

**City of Edgerton, Kansas**  
**Minutes of City Council Regular Session**  
**August 11, 2022**

A Regular Session of the City Council (the Council) was held in the Edgerton City Hall, 404 E. Nelson, Edgerton, Kansas on August 11, 2022. The meeting convened at 7:22 PM with Mayor Roberts presiding.

**1. ROLL CALL**

Clay Longanecker	present
Josh Lewis	present
Josh Beem	absent
Josie Stambaugh	absent
Deb Lebakken	present via telephone

With a quorum present, the meeting commenced.

Staff in attendance: City Administrator, Beth Linn  
Planning and Zoning Coordinator/Deputy City Clerk, Chris Clinton  
Public Works Director, Dan Merkh  
Public Works Superintendent, Trey Whitaker  
Development Services Director, Katy Crow  
Accountant, Justin Vermillion  
Capital Improvement Project Manager, Brian Stanley  
Finance Director, Karen Kindle

**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 from July 28, 2022 Regular City Council Meeting
5. Approve Resolution 08-11-22A Appointing Beth Linn as Zoning Administrator for the City of Edgerton.

Councilmember Longanecker made motion to approve the consent agenda, seconded by Councilmember Lewis. The items were approved, 3-0.

**Regular Agenda**

6. **Declaration.** At this time Councilmembers may declare any conflict or communication they have had that might influence their ability to impartially consider today's issues.

There were no declarations made by the Councilmembers.

7. **Public Comments.** The City of Edgerton encourages public participation in local governance issues. To facility an efficient and effective meeting, persons wishing to address

the City Council must sign-up before the meeting begins. Speakers must provide their name and address for the record and are limited to three (3) minutes. The maximum time limit for all speakers will be thirty (30) minutes. Comments on personnel matters or matters pending before court/other outside tribunals are not permitted. Any comments are for informational purposes only. No action will be taken. The Mayor may modify these provisions , as necessary. The Mayor may limit any unnecessary, off-topic, or redundant comments or presentations. Speakers should address their comments to City Councilmembers only and should not speak to fellow audience members. City Council members should conduct themselves in a civil and respectful manner. Disruptive conduct may result in removal from the meeting.

Mr. James Oltman, President of ElevateEdgerton!, approached the Council. He stated he is speaking in support of the proposed Planned Unit Development (PUD). He explained Edgerton is in need of additional housing. This is confirmed by the Edgerton housing assessment completed last year. There are real life examples of this need being shown, including a previous Councilmember needing to move out of the City as there was not a house to fit their needs. Rausch Coleman has been discussing a possible development in the City since July 23, 2018, so this proposal has been years in the making. This particular developer will be able to market the homes to large number of buyers. Potential buyers would include people looking for larger homes, older people wanting to downsize, and first-time home buyers. This proposal has not been made in haste and is well researched. He implored the Council to be on the side of progress.

Mr. Dan Merkh, Public Works Director, spoke before the Council. He introduced Mr. Rick Scholler, who is a new Public Works employee. Mr. Scholler stated he currently lives in Wellsville and has done hands-on work all his life. He wanted to be closer to home and has enjoyed learning new things during his first few days employed with the City. He said he has worked on farms and like to go fishing and hunting. The Council welcomed Mr. Scholler to the City. Mr. Merkh explained Public Works is almost fully staffed once again.

### **Business Requiring Action**

- 8. CONSIDER ORDINANCE NO. 2113 ADOPTING THE RECOMMENDATION OF THE CITY OF EDGERTON PLANNING COMMISSION TO APPROVE APPLICATION ZA2022-01 FOR THE REZONING OF APPROXIMATELY 80.4 ACRES OF LAND LOCATED AT THE SOUTHWEST CORNER OF 207<sup>TH</sup> STREET/BRAUN STREET AND 8<sup>TH</sup> STREET/EDGERTON ROAD FROM JOHNSON COUNTY "RUR (RURAL DISTRICT) TO CITY OF EDGERTON "PUD" (PLANNED UNIT DEVELOPMENT) ZONING.**

Ms. Katy Crow, Director of Development Services, approached the Council. She reminded the Council about the presentation a few months ago about Planned Unit Developments and how they operate. This is the first development application of this type in Edgerton. She stated the City of Edgerton received the rezoning Application ZA2022-01 from Jesse Fulcher, the applicant representative for the owners, Dennis L. Dwyer, Vickie J. Dwyer, David L. Dwyer, and Kendra L. Dwyer, and the developer, Rausch Coleman Homes, requesting the rezoning of an 80.4-acre parcel located southwest corner of 207<sup>th</sup> Street/ Braun Street and 8<sup>th</sup> Street/Edgerton Road in Edgerton, Kansas from Johnson County "RUR" zoning to City of Edgerton "PUD" zoning. The parcel was annexed into the City of Edgerton on April 14, 2022.

