



MINUTES
CITY COUNCIL MEETING
COUNCIL CHAMBERS - HUTCHINSON, KANSAS
October 1, 2019
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, October 1, 2019 in the City Council Chambers with Mayor Inskeep presiding. Councilmembers Dechant, Daveline, Soldner and Piros de Carvalho were present.

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

3. The prayer was given by Pastor Darryl Peterson of Grace Christian Church.

4. Proclamations

a. A Proclamation for Fire Prevention Week was accepted by Division Chief Tony Arpin and Fire Inspector Michael Cain. Division Chief Arpin said this brings Fire Prevention to the forefront; and he reminded everyone to be diligent all year long. He said people used to have 10-12 minutes to get out of a burning structure, but it is now less than three minutes. Division Chief Arpin reminded people to practice fire drills; and to make sure children know how to open the doors and windows. He also reminded everyone to check their smoke detectors every month; and to replace batteries twice a year.

b. A Proclamation for Disability Employment Awareness Month was accepted by Anthony Frischenmeyer and Cindy Daniels with Prairie Independent Living Resources. Mr. Frischenmeyer talked about the difference being employed makes in a disabled person's life.

c. A Proclamation for Domestic Violence Awareness Month was accepted by Donna Davis of Brighthouse. Ms. Davis said in the last year they have helped people file 288 protection orders. She said in the past year they have had 70 people in the shelter, with 35 of those being children. Ms. Davis talked about stepping up their efforts with schools; and said they will be distributing a lot of information digitally.

d. A Proclamation for Manufacturing Month was accepted by Debra Teufel of the Hutchinson/Reno County Chamber of Commerce. Ms. Teufel said Friday is National Manufacturing Day; and Superior Boiler is opening their doors on October 4, 2019 with the intent to help broaden exposure of manufacturing jobs.

5. 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.)

LaVerle Pounds, 512 East Avenue A, said there are too many codes; and too much interference by the City. He said the City isn't addressing it's own issues; and talked about violations including trees on City property being planted too close to the fire hydrants, sidewalks in parks that are in disrepair, peeling paint, etc. Mr. Pounds said if residents need to comply, the City should as well. He said he expects something to be done, that he will be back with more violations; and he will put the City on a 30 day schedule to have the violations taken care of.

Greg Dovel said he moved away from Hutchinson two and a half years ago; and he has always fought for what he thought was right. He talked about concerns with the International Property Maintenance Code. Mr. Dovel said he has sold everything; and is moving away from the area.

6. Consent Agenda

- a. Approval of Minutes of September 17, 2019 City Council meeting.
b. Approval of appropriation ordinance in the amount of \$1,156,904.05

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

7. Ordinances and Resolutions

- a. Consider Ordinance authorizing the issuance of General Obligation Bonds. Angela Richard, Finance Director, spoke. Ms. Richard said due to market conditions she is recommending refinancing before bids are in for the Law Enforcement Center remodel. She said the City could save approximately \$500,000.00 by refinancing the bonds. Discussion ensued.

Dustin Avery with Piper Jaffrey also spoke, addressing questions raised by councilmembers regarding taxable vs. tax free bonds, the time frame for refinancing, etc.

Motion by Councilmember Dechant, second by Councilmember Piros de Carvalho, to approve Ordinance 2019 - 11 authorizing the issuance of General Obligation Bonds by the City of Hutchinson, Kansas, to pay the cost of certain improvements, all pursuant to Charter Ordinance No. 50 of the City; and authorize the Mayor to sign. The motion passed unanimously.

- b. Consider Resolution authorizing the sale of General Obligation Refunding Bonds.

Motion by Councilmember Daveline, second by Councilmember Soldner to approve Resolution 2019 R 17 authorizing the sale of approximately \$8,670,000.00 principal amount of issuance of General Obligation Refunding Bonds, Series 2019-A, and approximately \$3,460,000.00 General Obligation Refunding Bonds, Series 2019-B (taxable under Federal law), of the City of Hutchinson, Kansas; and authorize the Mayor to sign. The motion passed unanimously.

- c. Consider Ordinance amending the Comprehensive Plan Land Use Map Designation for 1624 East 23rd Avenue. Amy Allison, Senior Planner, spoke. Ms. Allison said the applicant wants to build multi-family dwellings for people with disabilities. Discussion ensued.

Jim Nunns of Nunns Construction said he was speaking on behalf of Disability Supports. He said they want to apply for tax credits on the property, but will build the housing even if they aren't awarded the tax credits. Mr. Nunns said there is a shortage of housing for the disabled; and the units will be full as soon as they are built.

