



MINUTES
CITY COUNCIL MEETING
COUNCIL CHAMBERS – HUTCHINSON, KANSAS
AUGUST 16, 2016
9:00 A.M.

1. The Governing Body of the City of Hutchinson, Kansas met in regular session at 9:00 a.m. on Tuesday, August 16, 2016 in the City Council Chambers with Mayor Daveline presiding. Councilmembers Dechant, Soldner, Inskip and Piro de Carvalho were present.

2. The Pledge of Allegiance to the flag was recited.

3. The prayer was given by Pastor Gary Getting of Elliott Mortuary.

4. Petitions, Remonstrances, and Communications

a. Oral communications from the audience. (Please limit your remarks to five (5) minutes and to items NOT on the agenda.)

Lisa Gleason, 10514 Paganica Pass, on behalf of the Avenue A Neighborhood Center, invited councilmembers and the public to a visioning session in the Southwest Bricktown neighborhood on August 23, 2016 from 6:00 p.m. to 8:00 p.m. at the Avenue A school. She said they will reflect on the progress that has been made to date; and continue to work on challenges in building a thriving neighborhood.

Irene Padilla spoke in regard to two homes on the demolition list that she and her husband are interested in obtaining; and said they have tracked down two of the owners. One of the properties has been gifted to them; and they are working on purchasing the other property. Ms. Padilla said they don't want to move forward without approval from the Council to remove these two properties from the demolition list. She said all of the work will be done by her husband and family; and they are requesting a 90-day extension. Discussion ensued. The Mayor said the Council is very open and flexible; and the key is to have a plan in place. He encouraged Ms. Padilla to work with Trent Maxwell.

5. Consent Agenda

a. Approval of Minutes of August 2, 2016 City Council meeting.

- b. Approval of reappointment to the Hutchinson Recreation Commission of Karin Neal, 109 Hyde Park, for reappointment to a four-year term beginning 8/01/2016 to 8/01/2020.
- c. Approval of reappointment to the Hutchinson Land Bank Board of Trustees of James R. Gilliland, 5106 East 30th, for reappointment to a second three-year term beginning 9/30/2016 to 9/30/2019.
- d. Approval of Application for cereal malt beverage license for Scuttlebutts Coffee, LLC. (Pending approval by Police Department)
- e. Approval of July financial reports.
- f. Approval of appropriation ordinance in the amount of \$5,417,620.30.

Motion by Councilmember Inskeep, second by Councilmember Dechant, to approve the Consent Agenda and authorize the Mayor to sign. The motion passed unanimously.

6. Public Hearing

- a. Public hearing regarding Levee C improvements.

Motion by Councilmember Soldner, second by Councilmember Piros de Carvalho, to open the public hearing. The motion passed unanimously.

Frank Edwards, Director of Finance, gave a brief background. Brian Clennan, Director of Public Works, gave an overview of the project; and spoke about how this project was initiated, costs, etc. Mr. Clennan said this project was not driven by the City, but was driven by the residents living in the area of Levee C. He also spoke about the determination of assessments; and said bond counsel indicated this was a fair method to calculate the assessments. He said no public hearing was required because a petition was submitted by the property owners. Discussion ensued about the investment of the City of Hutchinson, South Hutchinson, Willowbrook and Reno County, how many properties are in the district, flood insurance, etc.

Jane Gamber, 2519 Pennington Road, said she would like to have more time. She said she has spent two weeks trying to determine how this all came about. Ms. Gamber said she has two parcels involved, one being a tree row, and the other is a landlocked triangle. She does not see the assessment as being fair. Ms. Gamber spoke about the sequence of events as she understands them; and said they were never informed about any meetings. She asked why city officials were at the meeting, who is bond counsel, etc. Ms. Gamber said she believes the assessments should be by area, not by parcel. She also asked about the exempt properties, how those were determined, why there was no hearing, etc. John Deardoff, City Manager, said the exempt properties are still in the flood plain. Mr. Deardoff explained that Mr. Ebmeier came to the City asking for help; and said the

City would have helped anyone asking for assistance with this effort. He said the property owners requested this project be done; and City officials were invited to the meeting that was held. Mr. Deardoff said a lot of questions were addressed at that meeting; and Mr. Ebmeier spent a lot of time walking the neighborhood and talking to people. Mr. Deardoff explained that if the levee improvements were not made, every one of the properties would be in the flood plain. Councilmember Piros de Carvalho asked Mr. Deardoff why the County wasn't involved. Mr. Deardoff said he does not understand the County's reason; and he is not the legal counsel for Reno County. Additional discussion ensued.

