

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

October 23, 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 Wieland, Interim Manager Newton, Clerk Droste, 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

Mr. David Yarnell of 703 N Pearl addressed the Council regarding the installation of a fence on his property.

Agenda Item 4 - CONSENT AGENDA

- a. Approval of minutes of the meetings of October 9, 2007.
- b. Approval of Salary Ordinance number 07-19.
- c. Approval of Appropriation Ordinance No. 615.
- d. Renewal of a Drinking Establishment License for Dock’s Landing.

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

Agenda Item 5a – Actions authorizing the CDBG Application for ADA improvements to the Paola Community Center.

Clerk Droste reported that a revised budget was being presented for the grant application and introduced Donna Crawford of Governmental Assistance Services. Mrs. Crawford presented the application documents and explained the project budget in detail.

After discussing the application, the Council took the following actions:

Councilmember Dial made a motion to approve a RESOLUTION CERTIFYING LEGAL AUTHORITY TO APPLY FOR THE 2008 KANSAS SMALL CITIES COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FROM THE KANSAS DEPARTMENT OF COMMERCE AND AUTHORIZING THE MAYOR TO SIGN AND SUBMIT SUCH AND APPLICATION. Councilmember Pritchard seconded the motion and all voted aye. The motion passed 4 to 0. Clerk Droste assigned No. 2007-011 to the Resolution.

Councilmember Dial made a motion to approve A RESOLUTION ASSURING THE KANSAS DEPARTMENT OF COMMERCE THAT FUNDS WILL BE CONTINUALLY PROVIDED FOR THE OPERATION AND MAINTENANCE OF HANDICAPPED ACCESSIBILITY IMPROVEMENTS TO THE COMMUNITY CENTER FACILITY TO BE FINANCED WITH COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS. Councilmember Hamilton seconded the motion and all voted aye. The motion passed 4 to 0. Clerk Droste assigned No. 2007-012 to the Resolution.

Councilmember Pritchard made a motion to approve A RESOLUTION OF THE CITY OF PAOLA, KANSAS, STATING COMMITMENT TO SEEK FUNDING THROUGH THE KANSAS DEPARTMENT OF COMMERCE, SMALL CITIES CDBG PROGRAM, IN THE AMOUNT OF \$378,262 AND FURTHER COMMITMENT, BY THE CITY, TO LEVERAGE PROJECT COSTS IN THE AMOUNT OF \$126,088 WITH CASH FUNDS. Councilmember Dial seconded the motion and all voted aye. The motion passed 4 to 0. Clerk Droste assigned No. 2007-013 to the Resolution.

Councilmember Pritchard made a motion to approve (1) the Project Budget, (2) the Commitment Letter, (3) Statement of Assurances & Certifications, (4) the Anti-Displacement Plan, (4) the Disclosure Report, and (5) authorize the Mayor to sign these documents and the CDBG Application. Councilmember Dial seconded the motion and all voted aye. The motion passed 4 to 0.

Agenda Item 5b - Selection of the Grant Administrator and Building Inspector for the CDGB Grant.

Clerk Droste reported that letters were sent to seven different service providers requesting bids for grant administration services for the CDBG Application. He reported that the only bid that was received was submitted by Donna Crawford with Governmental Assistance Services (GAS). A letter was received from Hernley Associates, Inc. of Lawrence, KS indicating that they did not desire to submit a bid at this time.

After discussing the process and the proposal from GAS, Councilmember Pritchard made a motion to approve Donna Crawford with Governmental Assistance Services as the Grant Administrator for the CDGB Grant Application. Councilmember Dial seconded the motion and all voted aye. The motion passed 4 to 0.

Agenda Item 5c - Consider Approval of the Site Plan for BOW Properties for Town Square Corner.

Planner Justin Givens reported that at their October 16, 2007 meeting, the Paola Planning Commission did approve a Final Site Plan for Town Square Corner, a mixed-use development that contains six condominium style apartments and four commercial/retail units.

