

**MINUTES OF THE COUNCIL MEETING
OF THE CITY OF PAOLA, KANSAS
6:00 O’CLOCK P.M.
November 25, 2014**

**Held in the Municipal Court Room at the Paola Justice Center
805 North Pearl Street in Paola**

The Governing Body of the City of Paola, Kansas, met with Council President Pritchard presiding.

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

Council Members absent: Mayor Artie Stuteville and Council Member Gee Gee Wilhoite.

Also present: City Manager Jay Wieland, City Clerk Dan Droste, City Attorney Lee Tetwiler, Police Chief Dave Smail, City Planner Mike Gotfredson, Richard Lentz, Nick Ewing with Sullivan Palmer Architects, and Brian McCauley with the Miami County Republic.

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, House, and Nickelson were all present. Mayor Stuteville and Council Member Wilhoite were 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 regular meeting of November 10, 2014.
- b. Approval of Salary Ordinance 14-26.
- c. Approval of Appropriation Ordinance No 789.

After a discussion, Council Member Nickelson 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 3 to 0.

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

Agenda Item 5a – Consider approval of a site plan for an addition to El Potro Restaurant located at 902 N Pearl Street.

City Planner Gotfredson presented a proposed site plan for an addition to the El Potro Mexican Restaurant. The proposal includes a building addition of 820 square feet for storage plus 12

additional parking spaces for employees. He reported that the Planning Commission unanimously recommended approval of the site plan at their November 18th meeting with the following conditions: (1) provide detail showing drainage impact of proposed retention wall, and (2) show satisfactory evidence that the addition will comply with Section 12.120 Detention of the Land Development Ordinance.

Council Member Pritchard inquired about the construction of the retaining wall needed to accommodate the construction of the parking spaces. He noted the steep grade in the area where the parking spaces are proposed. Nick Ewing with Sullivan Palmer Architects described the materials used for the wall and indicated that the wall would be approximately 4 feet tall and would be 15 to 20 feet from the edge of the gravel street to the south.

After additional discussion, Council Member Nickelson made a motion to approve the site plan for 902 N Pearl Street subject to the following conditions: (1) provide detail showing drainage impact of proposed retention wall, and (2) show satisfactory evidence that the addition will comply with Section 12.120 Detention of the Land Development Ordinance. The motion was seconded by Council Member Pritchard and all voted aye. The motion passed 3 to 0.

Agenda Item 5b – Consider approval of a new Cereal Malt Beverage License for GK Fuel Mart, LLC.

Clerk Droste reported that the former Zarco 66 located at 1005 N Pearl has sold to GK Fuel Mart, LLC and is now doing business as Fuel Espresso #13. The previous owners had a Cereal Malt Beverage License for the business, however, that license is not transferable. He reported that the new ownership has filed an application for a new Cereal Malt Beverage License and paid the appropriate fee. The facility has also passed the required fire safety inspection. Clerk Droste noted that the location of this premises is more than 200 feet from the nearest church or school as defined in Section 600.020 of the Paola Municipal Code, therefore, a public hearing is not required for this new license.

After a discussion, Council Member Pritchard made a motion to approve a new Cereal Malt Beverage License for GK Fuel Mart, LLC doing business as Fuel Espresso #13 at 1005 N Pearl Street. The motion was seconded by Council Member Nickelson and all voted aye. The motion passed 3 to 0.

Agenda Item 5c – Consider approval of an Ordinance defining illegal hunting within the city limits.

Manager Wieland reported that City Staff was approached by a property owner who was having issues with unauthorized persons hunting deer on their property. This property is within the city limits of Paola and he was asking for a copy of the ordinance that regulated hunting in the city. In reviewing the Paola Municipal Code Book, no ordinance was found that specifically prohibits hunting within the city limits. Thus, pursuant to Section 10.5 of the Uniform Public Offense Code, a validly licensed person could legally hunt within the city limits of Paola.

Clerk Droste reported that he researched ordinances of other communities in Kansas and found few that banned hunting outright, but he did find ordinances in two communities that allowed hunting with safety restrictions their city limits. After reviewing these ordinances, City Staff is recommending an ordinance that would allow hunting under following circumstances:

1. The person hunting is in compliance with all State laws and Kansas Department of Wildlife and Parks rules and regulations relating to deer or turkey hunting; and
2. Only when using a bow and arrow from an elevated shooting position to hunt only deer or turkey; and
3. The person is hunting upon land with the consent of the landowner, whose land is:
 - a. primarily undeveloped; and
 - b. contains an area of twenty (20) acres or more; and
 - c. has at least one boundary that is contiguous with the corporate limits of the City of Paola.

