

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

May 26, 2009

**HELD AT THE PAOLA JUSTICE CENTER
805 North Pearl Street in Paola**

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

Councilmembers present: Council Members Pritchard, Dial, Rowlett, and Bell.

Council Members absent: Mayor Stuteville

Also present: City Manager Wieland, City Clerk Droste, City Attorney Tetwiler, City Planner Gotfredson, Public Works Director Bieker, Police Chief Smail, Cara Hendricks, Jay Hastert, Rick Elliott, Debbie Winterscheid, Lee Mott, Le Anne Shields, Carol Everhart with the Paola Chamber of Commerce, 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, Dial, Rowlett, and Bell were all present. Mayor Stuteville was 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.

Mr. Rick Elliott of Elliott Insurance Group addressed the Council. He reported that Employers Mutual Insurance Company (EMC) insures approximately 450 cities in Kansas including the City of Paola. EMC has declared a dividend for 2008 and the City’s share of that dividend is \$10,278.29. He explained the process that EMC utilizes in returning dividends to insured cities. Mr. Elliott thanked the Council for doing business with his company and presented the check to the City Clerk.

Agenda Item 4 - CONSENT AGENDA

- a. **Approval of minutes of the meetings of May 12, 2009.**
- b. **Approval of Salary Ordinance number 09-10.**
- c. **Approval of Appropriation Ordinance No. 653.**

Councilmember Bell questioned expenditures to Hillsdale Bank Barbeque in the amount of \$458.00. Manager Wieland explained that the expenditure was for the Library employee and volunteer appreciation dinner. Councilmember Bell also questioned expenditures to Chris Troxel for mowing. Clerk Droste explained that these expenditures were for codes enforcement mowing.

Councilmember Dial made a motion to approve the Consent Agenda including the minutes of May 12, 2009, Salary Ordinance No 09-10, and Appropriation Ordinance No 653, and authorize the Mayor to sign. Councilmember Rowlett seconded the motion. Councilmembers Dial, Rowlett, and Pritchard voted aye, and Councilmember Bell voted nay. The motion passed 3 to 1.

Agenda Item 5 - REPORTS OF OFFICERS, BOARDS AND COMMITTEES

Agenda Item 5a - Presentation by the Roots Festival Committee on the 2009 Roots Festival.

Mr. Lee Mott, President of the Roots Festival Committee, reported that 2009 will be the 20th anniversary of the Paola Roots Festival. Other Roots Festival Committee members include Rick Johnson, Vice President & Director of Food Vendors; Tammy Mott, Treasurer & Director of Hospitality; Tammy Johnson, Secretary and Director of Games & Rides; Gary Patillo, Founder & Director of Cultural Groups; Steve McMullin, Director of Barbecue; Debbie Winterscheid, Director of Marketing; Brenda Wrischnik, Director of Arts & Crafts; Christy Johnson, Director of Volunteers; Judy Fennel, Director of Food Vendors; Tammy Bell, Director of Mercantile; Bill Sanders, Director of Security; Josh Furnish, Director of Environment.

The 2009 Roots Festival is scheduled for August 28 and 29 and the featured artist is the 5 time Grammy award winner, Robert Cray. Mr. Mott went on to explain that the Roots Festival is sponsored and supported by local businesses and the festival in turn supports the local community by providing scholarships and supporting other local charitable causes.

Mr. Mott requested that the City provide support to the festival by blocking the streets around the Park Square beginning at 9:00 pm on Thursday, August 27th; providing a Police presence at the festival equivalent to the 2008 festival; place "No Parking" signs on Piankishaw, Gold and Miami Streets near the Park Square; trash barrels, picnic tables, and barricades with delivery and pick up by city workers; and request that the fees associated with the use of the Park Square be waived.

Access to the Park Square businesses was discussed. Mr. Mott explained that he does visit with each business prior to the festival to discuss access issues. Councilmember Bell suggested that perhaps merchants could offer discounts to festival patrons to promote their business.

Councilmember Rowlett thanked the Committee for their work and commented on the number of people who travel great distances to attend the festival. Mr. Mott indicated that

the festival draws between 3,500 and 5,000 people each evening, and many are from out of town.

Agenda Item 5b - Consider a request to waive the fees for the use of the Park Square for the Heartland Car Show and the Roots Festival.

Councilmember Bell made a motion to approve the request of the Roots Festival Committee to block the streets around the Park Square beginning at 9:00 pm on Thursday, August 27th; providing a Police presence at the festival equivalent to the 2008 festival; place “No Parking” signs on Piankishaw, Gold and Miami Streets near the Park Square; provide trash barrels, picnic tables, and barricades with delivery and pick up by city workers; and waive the fees associated with the use of the Park Square for the Roots Festival on August 28th and 29th; and to waive the fees for the use of the Park Square for the Heartland Car Show on July 18th. The motion was seconded by Councilmember Dial and all voted aye. The motion passed 4 to 0.