Planner Givens Apartments will be on the second and third floors of the structure. These units will take access from either a parking garage in the basement level or an entrance that is on Peoria Street. The street level will house four retail/commercial spaces that will face Silver Street. There will be no access for the businesses or the public to the shared common space of the residential area. Residents will have electronic key access to both the garage door and the street door.

As with all downtown uses, parking may be an issue. It is virtually impossible for this development to meet the current downtown parking standards. The developers have provided the required number of parking spaces for the residents. This will alleviate some parking concerns. Parking for the commercial spaces will be provided from the shared parking around the square and the public parking spaces that will remain once the Fire Station is complete.

Since the original submittal, the developers have added a third story for residential use. The loft will be attached to one of the six residential units. A commons area has also been proposed for the rooftop. There has been some concern voiced that the loft space may exceed the maximum height of downtown buildings. The LDO provides that buildings in the downtown district not exceed 45'. As provided in this plan the third story loft will be below the 45' maximum.

Staff has had several discussions concerning the utility billing for the property. The applicants have proposed a Home Owners Association that will be responsible for the maintenance of all common areas as well as the billing recipient for municipal services. The applicant has applied for a two-inch water meter, which will service the entire building. At issue are the monthly service fees that will be lost by only one billing.

The City's utility policy does not take into account for multi-family projects and is something that should be addressed in the very near future. Based on the existing policy the applicant will be charged a water connect fee based on a 2" water meter rate that the City Council will approve. For sewer connect fees, the applicant will be charged one flat fee of \$3,000.00 for the office spaces and a \$2,000.00 connection fee per unit that equals \$12,000.00. The total sewer connection fee will be \$15,000.00 and an estimated \$3,000.00 for the 2" water meter service. Having researched other communities in the area these charges are common and in line with other charges in the surrounding area for projects of this nature. The applicants should be made aware that if the Utility Fee Policy changes, monthly service charges may be added per unit to the bill for the property.

Manager Wieland recommended that the Council discuss utility billing policies for multifamily and mixed use buildings in the near future. Under current billing procedures, the property would be billed as a commercial account.

The direction of traffic in the alley was also discussed as a concern regarding the ability of traffic to safely enter and depart from the parking garage in the basement of the building.

After discussing the project, Councilmember Dial made a motion to approve the final site plan for Town Square Corner. Councilmember Pritchard seconded the motion and all voted aye. The motion passed 4 to 0.

Agenda Item 5d - Consider a request for a 2 inch water meter for Town Square Center.

Planner Givens reported that Town Square Corner, a new mixed-use development is requesting one (1) 2” water meter to service the new structure. As a matter of policy, the City Council approves the rate for 2” meters. Public Works has stated that water service of this nature will not be an issue. Traditionally, applicants who have needed 2” water meters have been charged \$3000.00 dollars.

After discussing the request, Councilmember Pritchard made a motion to approve a 2 inch water meter for Town Square Corner in the amount of \$3,000.00. Councilmember Dial seconded the motion and all voted aye. The motion passed 4 to 0.

Agenda Item 5e - Consider Approval of a Conditional Use Permit for 809 – 811 S Silver.

Planner Givens reported that at their October 16, 2007 meeting, the Paola Planning Commission held a public hearing to consider a Conditional Use Application for property located at 809 and 811 South Silver. Following the public hearing, at which no members from the public spoke in opposition the Planning Commission did vote unanimously to recommend approval of the Conditional Use Permit.

The applicant, Family Auto, LLC is required to have a Conditional Use Permit for this property. The sale of automobiles is an allowed use in the Thoroughfare Access District but does require a conditional use permit.

Planner Givens stated that in pre-application conferences, the applicant has stated a willingness to work with staff, the Planning Commission and City Council to satisfy all of the conditions and stipulations that are placed on the property in order for the Conditional Use Permit to be approved. In analyzing the site plan, staff feels that the screening is already in place, which would generally be required to increase the opacity. The site area is below the minimum but ample space is provided for customer parking as well as for vehicles for sale.