Tyler Ellsworth of Kutak Rock, the City's bond counsel, spoke. He said the method of assessment was in the petition itself; and was stated as being per parcel. Mr. Ellsworth said there are various ways the costs could be apportioned, but he wasn't around at the beginning of the project when the method of assessment was determined. Mr. Ellsworth said when you start getting into lot area, etc. it becomes very cumbersome. He said it was probably easier at the outset to explain to people; and let them know how much they were going to pay. He said the City has used the equal assessment method before. Additional discussion ensued regarding the assessment.

Mayor Daveline said another question by Ms. Gamber was about granting additional time. Mr. Deardoff said the City has been dealing with this since 2013. The work has been done; and the City has paid for it. We are now in the process of finalizing assessments; and today's purpose is to talk about those assessments. Mr. Deardoff said there is no going back. When the petition was signed and approved, we went forward. Mr. Deardoff said additional time is not relevant here. Mr. Ellsworth said the City has worked with FEMA for months to try to get the levees certified, but it was a lengthy process. He said it was not until just about six weeks ago that there was final determination between FEMA and the City. Mr. Ellsworth said assessments have to be given to the County by August 25th; and the City has already received an informal extension from Reno County.

Linda Wilson, 1714 W. 4th, also spoke. She said assessments should be done proportionately; and that it's not fair for someone who owns less than an acre to pay the same as someone owning many acres. She said they did receive a notice about the first meeting at the school, but they were busy and not able to attend. Ms. Wilson said they did not receive notice of any other meetings.

Daniel Wilson, 529 Westridge Street, said he has only lived in his property for three months; and was surprised this was never disclosed to him. He said he does not have a problem paying for the work, but agrees it should be assessed proportionately. Mr. Wilson said the levee also protects the City; and the costs should be passed on to those residents as well.

Don Tipton, 3408 West 7th, said in 1951 when the levee was discussed, it was to protect the west side of Hutchinson. He said he only has $\frac{3}{4}$ acre; and those with larger parcels pay the same. He doesn't believe this is fair.

Jack Roberts, 1005 Wilshire, said he has been a resident for about 25 years. He asked if any of the council members were residents in the Levee C area; and how much of the repair work was done on the east side of the levee to help the residents of Hutchinson, not them. He said the levee protects both sides; and the City should be responsible for part of the assessment. Discussion ensued.

Douglas Graebner, 3700 W. 7th, said he had the very first home out there, has lived there over 40 years; and has never had a mud hole. He said he never saw anyone working on the levee, he didn't sign the Petition; and he's not going to pay the bill.

Ken Mathis, 1004 Town & Country Lane, said he worked for the County for 28 years. He said the dike started as a diversion for Cow Creek. Mr. Mathis said he agrees with everyone else; and costs should be proportional. He said this was built to protect the City of Hutchinson; and the citizens of Hutchinson should pay for it. He believes that is why the County "bailed out." Councilmember Piros de Carvalho said she would be frustrated as well, but there is nothing we can do at this point because of the wording in the original petition; and that is what was signed. Mr. Deardoff said the problem with assessment methods is that you can argue either way. He said the petition was signed for equal assessments; and that's how we went forward. He said these conversations should have happened when the Petition was signed. Ms. Gamber asked why the petition couldn't be rescinded. Mr. Deardoff said the petition has been signed; and work has been done. She asked if she could get 52% to rescind this petition wouldn't that have to stand. Mr. Deardoff said everything has been done; and the money has been spent. Linda Wilson said they are asking the assessments be based on acreage. Additional discussion ensued.

Mike Aerhart said Greenbush has four parcels. He said it is all farm ground; and if it floods, they don't care. He said he feels for everyone, but acreage is not how to address this. He said it needs to be based on valuation if council considers this.

Mr. Roberts asked where the petition originated. Mr. Deardoff said 350 people saw it and signed it. He said all signatures were certified, yet no one seems to have seen it.