Motion by Councilmember Daveline, second by Councilmember Piros de Carvalho, to accept and approve the recommendation of the Planning Commission to approve the request for an amendment to the Comprehensive Plan Land Use Map, Section M.1.7.b. of the 2017-2037 Comprehensive Plan for Hutchinson, Kansas, based on a finding of conformance to the factors required for approval; adoption of Ordinance 2019 - 12 amending the Comprehensive Plan Land Use Map; and authorize the Mayor to sign. The motion passed unanimously.

- d. Consider request to rezone property at 1624 East 23rd Avenue. Amy Allison, Senior Planner, spoke.

Motion by Councilmember Dechant, second by Councilmember Soldner, to approve the recommendation of the Planning Commission to approve the request to rezone 1624 East 23rd Avenue from R-3 Moderate Density Residential District to C-2 Neighborhood Commercial District based upon due consideration of the factors shown; adopt Ordinance 2019 - 13 rezoning the property; and authorize the Mayor to sign. The motion passed unanimously.

Mayor Inskeep called for a break at 9:54 a.m. The meeting resumed at 10:05 a.m.

Mayor Inskeep said he would like to have a structured, but good conversation. He said the Council welcomes public input, but reminded everyone it is a public forum, not a public hearing. He said this has been an ongoing discussion for a number of years; and doesn't want to get into repetition of the same thing being said repeatedly. Mayor Inskeep said he will set a time limit of one hour for public input.

8. New Business

a. Consider proposed changes to Chapter 21, Article XI. Rental Licensing and Inspection. Ryan Hvitløk, Director of Planning and Development, spoke about the history of the program; and talked about the Joint Study Session held on September 10, 2019 with the Housing Commission and City Council. He said housing conditions have deteriorated over the past 50 years; and won't get fixed overnight. Mr. Hvitløk said the Central Kansas Landlords Association believes the licensing fee is unfair, there is no language for tenant rules and responsibility, the list of corrections needing to be made is never ending, etc. He said landlords indicated the inspectors aren't qualified, the fee is unfair, the Property Maintenance Code criminalizes violations, etc. Mr. Hvitløk said he also wanted to address comments made about people going to jail for code violations. He said there is no one in jail for violating the IPMC, but the person might be in contempt of court for violation of a judge's order. Mr. Hvitløk said staff has also reached out to Prairieland Realtors and the Kansas Association of Realtors, both of whom are opposed to the changes; and support sunset of the program. Mr. Hvitløk said the proposed program would shift from registration to licensing; and said almost every community that has a rental program does licensing. He also said that any appeals would go to the Building Trades Board. Mr. Hvitløk also spoke about other proposed changes to the program, saying he hoped to bring an Ordinance back to Council on October 15, with the new program going into effect January 1, 2020.

Mayor Inskeep said council most recently tasked staff and the Housing Commission to look at alternatives knowing this program was going to sunset. He said it was decided to hold a joint study session. Discussion ensued regarding the three-year best practice designation, HUD inspections, health and safety issues, etc.

Councilmember Daveline said it might be helpful to talk about some historical data; and what has happened with code violations, etc. He said he sent a number of questions to Mr. Hvitløk prior to the meeting; and he would like to look at those. Mr. Hvitløk said in 2019 they have had just under 3,000 rental inspections with 2,000 violations. Councilmember Piros de Carvalho asked how many rental units there are. Mr. Hvitløk said there are just over 5,500 rental units; and over the last several years the Inspection Department has made an effort to do exterior inspections. He said there are only about 300 left to be done. Discussion ensued. Councilmember Daveline asked what the top three or four code violations would be. Mr. Maxwell said for exterior issues those would be roofing, paint and broken windows. Councilmember Daveline asked if these are all cosmetic violations. Mr. Maxwell said water coming into a unit from a leaking roof would be more than cosmetic; and that a cosmetic violation would be visible to a person driving by. Councilmember Daveline also asked about compliance, data regarding housing stock in terms of conditions, etc. Additional discussion ensued.

Councilmember Piros de Carvalho said it's incredible that the average compliance is 90-95%, with 2,000 of the violations occurring on 3,000 inspections. Mr. Hvitløk said this speaks a lot to Mr. Maxwell's staff; and said they have about 98% compliance with the

registration requirement. He said 90% of the people do what's right. Councilmember Piro de Carvalho asked about interior violations. Mr. Hvitløk said interior inspections would look at plumbing, electrical, etc. Mr. Maxwell said interior inspections are complaint based, with a lot of those being about mold. He said they also see GFI outlets not being present, overloaded circuits, broken windows or windows that are painted or screwed shut, etc. Mr. Maxwell said there are also occasions where the heating doesn't work, plumbing that isn't functional, etc. Additional discussion ensued.

