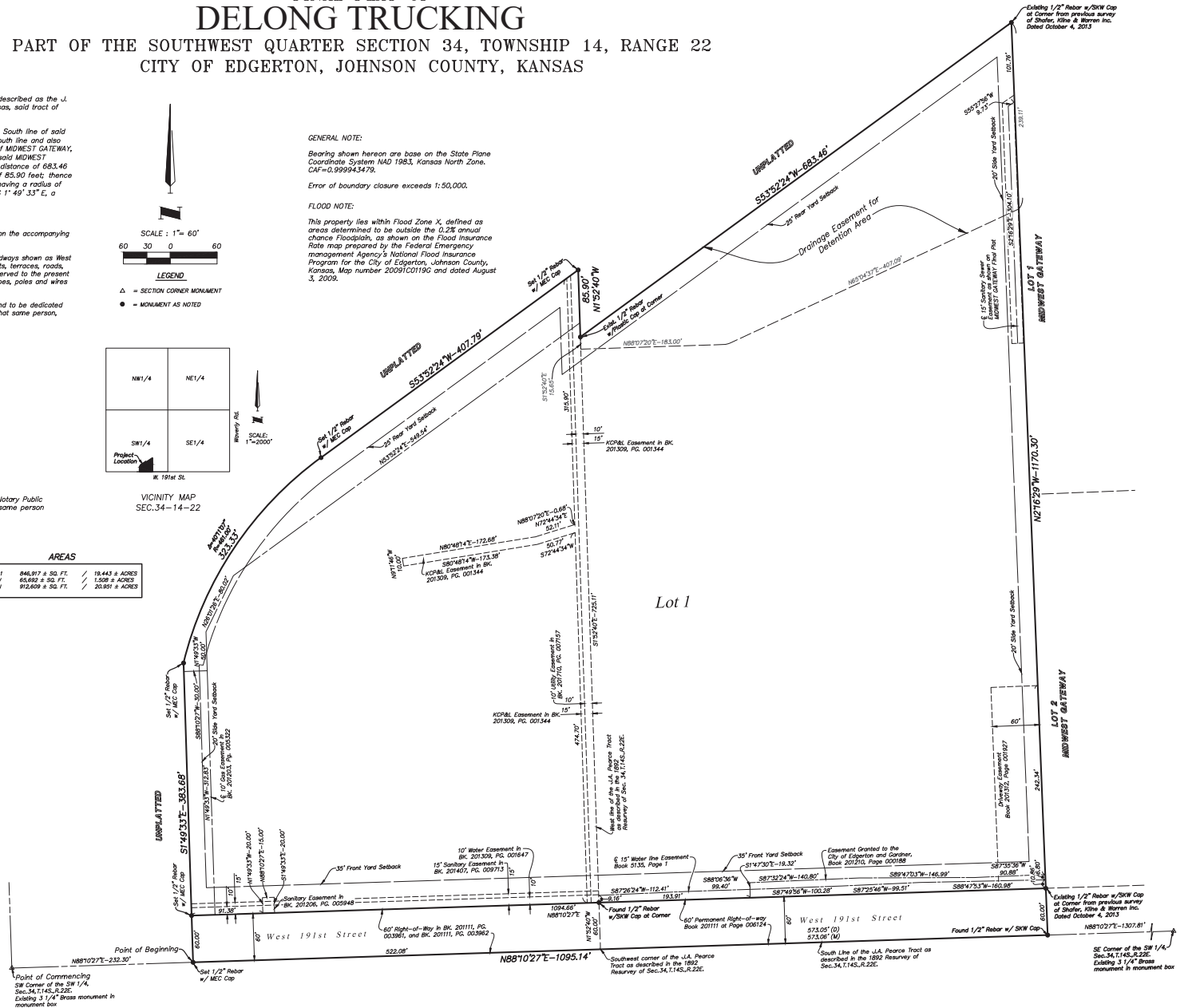
Error of boundary closure exceeds 1:50,000.

FLOOD NOTE:

This property lies within Flood Zone X, defined as areas determined to be outside the 0.2% annual chance Floodplain, as shown on the Flood Insurance Rate map prepared by the Federal Emergency Management Agency's National Flood Insurance Program for the City of Edgerton, Johnson County, Kansas, Map number 20091C0119C and dated August 3, 2009.



VICINITY MAP
SEC. 34--14--22



McCLURE ENGINEERING COMPANY

11051 STRANG LINE ROAD
LENEXA, KANSAS 66215
(913) 888-7800 WWW.MCCRESULTS.COM

DEVELOPER:
The DeLong Company, Inc.
32612 W 191st Street
Edgerton, KS 66021
Phone: (913) 854-7191

PROJECT NO. 190938-000 [190938-000 FPL.dwg] May 13, 2020 swl

EDGERTON CITY HALL
PLANNING COMMISSION MEETING
REGULAR SESSION
June 9, 2020

The Edgerton Planning Commission met in regular session with Chair John Daley calling the meeting to order at 7:01 PM.