The current zoning designation of RUR is considered a holding designation and thus an appropriate zoning designation is required under the City of Edgerton Unified Development Code (UDC) for development. This request is to rezone the parcel to Planned Unit Development (PUD) with the intent of developing a 275 single family residential home development, which is Conceptual Plan Application PUD2022-01, which will be presented later to the Council.

Ms. Crow explained City staff reviewed the rezoning application with respect to the Edgerton Comprehensive Plan, the Edgerton UDC Zoning and Subdivision Regulations, and the laws of the State of Kansas, in particular the "Golden Criteria" as established by the Supreme Court of Kansas in 1978. She said the Planning Commission held a Public Hearing on July 12, 2022 regarding this rezoning request and voted 3-0 to recommend approval of Application ZA2022-01 subject to two stipulations. Those stipulations are all infrastructure requirements of the City are met and all requirements of the City for a PUD are met. She informed the Council that copies of the Staff Report and draft minutes were included in the packet. City staff has not received any further public comment for this application following the Planning Commission action on July 12, 2022.

Councilmember Longanecker moved to approve Ordinance No. 2113. Councilmember Lewis seconded the motion. Ordinance No. 2113 was approved, 3-0.

**9. CONSIDER ORDINANCE NO. 2114 ADOPTING THE RECOMMENDATION OF THE EDGERTON PLANNING COMMISSION TO APPROVE APPLICATION PUD2022-01 FOR A PLANNED UNIT DEVELOPMENT CONCEPT PLAN FOR 80.4 ACRES OF LAND LOCATED AT THE SOUTHWEST CORNER OF 207<sup>TH</sup> STREET/BRAUN STREET AND 8<sup>TH</sup> STREET/EDGERTON ROAD IN EDGERTON, KANSAS.**

Ms. Crow spoke before the Council. She stated that the first step for a Planned Unit Development (PUD) is the rezoning which was done by Ordinance No. 2113. The Conceptual Plan is the next step and will take the place of the Preliminary Plat that is typically done with other developments.

Ms. Crow explained the project acreage is divided by use. The residential lots will comprise 48.2 acres, the green space will make up 9.7 acres, the storm drainage will contain 3.4 acres, and the remaining 19.1 acres will be made up of dedicated right-of-way. The houses in the subdivision will be three (3) to four (4) bedrooms with two (2) or 3 baths and range from 1,300 square feet to 2,400 square feet. Each home will have a 2 or 3 car garage and all of the front façades will be completely masonry on the first floor. She said there will be a Homeowner's Association (HOA) with a Declaration of Covenants, Conditions, and Restrictions (CCR's) that only owners within the subdivision must abide by. She said a tree that measures one and a half (1.5) to two (2) in inches in caliper shall be planted in the front yard of every lot. There will be trees planted every forty (40) feet along 8<sup>th</sup> Street/Edgerton Road and 207<sup>th</sup> Street/Braun Street along the exterior of the subdivision. The applicant has indicated that home prices are anticipated to be between \$275,000 and \$350,000. Ms. Crow said the development will be split into 4 phases over 5 years. The first phase will have eighty-one (81) lots, the second phase will have seventy (70) lots, the third phase will have sixty-one (61) lots, and the final phase will be made of sixty-three (63) lots.

Ms. Crow said the UDC states the purpose of a PUD is to encourage and allow a more creative and imaginative project design that is possible under standard district zoning regulations. The flexibility allowed when designing a PUD will result in a community which can include more green space for recreational activities, walking trails, playgrounds, and other amenities. She explained there is a difference from the proposed lot sizes than that of standard requirements for R-1, single-family residential, zoning. The applicant has requested a departure from the standard lot width of 70 feet as some of the interior lots in the subdivision are fifty (50) feet wide. The UDC requires that perimeter lots of a PUD match the width or depth of adjacent properties. This development meets that requirement.

Councilmember Longanecker inquired if the narrower lots will change the setback requirements.

