

**MINUTES OF THE COUNCIL MEETING
OF THE CITY OF PAOLA, KANSAS
5:30 O’CLOCK P.M.**

July 10, 2007

**HELD AT THE PAOLA PUBLIC WORKS BUILDING
29370 Old KC Road in Paola**

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

Councilmembers present: Mayor Stuteville, Council Members Pritchard, Dial, Rowlett, and Hamilton.

Council Members absent: None.

Also present: Manager Newton, Clerk Droste, Attorney Tetwiler, Police Chief Smail, Public Works Director Bieker, Planner Givens, Brian McCauley with the Miami County Republic, Carol Everhart, and others.

Agenda Item 1 - CALL TO ORDER: The regular council meeting was called to order by Mayor Stuteville.

Agenda Item 2 - ROLL CALL: Mayor Stuteville and Council Members Pritchard, Dial, Rowlett, and Hamilton were all present.

Agenda Item 3 - PETITIONS, REMONSTRANCES, AND COMMUNICATIONS
No one addressed the Council.

Agenda Item 4 - CONSENT AGENDA

- a. Approval of minutes of the meetings of June 12, 2007 and June 26, 2007.
- b. Approval of Salary Ordinance number 07-11 and 07-12.
- c. Approval of Appropriation Ordinance No. 607 and 608.
- d. Approval of the renewal of a Drinking Establishment License for Rounder’s.

Councilmember Rowlett made a motion to approve the Consent Agenda, as presented, and authorize the Mayor to sign. Councilmember Pritchard seconded the motion and all voted aye. The motion passed 4 to 0.

Agenda Item 5a – Consider Public Hearing for the purpose of considering a request to waive the restriction for selling any alcoholic beverage within 500 feet of a park, school or church for Poetter Enterprises, Inc. dba Beethoven’s #9 Restaurant at 110 W Peoria.

Councilmember Pritchard made a motion to open the public hearing. The motion was seconded by Councilmember Dial and all voted aye. The motion passed 4 to 0.

Clerk Droste explained that an application for a Drinking Establishment License had been received from Poetter Enterprises Inc. for Beethoven's #9 Restaurant which will be located at 110 W Peoria. Since the proposed restaurant is located within 500 feet of the Park Square, Paola City Code requires a Public Hearing prior to taking action on a waiver of the restriction for selling any alcoholic beverage within 500 feet of a park, school or church. Notice of the public hearing has been published in the newspaper, posted at City Hall, and posted on the City's website.

No one addressed the Council with any objections to the waiver.

Mr. Hannes Poetter addressed the Council on behalf of his son who will be operating the restaurant. He explained that the State Liquor license has been issued and that the remodeling would be completed soon.

Councilmember Pritchard made a motion to close the public hearing. The motion was seconded by Councilmember Dial and all voted aye. The motion passed 4 to 0.

Councilmember Hamilton made a motion to approve a waiver of the restriction for selling any alcoholic beverage within 500 feet of a park, school or church for Poetter Enterprises, Inc. dba Beethoven's #9 Restaurant at 110 W Peoria. The motion was seconded by Councilmember Rowlett and all voted aye. The motion passed 4 to 0.

Agenda Item 5b - Consider approval of a new Drinking Establishment License for Poetter Enterprises, Inc. dba Beethoven's #9 Restaurant at 110 W Peoria.

Clerk Droste presented an application for a new Drinking Establishment License for Poetter Enterprises, Inc. doing business as Beethoven's #9 Restaurant at 110 W Peoria. He explained that approval would be subject to the facility passing the required fire safety inspection. Droste explained that the property was still in the process of being remodeled and the fire safety inspection could not be performed until the remodeling is completed.

Councilmember Dial made a motion to approve a new Drinking Establishment License for Poetter Enterprises, Inc. dba Beethoven's #9 Restaurant at 110 W Peoria subject to a satisfactory fire safety inspection. The motion was seconded by Councilmember Pritchard and all voted aye. The motion passed 4 to 0.