Councilmember Soldner said she keeps hearing that landlords aren't given enough time to fix problems; and asked if time frames are reasonable. Mr. Maxwell said a 30 day notice is given in every letter unless there is a safety issue. He said if you work with the inspector, that time can be extended, but if there is no response or no improvements made, the time frame stops, and the matter goes to Court. Discussion ensued.

Jill Gumble, 1506 Linwood Drive, said she is President of the Central Kansas Landlords Association; and there have been a lot of changes with the organization. She said they are holding monthly meetings; and have talked about lead based paint disclosures, outlining deficiencies with tenants by doing a walk through, etc. She said the majority of landlords provide safe, clean housing; and they are all on the same page. Ms. Gumble said this program is designed to target landlords, saying that no other property owners have to comply. Ms. Gumble spoke about the fees charged, trivial infractions, discrimination against landlords, etc.

Lisa Gleason, 3800 Fox Fire and a member of the Housing Commission, said she would like to speak about what they have been trying to accomplish. She said one-third of the housing stock was labeled as dilapidated and not up to code. She said as they focused on neighborhoods falling into that category, they found that 40-50% of the homes were rentals. Ms. Gleason said they all want the same thing, which is a safe, healthy environment. She said most landlords want to run their business in a manner that serves a purpose; and is profitable. She also said the Housing Commission has been tasked to make sure tenants are in a safe, healthy environment; and the ultimate goal is to improve the city's housing stock.

Aubrey Patterson, also a member of the Housing Commission, said housing has been a big issue for a long time in the community. She spoke about several news articles from 2011; and said people started paying attention to the issue. Ms. Patterson said it takes a long time to make changes; and we do have a problem. She said the City has shown they are committed to the problem by demolishing more properties, implementing the IPMC, formation of the Land Bank, feature neighborhoods, etc. Ms. Patterson said there are a lot of vulnerable people in rentals; and we have to have the courage to go forward and address the problems. She asked that council implement the program.

Fran Conklin, 2609 Heather Parkway, asked those in attendance to raise their hands if they would be affected by the program. A majority of those attending the meeting raised their hands. She also asked for those in favor of doing interior inspections to raise hands, at which time only one hand was raised.

Jackson Swearer, 103 West 22nd, said he wears many hats, but today he is wearing the Health Department hat. Mr. Swearer said he works as the health equity specialist; and works a lot with the Lincoln neighborhood. He said he is not an expert, but said it's important to realize that housing does impact the community. Mr. Swearer said 60% of homes in the Lincoln neighborhood are owner occupied; and said 53% of the homes are substandard. He said life expectancy in that area is 13 years less than other neighborhoods in the City. Mr. Swearer said we are talking about real health impacts; and people are being affected.

Daniel Peters, 76 Faircrest Drive, said he is the Property Manager for Rock Rentals. He said there are a lot of stakeholders with regard to this issue; and said the City has been great to work with, time frames are flexible, and the Inspector has been good to work with. Mr. Peters said he believes there will be an increased cost to the tenants which needs to be considered; and encouraged councilmembers to think before making this program permanent. He said his two main responsibilities are communication and expectation; and if you do those two things it removes the majority of the problems. Mr. Peters said you have to educate and give expectations to both landlords and tenants; and said a good landlord is not afraid of a well-educated tenant. He said one of his goals for the company is to educate tenants so they know what their rights are; and he would like to see a way to educate all tenants, Mr. Peters offered to be a part of any such program.

Betty Greever, 3409 N. Maple, said she has been in the rental business for over 55 years; and the business has gone downhill. She said tenants don't maintain the properties; and she doesn't understand why landlords have to be licensed.

Ron Gingerich said he is a long time realtor and appraiser with offices at 201 East 2nd. He said he is proud of our City; and the City has worked hard to maintain a good reputation. Mr. Gingerich said the population in the City is declining, there has been a loss of value in upper-end real estate, commercial properties have declined in value; and now there is downward pressure on affordable housing. He said some of this may be due to the rental inspection program. Mr. Gingerich said investors and landlords of lower end properties are not interested anymore; and are tired of dealing with City inspectors. He said we need to maintain a good tax base; and said Council should be concerned. He asked councilmembers to do the right thing by discontinuing the inspection program.

