

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

May 27, 2008

**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 Bell.

Council Members absent: None

Also present: Manager Wieland, Clerk Droste, Attorney Tetwiler, Police Chief Smail, Planner Givens, Public Works Director Bieker, Carol Everhart with the Paola Chamber of Commerce, Brian McCauley with the Miami County Republic, 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 Bell were all present.

Agenda Item 3 - PETITIONS, REMONSTRANCES, AND COMMUNICATIONS
Josh Furnish addressed the Council regarding a parking ticket that he had received while parking at the Paola Community Center parking area. The circumstances were discussed and no action was taken.

Agenda Item 4 - CONSENT AGENDA

- a. Approval of minutes of the meetings of May 13, 2008.
- b. Approval of Salary Ordinance number 08-10.
- c. Approval of Appropriation Ordinance No. 629.

After discussing several items on the Appropriation Ordinance, 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 5 - REPORTS OF OFFICERS, BOARDS AND COMMITTEES

Agenda Item 5a - Public Presentation of the 2007 Audit Report by Harold Mayes of Agler & Gaeddert.

Clerk Droste introduced Harold Mayes of Agler & Gaeddert Chartered, Certified Public Accountants for the presentation of the 2007 audit.

Mr. Mayes summarized the findings of the audit and reported that in our (Agler & Gaeddert) opinion the financial statements present fairly, in all material aspects, the cash and unencumbered cash balances of the individual funds of the City of Paola, Kansas at December 31, 2007 and its cash receipts and expenditures, and budgetary results for the year.

Mr. Mayes went on to review the major aspects of the audit report and indicated that overall the unencumbered cash balances have increased with few exceptions. He noted that the amount of accrued sick leave and vacation time for employees had increased and represented a significant liability for the Employee Benefits Fund and recommended that the reserves for that fund be monitored.

Mr. Hayes indicated that there was an error on the original Long Term Debt Schedule included in the report. He explained that the maturity date for the waste water treatment plant loan had been incorrectly calculated and a new schedule was presented.

After discussing the report, Councilmember Rowlett made a motion to accept the 2007 Audit Report from Agler & Gaeddert. The motion was seconded by Councilmember Pritchard and all voted aye. The motion passes 4 to 0.

Agenda Item 5b - Consider a “Letter of Engagement” for the 2008 audit.

Clerk Droste presented a Letter of Engagement proposal from Agler & Gaeddert for the 2008 audit in the amount of \$13,500 plus out of pocket expenses. He reported that the cost of the 2007 audit was \$13,400.

After discussing the proposal, Councilmember Dial made a motion to approve a Letter of Engagement with Agler & Gaeddert to audit the City of Paola for calendar year 2008 at an hourly rate not to exceed \$13,500 plus out of pocket expenses. The motion was seconded by Councilmember Rowlett and all voted aye. The motion passes 4 to 0.

Agenda Item 5c - Consider a Resolution requesting a waiver from conformance to fixed asset accounting provisions as provided in KSA 75-1120a(c)1

Manager Wieland explained that fixed asset accounting as prescribed by Generally Accepted Accounting Principals (GAAP) would require the establishment of values for all assets owned by the City. He explained the difficulty of establishing the values on such assets as streets, sewers, and water lines. He indicated that State Statutes allow for cities to opt out of the requirements.

After discussing the issue, Councilmember Dial made a motion to approve A RESOLUTION REQUESTING A WAIVER FROM CONFORMANCE TO CERTAIN PROVISIONS OF GENERALLY ACCEPTED ACCOUNTING PRINCIPLES. The motion was seconded by

Councilmember Pritchard and all voted aye. The motion passes 4 to 0. Clerk Droste assigned No. 2008-001 to the Resolution.

Agenda Item 5d - Consider requests to waive the fees for use of the Park Square.

Clerk Droste presented a request from the Roots Festival Committee and from the Heartland Group for the waiver of fees associated with the use of the Park Square for the 2008 Roots Festival and the Heartland Car Show. He indicated that the required certificate of insurance for these events would be provided.

After discussing the request, Councilmember Pritchard made a motion to approve the requests to waive fees for the use of the Park Square for the Roots Festival and for the Heartland Car Show. The motion was seconded by Councilmember Bell and all voted aye. The motion passes 4 to 0.

Agenda Item 5e - Consider a request to waive the water and sewer connection fees for Lakemary Center, Inc.

Manager Wieland presented a request from Lakemary Center to waive the water and sewer connection fees for their new Day Services Building. Clerk Droste reported that fees have been waived or reduced in the past for Lakemary Center, USD 368, and the Ursuline Convent. Manager Wieland indicated that rather than completely waiving the fees, the Council may desire to consider reducing the fees to cover the City's actual costs.

After discussing the request, Councilmember Rowlett made a motion to approve a reduced fee sufficient to cover the actual costs incurred by the City to install the water and sewer connections for the Lakemary Center Day Services Building. The motion was seconded by Councilmember Bell and all voted aye. The motion passes 4 to 0.

Agenda Item 5f - Consider a request for re-zoning at 24870 W 327th Street.

Planner Givens reported that the Planning Commission considered the request to re-zone 29 acres on 327th Street between Hospital Drive and US 169 Highway from Business Park to Suburban. He explained that the current zoning does not provide for residential dwellings and the owner anticipates either marketing the property as a residential site or building a residence on the site himself.