Shawn Kirby, 15 Wildrose Street, said the ring levee was built to protect the residential area. He said it's not Reno County's levee, it's Hutchinson's. He said he is not happy about the assessment. Discussion ensued regarding costs of the

improvements. Mr. Kirby said his part of the levee is in poor condition; and that you have to call the City to get someone to mow it. He said it's a fire hazard when it's dry; and the care by the City is very poorly done. He said he didn't sign petition, but he is glad to have this meeting.

George Bell, 602 Westridge, said a lot of questions have already been answered. He asked if this project was bid; and who performed the work. Brian Clennan said there were five bidders; and Allen's Excavation was low bid. Mr. Bell asked if any repairs were done regarding seepage, or if work was just done on top of the levee. Mr. Clennan said there was work done at the top end of the levee; and along the right side for under seepage. Discussion ensued.

Marcie Pritchard, 901 Westridge, said she watched a couple of trucks go down the road with concrete; and asked if we had before and after pictures. She said the flood of 1929 was why the levee was built. She said she wants to see pictures of what they are being asked to pay for.

Councilmember Piros de Carvalho left the meeting at 10:15 a.m.

Ken Gamber, 2519 Pennington Road, said he had e-mailed the council about this matter. He asked when the levee system was built; and why was Levee C part of that system? He said if it's outside the City limits there must have been a reason why the City included it in the plan. He wondered when the petition was circulated how well it was explained to those that signed it; and whether they understood what it meant. He said some parcels won't benefit from this at all because they don't flood.

Paul Zeyen, 902 Town & Country, said he had no warning on this proposed assessment. He said his mother lived there at the time; and he never saw the petition. Mr. Zeyen said he came down to the City; and looked at the Petition. He also questioned the method of assessment. He said he's not questioning the work that needed to be done, but is just questioning the amount.

Rick Vanderpool, 2710 St. Elmo Drive, said he's not sure where to go with this. He said the Corp of Engineers built the levee at the City's request. Council members at that time had an understanding of what that dike would do for those that lived in the area. He said it was reasonable at the time. He asked if the City has been collecting taxes for maintenance and repair of this dike; and whether part of that money has gone toward trails, parks, etc. Mr. Vanderpool said he doesn't agree that the City doesn't take care of the levee saying the dikes are mowed very well.

Clayton Vedder, 509 Bloomville Road, asked about the City of South Hutchinson's involvement. He also said he is a poor person on retirement; and

doesn't understand why he should have to pay interest if he can't afford the full payment up front. Mr. Deardoff said the interest is what the City pays. He said we issue bonds; and those costs are being passed on. Mr. Deardoff explained the City doesn't make anything off of this assessment. He said the City of South Hutchinson participated in the Levee B cost. Mr. Vedder asked how the Corp of Engineers is different from FEMA. Brian Clennan said the Corp of Engineers is about maintaining the levees; and FEMA is about flooding. Discussion ensued.

James Swartzentruber, 607 N. Wilshire, specifically asked about flooding before he bought the property in 2012. He was told there was none. He said he was never told about the petition or any meetings. He said he has never seen any water out there; and doesn't understand why they are involved in this when the City is maintaining the levee. Mr. Swartzentruber said he is struggling to make ends meet; and has a deadline to pay the bill without paying interest. Frank Edwards clarified the amount can be paid upfront or over a period of 10 years. He said interest would be around 2%; and the monthly amount would be less than \$9.00 or \$10.00.

Arthur Child's, 2802 St. Elmo Drive, said he's upset the \$900+ he has to pay. He said the meeting he went to said the cost would be \$100/year. Mr. Deardoff said you can pay a lump sum or pay the amount over a 10-year period. He said if the amount isn't paid, the assessment will go on the tax rolls. Discussion ensued.

Ms. Gamber said she would like Hutchinson to be a good neighbor. She said it is clear what they want; and that is a re-evaluation of how this was assessed.

Motion by Councilmember Dechant, second by Councilmember Inskeep, to close the public hearing. The motion passed unanimously.

The Mayor called for a break at 10:40 a.m.

The meeting reconvened at 10:48 a.m.

b. Public hearing for 2009 Neighborhood Stabilization Program Grant Closeout.