Ms. Crow said as a balance to the narrower lots on the interior of the subdivision, the applicant has included a ten (10) foot walking trail along 207<sup>th</sup> Street/Braun Street and 8<sup>th</sup> Street/Edgerton Road, a playground area in the center of the development and proposed sidewalks throughout the development. She stated in addition to the lot width and setback deviations, the applicant has requested a departure from the PUD requirement of sixteen (16) feet between single family detached dwellings. The applicant is requesting the spacing between the residential units be 10 feet with each dwelling unit having a five (5) foot side yard setback with that setback being measured to the exterior building wall. She explained this would allow overhangs or eaves to encroach into the setback. The City's contracted building official review has noted that all aspects of the building, eaves included, needs to be a minimum of 10 feet apart, unless fire rated materials, such as cement fiberboard, are used in construction.

Ms. Crow stated Article 6, Section 6.1(C)(9)(b) of the UDC states that any departure from the any requirement specified in the UDC or other City ordinances and regulations is a privilege and shall be granted upon recommendation of the Planning Commission and approval by the Governing Body. Both City staff and the Planning Commission recommended approval of the departure from the standard R-1 lot sizes for this project and the standards for setback distances as long as fire rated materials are used in construction.

Ms. Crow explained on July 12, 2022, the Planning Commission held a public hearing regarding this Conceptual Plan request and voted 3-0 to recommend approval of Application PUD2022-01 subject to stipulations. Those stipulations are all infrastructure requirements of the City are met, all requirements of the City for a PUD are met, and the Planning Commission recommendation to grant the departure from PUD standards for setback distance on side yards between residential units as long as fire rated materials are used in construction. She said the Staff Report and draft minutes were provided in the packet. City staff has not received any further public comment for this application following the Planning Commission action on July 12, 2022.

Mayor Roberts explained a PUD is a give and take development. The City allows items that differ than traditional development and the developer adds amenities and other incentives for the buyers. He said he has received phone calls about requiring storm shelters for houses that will not have basements. He knows of shelters that people can buy and install in the garage or elsewhere in the house. Mayor Roberts stated he knows it is an option for

buyers to select to have it installed during the construction of the home, but he inquired if Rausch Coleman would have it as a standard item to be included and if the homebuyer wants to opt out of the installation of the storm shelter, they can.

Mr. John Stone with Rausch Coleman addressed the Council. He answered that Rausch Coleman has only one (1) community that has that requirement. He explained the size of the storm shelter takes up enough space in a garage that an owner of a pick-up truck will not be able to fit their truck in the garage. Restrictions like that will hurt sales and the price can make the homes unaffordable for first-time homebuyers. Mr. Stone explained during their internal discussions, Rausch Coleman would need to charge roughly \$4,000 for 3-bedroom house and about \$5,000 for a 4-bedroom house. It is possible to get a storm shelter and install it on a model home to show it as an option so potential buyers get an idea how much space one takes up.

Mayor Roberts stated from the community's perspective, it would show good will towards the potential residents and would help fix a growing concern. He stated an area storm shelter that is managed by the HOA is another solution. He is aware this is a premature discussion, but it is a community desire to address it. Mr. Stone agreed it is a safety concern and having a family of his own, he understands the concern. He said having a storm shelter on display in the model home would be a good way for people to see it and better decide if they want to pursue that option.

Mayor Roberts said the installation of the storm shelter can be included in the mortgage if the home is still under construction. Councilmember Longanecker agreed and said the shelter would need to be installed during construction of the house. Mr. Stone explained the storm shelter would need to be attached to the property prior to the mortgage being agreed upon. Councilmember Longanecker said the shelter would have to be installed prior to closing on the property.

Councilmember Lewis inquired if any of the houses will have a basement. Mr. Stone answered that some houses will have basements, but in order for Rausch Coleman to offer a range of prices, they mostly construct houses on slabs as it is much cheaper.

Mayor Roberts stated it is best to for the storm shelter to be standard and the buyers have the option to remove the storm shelter. He said he is attempting to quell any concerns regarding the safety of the future residents. Mr. Stone agreed it is best to have the choice of the storm shelter. Mayor Roberts reiterated his sentiment that the storm shelters should be opted out of, instead of opting to have one installed. Mr. Stone explained there is more prep work to install a storm shelter, especially when there is a lot of them ordered. Mayor Roberts stated this discussion does not stop the Council from taking action on this item, but the storm shelter requirement could be discussed during the drafting of the development agreement. He would rather the option be to remove the storm shelter instead of the option of adding one on.

