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**MINUTES**  
**CITY COUNCIL MEETING**  
**COUNCIL CHAMBERS - HUTCHINSON, KANSAS**  
**October 15, 2019**  
**9:00 a.m.**

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1. The Governing Body of the City of Hutchinson, Kansas met in regular session at 9:00 a.m. on Tuesday, October 15, 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 Councilmember Dechant.

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.)

LaVerle Pounds, 512 East Avenue A, spoke about the 41 violations on City property that he pointed out at the last council meeting. He said some work has been done; and he appreciates that. Mr. Pounds said he called on October 14 and talked with Justin Combs about issues with some of the trees on City property. He said he was disturbed about Mr. Combs saying, "we are seeing what we need to do." Mr. Pounds said there shouldn't be a separate code for the City; and the City shouldn't be able to skirt the issue. He also talked about the inspectors issuing notices on violations that shouldn't even be addressed, as they have nothing to do with the livability of the property. Mr. Pounds spoke about a violation notice he received referencing the need to clean out gutters, replacing a storm window, etc. He also talked about the election coming up in November; and asked why there is such a push on the rental inspection issue when it doesn't sunset until the end of December. He said he believes it should be up to the new City Council to make a decision on what should happen. Mr. Pounds said council needs to listen to the residents, not just committee members. He said he thinks that some of the councilmembers have their own agenda; and just want to push this matter through. He said he will be back in two weeks with another list, stating that he went to the park this morning finding numerous violations. Mayor Inskeep thanked him for bringing this to their attention; and said the City will keep working on correcting these issues.

Oren (last name unknown), 1104 East 95<sup>th</sup>, and a member of the Boy Scouts, said there is a lack of jobs for those that are injured. He said his father has

a bad back; and others like him can't get on disability, but need work to help support their families. Mayor Inskeep said it is a concern; and hopes maybe he has some ideas that can be taken to the business community.

5. Consent Agenda

- a. Approval of Minutes of October 1, 2019 City Council meeting.
- b. Approval of Minutes of October 4, 2019 City Council special meeting.
- c. Approval of appointments to the Hutchinson Housing Commission of the following:
  - Marvin Mast, 200 East 6<sup>th</sup> Avenue, Hutchinson, to fill the expired term of Scott Cooley in at at-large position, for a term beginning 6/29/2019 to 6/29/2022.
  - Roy Little, 2003 Cone Street, Hutchinson, to fill the unexpired term of Anthony Finlay in at at-large position, for a term beginning 6/29/2017 to 6/29/2020.
- d. Approval of appointment to the Visit Hutch Advisory Board of Michael Ables, 226 Curtis, to fill the unexpired term of Mary Grace Clements in an unlimited term.
- e. Approval of September 2019 financial reports.
- f. Approval of appropriation ordinance in the amount of \$1,097,125.77.

Motion by Councilmember Daveline, 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 to consider issuance of Wesley Towers, Inc. health care facilities revenue bonds.

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

Angela Richard, Director of Finance, spoke. Councilmember Daveline asked about the maturity date on the bonds. Kevin Cowan of Gilmore and Bell said the maturity date will be in 2038. Discussion ensued.

Motion by Councilmember Soldner, second by Councilmember Daveline, to close the public hearing. The motion passed unanimously.

Motion by Councilmember Dechant, second by Councilmember Piros de Carvalho, to approve Ordinance 2019 - 14 authorizing the issuance of not to exceed \$4,555,000.00 Health Care Facilities Refunding Revenue Bonds (Wesley Towers, Inc.), Series 2019; and authorize the Mayor to sign the Ordinance and all related documents. The motion passed unanimously.

- b. Public hearing to consider structures to be unsafe and dangerous.

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

Trent Maxwell, Building Official, said the property owners of 1701 E. 2<sup>nd</sup> and 4 Woodson Plaza have signed releases; and the properties have been removed from the list. Mr. Maxwell gave an overview of each property. Mayor Inskeep said they would go over each property; and owners in attendance would be able to come forward to discuss their intentions for the properties.

No one was in attendance for the properties at 225 East 1<sup>st</sup> or 516 East 2<sup>nd</sup>.