Councilmember Rowlett asked if there had been any consideration for changing the zoning to Thoroughfare Access instead of Suburban due to the flexibility provided in that zoning designation. He also questioned if adjacent owners would also be requesting a re-zoning pursuant to this potential action. Councilmember Rowlett indicated that perhaps the entire area should be considered for re-zoning instead of doing it one tract at a time. Planner Givens reported that a "down-zoning" would have also to be approved by the Miami County Commission.

After discussing the request, Councilmember Rowlett made a motion to remand the request to rezone 29 acres located at 24870 W 327th Street and the surrounding area back to the Planning Commission to review possible zoning changes from Business Park to

Thoroughfare Access rather than Suburban. The motion was seconded by Councilmember Dial and all voted aye. The motion passes 4 to 0.

Agenda Item 5g - Consider approval of a final site plan for 902 N Pearl Street.

Planner Givens presented the final site plan for Horvath Communications for a new commercial communications tower at 902 N Pearl Street. This new monopole tower will replace an existing communication tower located on the property. The preliminary site plan was conditionally approved by the Planning Commission and the City Council in April.

It has been determined that a variance would be required for the property as the tower would not meet the required setbacks of the tower height plus 20'. The applicant was granted that variance by the Planning Commission at the May meeting prior to recommendation of the site plan to the City Council.

The applicant has provided a final site plan that reflects all of the required changes for the project. Section 03.334 of the Paola Land Development Ordinance provides additional requirements for Commercial Communication Towers, they are as follows:

- A. Applicants must provide documentation acceptable to the Planning Commission that existing structures within an appropriate one-mile radius of the proposed location are not available for co-location.
- B. All proposed towers 150 feet or less, not including lightning rod, shall be designed to accommodate at least one additional PCs/Cellular platform. All proposed towers in excess of 150 feet shall be designated to accommodate at least two additional PCs/Cellular platforms.
- C. Any application for a tower in excess of 150 feet in height shall include testimony of an RF Engineer, or other Licensed Professional Engineer, substantiating the need for the requested height.
- D. The minimum setback from adjoining property lines shall be the height of the tower plus 20 feet. Setbacks may, on a case-by-case basis, be considered for a variance.
- E. The tower and accessory equipment must meet all requirements of the Federal Communications Commission and the Federal Aviation Administration.
- F. Any tower that is not operated for a continuous period of two years shall be considered abandoned and the owner of such tower shall remove the same within 90 days of a receipt of notice from the City Council notifying the owner of such abandonment. If such tower is not removed within 90 days, the City may remove the tower at the owner's expense.
- G. The City shall have the authority to require the applicant to file and maintain a surety bond, letter of credit or other security acceptable to the City. The security shall be equal to 20% of the cost of construction of the tower as disclosed by the applicant. The security shall be used to pay for removal of the tower if the owner fails to remove the tower as provided in (F.) above. The security shall be returned to the applicant upon proper removal of the tower.
- H. Pad sites and guy wire location must be surrounded by a minimum of a six-foot tall fence which has an opacity of 1.00

Planner Givens reported that all of the above have been or will be provided as well as additional items that the Planning Commission and City Council felt were appropriate for this project.

After discussing the requirements, Councilmember Rowlett suggested that the tower owners be required to notify the City within 30 days of the tower becoming inoperable or if it is no longer in use. Additionally, the requirement for providing a removal bond was discussed. The applicant indicated that they would be willing to comply with these requirements.

After Discussing the plan, Councilmember Rowlett made a motion to approve the final site plan for a commercial communications tower a 902 N Pearl subject to the applicants providing notice to the City within 30 days of the tower becoming inoperable or if it is no longer in use and providing a removal bond. The motion was seconded by Councilmember Dial and all voted aye. The motion passes 4 to 0.

Agenda Item 5h - Consider approval of the re-plat of Lot 89 in Rockwood Estates.

Planner Givens presented a request to re-plat Lot 89 in Rockwood Estates. He explained that a portion of the adjacent green space would be incorporated into Lot 89 increasing it in size. He also explained that it is planned to re-plat Lot 84 which is a vacant “flag” lot from a building lot to additional green space.

After discussing the request, Councilmember Pritchard made a motion to approve the re-plat of Lot 89 in Rockwood Estates. The motion was seconded by Councilmember Bell and all voted aye. The motion passes 4 to 0.

Agenda Item 6 – NEW BUSINESS.

Carol Everhart reported that the Economic Development meeting was held earlier today and the meeting was very positive.

Manager Wieland reported that the Miami County Intergovernmental Meeting calendar for 2008 has been established and copies were distributed to the Council.

Manager Wieland provided a worksheet for budget priorities to the Council and asked that the worksheets be completed and returned to the City Manager by Monday, June 2nd.

Agenda Item 7 - EXECUTIVE SESSION for preliminary discussions relating to the acquisition of real property. K.S.A. 75-4319(B)(6) is the authority for this recess.

Councilmember Rowlett made a motion to adjourn to Executive Session, to include the Mayor, Council, City Manager, and City Clerk, for 20 minutes for the purpose of preliminary discussions relating to the acquisition of real property; the regular meeting to reconvene at 7:20 p.m. Councilmember Dial seconded the motion and all voted aye. The motion passed 4 to 0.

Councilmember Pritchard made a motion to reconvene the adjourned meeting. Councilmember Dial seconded the motion and all voted aye. The motion passed 4 to 0.

No action was taken pursuant to the Executive Session.

Agenda Item 7 – ADJOURNMENT.

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

Artie Stuteville, Mayor

ATTEST: (seal)

Daniel G. Droste, City Clerk