

**MINUTES OF THE COUNCIL MEETING
OF THE CITY OF PAOLA, KANSAS
6:00 O’CLOCK P.M.
September 24, 2013**

**HELD AT THE PAOLA JUSTICE CENTER
805 North Pearl Street in Paola**

The Governing Body of the City of Paola, Kansas, met with Mayor Stuteville presiding.

Council Members present: Council Members Jim Pritchard, Gee Gee Wilhoite, Leigh House and Aaron Nickelson.

Council Members absent: Mayor Artie Stuteville.

Also present: City Clerk Dan Droste, Public Works Director Craig Browning, Police Chief Dave Smail, and City Planner Mike Gotfredson.

Agenda Item 1 - CALL TO ORDER: The regular council meeting was called to order by Council President Pritchard.

Agenda Item 2 - ROLL CALL: Council Members Pritchard, Wilhoite, House and Nickelson were present. Mayor Stuteville was absent.

Agenda Item 3 - PETITIONS, REMONSTRANCES, AND COMMUNICATIONS: Council President Pritchard asked the audience if anyone desired to address the Council about any issue that is not an agenda item. No one addressed the Council.

Agenda Item 4 - CONSENT AGENDA:

- a. Approval of minutes of the meeting of September 10, 2013.
- b. Approval of Salary Ordinance 13-20.
- c. Approval of Appropriation Ordinance No 760.
- d. Approval of the renewal of a Retail Liquor License for Park Plaza Liquor.
- e. Approval of the renewal of a Caterer License for Town Square.
- f. Approval of the renewal of a Class B Private Club License for Paola Country Club.

After a discussion, Council Member Wilhoite made a motion to approve the Consent Agenda as presented and authorize the Mayor to sign. The motion was seconded by Council Member House and all voted aye. The motion passed 4 to 0.

Agenda Item 5 - REPORTS OF OFFICERS, BOARDS AND COMMITTEES:

Agenda Item 5a – Establish a date for a public hearing to consider a petition for de-annexation.

Clerk Droste reported that on November 13, 2012, the City Council took action to adopt Resolution No. 2012-013 declaring certain property to be “surplus” and authorized the property to be sold. The closing on the sale of the property did take place on September 13th and the City was paid \$3,000 for the 10 acre tract.

Pursuant to the contract for the sale of the property, the new owners have petitioned the City to de-annex the property from the corporate limits of the City. In their petition, the new owners warrant and state that:

- a) They are the only owners of record of this property;
- b) This entire property is located in a Special Flood Hazard Area as identified by the Federal Emergency Management Agency;
- c) This property is land-locked and there is no public access to the property;
- d) This property is currently undeveloped and is likely to remain in an undeveloped state;
- e) This property is currently not served by any public services provided by the City of Paola, Kansas and the new owners have no intention of requesting City services for this property in the future.

Clerk Droste reported that the statutory procedure for to examine, consider, and determine the petition is as follows:

- 1) The Council must set a date and time for a Public Hearing to consider the petition.
- 2) The City Clerk must publish a Notice of Public Hearing in the official newspaper at least 20 days prior to the Public Hearing.
- 3) At the conclusion of the Public Hearing the Council should take action to approve or deny the petition.
- 4) If approved, an Ordinance is adopted and published.
- 5) The Ordinance is filed with the Miami County Register of Deeds, The Miami County Clerk, and The Kansas Department of Transportation.
- 6) The annual Boundary Resolution is amended to exclude the de-annexed property.

After further discussion, Council Member House made a motion to set a Public Hearing on Tuesday, October 22, 2013 at 6:00 pm to consider a petition for de-annexation from Randall and Hildegard Moser and authorize the City Clerk to publish notice thereof. The motion was seconded by Council Member Wilhoite and all voted aye. The motion passed 4 to 0.

Agenda Item 5b – Consider approval of a Lease of Water Rights agreement.

Clerk Droste reported that on September 25, 2012, the City Council took action to approve an *Application For Approval To Change The Place Of Use, The Point Of Diversion Or The Use Made Of|The Water Under An Existing Water Right* which was subsequently filed with the Kansas Department of Agriculture - Division of Water Resources. This application was the first step in transferring up to 36.5 acre feet of water per year to Adam and Robin Ward. This transfer keeps the City’s water rights on Bull Creek active, thus preserving them for any unforeseen need in the future. The Kansas Department of Agriculture - Division of Water Resources has subsequently approved the application.

Clerk Droste reported that the final step in completing this process is the execution of the *Lease of Water Rights* agreement. This agreement is for a term of 10 years with an annual installment of \$350 payable in advance each December. The important aspect of this agreement is not the financial consideration, but the ability of the City to keep the existing water rights active on Bull Creek.

After additional discussion, Council Member Nickelson made a motion to approve the Lease of Water Rights with Adam and Robin Ward for the right to draw up to 36.5 acre feet of water under Vested Right File #MI002 for a period of 10 years; and to authorize Council President Pritchard to sign on behalf of the City. The motion was seconded by Council Member Wilhoite and all voted aye. The motion passed 4 to 0.

Agenda Item 6 – NEW BUSINESS

Public Works Director Browning reported that work has started on the new sidewalk/trail along Hedge Lane between Panther Drive and Industrial Park Drive. He explained some of the challenges related to dealing with existing utilities along the route. Asphalt for the sidewalk/trail should be completed next week.

Clerk Droste reminded the Council that the League of Kansas Municipalities Annual Conference will be held at the Overland Park Convention Center from October 12th to the 14th. He reported that City Manager Wieland and Council Member Pritchard have indicated that they are unable to attend and that Mayor Stuteville would also likely not attend. After a discussion the Council agreed to not attend the conference this year.

Clerk Droste reported that sales tax revenues for the month of September totaled \$184,128 bringing the year to date total to \$1,687,257 which is \$78,333 more than the same time period last year. Clerk Droste also presented a report on Real Estate and Motor Vehicle Tax collections for 2013.

Council Member Nickelson inquired about the steel plates on Hospital Drive. Public Works Director Browning reported that work on Hospital Drive has been completed and the plates will be picked up soon.

Council Member Pritchard asked about the numerous dead trees in town. Public Works Director Browning reported that if the dead trees are in the street right-of-way then the City would remove them. However, dead trees on private property are the responsibility of the property owner. Browning indicated that the City has removed nearly 100 dead trees in the right-of-way and in parks so far this year.

Council Member Pritchard asked about the status of the funding for the grant for the Paola Pathways Trail. City Planner Gotfredson reported that contracts have been received and signed and that the environmental review to be completed.

Agenda Item 7 – EXECUTIVE SESSION for the purpose of discussing personnel matters of non-elected personnel. K.S.A. 75-4319(B)(1) is the authority for this recess.

Council President Pritchard announced that the Executive Session would not be held this evening. It would be rescheduled for a later meeting.

Agenda Item 8 – ADJOURNMENT

With no additional business to come before the Council, Council Member Wilhoite made a motion to adjourn. Council Member Nickelson seconded the motion and all voted aye. The motion passed 4 to 0.

Artie Stuteville, Mayor

ATTEST: [seal]

Daniel G. Droste, City Clerk