All present participated in the Pledge of Allegiance.

The Roll Call was answered, indicating those present were Commissioner Jeremy Little, Commissioner Deb Lebakken, Commissioner Charlie Crooks and Chair John Daley. Absent from the meeting was Commissioner Tim Berger. Also present were City Administrator Beth Linn, Mayor Donald Roberts, Development Services Director Katy Crow, and Planning and Zoning Coordinator/City Clerk Chris Clinton.

The Planning and Zoning Coordinator/City Clerk announced a quorum was present.

CONSENT AGENDA

MINUTES

The approval of the minutes from the Regular Session held on April 14, 2020 were considered.

Commissioner Lebakken motioned to approve the consent agenda; Commissioner Little seconded the motion. The consent agenda was approved, 4-0.

NEW BUSINESS

FINAL PLAT FOR DELONG TRUCKING – APPLICATION FP2020-01

Ms. Crow stated this Final Plat is regarding the same parcels as the Preliminary Plat just heard by the Commission. She stated City Staff does have some comments that need to be addressed. After the Plat has been recorded with Johnson County Records and Tax Administration, confirmation of the monuments will be needed, and the book and page will be added at that time. There is a signature line missing from the Plat that needs to be included. The book and page need to be added for the existing sanitary sewer easement as well. Ms. Crow stated the applicant will have the Final Plat signed and sealed upon approval of all governmental bodies. Ms. Crow said this Plat will go before the Governing Body at the June 25, 2020 meeting.

Chairman Daley reminded the Commission the Plat is for the division of land and not what is could be built on the land. Commissioner Little motioned to approve Application FP2020-01 Final Plat for DeLong Trucking with the following stipulations:

1. The commencement of any improvements shall not occur prior to the approval and endorsement of the Final Plat and the submittal to and approval of construction plans for all streets, sidewalks, stormwater sewers, sanitary sewers, and water mains contained within the Final Plat by the Governing Body. The property owner and/or developer shall work with City Staff to determine the best possible placement for a stormwater easement and shall dedicate said stormwater easement on the Final Plat.

2. A Public Improvement Inspection Fee, established by the Fee Schedule for the UDC, shall be submitted with the document of financial assurance as defined in Section 13.7 prior to the commencement of any improvements.
3. The applicant shall meet all requirements of Recording a Final Plat as defined in Section 13.5 of the UDC, including payment of excise tax.
4. The applicant shall meet all requirements of Financial Assurances as defined in Section 13.7 of the UDC.
5. All City Engineer comments related to the Stormwater Management Plan, provided to the applicant, must be addressed.
6. All Final Plat requirements of the City listed in the Staff Report shall be met or addressed prior to recording of the Plat.
7. If the Final Plat is not recorded with the Johnson County Register of Deeds within one year after acceptance by the Governing Body, the Plat will expire. Planning Commission re-approval and Governing Body re-acceptance is required for expired Final Plats.

Commissioner Lebakken seconded the motion for approval. Application FP2020-01 was approved, 4-0.

Submitted by Chris Clinton, Planning and Zoning Coordinator/City Clerk

City Council Action Item

Council Meeting Date: June 25, 2020

Department: Community Development

Agenda Item: Consider Resolution 06-25-20A Providing for a Deadline of July 20, 2020 for Removal of Yard Nuisances at 502 E. Second Street, Edgerton, Kansas Pursuant to Edgerton City Code Chapter VIII, Article 3 and Allowing for the City to Abate the Costs Associated with the Removal of Said Nuisances.

Background/Description of Item: The property located at 502 E. 2nd Street has had numerous code enforcement violations over the past 5 years. In August of 2015, the owner of the property passed away. Property taxes entered a delinquent status and the taxes were not paid for several years. In April of 2018 City staff brought before the Governing Body Resolution 04-26-18A which allowed the City to move forward in abating the onsite nuisances which were in violation of Edgerton City Code Chapter VIII, Article 3, Section 8-308. Prior to the City bringing in resources to abate said nuisances, a family member of the deceased property owner moved to action and cleaned up the trash and debris. In 2019, tall grass and weeds violations continued to occur on this parcel which resulted in the assessments for the mowing costs being added to the property tax role for this property.

On October 29, 2019 this property was sold through the tax sale process. Per the Deputy Director of Legal for Johnson County, there was a 120-day redemption period due to an IRS tax lien. Pursuant to this requirement, the Sherriff's Deed was signed on March 18, 2020. The deed was then recorded, and the ownership updated on the tax rolls listing the new owner as R-7 Capital Funding, LLC located at 921 E. Hayward Avenue, Independence, Missouri. Deed documents do not list an individual's name.