Datjaeda Moore, Human Relations Officer for the City of Hutchinson, said it is important for her to speak from a tenant's perspective. She said her concern is for all citizens; and to date she has received three complaints regarding housing issues and living conditions. Ms. Moore said two of them were afraid to come forward for fear of retaliation. She said as a City we have to think about those who do not have a voice. Ms. Moore said if we continue to ignore maintenance issues and concerns tenants have, we put their welfare at risk. She said she understands government can't regulate morality, but we need to be concerned about the welfare of all people.

Harley Ewing, 206 West 18th, said that for everything that was said, please consider the counterpoint. He asked that councilmembers evaluate both sides of everything. Mr. Ewing said his main concern is the legality of the approach to this matter with regards to the constitution; and went on to speak about the fourth amendment. Discussion ensued between Mr. Ewing and Councilmember Piros de Carvalho.

Chad Harris, 3902 Deer Ridge, said he is not here as a landlord but as a real estate agent. Mr. Harris said he wants to emphasize what Ron Gingerich had to say. He said property values have decreased; and people don't want to invest in the community. Mr. Harris asked that council allow the program to sunset.

Sara Bagwell, 803 West 22nd, talked about her history of being homeless, then low income and having to rent. She said there is too much over-regulation; and that council is hurting the people they are trying to protect. Ms. Bagwell said she would like to find a solution to hold landlords accountable, but not for a solution that won't fix the problem.

Kurt Schull said he owns a number of rentals in Hutchinson but lives in McPherson. He said as he's listened, what strikes him is that we have a real opportunity to find a real solution to this matter. He asked if council was going to continue with a punitive program or go with a positive solution. Mr. Schull said they now have a real opportunity for everyone to step back and work together to come up with positive solutions that will help address not only tenant concerns, but also put a positive environment in the market. He said he no longer invests here but has bought a lot of property in McPherson. He said he would love to be part of a positive program; and volunteered to be on a task force committee to develop such a program.

Richard Greever, 3409 N. Maple, said he is not opposed to licensing his business, but is opposed to having to license each location. He said there needs to be reasonable health and safety guidelines; and to stop the nitpicking about minor peeling paint, backflows on faucets, etc. Mr. Greever also disputed the fact that violators are not sentenced to jail. He said the only reason he's not in jail is because the judge allowed him to sell his property at a considerable loss; and the new owner assumes liability.

Steve Garza, 700 East Avenue B, said he feels council is singling out one party; and it is not fair to the landlords. He told council they are supposed to listen to the people; and the people are here telling council what they want. He asked council to "scrap it" because it's not working.

Mayor Inskeep called for a break at 11:55 a.m. The meeting reconvened at 12:02 p.m.

Councilmember Daveline said he will be brief but direct; and made a motion to sunset the rental registration program effective December 31, 2019. There was no second.

Mayor Inskeep said he asked Trent Maxwell, Building Official, to prepare a presentation that would illustrate some of the issues being raised. He said there is a misconception that this is predominately about aesthetics. Mr. Maxwell showed photos of

violations that had been found in rental properties. He said these photos were put together in 2012; and are what helped spark the whole discussion. Mr. Maxwell said they see a lot of things including creative fixes that aren't done correctly, a lot of neglect, space heaters operated for extended periods, electrical issues, etc. He said they just want properties to be maintained; and the rental registration program doesn't change the requirements of the International Property Maintenance Code. Mr. Maxwell said regardless of what happens, any property in Hutchinson is still subject to the IPMC.

Motion by Councilmember Dechant, second by Councilmember Piros de Carvalho, to direct City staff and the Housing Commission to prepare an ordinance establishing a Rental License and Inspection Program and associated fee structure.

Councilmember Piros de Carvalho said she made a lot of notes; and thanked staff and the Housing Commission for the time they have put into this matter. She also commended Jill Gumble on her leadership; and said they might not have been in this position if she would have been at the helm in the beginning. Councilmember Piros de Carvalho also commended the work landlords do saying she dealt with mostly good landlords, but had bad ones as well. She said this program is not meant to punish them, but the goal is to heighten the quality of the rental stock. She said tenants fear eviction if they speak up; and said poor housing has been identified as a barrier to employment in the City. Councilmember Piros de Carvalho said government has a responsibility to step in when the market isn't taking care of the problem; and told those in attendance if they are not willing to bring properties up to basic standards, then maybe they don't need to be buying property.

Councilmember Dechant said he applauds the CKLA for what they are doing, saying he wishes it could have happened five years ago. He said he has been a landlord for over 20 years; and that he supports this program as well as the IPMC. Councilmember Dechant said the people not in attendance are the powerless tenants. He said he agrees that tenants do have rights, but by-and-large many tenants feel powerless.