Agenda Item 5c - Presentation of the 2006 Audit by Harold Mayes of Agler & Gaddert.

Mr. Harold Mayes of Agler & Gaddert Chartered, Certified Public Accountants, presented the 2006 Audit Report of the City of Paola. He reviewed the report in detail and reported that the City's accounting records were in compliance with the Statutory Requirements of the State of Kansas.

After the completion of the audit presentation and discussion of the report, Councilmember Pritchard made a motion to accept the 2006 Audit from Agler & Gaeddert. The motion was seconded by Councilmember Rowlett and all voted aye. The motion passed 4 to 0.

Agenda Item 5d - Consider a “Letter of Engagement” with Agler & Gaeddert to audit the City of Paola in 2007.

Clerk Droste presented a letter of engagement from Agler & Gaddert to perform the audit for the City of Paola for 2007. The cost of the proposed audit would be \$13,400.00.

After discussing the proposal, Councilmember Rowlett made a motion to approve a Letter of Engagement with Agler & Gaddert to audit the City of Paola in 2007 in the amount of \$13,400.00. The motion was seconded by Councilmember Hamilton and all voted aye. The motion passed 4 to 0.

Agenda Item 5e - Consider approval of a variance for Charlie Smith from the minimum lot size requirements at 308 N Hospital Drive.

Planner Givens presented a request for approval of a variance for the minimum lot size requirements for 308 N Hospital Drive. He reported that the Planning Commission recommended approval of the request at their meeting on June 19th after holding a Public Hearing on the issue.

Councilmember Hamilton questioned the distance between the curb cut planned for the lot and the intersection. Clerk Droste reported that there was a written agreement that the City entered into with the former owners of this property allowing for the curb cut so that the property would be allowed to have access off of Hospital Drive.

After discussing the request, Councilmember Hamilton made a motion to approve a variance for Charlie Smith from the minimum lot size requirements at 308 N Hospital Drive. The motion was seconded by Councilmember Pritchard and all voted aye. The motion passed 4 to 0.

Agenda Item 5f - Consider approval of a variance in the required right of way distance from 60’ to 50’ for the Hidden Meadows Subdivision.

Councilmember Rowlett stated that since he was a partner in the development of Hidden Meadows, it was his desire to recuse himself from all discussion regarding the development and he left the Council meeting room.

Planner Givens reported that during the approval process for the Site Plan and Plat of Hidden Meadows, it was determined that a Variance would be required for the access road for the new development. A strip of land was dedicated to the City to ensure that this area would have access from Hospital Drive. At the time of dedication the easement that was granted was 50 feet. Current regulations require a 60 foot right of way for residential development.

The site plan shows that the road width will be 28 feet from curb to curb as required by the Land Development Ordinance. The only reduction will be for right of way dedicated to the City. The primary access off Hospital Drive is currently 50 feet with private property existing on both sides of the right of way. The internal roads of the development will tie into Redbud Drive an existing road in the Indian Hills Sub-Development. When Indian Hills was platted a 50 foot right of way was granted. It is logical to allow these roads to maintain the same right of way width especially in the transition zones where the two developments abut one another.

Planner Givens reported that during their June 19, 2007 meeting, the Paola Planning Commission did convene a public hearing to consider the matter. After consideration and no comment from the public, the Planning Commission did vote 4-0 to recommend approval of the variance to the City Council.

After discussing the request, Councilmember Pritchard made a motion to approve a variance in the required right of way distance from 60 feet to 50 feet for the Hidden Meadows Subdivision. The motion was seconded by Councilmember Dial and all voted aye. Councilmember Rowlett did not vote. The motion passed 3 to 0.

Councilmember Rowlett returned to the meeting room and took his seat with the Council.

Agenda Item 5g -Consider an ordinance amending the Land Development Ordinance.