Codes Enforcement has continued to monitor the property for basic maintenance and cleanliness since the ownership change. Between January and March of this year, the parcel continued to amass multiple piles of yard waste, miscellaneous debris and automotive tires. The growth of yard waste piles is an indicator that someone is adding to them. The same camper trailer that was on the property in 2018 is still onsite. The exterior is covered with mold and staff has not entered the property to determine if the trailer is secure and weather/rodent tight. In addition, an inoperable vehicle (expired tags) was also noted on the property. The presence of these items is a violation of Sections 8-308 and 8-403 of the Edgerton City Code.

On April 2, 2020 an Order of Violation (Sections 8-308 and 8-403) was sent via Certified Mail to owner of record, R-7 Capital Funding located in Independence, Missouri. This letter was returned via the US Postal Service with a label that says "Return to Sender, Unclaimed, Unable to Forward."

Between April and June of this year, the property has had multiple tall grass and weeds violations. On April 23, 2020 a "Notice to Remove" was sent to the owner via certified mail as well as a public notice posted in the Gardner News. This letter and public notice informed the owner of the nuisance and provided a time frame of ten days to abate the condition. The Notice to Remove was sent via Certified Mail to the owner's address in Independence, Missouri, and via regular mail to property address in Edgerton and a corporation with the same name at an address in Oklahoma City which has an authorized agent for mail receipt. The certified letter was again returned to sender, unclaimed and unable to forward. The letters sent via regular mail have not been returned.

In early May 2020 the inoperable vehicle was removed. The tall grass and weeds have not been taken care of and the City has maintained the grass on the property since May 4, 2020. Abatement costs to date are \$341.48.

The City Attorney has prepared Resolution No. 06-25-20A pursuant to Section 8-311 of the Edgerton City Code. Staff would recommend the Governing Body approve Resolution No. 06-25-20A to find the existence of the yard nuisances a violation of the City Code and remand the property owner to abate the nuisances by July 20, 2020. This allows for the publication twice of this Resolution (July 1, 2020 and July 8, 2020 – once each week for two consecutive weeks) plus the requisite 10 days after publication.

Should this deadline not be met, approval of Resolution No. 06-25-20A authorizes the City of Edgerton, by its agent, to abate the conditions causing the violations and remove the nuisances from the property pursuant to Section 8-311 of the Edgerton city Code.

Resolution No. 06-25-20A states that should it be necessary to abate these conditions, any and all costs incurred by the City of Edgerton, including attorneys' fees, shall be charged against the property as provided in Section 8-314, by having the City Clerk certify the costs of cleanup to Johnson County Clerk to be collected by the County Treasurer and paid to the City of Edgerton as other City taxes are collected and paid.

Related Ordinance(s) or Statue(s): – Edgerton City Code Chapter VIII, Article 3, Section 8-311

Funding Source: N/A

Budget Allocated: N/A

Finance Director Approval: N/A

Recommendation: Approve Resolution 06-25-20A Providing for a Deadline of July 20, 2020 for Removal of Yard Nuisances at 502 E. Second Street, Edgerton, Kansas Pursuant to Edgerton City Code Chapter VIII, Article 3 and Allowing for the City to Abate the Costs Associated with the Removal of Said Nuisances.

Enclosed:

- Edgerton City Code Chapter VIII, Article 3, Section 8-311
- Resolution 06-25-20A
- Photos of 502 E. 2nd Street

Prepared by: Katy Crow, Development Services Director

before the governing body within the time periods specified in Section 8-309. Upon such complaint in the municipal court, any person found to be in violation of Section 8-308 shall upon conviction be punished by a fine of not less than \$50 nor more than \$100, or by imprisonment, for not more than 30 days, or by both such fine and imprisonment, for each offense. For the purposes of this ordinance, a separate offense shall be deemed committed on each day during or on which such violation is permitted to exist. (Ord. 796, 2005; Code 1995)

8-311. **ABATEMENT.** In addition to, or as an alternative to prosecution as provided in Section 8-310, the public officer may seek to remedy violations of this Article in the following manner. If a person to whom an order has been served pursuant to Section 8-309 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in Section 8-309, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in Section 8-314. A copy of the resolution shall be served upon the person in violation in one of the following ways:

- (a) Personal service upon the person in violation;
- (b) Certified mail, return receipt requested; or
- (c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public officer and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.
- (d) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. (Ord. 796, 2005, Code 1995)

8-312. **HEARING BEFORE GOVERNING BODY.** If a hearing is requested within the 10 day period as provided in Section 8-309 such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer before the governing body. The hearing shall be held by the governing body as soon as possible after the filing of the request therefor, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body. The hearing need

