

RESOLUTION NO. 2007-004

WHEREAS, water service and water rights are very important to both the existing residents and future residents of Paola, Kansas; and

WHEREAS, to secure a new reliable water source, the City of Paola entered into a joint venture with Louisburg and Rural Water District No. 2 and formed the Marais des Cygnes Public Utility Authority for the benefit of all the parties; and

WHEREAS, the Marais des Cygnes Public Utility Authority hired the same engineering firm that RWD #2 has used for many years to help plan and design the new wholesale water treatment plant and the distribution system; and

WHEREAS, when RWD #2 could not get the bylaws of the Marais des Cygnes Public Utility Authority to require a unanimous vote, which would have allowed RWD #2 to unilaterally veto any acts of the new water authority, RWD #2 chose not to participate further in the new Marais des Cygnes Public Utility Authority; and

WHEREAS, the Cities of Paola and Louisburg, through the new Marais des Cygnes Public Utility Authority, have proceeded with all the legal work and engineering designs to construct the new water treatment plant and distribution system for the benefit of their respective residents; and

WHEREAS, RWD #2 and Louisburg have been involved in litigation to determine the amount of money Louisburg must pay RWD #2 for RWD #2's facilities on property annexed by the City of Louisburg; and

WHEREAS, in that litigation, RWD #2 asked the court-appointed appraisers for an award between eight and twelve million dollars; and

WHEREAS, the court-appointed appraisers have filed their Appraisers Report requiring Louisburg to pay RWD #2 the sum of \$133,200.00 for RWD #2's facilities annexed by the City of Louisburg; and

WHEREAS, the cities located in Miami County and the Miami County Commissioners have worked together to plan for and encourage growth in the areas around existing cities where the cities already provide public services; and

WHEREAS, the City of Paola has designated growth areas adjacent to its city limits where it anticipated growth through annexation and new development; and

WHEREAS, some developers have already asked Paola to annex their property and they are proceeding to develop the same with city services, including water; and

WHEREAS, more landowners and/or developers are and will continue to ask the City to annex their property in the City of Paola's growth area; and

WHEREAS, if the City of Paola cannot negotiate an agreement with RWD #2 for the value of its facilities annexed by the City, the City of Paola will be required to pay RWD #2 for the value of its facilities, if any, on property annexed by the City, pursuant to the laws of the State of Kansas; and

WHEREAS, the Governing Body of the City of Paola has learned that RWD #2 has reapplied for a small USDA Rural Development loan, which loan application was previously denied; and

WHEREAS, RWD #2's financial highlights for the year ending November 30, 2006 confirm it had cash and certificates of deposit on hand in the sum of \$6,416,443.00; and

WHEREAS, if RWD #2 obtains a small USDA Rural Development loan, Section 1926(b) of the federal law providing for such loans to rural water districts will prevent Paola and other cities in Miami County, Kansas from acquiring any of RWD #2's existing or new customers in areas to be annexed by the cities as long as any balance remains owing on RWD #2's federal loan; and

WHEREAS, it is not in the best interests of the citizens of the sovereign cities in Miami County, Kansas, including Paola, to allow RWD #2's Board of Directors, who are not citizens of nor elected by the residents of the cities in Miami County, Kansas, to control not only the water supply to the cities but also to prevent the future growth and expansion of each sovereign city.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF PAOLA, KANSAS, BASED ON THE ABOVE AND FOREGOING, IT IS HEREBY CONSIDERED, ADJUDGED AND DECREED:

1. The Governing Body of the City of Paola, Kansas does hereby specifically express its opposition to RWD #2's loan application seeking to obtain a USDA Rural Development loan and the protection of RWD #2's existing boundaries and customers provided thereby Section 1926(b).

2. The Board of Directors of RWD #2 should not be allowed to prevent the sovereign city of Paola from providing water to its own citizens in new developments annexed by the City of Paola through RWD #2's use of a small USDA Rural Development loan and the protection provided thereby.

3. This Resolution shall take effect and be in force from and after its publication once in the official city newspaper.

ADOPTED AND APPROVED by the Governing Body of the City of Paola, Kansas, on March 13, 2007.

Artie Stuteville, Mayor

ATTEST: [Seal]

Daniel G. Droste, City Clerk