Motion by Councilmember Soldner, second by Councilmember Dechant, to open the public hearing. The motion passed unanimously.

Jana McCarron, Director of Planning & Development, gave a brief overview. Shara Gonzales with New Beginnings thanked the council for the funds used for anchor homes. She said they acquired the homes and rehabilitated them. An overview was given of improvements made to the homes; and before and after photos were shown. Ms.

Gonzales said the second part of what was done were the Townhomes at Santa Fe Place. Ms. McCarron said the funds have been expended; and we now need to close out the grant. Discussion ensued.

Motion by Councilmember Dechant, second by Councilmember Inskeep, to close the public hearing. The motion passed unanimously.

Motion by Councilmember Dechant, second by Councilmember Soldner, to accept and approve the recommendation of the South Central Kansas Economic Development District to close out the 2009 Neighborhood Stabilization Program Grant; and authorize the Mayor to sign close out documents. The motion passed unanimously.

c. Public hearing for 2014 Community Development Block Grant Closeout.

Motion by Councilmember Soldner, second by Councilmember Inskeep, to open the public hearing. The motion passed unanimously.

Jana McCarron, Director of Planning and Development, gave an overview. Discussion ensued.

Motion by Councilmember Dechant, second by Councilmember Inskeep, to close the public hearing. The motion passed unanimously.

Motion by Councilmember Dechant, second by Councilmember Soldner, to accept and approve the recommendation of the South Central Kansas Economic Development District to close out the 2014 Community Development Block Grant; and authorize the Mayor to sign close out documents. The motion passed unanimously.

7. Ordinances and Resolutions

a. Consider Ordinance for Assessments to Levee C Improvement Project. Frank Edwards, Director of Finance, spoke. Councilmember Dechant asked bond counsel if the method of assessment could be changed. Mr. Ellsworth said the governing body could change the method, but it would be difficult. He said everyone that signed the petition relied on the original method of assessment. He said there are potential problems with other methods of assessment. Mr. Ellsworth said he understands people's concerns; and feels for them. Mr. Deardoff said every property, no matter the size, is out of the flood plain except for the 21. He said there is equal value to all of the properties regardless of their size. He said we can argue about different methods, but there would be people questioning it. Mr. Deardoff said this was the direction from day one; and the one those that signed the petition requested. Councilmember Dechant asked about the process; and if we would have to go through recertification. Mr. Ellsworth said it could be

done unilaterally by changing the ordinance, but deferred the question to the City Attorney. Paul Brown, City Attorney, said council has no language before them to make that amendment. The Mayor said we would be basically violating the intent of the original petition. Mr. Edwards said there would be additional costs incurred because the City would have to remove this from the bond sale. Additional discussion ensued.

Councilmember Inskeep said he struggles with the assessments; and tends to lean toward a proportional assessment. He said those that signed the petition though believed it was going to be an equal amount. He said the City didn't draft the petition, but that it was brought to the City. Councilmember Soldner said this was entered into as a good faith effort; and feels sorry for those that aren't happy and isn't sure how they were left out. She said at this point in time you can't change the methodology when assessments have to be to the county for property taxes. Ms. Soldner said those that are now protected would not have been if this wasn't done. Ms. Gamber said if the petition would have been worded differently; and if they could have indicated a preference, then we would know what the people wanted. She said a lot of people didn't see the petition. Mr. Deardoff said there were 350 that saw the petition and signed it. Discussion ensued. Councilmember Dechant said we are not in the public discussion phase; and that discussion needs to be among councilmembers.

Motion by Councilmember Dechant, second by Councilmember Soldner, to approve Ordinance 2016 - 17 levying and assessing special assessments on certain lots, pieces and parcels of land liable for such special assessments to pay the costs of certain improvements within three miles of the corporate limits of the City of Hutchinson, Kansas and amending Resolution No. 2013 R 23 (Levee C Improvements Benefit District); and authorize the Mayor to sign. The motion passed unanimously.

b. Consider Ordinance adopting the 2016 Standard Traffic Ordinances. Paul Brown, City Attorney, gave an overview of the changes.