RESOLUTION NO. 06-25-20A

A RESOLUTION IN THE CITY OF EDGERTON, KANSAS, PROVIDING FOR A DEADLINE OF JULY 20, 2020 TO REMOVE YARD NUISANCES FROM THE PROPERTY AT 502 EAST 2ND STREET IN THE CITY OF EDGERTON, JOHNSON COUNTY, KANSAS PURSUANT TO CITY OF EDGERTON CITY CODE, CHAPTER VIII, ARTICLE 3

WHEREAS, the City Council of the City of Edgerton, Kansas has received complaints from the public and the city enforcement officer has witnessed that there exists, on the premises of 502 East 2nd Street, Edgerton, Kansas (the "Property"), multiple items of trash, including but not limited to, scrap metal, abandoned household goods, an abandoned trailer and other refuse in violation of Section 8-308 of the City Code; and

WHEREAS, a notice of violation of sections 8-308 and 8-403 was served on the Property's listed owner, R-7 Capital Funding, LLC on or about April 2, 2020 giving the owner ten days to abate the nuisances and/or to request a hearing in front of the City Council; and

WHEREAS, the Property remains non-compliant and the Council has decided to proceed with the abatement of these nuisances as allowed by Section 8-311 of the City Code.

BE IT RESOLVED BY THE CITY COUNCIL, CITY OF EDGERTON, JOHNSON COUNTY, KANSAS:

That pursuant to Section 8-311 of the City Code of the City of Edgerton, Kansas the City Council hereby finds that the existence of these yard nuisances are violations of the City Code and the owner shall have until July 20, 2020 to abate these nuisances. Should the nuisances not be abated to the satisfaction of the City by July 20, 2020 the City of Edgerton, by its agent, is hereby authorized to abate the conditions causing the violations and remove the nuisances from the property pursuant to 8-311.

BE IT FURTHER RESOLVED:

That should it be necessary to abate these conditions, any and all costs incurred by the City of Edgerton, Kansas, including attorneys' fees, shall be charged against the above described property as provided in Section 8-314 of the City Code and the City Clerk shall, at the time of certifying other taxes to the County Clerk, certify the costs of cleanup. The County Clerk shall extend the same on the tax roll and it shall be collected by the County Treasurer and paid to the City of Edgerton as other City taxes are collected and paid.

PASSED by the City Council on this 25th day of June, 2020.

APPROVED BY the Mayor on this 25th day of June, 2020.

DONALD ROBERTS, MAYOR

ATTEST:

CHRIS CLINTON, CITY CLERK

APPROVED AS TO FORM:

LEE W. HENDRICKS, CITY ATTORNEY

Resolution 06-25-20A – Violation of Chapter VIII, Article 3



Resolution 06-25-20A – Violation of Chapter VIII, Article 3



Resolution 06-25-20A – Violation of Chapter VIII, Article 3



- 10/29/2019 Tax sale – Included special assessments for tall grass/weed removal throughout 2019 (No contact/owner information available at the time of sale).
- City of Edgerton was not notified regarding an IRS lien until 1/2/2020 regarding a 120-day waiting period for the new owner to sign the deed. (Ending date was 2/25/2020 for new owner to sign deed)
- During the months of Jan-Mar 2020 some discarded items started to appear on the property. A small brush pile started to grow on the south end of the front yard. Some tires were noted to have been deposited between the house and the fence. At the same time one of the front windows appeared to have fallen in as well as a broken/missing window on the second floor. The front door also appeared to not be securely closed. An inoperable vehicle with expired plates (previously noted at Edgerton tow lot) appeared on the property.
- The City of Edgerton was notified on 3/2/2020 the signing of the deed would be pushed until the week of 3/16/2020
- 3/18/2020 The new owner (R7 Capital Funding LLC out of Independence, MO) signed the deed. The documents do not list an individual's name.
- 3/26/2020 JoCo AIMS updates ownership information online.
- **• 4/2/2020 A order of violation notice was sent via certified mail to R7 Capital Funding regarding the violations on the property – junk accumulation - tires – brush pile with bags of trash and an inoperable vehicle. The certified letter was not accepted by R7 Capital.
- **• 4/23/2020 A “Notice to remove” for tall weeds and grass was sent via certified mail as well as a public notice posted in Gardner News newspaper. This letter was also not accepted. The City has maintained the grass to city codes since 5/4/2020 (10 days past letter/public notice)
- The inoperable vehicle was removed in early May 2020.
- To date, the new property owner has made no contact with Edgerton Codes Dept.