Pam Casanova, owner of the property at 840 East 4<sup>th</sup>, said she purchased the property six years ago; and is embarrassed to say that she has let it go. She said she had thought about moving her business there, but in the meantime, she wants to fix it up so another business can occupy the space. Ms. Casanova said all of the vegetation and weeds have been removed; and she has gotten bids on the roof, windows, etc. She said two contractors have looked at the property; and both said it was worth saving, that only the roof was in bad shape. Mayor Inskeep said she presented a very detailed plan with costs estimates, which is what they want to see. Discussion ensued. Trent Maxwell, Building Official, said he has confidence in the plan she has presented.

Susie Bernard, owner of the property at 2100 S. Bonebrake, said her family has been in Hutchinson for over 125 years. Ms. Bernard said her parents and a sister have passed away; and all but two of her staff members are deceased as well. She said they are resilient; and are not going to quit. Ms. Bernard said she has talked to Mr. Maxwell several times; and that she has also talked with several contractors. She talked about plans for the commercial property, as well as plans for cleaning up the area with the residential property. Mayor Inskeep thanked her for submitting her plan; and asked if she is prepared to spend the money to rehab the property. Ms. Bernard said she is. Additional discussion ensued. Mayor Inskeep encouraged her to continue working with her contractor; and to come back in thirty days with some hard dates and amounts. Councilmember Soldner told Ms. Bernard to work with Mr. Maxwell.

Property owners for 207 East Avenue E, 624 East Avenue E and 600 South Elm were not in attendance.

Barbara Crowe, owner of the property at 204 East Avenue F, said the property is still good, it's just ugly. Mayor Inskeep asked if she lives in the property. She said no, her nephew had lived there; and that didn't help matters. Mayor Inskeep asked if she can put together a proposal. Ms. Crowe said she deals with a siding company; and they help her out. She also indicated the roof should be good, but she may have to think about selling the property. Mayor Inskeep suggested she talk to a contractor to get some good, hard numbers. Councilmember Solder told Ms. Crowe to sit down with Mr. Maxwell to come up with a plan.

The property owner for 1301 S. Maple was not in attendance.

Kevin Dilli, owner of the property at 1600 N. Prairie, apologized for the appearance of the property; and said he and his son, Dallas, have cleaned up the weeds and vegetation on the outside. Mr. Dilli said there was a fire in the home about two years ago; and said he walked away from the property for about a year. He said there was no structural damage from the fire. Mr. Dilli said they have removed the lathe and plaster, will be replacing wiring, etc. Discussion ensued regarding back taxes, the timeframe for repairs, etc. Councilmember Daveline stressed the importance of getting the back taxes paid or the property could end up in the tax sale. Councilmember Dechant said he appreciates people that want to rejuvenate their properties; and said he would much rather keep them rather than demolishing them.

The owner of the property at 413 West Sherman was not in attendance.

Mr. Maxwell spoke about the two options, saying in the past the cash bond has been waived, but it is a part of the ordinance.

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

Mayor Inskeep asked if the bond is purchased by the property owner. Mr. Maxwell said it is paid by the owner; and is estimated on the cost to demolish the property. Mr. Deardoff said this has been problematic in the past. Councilmember Piros de Carvalho said we may need to look at changing the ordinance. Discussion ensued.

Motion by Councilmember Daveline, second by Councilmember Soldner, to approve Resolution 2019 R 19 which condemns unsafe and dangerous structures within the City of Hutchinson located at: 225 East 1<sup>st</sup>, 516 East 2<sup>nd</sup>, 840 East 4<sup>th</sup>, 2100 South Bonebrake, 207 East Avenue E, 624 East Avenue E, 600 South Elm, 204 East Avenue F, 1301 South Maple, 1600 North Prairie and 413 West Sherman, and allow the property owners thirty (30) days to repair or remove such structures; and authorize the Mayor to sign the Resolution. The motion passed unanimously.

Motion by Councilmember Piros de Carvalho, second by Councilmember Daveline, to waive the required cash bond. Councilmember Dechant said he would like to bring this issue back to decide if it should continue to be a part of the Code. Mayor Inskeep asked the City Attorney about this issue. Mr. Brown said we follow state statute. Additional discussion ensued. The motion passed unanimously.

Mayor Inskeep called for a break at 10:17 a.m. The meeting resumed at 10:25 a.m.