Mayor Roberts inquired if the storm shelter could be installed outdoors. Ms. Crow replied there are requirements for accessory structures and lot coverage for R-1 zoned parcels, but with the PUD there is flexibility for those requirements to be stipulated. She added it is not required by the current adopted building code, but some municipalities have put in their

UDC or adopted the requirement as part of the building code. Mayor Roberts said he does not mind if the storm shelter is outdoors as part of a patio and if a homeowner does not want it, they have the option to not have it installed. He recognizes that some of the storm shelters are aesthetically pleasing, but the inside of the shelter is much more beautiful in the middle of a tornado and homeowner could paint it. Ms. Crow said that is a possibility depending on the HOA requirements. Mayor Roberts recommended Rausch Coleman have a conversation with a company that offers storm shelters. He has seen a lot of info on the New Day Tornado Shelter that a lot of people call "the Egg." The New Day Tornado Shelter website was shown on the screen. Mayor Roberts the interior could be tight, especially for bigger families, but it is better than nothing during a tornado.

Councilmember Longanecker inquired if this development needed to be done as a PUD. Mr. Stone answered a PUD is not as prevalent as doing traditional R-1 zoning. Mr. Shawn Cheevers, Rausch Coleman Homes, said he has built PUDs before. Councilmember Longanecker asked how many people want a house on a slab versus a basement. Mr. Cheevers replied building on a slab is cheaper and in Blue Springs, Missouri they are seeing empty nesters love a house on slab since there are no stairs at all. He explained that a ranch house will still have some stairs to get into the home if constructed on a basement. The development in Blue Springs is roughly eighty percent (80%) of homes on slabs, especially a ranch style house.

Mr. Cheevers said first-time home buyers are typically moving out of townhomes and apartments that do not have storm shelters, so they are generally not concerned about not having one. He explained the Egg is one type of shelter that can be installed in a closet and outdoors as there are pillars that go ten (10) to twelve (12) feet into the ground. When a tornado shelter is rated to withstand a F5 tornado, it is rated purely for the wind speed. The main threat in a tornado is the debris. The debris is what causes most of the injuries or deaths attributed to tornados. Mayor Roberts agreed and said people are in the storm shelters for a maximum of thirty (30) minutes. Mr. Cheevers stated being inside a house has its benefits as there are other weather hazards with a severe thunderstorm. He explained that adding a basement to a house adds roughly \$30,000 to \$35,000 to the price of a new house. Installing a basement all depends on the type of soil and topography of the lot. Mr. Cheevers said he knows and has met the developer of the Egg and it can be purchased at major retailers in some areas. He stated that homes constructed on a slab do have their advantages. Mayor Roberts added it is currently recommended for people to shelter in place during tornadic storms and that is why a storm shelter area should be included inside the home. Mr. Cheevers said Rausch Coleman will research a solution that benefits all of the parties. He explained he has not opted to get a shelter for his townhome. Mayor Roberts said a lot of cities that require storm shelters have been hit or nearly hit by a tornado. There are places in town that do not have storm shelters as is and he does not want to add to that number. He stated this will be discussed more later as discussion of the development agreement continues. He feels there is value in storm shelters and having that option might help buyers decide to buy here in Edgerton.

Councilmember Longanecker stated he read through the HOA's CCRs and was impressed by it. He inquired as to what sureties does the City have that the HOA will maintain the grounds and other requirements listed in the CCRs. Mr. Cheevers replied that Rausch Coleman will hire a 3<sup>rd</sup> party company to manage the HOA and that is what the company

does. The 3<sup>rd</sup> party will help start the HOA then the community members will join the board and run the HOA. The HOA will mow the greenspaces, do the general maintenance of the park, and beautification of the common spaces. Homeowners can meet during the board meetings, and they could decide to add amenities if the community wishes to do so. He said the HOA is a great way of getting homeowners to volunteer for their community. The HOAs Rausch Coleman installs are always ran by 3<sup>rd</sup> party companies that oversee many HOAs in the Kansas City metro area. Mr. Cheevers explained the City can and will still enforce the municipal code and the lawns must adhere to the City standard. Councilmember Longanecker stated the HOA has more strict standards than the City. Mr. Cheevers replied the HOA is installed to handle minor issues and to keep the community conforming to a more uniform style. He said it will help maintain property values in the subdivision since there will not be any outliers in style. Mayor Roberts explained a HOA is a sub form of government and if the HOA decides to add a pool and those homeowners want to increase their dues, they can do so. He said the more expensive HOAs will maintain all of the exterior landscaping, mowing of people's lawns, and snow removal. This proposed HOA will not be like that. Mr. Cheevers agreed and stated Rausch Coleman want affordable housing and as part of that goal they stay away from pools because of the added costs and liability. They install the base amenities to start harmoniously and allow the residents decide the future of the subdivision.