• **Photos show current conditions. Brush pile with trash – discarded tires and misc. trash – in addition, the 5th wheel camper left on the property from the previous owner is covered in mold/mildew.**

The structure has several broken or missing windows and the front door looks to be unsecured/latched – the structure is not weather/rodent tight.

Overgrown saplings/weeds noted throughout the property and alongside the main structure.

City Council Action Item

Council Meeting Date: June 25, 2020

Department: Community Development

Agenda Item: Consider Resolution 06-25-20B Deeming the Property Located at 502 E. Second Street, Edgerton Kansas an Immediate Hazard Pursuant to Edgerton City Code Chapter IV, Article 4, Section 4-412.

Background/Description of Item: As was noted in Resolution 06-25-20A, the property located at 502 E. 2nd Street has had numerous code enforcement violations over the past 5 years. In addition to the violations noted related to the existence of refuse on the property, there are also multiple broken or missing windows. In addition, the front door appears to be open or missing. City staff has not entered the property to determine the interior condition of the home.

Pursuant to Edgerton City Code Chapter IV, Article 4, Section 4-412, the governing body may direct the public officer to erect barricades or cause the property to be vacated, taken down, repaired, shored or otherwise made safe without delay. Such action may be taken without prior notice or hearing to the owner of the property.

City Attorney has prepared Resolution No. 06-25-20B pursuant to Section 4-412 of the Edgerton City Code. Staff would recommend the Governing Body approve Resolution No. 06-25-20B to find the existence of broken windows and unsecured doors a violation of the City Code and instruct the public officer and Codes Enforcement Officer to cause the property to be made safe without delay.

Resolution No. 06-25-20AB also states that any and all costs incurred by the City of Edgerton, including attorneys' fees, shall be charged against the property as provided in Section 4-412, by having the City Clerk certify the costs of cleanup to Johnson County Clerk to be collected by the County Treasurer and paid to the City of Edgerton as other City taxes are collected and paid.

Related Ordinance(s) or Statue(s): – Edgerton City Code Chapter IV, Article 4, Section 4-412

Funding Source: N/A

Budget Allocated: N/A

Finance Director Approval: N/A

Recommendation: Approve Resolution 06-25-20B Deeming the Property Located at 502 E. Second Street, Edgerton Kansas an Immediate Hazard Pursuant to Edgerton City Code Chapter IV, Article 4, Section 4-412.

Enclosed:

- Edgerton City Code Chapter IV, Article 4, Section 4-412
- Resolution 06-25-20B
- Photos of 502 E. 2nd Street

Prepared by: Katy Crow, Development Services Director

take such action, the public officer may proceed to make the site safe. (Code 1984)

- 4-411. ASSESSMENT OF COSTS. (a) The cost to the city of any repairs, alteration, improvements, vacating, removal or demolition by the public officer, including making the site safe, shall be reported to the city clerk.
- (b) The city clerk may sell any salvage from the structure and apply the proceeds or any necessary portion thereof to pay the cost of removing the structure and making the site safe. Any proceeds in excess of that required to recover the costs shall be paid to the owner of the premises upon which the structure was located.
- (c) If the proceeds of the sale of salvage is insufficient to recover the cost, or if there is no salvage, the city clerk shall, at the time of certifying other city taxes, certify the unpaid portion of the costs to the county clerk who shall extend the same on the tax roll of the county. (K.S.A. 12-1756; Code 1984)
- 4-412. IMMEDIATE HAZARD. When in the opinion of the governing body any structure is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, the governing body may direct the public officer to erect barricades or cause the property to be vacated, taken down, repaired, shored or otherwise made safe without delay. Such action may be taken without prior notice to or hearing of the owners, agents, lienholders and occupants. The cost of any action under this section shall be assessed against the property as provided in section 4-411. (Code 1984)
- 4-413. APPEALS FROM ORDER. Any person affected by an order issued by the governing body under this article may, within 30 days following service of the order, petition the district court of the county in which the structure is located for an injunction restraining the public officer from carrying out the provisions of the order pending final disposition of the case. (Code 1984)

ARTICLE 5. MOVING BUILDNGS

- 4-501. PERMIT NECESSARY. It shall be unlawful for any person to move, haul or transport, any house, building, derrick or other structure of the height of 16 feet or over, or of a width of 15 feet or more upon, across or over any street or alley in this city without first obtaining a permit therefore as hereinafter provided. (Code 1984)
- 4-502. APPLICATION FOR PERMITS. All applications for permits to move houses, buildings, derricks or other structures mentioned in section 4-501 shall be made in writing to the city clerk specifying the day and hour the moving is to commence and the route thru the city's streets over which the building or structure shall be moved. If it shall be necessary to cut down and move, raise or in any manner interfere with any wires or poles, the application shall state the name of the owners of the wires and poles, the time and place, when and where the removal of