Agenda 5c - Consider the renewal of a Conditional Use Permit for 7 S Agate (Design 4 Sports, Inc.).

Planner Gotfredson presented an Ordinance renewing the Conditional Use Permit (CUP) for Design 4 Sports located at 7 S Agate Street. He reported that the business has met all of the conditions of the original CUP and he recommended that it be renewed without need for additional periodic review.

After discussion, Councilmember Dial made a motion to approve ORDINANCE NO 2987 RENEWAL OF CONDITIONAL USE PERMIT 06-CUP-07. The motion was seconded by Councilmember Rowlett and all voted aye. The motion passed 4 to 0.

Agenda Item 5d - Consider the approval of a Conditional Use Permit for 1121 E Kaskaskia (Panther Lube & Tire).

Planner Gotfredson presented an Ordinance renewing the Conditional Use Permit (CUP) for Panther Lube & Tire that is planned for 1121 E Kaskaskia Street. He reported that a Public Hearing was held at the May 19th Planning Commission Meeting to hear concerns about the proposed business. Neighbors did express concerns regarding the location of the entrance to the site, however, alternate locations created additional access and traffic flow issues. The Planning Commission did recommend approval of the Conditional Use Permit subject to the following conditions:

- 1) Construct a 6’ privacy fence around the south and west section of the building.
- 2) All work shall be completed within an enclosed structure.
- 3) The maximum decibel level may not exceed 70 decibels at the property line.
- 4) Normal hours of operation shall be limited to 7 am – 7 pm Monday through Saturday and Noon – 5 pm on Sunday.
- 5) Provide for after hours shut-off of the air compressor.
- 6) At any time, the City may institute revocation of the conditional use permit for violations of the conditions of approval, expiration, or the reasons specified in Section 21.225 of the Land Development Ordinance. The City shall provide

notice to the landowner and public in the same manner as was provided for the establishment of the conditional use permit.

After discussing the site conditions, Councilmember Dial made a motion to approve ORDINANCE NO 2988 APPROVAL OF CONDITIONAL USE PERMIT 09-CUP-05. The motion was seconded by Councilmember Rowlett and all voted aye. The motion passed 4 to 0.

Agenda Item 5e – Consider the approval of the development plan for 1121 E Kaskaskia (Panther Lube & Tire).

Planner Gotfredson presented the development plan for Panther Lube & Tire proposed for 1121 E Kaskaskia. He reported that the Paola Planning Commission did consider the development plan at their May 19th meeting and have recommended that the plan be approved with the following conditions:

- 1) provide landscaping plan consistent with the LDO
- 2) front façade and building colors to be consistent with the LDO
- 3) provide sidewalk as per City standards along Kaskaskia
- 4) provide lighting plan, as needed, consistent with the LDO
- 5) satisfactorily complete the engineering comments

Councilmember Rowlett questioned the use of metal siding on the building. Planner Gotfredson indicated that the Land Development Ordinance does allow for metal siding on all but the front side of a building located in the Thoroughfare Access zone. The front of the building will use a decorative material as required by the LDO.

Councilmember Rowlett made a motion to approve the development plan for Panther Lube & Tire at 1121 E Kaskaskia as presented. The motion was seconded by Councilmember Dial and all voted aye. The motion passed 4 to 0.

Agenda Item 5f – Consider a text amendment to the Land Development Ordinance related to the location of the Farmer’s Market.

Planner Gotfredson presented an Ordinance amending the text of the Land Development Ordinance (LDO) related to “farmstands”. He reported that currently the LDO restricts the locations of farmstands to the Park Square. Recently, the operators of the Farmer’s Market have requested that it be relocated to the Municipal Parking Lot south of Piankishaw and between Gold and Silver Streets. The Ordinance would remove the location restrictions for all farmstands as defined in the LDO.

After discussing the issue, Councilmember Dial made a motion to approve ORDINANCE NO 2989 AMENDMENTS TO THE LAND DEVELOPMENT ORDINANCE (LDO) RELATED TO FARMSTANDS. The motion was seconded by Councilmember Bell and all voted aye. The motion passed 4 to 0.

Agenda Item 5g – Consider a text amendment to the Land Development Ordinance related to special use permits at the Miami County Fairgrounds.

Planner Gotfredson presented an Ordinance amending the text of the Land Development Ordinance (LDO) related to events held on “fairgrounds”. As part of recent discussions, the Miami County Fair Association is doing some remodeling of their facilities to bring them into compliance with building and fire codes. As this remodeling is completed, the potential concerns addressed in the special event permit process would be ameliorated for the fairgrounds, thus creating an unnecessary procedural exercise for both the event organizer and the City.