Ms. Crow stated this is the first step of development. The applicant will need to return with a Final Plan and Plat. Mayor Roberts inquired if a Final Plan and Plat will be needed for each phase. Ms. Crow answered that is up to the applicant. They can do one large Final Plan and Plat for the entire parcel, or a Final Plan and Plat can be done for each phase. Ms. Beth Linn, City Administrator, stated the development agreement will be presented to the Council at a later date as well.

Mayor Roberts said it has been 4 years since the first communication Rausch Coleman has had with the City. They have been great to work with and have had a good dialog and open conversations since the start. He explained that is not the case with all developers. Mr. Stone stated the City has been pleasant to deal with and they have not always had that sentiment for every city. Mayor Roberts explained development is a two-way street and if both parties are willing to work together, it goes smoother.

Councilmember Longanecker moved to approve Ordinance No. 2114. Councilmember Lewis seconded the motion. Ordinance No. 2114 was approved, 3-0.

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

- 2<sup>nd</sup> Quarter Financial Report

Ms. Karen Kindle, Finance Director, addressed the Council. She stated she will review the General Fund first. She started with the revenues. She stated that 83.3% of the Ad Valorem tax, which is paid as property tax, has had 2 of the 3 distributions paid to the City and the remaining will be paid shortly. The Local Compensating Use Tax is hard to predict because it depends on what companies and individuals purchase for delivery to their home or place of business, but the revenue is ahead of the budget. She explained that is the same with the County Use Tax. In the Charges for Services revenue, the City is ahead of what was budgeted due to the payment from the Tax Increment Financing

for Edgerton Crossing and event sponsors. Ms. Kindle stated that generally, the City is on track with expenditures. The second quarter bill from the Johnson County Sheriff has not been paid at this time. Fees regarding Economic Development were transferred in July and will not show on this report. Information Technology is lower at this time because of the software contract is renewed. She said the City is within the required reserves and within its budget authority.

Ms. Kindle addressed the Water Fund. She said the revenues are on target. The expenditures are on track. The Fleet Maintenance expenditure is spent as needed to maintain the vehicles. She said the City is within required reserves and its budget authority.

Ms. Kindle then focused on the Sewer Fund. She said the revenues are at what is typically seen at this time of the year. The amount of revenue is affected by the commercial users and depends on the watering of the properties. The revenue will increase after dry months as watering increases. She explained the expenditures are in line. The City made one more bond payment earlier this month and transfers were completed in July so those will be seen on next quarterly report. She said the City is at the required reserves and within its budget authority.

#### **11. Report by the Mayor**

- Mayor Roberts thanked everyone for their patience during the delay of the start of the meeting. He thanked Councilmember Lebakken for joining the meeting, even during a family crisis.

#### **12. Future Meeting Reminders:**

- August 25<sup>th</sup>: City Council Meeting – 7:00PM
- September 8<sup>th</sup>: City Council Meeting – 7:00PM
- September 13<sup>th</sup>: Planning Commission Meeting – 7:00PM
- September 22<sup>nd</sup>: City Council Meeting – 7:00PM
- October 11<sup>th</sup>: Planning Commission Meeting – 7:00 PM
- October 13<sup>th</sup>: City Council Meeting – 7:00PM
- October 27<sup>th</sup>: City Council Meeting – 7:00PM

#### **13. 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 EXCEPTION TO INCLUDE THE CITY ATTORNEY, CITY ADMINISTRATOR, AND BOND COUNSEL FOR THE PURPOSES OF CONTRACT NEGOTIATIONS.**

Councilmember Longanecker moved to table the executive session to the August 25, 2022 meeting due to the absence of the City Attorney. Councilmember Lewis seconded the motion. The executive session was table to the August 25, 2022 meeting, 3-0.

#### **14. Adjourn**



Councilmember Longanecker inquired to the timeframe for development of the PUD. Mr. Stone answered Rausch Coleman will have to get the development plans in order and get bids for materials. He estimated it will take thirty (30) to sixty (60) days to get those bids. Councilmember Longanecker asked when development will start. Mr. Stone replied at this moment, it is too early to tell yet as there are still some items to clarify. Councilmember Longanecker asked if could be by spring. Mr. Cheevers said they will have to go back to engineering to get plans finalized, but hopefully around April of 2023 they will be able to start moving dirt and installing some of the infrastructure. He estimated possible by third quarter of 2023 to start construction of houses. Mayor Roberts added he is hoping to see a home on the market by the end of next year. Councilmember Longanecker stated he wanted to ask as many others will have this question. Mayor Roberts agreed and said those questions will really arise when equipment is on site.

Councilmember Lewis moved to adjourn the meeting. Councilmember Longanecker seconded the motion. The meeting was adjourned at 8:12 PM, 3-0.