The applicant has not provided a landscape, signage, or lighting plan but staff is confident that those requirements will be met. One area that may be an issue for the applicant would be the graveled area in the rear of the property. There is concrete parking in the front, which could suffice for the use depending on the number of cars that will be on the property. The

applicant understands that part of this space shall be paved if rear areas will be used for vehicle or customer parking.

The Planning Commission did show some concern about the integrity of the buildings and the site itself. The applicant state that he had been inside the buildings. The 811 building being in the best shape, the applicant felt that it would not need much repair, stating that the roof was in good shape as well as the walls and other parts of the structure. The 809 building would require more work. The applicant was aware of the wing-wall that needs immediate attention. He also stated that there were several leaks in the roof that would need to be fixed. His immediate plans are to operate out of the 811 building while he works on rehabbing the 809 building that could be used in the future for rental space or to be occupied by himself.

Following the public hearing and discussion with staff and the applicant the Planning Commission voted to approve the Conditional Use Permit contingent upon;

1. An approved landscaping plan be submitted to staff
2. An approved lighting plan be submitted to staff
3. An approved signage plan be submitted to staff
4. The applicant satisfy all required corrections to the structure
5. The applicant repair or replace the rear fence to provide the require opacity to the property.
6. An approved paving plan be submitted to staff and that only those areas paved be used for customer and vehicle parking
7. That the Conditional Use Permit be reviewed after one year.

Mayor Stuteville questioned if any auto repair would be taking place on the premises. The applicant indicated that the only minor repairs would be performed to ready the vehicles for sale. Mayor Stuteville also asked what the plans were for the building addressed at 811 S Silver. The applicant indicated that there were no immediate plans, however the building may be used for showroom space or perhaps leased out to another business.

Councilmember Dial made a motion to approve AN ORDINANCE AN ORDINANCE RELATING TO ZONING: AUTHORIZING A CONDITIONAL USE PERMIT FOR CERTAIN PROPERTY, as presented. Councilmember Pritchard seconded the motion and all voted aye. The motion passed 4 to 0. Clerk Droste assigned No. 2956 to the Ordinance.

Agenda Item 5f - Consider a Text Amendment to the Land Development Ordinance.

Planner Givens reported that at their October 16, 2007 meeting, the Paola Planning Commission reconvened a public hearing concerning text amendments to the Land Development Ordinance and more specifically the allowed uses in the Neighborhood Conservation Districts. Staff initiated these amendments after discovering several inconsistencies within the LDO. Following the public hearing, the Planning Commission did vote unanimously to recommend the approval of the text amendments.

Planner Givens stated that after several lengthy discussions of inconsistencies within the LDO and the application of those inconsistencies to specific projects, a decision was reached to rectify the discrepancies in the NC-R districts with a proposed text amendment. Staff met with Jim Kaup and this method was suggested as the best way to meet the intent of the LDO

and to implement some of the goals and objectives of the recently adopted Comprehensive Plan.

In the NC-R district, there are three separate sub-divisions. According to Sections 2 and 4 the NC-R1 is provide for Single Family homes only. NC-R2 and NC-R3 allow for more intense uses such as Single Family-Attached, Duplex and Multi-Family dwellings. Section 3 and the General Use Table of the LDO only allows for Single Family homes creating an inconsistency and difficulties for staff to administer the LDO in the NC Districts.

In previous discussions, there was concern about balancing these districts to much for attached and multi-family housing and the current types of housing within the NC-R zones. It was determined that to meet the intent of the LDO, and the goals of the Comprehensive plan, a Conditional Use Permit would be the best approach to determine if a project would be viable for any location within the NC-R2 and NC-R3 districts.

As submitted, a footnote has been inserted into Table 3.110 A. General Use Table. This footnote directs users to a separate table, Table 3.110 A1, which provides separation for each subsection within the NC districts. In the NC-R1 district, no change has been made. In the NC-R2, a provision has been made for conditional use of single-family attached housing. While in the NC-R3 district a change has been made allowing conditional uses for Single-Family Attached and Multi-Family uses.