Planner Givens reported that the City has received notice from Kansas City Power & Light that without a local ordinance they will no longer provide rear lot distribution systems to new sub-developments. Staff has reviewed the matter with the previous City Manager and it has been determined that a text amendment to the LDO is the most logical manner in which to accomplish such an ordinance that will require rear lot distribution systems.

Planner Givens presented an Ordinance that would amend Section 12.151 of the Land Development Ordinance by requiring that distribution systems be located at the rear of all lots unless otherwise determined unfeasible by the Zoning Administrator.

After discussing the issue, Councilmember Dial made a motion to approve AN ORDINANCE AMENDING THE PAOLA LAND DEVELOPMENT ORDINANCE - DIVISION 12.150 UNDERGROUND UTILITIES. The motion was seconded by Councilmember Rowlett and all voted aye. The motion passed 4 to 0. Clerk Droste assigned No. 2946 to the Ordinance.

Agenda Item 5h - Consider approval of the preliminary and final plat for the Paola Justice Center.

Planner Givens reported that as part of the development of the Paola Justice Center, Allenbrand & Drews has suggested that we re-plat the site. Allenbrand & Drews had difficulty establishing property lines while doing the site plan, especially with the railroad right of way. This plat will essentially clean up the boundary lines of the area.

After discussing the plat, Councilmember Rowlett made a motion to approve the preliminary and final plat for the Paola Justice Center. The motion was seconded by Councilmember Hamilton and all voted aye. The motion passed 4 to 0.

Agenda Item 5i - Consider approval of the preliminary and final site plan for the Paola Justice Center.

The City of Paola acquired the former KDOT facility some time ago. Initially the land was purchased with the intent to be used for business development. Since then, it has been used as a staging area for road projects as well as excess storage for the Public Works and Police Departments, including salt storage for road application during winter storms.

After voters approved a new Municipal Center for the Police Department and City Court several sites were considered before deciding on the KDOT property as the location for such a center.

The City, in conjunction with Treanor Architects and Allenbrand & Drews are now applying for approval of the preliminary and final Site Plans for the property so that we may proceed in building the new Justice Center. Treanor was selected as the design firm based on their experience with both Police and Fire Buildings. They have provided a design that will be much more functional for the administration of justice for the municipality as well as a building that will be a landmark in the city and one that the citizens of this community should be proud of.

Planner Givens recommended that the City Council approve the Site Plan for the Paola Justice Center as submitted contingent upon the following:

1. An approved landscaping plan is provided before a Certificate of Occupancy is issued.
2. An approved drainage plan is provided before a Certificate of Occupancy is issued.
3. An approved lighting plan is provided before a Certificate of Occupancy is issued.
4. An approved signage plan is provided before a Certificate of Occupancy is issued.

After discussing the site plan, Councilmember Rowlett made a motion to approve the preliminary and final site plan for the Paola Justice Center including the conditions as recommended. The motion was seconded by Councilmember Hamilton and all voted aye. The motion passed 4 to 0.

Agenda Item 5j - Consider acceptance of the low bid for lease financing of the new Hackney Heavy Rescue Vehicle for the Fire Department.

Clerk Droste reported that on December 12, 2006, the City Council approved the purchase of a Hackney Heavy Rescue Vehicle for the Fire Department in the amount of \$264,725.81. The vehicle was ordered and has now been delivered to the City. At the time that the purchase of the vehicle was approved, it was planned that 10 year lease financing would be obtained to pay for the vehicle. Bids were solicited from each of the banks in Paola for the vehicle lease and the results are as follows:

Citizens State Bank 4.68% rate / 4.680% apr
 First Option Bank 4.83% rate / 4.902% apr
 TeamBank 7.80% rate / 8.023% apr
 Peoples Bank and Landmark National Bank did not submit bids.

The city's bond attorney has been consulted on this issue and to insure that state statutes regarding non-appropriation and taxes are satisfied. The lease documents and authorizing Ordinance were prepared by Mary Carson.

