

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

**August 25, 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: Mayor Stuteville and Council Members Pritchard, Dial, Rowlett, and Bell.

Council Members absent: None

Also present: City Manager Wieland, City Clerk Droste, City Attorney Tetwiler, City Planner Gotfredson, Public Works Director Bieker, Police Chief Smail, Brian McCauley with the Miami County Republic, Richard Lentz, LeAnne Shields, Alan Hire, Harold Achey, Kim Bieker, Katie Mendenhall, David Yarnell, Carol Everhart with the Paola Chamber of Commerce, and others.

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

**Agenda Item 2 - ROLL CALL:** Mayor Stuteville and Council Members Pritchard, Dial, Rowlett, and Bell were all present. No one was absent.

**Agenda Item 3 - PETITIONS, REMONSTRANCES, AND COMMUNICATIONS**  
Council Mayor Stuteville asked the audience if anyone desired to address the Council about any issue that is not an agenda item. No one addressed the Council.

**Agenda Item 4 - CONSENT AGENDA**

- a. **Approval of minutes of the meeting of August 11, 2009.**
- b. **Approval of Salary Ordinance number 09-16.**
- c. **Approval of Appropriation Ordinance No. 659.**

Councilmember Bell questioned the status of the minutes and asked if they had been modified. After a brief discussion, Clerk Droste recommended that the minutes be removed from the Consent Agenda and discussed at the conclusion of the Regular Agenda. Councilmember Rowlett made a motion to remove the minutes of the meeting of August 11, 2009 from the Consent Agenda for further consideration at the conclusion of the Regular

Agenda. The motion was seconded by Councilmember Pritchard and all voted aye. The motion passed 4 to 0.

Councilmember Bell stated that he objected to expenditures to Lakemary Center for repairs to the water detention pond, expenditures for training travel and dues, and expenditures to the Chamber of Commerce. He also questioned expenses for the new SCADA System and to Rural Water District No 2. After discussion, Councilmember Rowlett made a motion to approve the Consent Agenda including Salary Ordinance No 09-16, and Appropriation Ordinance No 659, and authorize the Mayor to sign. Councilmember Dial seconded the motion. Councilmembers Rowlett, Dial, 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 - Consider a Conditional Use Permit for a pet grooming business at 103 N Pearl.**

Planner Gotfredson presented a request for a renewal of a Conditional Use Permit (CUP) for a pet grooming business located at 103 N Pearl. He explained that the original CUP included a restriction pertaining to the overnight boarding of pets. Planner Gotfredson explained that the applicant does keep a number of unusual animals such as iguanas, geckos, snakes, tarantulas, scorpions, ferrets, and a parrot. The applicant, Katie Mendenhall, stated that these animals were her personal pets and that they were listed for sale at the business.

Councilmember Pritchard questioned the restriction in the CUP that states that no overnight boarding of pets is permitted. Planner Gotfredson indicated that the Planning Commission considered the restriction for the overnight boarding of pets to pertain to dogs and cats so that the facility did not become a kennel. Councilmember Rowlett expressed concerns about the number of animals that were being kept in such a small space. A lengthy discussion was held regarding the definition of “dangerous animals” and if the Land Development Ordinance or the Municipal Code allowed for the display or sale of these specific animals.

After additional discussion, Councilmember Bell made a motion to approve ORDINANCE NO 2996 APPROVAL OF CONDITIONAL USE PERMIT 09-CUP-09 as recommended by the Paola Planning Commission. The motion was seconded by Councilmember Pritchard. After additional discussion of the motion, Councilmembers Bell, Rowlett, and Dial voted aye and Councilmember Pritchard voted nay. The motion passed 3 to 1.

#### **Agenda Item 5b - Consider a site plan for a new residential unit for Lakemary Center.**

Planner Gotfredson presented the revised site plan for a new residential unit for Lakemary Center. He reported that this issue was considered last month by the Council and returned to the Planning Commission for reconsideration of the emergency access road to the residential unit. The applicant has agreed to pave the emergency access road as requested by the Fire Chief.

Councilmember Pritchard made a motion to approve the site plan for Lakemary Center as presented. The motion was seconded by Councilmember Dial and all voted aye. The motion passed 4 to 0.

**Agenda Item 5c - Consider approval of a Resolution terminating the City's 401(a) Plan.**

Clerk Droste presented a Resolution terminating the City's 401(a) Plan. He indicated that the termination of the plan was included in the revised 2009 Budget and the 2010 Budget. Councilmember Pritchard questioned why it was being cancelled as of June 30<sup>th</sup>. Clerk Droste explained that if the plan were continued beyond June, the amount allocated in the revised 2009 Budget would be exceeded. He also stated that it was not included in the adopted 2010 Budget.

Councilmember Dial made a motion to approve A RESOLUTION TERMINATING THE 401 MONEY PURCHASE PLAN ADMINISTERED BY THE ICMA RETIREMENT CORPORATION GOVERNMENTAL MONEY PURCHASE PLAN & TRUST, EFFECTIVE JUNE 30, 2009. The motion was seconded by Councilmember Rowlett. Councilmembers Bell, Rowlett, and Dial voted aye and Councilmember Pritchard voted nay. The motion passed 3 to 1. The Resolution was assigned number 2009-009.

**Agenda Item 5d - Consider approval of a Resolution amending the Deferred Compensation Policy.**

Clerk Droste presented a Resolution amending the City's Deferred Compensation Policy. He stated that the Resolution amended the policy by deleting the references to the terminated 401(a) Plan.