Councilmember Soldner said she is trying to weigh everything, but is not ready to let the program sunset. She also said she would like to look at the fee structure if the program continues as there is chronic complaining about the fees. Councilmember Piros de Carvalho said any revenue generated from fees should be just enough to run the program; and should not be revenue generating. Councilmembers also said it may be time to put the program costs into the general fund.

Additional discussion ensued. The motion passed by a vote of four to one, with Councilmember Daveline voting no.

b. Consider proposed extension of Stutzman Refuse Disposal Contract. John Deardoff, City Manager, said the current contract was approved in 2013; and is set to expire in 2022. He said Hershel West, Municipal Market Manager for Stutzman's, approached him about extending the contract for an additional seven years. He also said there would be a reduction in rates. Mr. Deardoff said staff would like to see the contract

extended for an additional seven years; and said he would come back with a revised contract. Discussion ensued.

Paul Brown, City Attorney, said no action is needed; and council just needs to provide direction to move forward.

Hershel West of Stutzman's thanked the council for our business; and said if council gives them the additional time, they can reduce the costs. Additional discussion ensued. Councilmembers agreed to move forward with extending the contract.

c. Consider revisions to Fund Balance policies. Angela Richard, Finance Director, spoke. Discussion ensued.

Motion by Councilmember Soldner, second by Councilmember Daveline, to approve Hutchinson City Council Policy 4 – Unreserved Fund Balances. The motion passed unanimously.

d. Consider sale of Avenue B and Walnut fire station. John Deardoff, City Manager, spoke. Mr. Deardoff said HFD vacated the station in October 2016; and the station has been used for storage since that time, as well as housing IT equipment. He said three parties have expressed interest in the building. Mr. Deardoff said it is difficult to place value on the building; and the sale may not be totally based on money but on its use. Discussion ensued regarding zoning, keeping the building versus selling, process for sale, sale price, etc.

Motion by Councilmember Daveline, second by Councilmember Piros de Carvalho, to approve the solicitation of sealed bids for the sale of the building to include purchase price and intended use. The motion passed unanimously.

9. Report of City Officials

a. Council

- Councilmember Soldner had no comments.
- Councilmember Daveline talked about an accident that occurred at Avenue A and Severance; and asked what would be needed for a traffic study to be done at that intersection. He said it is a difficult, dangerous intersection depending on where cars are parked. Discussion ensued. The City Manager said he will direct staff to proceed with a traffic study.
- Councilmember Dechant had no comments.
- Councilmember Piros de Carvalho had no comments.
- Mayor Inskeep invited everyone to attend the Rod Run this weekend.

b. City Manager

- Discussion regarding Apple Lane project. Mr. Deardoff said improvements to West 11th Avenue are in the 2020 CIP, but a lot of repairs have been made recently to Apple Lane. He said he and Jeff Peterson have had conversations about moving Apple Lane ahead of the West 11th project. Mr. Peterson said both projects are worthy, but approximately \$60,000.00 has recently been spent on Apple Lane for materials and manpower. He talked about work that needed to be done on both of the roadways; and said soil borings will be done on both. Discussion ensued. Councilmembers said they would be willing to follow staff's recommendations.

Mr. Deardoff also talked about sales tax numbers.

10. Executive Session.

a. Motion by Councilmember Piros de Carvalho, second by Councilmember Dechant, to recess into executive session pursuant to the consultation with an attorney exception, K.S.A. 75-4319(b)(2), in order to discuss matters that would be deemed privileged in an attorney/client relationship regarding litigation; the open meeting to resume in the City Council Chambers at 2:00 p.m. The motion passed unanimously.

The meeting reconvened in the Council Chambers at 2:00 p.m.

Motion by Councilmember Piros de Carvalho, second by Councilmember Dechant, to recess into executive session pursuant to the consultation with an attorney exception, K.S.A. 75-4319(b)(2), in order to discuss matters that would be deemed privileged in an attorney/client relationship regarding litigation; the open meeting to resume in the City Council Chambers at 2:15 p.m. The motion passed unanimously.

The meeting reconvened in the Council Chambers at 2:15 p.m.

b. Motion by Councilmember Soldner, second by Councilmember Daveline, to recess into executive session pursuant to the preliminary discussion relating to acquisition of real property exception, K.S.A. 75-4319(b)(6); the open meeting to resume in the City Council chamber at 2:30 p.m. The motion passed unanimously.

The meeting reconvened in the Council Chambers at 2:30 p.m.

11. Adjournment

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

Upcoming Meetings

October 15, 2019	9:00 a.m.	City Council Meeting
November 5, 2019	9:00 a.m.	City Council Meeting