Table 3.110 A. General Use Table – Limited and Conditional Uses Standards has been modified to reflect the allowances for conditional uses for these types of projects. In addition, Sections 03.313 Single Family Residential and Section 03.321 Multi-Family have added text to accommodate the text amendments.

Councilmember Hamilton made a motion to approve AN ORDINANCE AMENDING THE PAOLA LAND DEVELOPMENT ORDINANCE, INCLUDING: AMENDING TABLE 3.110A “GENERAL USE TABLE” TO INCLUDE A SUB-SECTION “NEIGHBORHOOD CONSERVATION TABLE 3.110A A1” AND AMENDING “SECTION 03.313 SINGLE FAMILY RESIDENTIAL” AND AMENDING “SECTION 03.321 MULTI-FAMILY RESIDENTIAL”. Councilmember Pritchard seconded the motion and all voted aye. The motion passed 4 to 0. Clerk Droste assigned No. 2957 to the Ordinance.

Agenda Item 5g - Consider an Ordinance Repealing and Replacing Ordinance No 2931.

Clerk Droste reported that there has been significant improvement in the municipal bond market and bonds for the Marais Des Cygnes Public Utility Authority (MDCPUA) may be sold as soon as tomorrow. However, in the event that the bonds are not sold the cities of Paola and Louisburg may need to issue temporary notes to provide interim financing for the construction of the water treatment plant and distribution system. In consideration of the timing required for the issuance of temporary notes, Clerk Droste recommended that the Council approve the proposed Ordinance providing for the issuance of the temporary notes. If the MDCPUA bonds are sold and the proposed ordinance is not required, it could be later repealed.

Councilmember Dial made a motion to approve AN ORDINANCE REPEALING AND REPLACING ORDINANCE NO. 2931 OF THE CITY OF PAOLA, KANSAS AND AUTHORIZING THE CITY TO MAKE WATER SYSTEM IMPROVEMENTS, AUTHORIZING THE CITY TO ISSUE ITS GENERAL OBLIGATION BONDS OR TEMPORARY NOTES IN THE PRINCIPAL AMOUNT OF \$9,500,000 TO PAY CERTAIN COSTS OF SUCH IMPROVEMENTS. Councilmember Pritchard seconded the motion and all voted aye. The motion passed 4 to 0. Clerk Droste assigned No. 2958 to the Ordinance.

Agenda Item 5h - Consider a Resolution Authorizing Temporary Financing Notes for the Marais Des Cygnes Public Utility Authority Project.

Councilmember Dial made a motion to approve A RESOLUTION OF THE CITY OF PAOLA, KANSAS AUTHORIZING AND PROVIDING FOR THE OFFERING FOR SALE OF THE CITY'S GENERAL OBLIGATION TEMPORARY NOTES, SERIES 2007-A IN THE APPROXIMATE PRINCIPAL AMOUNT OF \$9,660,000. Councilmember Pritchard seconded the motion and all voted aye. The motion passed 4 to 0. Clerk Droste assigned No. 2007-014 to the Resolution.

Agenda Item 5i - Consider a Resolution of Support for The 2007 Economic Development Strategic Plan for Miami County.

Clerk Droste reported that he received a request from Janet McRae, Economic Development Director for a resolution of support for the update to the Miami County Economic Development Plan.

Councilmember Pritchard made a motion to approve A RESOLUTION IN SUPPORT OF REGIONAL STRATEGIC PLAN AND REGIONAL INCENTIVES. Councilmember Dial seconded the motion and all voted aye. The motion passed 4 to 0. Clerk assigned No. 2007-015 to the Resolution.

Agenda Item 5j - Consider an Ordinance renewing the Franchise Agreement with Kansas City Power & Light Company.