RESOLUTION NO. 06-25-20B

A RESOLUTION IN THE CITY OF EDGERTON, KANSAS, DEEMING THE PROPERTY LOCATED AT 502 EAST 2ND STREET IN THE CITY OF EDGERTON, JOHNSON COUNTY, KANSAS AN IMMEDIATE HAZARD PURSUANT TO CITY OF EDGERTON CITY CODE, CHAPTER IV, ARTICLE 4, SECTION 4-412

WHEREAS, the city enforcement officer has informed the City Council that the property located at of 502 East 2nd Street, Edgerton, Kansas (the "Property"), constitutes an immediate hazard requiring immediate action to protect the public as allowed by Section 4-412 of the City Code; and

WHEREAS, more specifically, the Property is unoccupied, has multiple broken windows and doors which are a danger to citizens, especially children, and are a hazard to those who might try to enter the Property; and

WHEREAS, the City Council wishes to cause the Property to be made safe through the boarding of windows and doors and any and all additional steps necessary to protect the public, as allowed by City Code Section 4-412.

BE IT RESOLVED BY THE CITY COUNCIL, CITY OF EDGERTON, JOHNSON COUNTY, KANSAS:

That pursuant to Section 4-412 of the City Code of the City of Edgerton, Kansas the City Council hereby finds that the property at 502 East 2nd Street is hereby deemed an immediate hazard, and the Council instructs the public officer and city enforcement officer to cause the Property to be made safe without delay. Said action shall be taken without prior notice to, or hearing of, the owners, agents, lienholders and occupants as allowed by Section 4-412.

BE IT FURTHER RESOLVED:

That any and all costs incurred by the City of Edgerton, Kansas, in making the Property safe shall be assessed against the Property as provided in Section 4-411 of the City Code. Should those amounts go unpaid, the County Clerk shall extend the same on the tax roll and it shall be collected by the County Treasurer and paid to the City of Edgerton as other City taxes are collected and paid.

PASSED by the City Council on this 25th day of June, 2020.

APPROVED BY the Mayor on this 25th day of June, 2020.

DONALD ROBERTS, MAYOR

ATTEST:

CHRIS CLINTON, CITY CLERK

APPROVED AS TO FORM:

LEE W. HENDRICKS, CITY ATTORNEY

Resolution 06-25-20B – Violation of Chapter IV, Article 4



Resolution 06-25-20B – Violation of Chapter IV, Article 4



City Council Action Item

Council Meeting Date: June 25, 2020

Department: Community Development

Agenda Item: Consider the Resolution 06-25-20C Providing for a Hearing to Discuss 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 4-405.

Background/Description of Item: As was noted in Resolution 06-25-20A, the property located at 502 E. 2nd Street has had numerous code enforcement violations over the past 5 years and the pursuant to Resolution 06-25-20B, the governing body has taken action to make the building safe without delay and without prior notice to the owner.

The owner of this property has been unresponsive to notifications sent regarding the upkeep and maintenance of this property. The 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 find a 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 could not be condemned and ordered repaired or demolished.

The City Attorney has prepared Resolution No. 06-25-20C pursuant to Section 4-405 of the Edgerton City Code to set the date and time for such a hearing. This 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 this resolution will occur on July 1, 2020 and July 8, 2020 with a public hearing set for Thursday, August 13, 2020 at 7:00 PM.

Staff would recommend the Governing Body approve Resolution No. 06-11-20C in order to continue moving forward the process to abate this nuisance.

Related Ordinance(s) or Statue(s): – Edgerton City Code Chapter IV, Article 4

Funding Source: N/A

Budget Allocated: N/A

Finance Director Approval: N/A

Recommendation: Approve Resolution 06-25-20C Providing for a Hearing to Discuss 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 4-405.

Enclosed:

- Edgerton City Code Chapter IV, Article 4
- Resolution 06-25-20C
- Memo from Code Enforcement Officer
- Photos of 502 E. 2nd Street

Prepared by: Katy Crow, Development Services Director

4-315. LIABILITY. This article shall not be construed to relieve from any liability or lessen the liability of any person performing any activity connected herewith, nor shall the city be held as assuming any liability by reason of any inspection authorized herein, or by reason of any certificate of inspection issued by it. (Code 1984)

ARTICLE 4. DANGEROUS AND UNSAFE BUILDINGS

4-401. PURPOSE. The governing body of the City of Edgerton has found that there exist within the corporate limits of the city structures which are unfit for human use or habitation because of dilapidation, defects increasing the hazards of fire or accidents, structural defects or other conditions which render such structures unsafe, unsanitary or otherwise inimical to the general welfare of the city, or conditions which provide a general blight upon the neighborhood or surrounding properties. It is hereby deemed necessary by the governing body to require or cause the repair, closing or demolition or removal of such structures as provided in this article. (K.S.A. 12-1751; Code 1984)