## 7. New Business

a. Consider appeal of employee termination by Fraternal Order of Police, Lodge No. 7, and Jonathan Suda. Mayor Inskeep reviewed the parameters previously set out in a letter to counsel.

Matt Huntsman, attorney for the Fraternal Order of Police and Jonathan Suda, asked the council to give him ten (10) minutes of his allotted 30 minutes for rebuttal.

Mayor Inskeep said if there are questions, they will call upon him to clarify, but he would like to stay within the parameters that were set. Mr. Huntsman said this is the final step of the contractual grievance procedure. He said council's decision is final and binding, but it can then go on to judicial review. He said he wants to address this matter in three parts, those being the arbitrator's award, the City Manager's rejection of the award; and lastly, the duties of the council under the statutes and the contract.

Mr. Huntsman said Jeffrey Jacobs, arbitrator, heard this matter; and had been selected by both parties. He said the arbitration hearing was scheduled; and testimony was presented for a full day. Mr. Huntsman said it was the duty of the arbitrator to find the facts; and he was the only person in this process who got to hear testimony presented under oath. He said the FOP is not here to argue against the arbitrator's award in finding that two of the three violations should be sustained. Mr. Huntsman said Mr. Jacobs found that Mr. Suda violated policy by deactivating his body camera. He said Mr. Jacobs also found that Mr. Suda should have conducted field sobriety tests. Mr. Huntsman said the arbitrator did not, however, find that Mr. Suda lied to the investigator during the process. He said that after reviewing all of the evidence, the arbitrator determined that the City had not proven Mr. Suda lied to Mr. Duckett who did the investigation in this matter. Mr. Huntsman spoke about Mr. Duckett's report; and said the arbitrator gave the report little to no weight since Mr. Duckett wasn't available for cross-examination. Mr. Huntsman also talked about Mr. Suda's commendations, etc.

Mr. Huntsman went on to say the City Manager's decision was to not go along with the arbitrator's award. He said if Mr. Suda were reinstated today, that it was a year-long suspension with no pay. Mr. Huntsman said the arbitrator indicated in his 52 page award that Mr. Suda should be reinstated, but the rejection by the City Manager was only two pages in length; and failed to point to any substantial evidence. Mr. Huntsman spoke further about the arbitrator's award, inaccuracies in the Duckett report, etc. He said council's job is to make a decision based on substantial evidence. Mr. Huntsman said the arbitrator put together a neutral award that recommended reinstating Mr. Suda. He said mistakes were made; and that Mr. Suda never disputed that finding. He also said there was no evidence that Mr. Suda lied to Mr. Duckett; and there was no evidence Mr. Suda lied at any other point. Mr. Huntsman said Mr. Jacobs is the only one that heard Mr. Suda's statements under oath; and he made the decision to recommend reinstatement as he found that Mr. Suda did not lie. Mr. Huntsman told council members he just wants the arbitrator's award to be followed in its entirety; to make a determination that Mr. Suda did not lie; and to reinstate Mr. Suda.

Henry Thomas, an attorney with the Polsinelli firm representing the City of Hutchinson, told council the City Manager's decision must be sustained based on the evidence. He said Mr. Suda should not be reinstated because the arbitrator sustained the first two charges against Mr. Suda, those being that he shut off his body camera which is a direction violation of police policy; and secondly Mr. Suda failed to conduct any type of impairment testing. Mr. Thomas presented audio and video recordings including several 911 calls about an impaired driver, as well as limited body cam and dash cam video from officers that responded to the 911 calls prior to those cameras being turned off. Mr.

Thomas pointed out in the video the first officer motioning to Ofc. Suda to turn off his camera; and showing the driver's head hanging out the window of the vehicle. He also said neither officer asked any basic DUI or impairment questions; and there was no verbal response at any time from the driver. Mr. Thomas also pointed out that the video shows Ofc. Suda walking to the passenger side of the vehicle and getting into the passenger seat. He said this is highly unusual; and not within the norm. Mr. Thomas also spoke about several text messages; and showed video of a phone call that Ofc. Suda made from an interrogation room where he asked, "how do we go about this without throwing someone under the bus...." Mr. Thomas said the arbitrator found Mr. Suda's explanations were not credible, flew in the face of common sense, etc. Mr. Thomas said termination is never easy, but in this instance the City should be commended for taking the right action. He said the City Manager and Human Resources Director did the right thing to have a third party investigator review the matter. He said the City had been scolded by the union for not hiring an external individual in the past; and now they are scolding the City for hiring an external individual and spending the money. Mr. Thomas said the City should be commended for taking a zero tolerance approach; and stated the City Manager's decision must be sustained based on the evidence.