He explained that the Ordinance makes the following three changes to Section 03.337 of the LDO: First, the fairgrounds would not be required to obtain a special use permit for each event. Second, special event permits would no longer be limited to twice a year. Third, sanitary provisions will be approved by the City and not the County.

After discussion, Councilmember Rowlett made a motion to approve ORDINANCE NO 2990 AMENDMENTS TO THE LAND DEVELOPMENT ORDINANCE (LDO) RELATED TO FAIRGROUNDS. The motion was seconded by Councilmember Dial and all voted aye. The motion passed 4 to 0.

Councilmember Rowlett asked if the shelter house at Wallace Park has been evaluated for safety concerns. Manager Wieland indicated that the shelter house would be evaluated and discussed at the next Council Meeting.

Agenda Item 5h – Consider the approval of a Quit Claim Deed to WF Real Estate Holdings, LLC and WW Paola, LLC.

City Attorney Tetwiler reported that Miami County recently transferred their interests in the right-of-way to a portion of Hedge Lane to the City by Quit Claim Deed. He indicated that the City did not solicit this transfer and since the City does not desire to own this right-of-way, he recommended that the City in turn Quit Claim any interest in the property to the WF Real Estate Holdings, LLC and WW Paola, LLC. By transferring its interests by Quit Claim Deed, the City would not be warranting title to the property.

Cara Hendricks with Taylor Design Group explained that WF Real Estate Holdings, LLC and WW Paola, LLC asked the Kansas Department of Transportation, Miami County and the City of Paola to vacate the right-of-way, and none of the entities claim to have or desire to maintain control of the property. Councilmember Bell asked if the developers needed the tract for the development of the property or if it was just a matter of convenience. Ms. Hendricks indicated that it was a matter of convenience for the developer and that a private access drive is planned on the tract.

After further discussion, Councilmember Rowlett made a motion to approve a Quit Claim Deed for a 1.53 acre tract located in the Southeast Quarter of Section 15, Township 17 South, Range 23 East, in Miami County Kansas to WF Real Estate Holdings, LLC and WW Paola, LLC, and authorize the Mayor to sign. The motion was seconded by Councilmember Bell and all voted aye. The motion passed 4 to 0.

Agenda Item 5i - Consider approval of a pay request for the Fire Station project.

Manager Wieland presented pay request #2 for the Fire Station project in the amount of \$133,222.00. He reported that work on the project was progressing very well and that the demolition phase is now 83% complete.

Manager Wieland indicated that there will be a Change Order is being drafted to include the additional insulation for the roof and deductions for the elimination of additional height for one of the garage bay doors and other reductions. The change order should be a net reduction in the contract amount.

After additional discussion, Councilmember Dial made a motion to approve pay request #2 in the amount of \$133,222.00 to Legacy Contractors, LLC for the Fire Station project. The motion was seconded by Councilmember Rowlett and all voted aye. The motion passed 4 to 0.

Agenda Item 6 – NEW BUSINESS

City Attorney Tetwiler reported that the Kansas Legislature passed House Bill 2152 which makes it unlawful for any person to operate a golf cart on any city street unless authorized by the city. He asked the Council to provide guidance to staff on the issue. Councilmember Rowlett indicated that the League of Kansas Municipalities received more comments from cities requesting support for this legislation to allow golf carts to be driven on city streets.

Clerk Droste reported that the Panther Robotics Team is hosting an open house at the High School until 7:30 pm this evening. He also reported that reservations for the Chamber of Commerce Annual Dinner are due by June 3rd. The dinner will be held at Evergreen Events on June 15th and the featured speaker will be Bill Kurtis who will present a discussion on “Greener Pastures for Better Beef: The Eco-friendly Beef Revolution”.

Carol Everhart reported that 880 athletes have registered for the Bike Across Kansas event that will be stopping in Paola on June 12th. The bikers will be staying at the local hotel and camping at the High School. Shuttle busses will transport participants to area restaurants and to the Park Square during the evening.

Carol Everhart also reported that the dedication for the new fountain at the Park Square will be on June 27th at 4:00 pm.

Manager Wieland reported that staff is reviewing programs offered through the National Energy Grant Program. The Annual Meeting of County Officials is planned for November 17th in Louisburg at the Timber Creek Events Center.

Manager Wieland presented an offer from Wells Fargo to “donate” the property located at 509 W Miami Street to the City of Paola. He indicated that Wells Fargo recently acquired title to the property through foreclosure. After discussing the offer, the Council declined to accept title to the property.

Manager Wieland reported that the Library Board will be at the Council Meeting on June 9th to discuss the 2010 Budget and any plans to convert to a District Library.

Councilmember Bell inquired about the annual report on programming and operations for the Community Center. Manager Wieland indicated that he would arrange to have that presentation at the next Council meeting.

Agenda Item 7 –ADJOURNMENT.

With no additional business to come before the Council, Councilmember Dial made a motion to adjourn. 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