Motion by Councilmember Soldner, second by Councilmember Dechant, to approve Ordinance 2016 - 18 regulating traffic within the corporate limits of the City of Hutchinson, Kansas; incorporating by reference the "Standard Traffic Ordinance for Kansas Cities," Edition of 2016, with certain omissions and changes, and providing certain penalties; and authorize the Mayor to sign. The motion passed unanimously.

c. Consider Ordinance adopting the 2016 Uniform Public Offense Code. Paul Brown, City Attorney, spoke about the changes.

Motion by Councilmember Dechant, second by Councilmember Inskeep, to approve Ordinance 2016 - 19 regulating public offenses within the corporate limits of the City of Hutchinson, Kansas; incorporating by reference the "Uniform Public Offense Code

for Kansas Cities,” Edition of 2016; and authorize the Mayor to sign. The motion passed unanimously.

Councilmember Piros de Carvalho returned to the meeting at 11:25 a.m.

8. New Business

a. Consider Agreement with University of Kansas for Infill Study. Jana McCarron, Director of Planning and Development, spoke. Ms. McCarron said the City was approached by the University of Kansas regarding the infill study; and said they will look at all vacant lots, perform schematics, design prototypes, etc. Discussion ensued. Ms. McCarron said the project could begin by the end of August; and should be completed in December, with a final report being made to council. Additional discussion ensued.

Motion by Councilmember Inskeep, second by Councilmember Piros de Carvalho, to accept and approve an endowment agreement with the University of Kansas Department of Architecture for the “Hutchinson Endowed Housing and Smart Cities Studio”, an infill study; and authorize the Mayor to sign said agreement. The motion passed unanimously.

b. Consider approval of contract with Tyler Technologies. Todd Davis, Director of Information Technologies, spoke. An overview of the ERP system was given. Mr. Davis said money has been put away for several years to move forward with this project. He said this money will go toward the hard costs – licensing, etc. He said there will be additional costs in 2017 including budget for training, travel for staff, conversions, etc. Discussion ensued. Frank Edwards said this is long overdue. He said we have service issues with our current provider; and we are ready to start on this project.

Motion by Councilmember Dechant, second by Councilmember Inskeep, to approve contract with Tyler Technologies for the Enterprise Resource Planning (ERP) replacement project of \$336,960.00; and authorize the Mayor to sign. The motion passed unanimously.

c. Consider approval of 2017 budget. John Deardoff, spoke. Councilmember Dechant asked if the budget process would change with relation to the software upgrade. Mr. Deardoff said at this point he doesn't know the answer to that, but the process should be more seamless.

Motion by Councilmember Dechant, second by Councilmember Soldner, to approve the 2017 budget as proposed; and authorize the Mayor to sign. The motion passed unanimously.

9. Report of City Officials

a. Council

- Councilmember Soldner has no comments.
- Councilmember Dechant said he had a good train ride; and that it was very informative and interesting. He also said as a landlord he received a letter in the mail regarding revisions to the rental registration program. He said he was pleased with how the letter was worded; and would be interested to see the letter that is going to tenants.
- Councilmember Piros de Carvalho said she received feedback from a contractor about how accommodating the Planning Department has been. She said it is nice to get positive feedback.
- Councilmember Inskeep said this was a good meeting. He said it was not the outcome everyone wanted, but it was a good meeting and a good showing of public service and how it works.
- Mayor Daveline said schools are beginning to be in session; and asked everyone to observe school zones, slow down and make sure kids are safe.

b. City Manager

Mr. Deardoff said they just approved the budget; and in the life of a City Manager, that's a big thing. He also thanked staff for all their work.

10. Executive Session

a. Motion by Councilmember Piros de Carvalho, second by Councilmember Soldner, to recess into executive session pursuant to the employer-employee negotiations exception, K.S.A. 75-4319(b)(3) in order to discuss pending issues related to the 2017 contract negotiations with the City's bargaining units and pursuant to the confidential data relating to financial affairs or trade secrets of corporations, partnerships, trusts and individual proprietorships exception, K.S.A. 75-4319(b)4, in order to discuss economic development incentives for a business expansion; the open meeting to resume in the City Council chambers at 1:00 o'clock p.m. The motion passed unanimously.

11. Adjournment

Motion by Councilmember Piros de Carvalho, second by Councilmember Soldner, to adjourn. The motion passed unanimously.