Discussion ensued.

Motion by Councilmember Dechant, second by Councilmember Piros de Carvalho, to confirm the City Manager's decision upholding the termination of the employee, Jonathan Suda. Councilmember Piros de Carvalho said while they only had a week to review all of the documents, she wanted to assure Mr. Suda that she and the rest of the council members poured over all of the documents as they know it's his career on the line. She said she doesn't understand how the arbitrator came to the conclusion that he did; and said she stands behind Chief Hooper as he is building a culture of integrity.

Councilmember Dechant said any one of the three actions were enough for him to support the action taken. He said those actions removed any opportunity to know what really happened; and said he is convinced there was a coverup. Councilmember Dechant said with everything happening across the nation with regard to policy transparency, you want to trust what comes from the department; and the internal investigation and circumstances in this case were not trustworthy.

Councilmember Soldner said she concurs with Councilmember Dechant. She said she did find there was a flagrant lie; and that Mr. Suda lost her when he turned off his body camera. She said she regrets that no testing was done; and no one will ever know if it was a mental condition, something the driver had ingested, etc. Councilmember Soldner said she supports the termination.

Councilmember Daveline said he wants to talk to Mr. Suda "man to man". He said he assumes that Mr. Suda would probably like to relive this; and has a feeling that he would like to have turned the table on the procedures and how he conducted himself, knowing that he will live with this all of his life. Councilmember Daveline said the evidence is clear and overwhelming; and supports the motion.

Additional discussion ensued. The motion passed unanimously.

b. Consider executive search firm recommendation. Tom Sanders, Human Resources Director, said on August 6 the council directed him to work with Councilmembers Soldner and Daveline to identify an executive search firm. He said they met and developed an RFP. Mr. Sanders said six search firms were identified; and they received proposals from all six. He talked about the criteria for making the selections; and after reviewing the RFP's, etc., they made the decision to move forward with Strategic Government Resources. Mr. Sanders said they met with the primary recruiter on October 3; and they are eager and ready to move forward. Discussion ensued regarding a stakeholder survey, a citizen committee, marketing, etc.

Motion by Councilmember Piros de Carvalho, second by Councilmember Dechant, to approve the Agreement for Executive Recruitment Services with Strategic Government Resources; and authorize the Mayor to sign. The motion passed unanimously.

c. Consider Orchard Park trail extension. Justin Combs, Director of Parks and Facilities, spoke about the project. Discussion ensued.

Motion by Councilmember Daveline, second by Councilmember Soldner, to approve the contract with Ward Davis Builders for the construction of the Orchard Park trail extension for an amount of \$95,894.80; and authorize the Mayor to sign. The motion passed unanimously.

## **8. REPORT OF CITY OFFICIALS**

### **a. Council**

- Councilmember Piros de Carvalho said she had the opportunity to attend the League of Kansas Municipalities conference over the weekend. She said she was inspired to do more for the community; and heard from other cities that they face the same challenges we do. She said it was helpful to hear how others are approaching some of the issues. Councilmember Piros de Carvalho also asked about diversity training in the Police Department in light of the recent tragic event that took place in Ft. Worth, Texas. Chief Hooper said we have in-house training for three weeks before officers go to the academy. He said they talk a lot about ethics, morals, bias, etc. Chief Hooper said they received additional training at the academy; and then they get another round from the department before they go out on the streets.
- Councilmember Dechant said it was an excellent conference; and said he had discussions with others that face the same problems we do. He said it reaffirms that no matter the size of the city or where it is located, we all face the same issues.
- Councilmember Soldner had no comments.

- Councilmember Daveline had no comments.
- Mayor Inskeep said cities are having success by working together with counties, schools, etc.

b. City Manager

The City Manager had no comments.

**9. ADJOURNMENT**

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

**Upcoming Meetings**

November 5, 2019	9:00 a.m.	City Council Meeting
November 19, 2019	9:00 a.m.	City Council Meeting