4-402. DEFINITIONS. For the purpose of this article, the following words and terms shall mean:

- (a) Structure shall include any building, wall, superstructure or other structure which requires location on the ground, or is attached to something having a location on the ground.
- (b) Public Officer means the city building inspector or his or her authorized representative. (K.S.A. 12-1750; Code 1984)

4-403. PUBLIC OFFICER; DUTIES. The public officer is hereby authorized to exercise such powers as may be necessary to carry out the purposes of this article. Including the following:

- (a) Inspect any structure which appears to be unsafe, dangerous or unfit for human habitation;
- (b) Have authority to enter upon premises at reasonable hours for the purpose of making such inspections. Entry shall be made so as to cause the least possible inconvenience to any person in possession of the structure. If entry is denied, the public officer may seek an order for this purpose from a court of competent jurisdiction;
- (c) Report all structures which he or she believes to be dangerous, unsafe or unfit for human habitation to the governing body;
- (d) Receive petitions as provided in this article. (Code 1984)

4-404. PROCEDURE; PETITION. Whenever a petition is filed with the public officer by at least five residents charging that any structure is dangerous, unsafe or unfit for human habitation, or whenever it appears to the public officer on his or her own motion that any structure is dangerous, unsafe or unfit for human habitation, he or she shall, if his or her preliminary investigation discloses a basis for such charges, report such findings to the governing body. (Code 1984)

- 4-405. SAME; NOTICE. The governing body upon receiving a report as provided in section 4-404, shall be resolution fix a time and place at which the owner, the owner's agent, any lienholder of records and any occupant of the structure may appear and show cause why the structure should not be condemned and ordered repaired or demolished. (K.S. A. 12-1752; Code 1984)
- 4-406. SAME; PUBLICATION. (a) The resolution shall be published once each week for two consecutive weeks on the same day of each week. At least 30 days shall elapse between the last publication and the date set for the hearing.
(b) A copy of the resolution shall be mailed by certified mail within three days after its first publication to each owner, agent, lienholder and occupant at the last known place of residence and shall be marked "deliver to addressee only." (K.S.A. 12-1752; Code 1984)
- 4-407. SAME; HEARING, ORDER. (a) If, after notice and hearing, the governing body determines that the structures under consideration is dangerous, unsafe or unfit for human use or habitation, it shall state in writing its findings of fact in support of such determination and shall cause to be served upon the owner or agent an order directing such owner to either repair or demolish or remove the structure.
(b) If the 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.
(c) 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 time specified in the order, remove or demolish the structure. (Code 1984)
- 4-408. DUTY OF OWNER. Whenever any structure within the city shall be found to be dangerous, unsafe or unfit for human use or habitation, it shall be the duty and obligation of the owner of the property to render the same secure and safe or to remove the same. (Code 1984)
- 4-409. SAME; FAILURE TO COMPLY. (a) If, within the time specified in the order, the owner fails to comply with the order to repair, alter, improve or vacate the structure, the public officer may cause the structure to be repaired, altered, improved, or to be vacated and closed.
(b) If, within the time specified in the order, the owner fails to comply with the order to remove or demolish the structure, the public officer may cause the structure to be removed and demolished. (Code 1984)
- 4-410. SAME; MAKE SITE SAFE. Upon removal of any structure, the owner shall fill any basement or other excavation located upon the premises and take any other action necessary to leave the premises in a safe condition. If the owner fails to

take such action, the public officer may proceed to make the site safe. (Code 1984)

- 4-411. ASSESSMENT OF COSTS. (a) The cost to the city of any repairs, alteration, improvements, vacating, removal or demolition by the public officer, including making the site safe, shall be reported to the city clerk.
- (b) The city clerk may sell any salvage from the structure and apply the proceeds or any necessary portion thereof to pay the cost of removing the structure and making the site safe. Any proceeds in excess of that required to recover the costs shall be paid to the owner of the premises upon which the structure was located.
- (c) If the proceeds of the sale of salvage is insufficient to recover the cost, or if there is no salvage, the city clerk shall, at the time of certifying other city taxes, certify the unpaid portion of the costs to the county clerk who shall extend the same on the tax roll of the county. (K.S.A. 12-1756; Code 1984)
- 4-412. IMMEDIATE HAZARD. When in the opinion of the governing body any structure is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, the governing body may direct the public officer to erect barricades or cause the property to be vacated, taken down, repaired, shored or otherwise made safe without delay. Such action may be taken without prior notice to or hearing of the owners, agents, lienholders and occupants. The cost of any action under this section shall be assessed against the property as provided in section 4-411. (Code 1984)
- 4-413. APPEALS FROM ORDER. Any person affected by an order issued by the governing body under this article may, within 30 days following service of the order, petition the district court of the county in which the structure is located for an injunction restraining the public officer from carrying out the provisions of the order pending final disposition of the case. (Code 1984)