Clerk Droste noted that there are several properties within the city limits that meet the restrictions outlined in the proposed ordinance. He noted that the proposed ordinance does restrict hunting, but it provides for reasonable circumstances where hunting could be done safely within the city limits of Paola.

After additional discussion, Council Member House made a motion to approve AN ORDINANCE AMENDING ARTICLE IX: OFFENSES CONCERNING FIREARMS, CHAPTER 205: OFFENSES, TITLE II: PUBLIC HEALTH SAFETY AND WELFARE, OF THE CODE OF THE CITY OF PAOLA, KANSAS, 2009, BY ADDING A NEW SECTION 205.245: UNLAWFUL HUNTING The motion was seconded by Council Member Nickelson and all voted aye. The motion passed 3 to 0 and the Ordinance was assigned number 3079.

Agenda Item 5d – Consider the approval of the final Payment Request No 14 for the Library Addition and Renovation Project #2013-001 – Part A.

Manager Wieland reported that Legacy Contractors, LLC has submitted a Contractor’s Application for Payment for the Library Addition and Renovation Project. The Library Project is segregated into two parts, A and B. Part A is the demolition of the 1980’s addition and the expansion of the building with a new addition. Part B is the renovation of the original historical structure that was built in 1906. These are segregated to provide the appropriate accounting and documentation for the City’s Tax Credit Application with the Kansas Historical Society. This request is for Part A and is the final pay request including retainage for the project. The project is now 100% complete.

Manager Wieland noted that an error that came to light in the reconciliation of the final payout. When the contractor prepared Pay Request #13, he picked up an incorrect figure from the previous month which increased the amount that was paid out on Pay Request #13 by \$25,554.00. Since the retainage was high enough to cover the error, it just reduces this final payment. The amount of the final payment is \$43,246.00.

After additional discussion, Council Member Pritchard made a motion to approve the final payment request #14 from Legacy Contractors, LLC in the amount of \$43,246.00 for the Library addition and renovation project #2013-001-Part A. The motion was seconded by Council Member Nickelson and all voted aye. The motion passed 3 to 0.

Agenda Item 5e – Consider the approval of the final Payment Request No 10 for the Library Addition and Renovation Project #2013-001 – Part B.

Manager Wieland reported that Legacy Contractors, LLC has submitted a Contractor’s Application for Payment for the Library Addition and Renovation Project. The Library Project is segregated

into two parts, A and B. Part A is the demolition of the 1980's addition and the expansion of the building with a new addition. Part B is the renovation of the original historical structure that was built in 1906. These are segregated to provide the appropriate accounting and documentation for the City's Tax Credit Application with the Kansas Historical Society. This request is for Part B and is the final pay request including retainage for the project. The project is now 100% complete.

Manager Wieland noted that an error that came to light in the reconciliation of the final payout. When the contractor prepared Pay Request #9, he picked up an incorrect figure from the previous month which increased the amount that was paid out on Pay Request #9 by \$26,916.00. This was the same error that was made on the pay request for Part A. However, since the retainage was not enough to cover the error and it resulted in an overpayment to the contractor in the amount of \$3,283.00. In an effort to segregate the accounting for the Tax Credit Application, this amount has been repaid to the City by the contractor rather than reducing the payment on Part A by this overpayment amount. A copy of the contractor's check was provided to the Council.

After additional discussion, Council Member Nickelson made a motion to approve the final payment request #10 from Legacy Contractors, LLC for the Library addition and renovation project #2013-001-Part B, and acknowledge repayment from the contractor in the amount of \$3,283.00. The motion was seconded by Council Member House and all voted aye. The motion passed 3 to 0.

Agenda Item 6 – NEW BUSINESS

Clerk Droste reported that sales tax revenue for the month of November amounted to \$205,231 bringing the year to date total to \$2,154,072 which is 5.91% more than the same time period last year.

Manager Wieland reported that he and Planner Gotfredson met with the architects for USD 368 on Phase II of the improvements to the School District's facilities. He reported that they discussed issues related to site plans and meeting the requirements of the Land Development Ordinance. Overall, the meeting was positive.

Manager Wieland reminded everyone that the Mayor's Christmas Tree Lighting will be Friday at 6:00 pm.

Agenda Item 7 – ADJOURNMENT

With no additional business to come before the Council, Council Member Nickelson made a motion to adjourn. The motion was seconded by Council Member House and all voted aye. The motion passed 3 to 0.

Artie Stuteville, Mayor

ATTEST: [seal]

Daniel G. Droste, City Clerk