The lease financing details for the vehicle is as follows:

Final Cost of Vehicle	\$261,998.59
Down Payment	<u>-\$30,498.51</u>
Net Lease Amount	\$231,500.00

10 Year Term with annual payments = \$29,634.46 beginning 7/11/08

Councilmember Pritchard made a motion to accept the bid from Citizens State Bank of 4.68% for a 10 year lease to finance the purchase of the Hackney Heavy Rescue Vehicle for the Fire Department and to approve AN ORDINANCE OF THE CITY OF PAOLA, KANSAS, AUTHORIZING THE EXECUTION OF A LEASE PURCHASE AGREEMENT BY THE CITY TO PROVIDE FOR THE ACQUISITION OF A FIRE TRUCK. The motion was seconded by Councilmember Dial and all voted aye. The motion passed 4 to 0. Clerk Droste assigned No. 2947 to the Ordinance.

Agenda Item 5k - Consider an agreement with Rural Water District No 2 to jointly establish an interconnection between water systems and for emergency and occasional reciprocal sale and purchase of water.

City Attorney Tetwiler reported that the draft of the agreement to establish an agreement to construct an interconnect between the City and Rural Water District No 2. He reported that the agreements have been modified based on conversations between the City and RWD2 as late as this afternoon. The latest draft of the agreement was distributed to the Council.

City Attorney Tetwiler described the background behind the drafting of the agreement and he indicated that there may be further revisions forthcoming. He reported that the RWD2 Board discussed the agreement at their meeting last evening without taking action. City Attorney Tetwiler and Manager Newton recommended that no action be taken on the agreement since the document was just distributed to the Council tonight.

The agreement and the interconnect was discussed in detail and the Council took no action on the issue.

Agenda Item 5l - Update on assistance to the City of Osawatomie.

Manager Newton reported that he met with the City Manager of Osawatomie this afternoon. The City of Osawatomie has expressed its sincere thanks for all of the support that the City

of Paola and others have provided to them. Manager Newton reported that the Public Works Department would be in Osawatomie for at least the next two days helping with the removal of flood debris. Additionally, the Paola Fire Department and Public Works Department were involved in helping with sand bags and pumping water during the flooding, the Police Department helped with the emergency coordination, and Public Works fogged for mosquitoes in Lane. Additionally, Osawatomie residents with campers were allowed to stay at the Lake Miola Campground without charge until they could return home.

After discussing the disaster and the immediate need for assistance for the residents of Osawatomie, Councilmember Pritchard made a motion to donate \$20,000 for emergency assistance relief for the citizens of Osawatomie, to be split evenly between the Salvation Army and Red Cross. The motion was seconded by Councilmember Rowlett and all voted aye. The motion passed 4 to 0.

Executive Session - K.S.A. 75-4319(B)(1) is the authority for this recess.

Manager Newton requested that the City Council adjourn to an executive session for the purpose of discussing personnel matters of non-elected personnel.

Councilmember Dial made a motion to adjourn to an executive session for the purpose of discussing personnel matters of non-elected personnel to include the Mayor, City Council, City Manager, City Attorney, and City Clerk, for 15 minutes with the regular meeting to reconvene at 7:30 pm. The motion was seconded by Councilmember Hamilton and all voted aye. The motion passed 4 to 0.

At 7:30 pm, Councilmember Hamilton made a motion to reconvene the regular meeting. The motion was seconded by Councilmember Rowlett and all voted aye. The motion passed 4 to 0. No action was taken pursuant to the executive session.

Agenda Item 5k - 2008 Budget Presentation and Discussion.

Clerk Droste explained the timetable for the 2008 budget approval process. At tonight's meeting, the budget discussion will set the proposed 2008 Budget. At the next meeting on July 24th, the Council will approve the 2008 budget for publication and set a public hearing to approve the 2008 budget at the August 7th meeting.