ARTICLE 5. MOVING BUILDNGS

- 4-501. PERMIT NECESSARY. It shall be unlawful for any person to move, haul or transport, any house, building, derrick or other structure of the height of 16 feet or over, or of a width of 15 feet or more upon, across or over any street or alley in this city without first obtaining a permit therefore as hereinafter provided. (Code 1984)
- 4-502. APPLICATION FOR PERMITS. All applications for permits to move houses, buildings, derricks or other structures mentioned in section 4-501 shall be made in writing to the city clerk specifying the day and hour the moving is to commence and the route thru the city's streets over which the building or structure shall be moved. If it shall be necessary to cut down and move, raise or in any manner interfere with any wires or poles, the application shall state the name of the owners of the wires and poles, the time and place, when and where the removal of

RESOLUTION NO. 06-25-20C

A RESOLUTION IN THE CITY OF EDGERTON, KANSAS, PROVIDING FOR A HEARING TO DISCUSS A POSSIBLE DANGEROUS AND UNFIT STRUCTURE EXISTING 502 EAST 2ND STREET IN THE CITY OF EDGERTON, JOHNSON COUNTY, KANSAS PURSUANT TO CITY OF EDGERTON CITY CODE, CHAPTER IV, ARTICLE 4, SECTION 4-405

WHEREAS, it has been reported to the City Council of the City of Edgerton, Johnson County, Kansas by the public officer that there exists, on the premises of 502 East 2nd Street Edgerton, Kansas, a structure which is unfit for human use because of dilapidation, and serves as a general blight upon the neighborhood and surrounding properties. These conditions are found to be dangerous, unsafe and unfit for human habitation.

WHEREAS, the title to the home at 502 East 2nd Street is currently held by R-7 Capital Funding, LLC.

WHEREAS, pursuant to Section 4-405 of the City Code of the City of Edgerton, Kansas, the City Council wishes to fix a time and place for the owner to appear and show cause why the structure should not be condemned and ordered repaired or demolished.

BE IT RESOLVED BY THE CITY COUNCIL, CITY OF EDGERTON, JOHNSON COUNTY, KANSAS: That pursuant to Section 4-405, the City will hold a hearing on August 13, 2020 at 7:00 PM at City Hall, for R-7 Capital Funding, LLC, and any other person who would claim an interest in the property above described but who are currently unknown to the City of Edgerton, to appear and show cause why the structure located at 502 East 2nd Street should not be condemned and ordered to be demolished.

PASSED by the City Council on this 25th day of June, 2020.

APPROVED BY the Mayor on this 25th day of June, 2020.

DONALD ROBERTS, MAYOR

ATTEST:

CHRIS CLINTON, CITY CLERK

APPROVED AS TO FORM:

LEE W. HENDRICKS, CITY ATTORNEY

MEMORANDUM

Date: June 25, 2020
To: City of Edgerton Governing Body
From: Charlie Lydon, Code Enforcement Officer
Re: 502 E. 2nd Street, Edgerton, Kansas – Dangerous Structure

502 East 2nd Street, originally built in 1880, has been a long-standing concern for Codes Enforcement as well as a source of nearly constant complaints from surrounding residents. The structure itself has not been occupied for more than 25 years. Photos from Johnson County Land Records, AIMS, shows this structure in disrepair as far back as 1993. Since then the property has been sold at least 5 times but never inhabited.

In 2014, Jim Elrod, Asst. City Superintendent and Jerry Malory, Chief Building Official of Johnson County along with myself did a brief building inspection with Mark Trammel, the owner at that time. The inspection showed the inside of the home was completely gutted down to the framing. A large beam that supported the second floor had a section cut out and the entire second floor was sagging at least one foot. At that time, the conclusion was that the structure was not an immediate concern for collapsing but would require a complete renovation and extensive expertise to be brought up to current minimal standards. Since then the home has sat and had virtually no improvements. The home has continued to degrade. Recently several windows have been either broken or fallen in, the front door appears ajar and the exterior siding is continuing to literally fall off the home.

In its current condition, the home is neither animal nor weather tight. The interior will have been exposed to weather, wildlife and potentially vandalism. In addition, the structure having degraded for an additional 6 plus years serves as a serious public health and safety concern as well as blight for surrounding residents.

Resolution 06-25-20C – Violation of Chapter IV, Article 4



Resolution 06-25-20C – Violation of Chapter IV, Article 4



Resolution 06-25-20C – Violation of Chapter IV, Article 4