Clerk Droste reported that at the October 9th meeting, the Council discussed the renewal of the Franchise Agreement Ordinance with Kansas City Power and Light Company. At that meeting, concern was expressed over the proposed 20 year term of the Ordinance.

Clerk Droste indicated that he discussed the issue with representatives of Kansas City Power and Light Company who indicated that they would be receptive to any term of 5 years or more. Droste also indicated that he contacted other Municipal Clerks and Finance Officers through the League of Kansas Municipalities and most indicated that they have 20 year terms on their respective electric franchise ordinances.

Councilmember Dial made a motion to approve AN ORDINANCE GRANTING KANSAS CITY POWER & LIGHT COMPANY, ITS GRANTEEES, SUCCESSORS AND ASSIGNS, THE RIGHT AND FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN ALL WORKS AND PLANTS NECESSARY OR PROPER FOR SUPPLYING CONSUMERS

WITH ELECTRIC OR OTHER ENERGY, GRANTING TO SAID COMPANY THE RIGHT TO USE THE STREETS, ALLEYS AND ALL OTHER PUBLIC PLACES, PROVIDING FOR COMPENSATION FROM SUCH COMPANY FOR SAID RIGHT AND FRANCHISE, PRESCRIBING THE TERMS OF AND RELATING TO SUCH FRANCHISE AND REPEALING INCONSISTENT ORDINANCES OR PARTS THEREOF, for a term of 20 years. Councilmember Hamilton seconded the motion and all voted aye. The motion passed 4 to 0. Clerk Droste assigned No. 2959 to the Ordinance.

Agenda Item 5k - Report on Economic Development from Carol Everhart.

Carol Everhart presented a summary of financial information and a summary of economic development contacts. She also reported on the upcoming Harvest Festival on Saturday, October 27th. There are 23 chili entries and 25 fine arts entries for the event.

She also reported on the Halloween Parade on October 23rd and the Christmas Tree Lighting Ceremony on Friday, November 23rd.

Councilmember Rowlett asked about the BREES surveys. Everhart reported that the survey results are expected by the end of October.

Agenda Item 6 - NEW BUSINESS.

Clerk Droste reported that on Tuesday, October 30th from 4 to 6 pm, a reception is planned to welcome City Manager Jay Wieland to Paola and to thank former Interim City Manager Jay Newton for his service. The event will be held at Evergreen Events.

Public Works Director reported that the traffic lights at Silver and Baptiste were operational as of today.

Planner Givens reported that the documents on the K-68 Study will be presented to the Council for approval at the next meeting.

Manager Wieland thanked the Mayor and Council for the opportunity to serve as City Manager for Paola. He reported that he has been very busy during his first week and was complimentary of City Staff. Manager Wieland thanked Jay Newton for his work as Interim Manager.

Jay Newton thanked the Mayor and Council for the opportunity to return to Paola and wished the Council and City Staff the best in the future.

Councilmember Hamilton thanked Jay Newton for his service and welcomed Jay Wieland.

Councilmember Rowlett reported that there is a LKM Regional Supper planned for Olathe on November 28th. He also stated that the dinner event on Saturday evening with the RWD2 Board was very good and he looked forward to working together in the future.

Councilmember Dial also thanked Jay Newton for his service to the City of Paola.

Councilmember Pritchard reported that he attended the recent Safety Committee Lunch and was pleased with the event.

Mayor Stuteville echoed the comments on the dinner with the RWD2 Board and the Safety Committee Lunch. She asked if a report on the camping activities at Lake Miola for the past summer could be reported to the Council.

Mayor Stuteville nominated Jay Wieland to serve on the MDCPUA Board to replace Jay Newton. Councilmember Dial made a motion to approve the nomination of Jay Wieland to serve on the MDCPUA Board. The motion was seconded by Councilmember Hamilton and all aye.

Agenda Item 7 – ADJOURNMENT.

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

Artie Stuteville, Mayor

ATTEST: (seal)

Daniel G. Droste, City Clerk