Manager Newton presented a summary of changes that were the result of previous budget discussions. He explained that the resulting mill levy for 2008 would be 41.623 as compared to 42.099 in 2007 or a reduction of 0.476 in the levy.

Manager Newton also presented a 2008 Budget summary by Fund. This provided a summary of all of the major budgeted funds for the City.

Clerk Droste reported that the Paola Chamber of Commerce partnered with the City in 2007 to provide economic development services for the City. The Chamber of Commerce was funded in 2007 at a level of \$19,000 for economic development and \$18,000 for regular

Chamber support for a total of \$37,000. The 2008 Budget includes a total of \$50,000 for combined support to the Chamber of Commerce.

The Chamber of Commerce has requested a total of \$55,900 which included \$18,000 for regular Chamber support and \$37,900 for economic development activity. Carol Everhart presented an explanation of the request.

After discussing the request, Councilmember Hamilton made a motion to continue General Fund support of the Chamber of Commerce at \$50,000 and the balance of \$5,900 from the Transient Guest Tax Funds with the support of the Transient Guest Tax Committee. The motion was seconded by Councilmember Rowlett and all voted aye. The motion passed 4 to 0.

Manager Newton reminded the Council that the discussion regarding an increase in the amount paid to firefighters for each call. The Fire Chief requested an increase of \$10 per call to \$35 which would increase the budget by \$32,000. Former City Manager VanderHamm had recommended an increase of \$5 per call to \$30 which would increase in the budget by \$16,000.

The additional expenditures of equipment and the new Fire Station were discussed and their impact on the budget. Firefighters Arlen Prothe, Steve Courtney, and Luke DeGrande all addressed the Council in support of an increase. They indicated that it had been more than 20 years since the last increase was given to the department.

After discussing the request, Councilmember Dial made a motion to increase the amount paid to firefighters by \$5 per call to \$30 which would increase in the 2008 proposed budget by \$16,000. Councilmember Pritchard seconded the motion and all voted aye. The motion passed 4 to 0.

There were no additional modifications to the proposed 2008 budget.

Agenda Item 6 - NEW BUSINESS

Manager Newton presented a letter from the Ursuline Sisters who have requested that their representation on the Paola Community Center Board be eliminated.

Manager Newton presented bids for geotechnical services at the Paola Police Station site. After reviewing the bids, Councilmember Rowlett made a motion to approve the bid from Terracon in the amount of \$3,000. The motion was seconded by Councilmember Dial and all voted aye. The motion passed 4 to 0.

Manager Newton discussed the maintenance of 295th Street at Rockwood Estates. He reported that plans were being developed to repair and maintain the street. The base would be repaired with a 6 inch overlay of asphalt to the entrance at Rockwood and a 2 inch overlay east from the Rockwood entrance to the City limit. The cost of these repairs would be

approximately \$65,000. The ditches would be re-graded to improve water drainage. The budget and the impact of other projects were discussed.

Councilmember Hamilton apologized for not being in attendance at the last City Council Meeting.

Councilmember Rowlett reported that Lynn McBride at Citizens State Bank would like to have a resolution to the condition of the alley behind the bank. He would like the issue discussed at a Work Study Session.

Councilmember Dial inquired about the status of the speed monitoring on Redbud Drive. Public Works Director Bieker reported that he was still in the process of recording traffic data and would be in a position to make a report soon.

Mayor Stuteville reminded the Council that the Miami County Fair Parade was coming up on Wednesday July 25th.

Work Study Sessions were discussed for Monday July 16th and Tuesday July 17th. Call Notices and agendas will be prepared and distributed by the City Clerk.

Agenda Item 7 – ADJOURNMENT.

With no additional business to come before the Council, Councilmember Hamilton made a motion to adjourn the meeting. Councilmember Pritchard seconded the motion and all voted aye. The motion passed 4 to 0.

Artie Stuteville, Mayor

ATTEST: (seal)

Daniel G. Droste, City Clerk