Councilmember Dial made a motion to approve A RESOLUTION AMENDING THE DEFERRED COMPENSATION POLICY EFFECTIVE JUNE 30, 2009. The motion was seconded by Councilmember Rowlett and all voted aye. Councilmembers Bell, Rowlett, and Dial voted aye and Councilmember Pritchard voted nay. The motion passed 3 to 1. The Resolution was assigned number 2009-010.

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

Manager Wieland presented a pay request for the Fire Station Project from Legacy Contractors in the amount of \$254,814.00. He stated that he would like to plan a tour of the facility in conjunction with the next work study meeting.

Councilmember Bell questioned the security of the facility and potential safety hazards at the site. Rob George with Legacy Contractors stated that the site is marked with caution tape. Councilmember Bell stated that he observed exposed rebar that was not properly capped.

Councilmember Bell questioned the stucco scratch coat and that there was no wire mesh under the material. Rob George explained that the product that is being installed is designed to be installed without wire mesh and is a superior product to conventional stucco.

After the discussion, Councilmember Pritchard made a motion to approve a pay request #6 in the amount of \$254,814.00 to Legacy Contractors, LLC for the Fire Station project. The motion was seconded by Councilmember Dial and all voted aye. The motion passed 4 to 0.

**Agenda Item 5f - Consider approval of an Ordinance amending sewer rates.**

Manager Wieland presented an Ordinance amending sewer rates as follows: The user charges portion of the monthly service charge would increase from \$5.84 to \$6.94 and the volume charge per 100 gallons of billed volume would increase from \$0.25 to \$0.29. Manager Wieland explained that no additional increases are anticipated through 2010.

After additional discussion, Councilmember Dial made a motion to approve AN ORDINANCE AMENDING TITLE VII. UTILITIES, CHAPTER 715: SEWERS, ARTICLE IV. RATES AND CHARGES FOR WASTEWATER TREATMENT USERS, SECTION 715.240: SCHEDULE OF CHARGES, OF THE MUNICIPAL CODE OF THE CITY OF PAOLA, KANSAS. The motion was seconded by Councilmember Rowlett and all voted aye. The motion passed 4 to 0. The Ordinance was assigned number 2997.

**Agenda Item 5g - Consider approval of an Ordinance repealing Ordinance No 2888.**

City Attorney Tetwiler explained that in 2005, the Council adopted Ordinance 2888 which restricted the open carry of firearms in the City of Paola. Since that time, changes to State Statutes pertaining to the criminal use of weapons dictate the revision of the City's original Ordinance. He recommended that the City first repeal the original Ordinance before adopting new regulations pertaining to the open carry of firearms.

Councilmember Pritchard made a motion to approve AN ORDINANCE REPEALING ORDINANCE NO 2888. The motion was seconded by Councilmember Dial and all voted aye. The motion passed 4 to 0. The Ordinance was assigned number 2998.

**Agenda Item 5h - Consider approval of an Ordinance regulating open carry of firearms.**

City Attorney Tetwiler presented an Ordinance adding restrictions to the open carry of firearms to the existing language of the Uniform Public Offense Code Section 10.1 relating to the criminal use of weapons. He explained that the restrictions on the open carry of firearms were identical to the restrictions previously enforced in the City of Paola.

Councilmember Bell asked Chief Smail how this ordinance affects the general public. Chief Smail indicated that this ordinance prohibits anyone from strapping a gun to their waist and walking down the street. The public would still be allowed to transport firearms through town as long as they follow State Statutes.

Councilmember Dial made a motion to approve AN ORDINANCE AMENDING ARTICLE 10, SECTION 10.1 OF THE UNIFORM PUBLIC OFFENSE CODE ADOPTED BY THE CITY OF PAOLA, KANSAS, MORE SPECIFICALLY SECTION 10.1 RELATING TO CRIMINAL USE OF WEAPONS AND REPEALING THE EXISTING CODE SECTION

10.1. The motion was seconded by Councilmember Pritchard and all voted aye. The motion passed 4 to 0. The Ordinance was assigned number 2999.

### **Removed Consent Agenda Item – Approval of the minutes of the meeting of August 11, 2009**

Clerk Droste reported that at the previous two meetings, Councilmember Bell questioned the detailed accounting of certain conversations in the minutes. He asked the Council for direction in the amount of detail that should be included in the minutes.

Councilmember Dial stated that it was her preference to keep minutes brief and include only the motion and vote. She stated that the Council and Staff could spend a huge amount of time going over the details and it is all still subjective. Councilmember Pritchard stated that he agreed and that the way that the minutes have been prepared is acceptable. Councilmember Rowlett also agreed.

Councilmember Bell stated that he had no problem with an accurate summary; however, he felt that it was important that the discussion be included along with the action.

After additional discussion, Councilmember Rowlett made a motion that minutes be prepared in summary form as they currently have been prepared. Councilmember Bell seconded the motion. Councilmembers Bell, Rowlett, and Pritchard voted aye and Councilmember Dial voted nay. The motion passed 3 to 1.

Councilmember Rowlett made a motion to approve the minutes of the meeting of August 11, 2009 as presented. Councilmember Pritchard seconded the motion. Councilmembers Rowlett, Dial, and Pritchard voted aye and Councilmember Bell voted nay. The motion passed 3 to 1.

### **Agenda Item 6 – NEW BUSINESS**

Planner Gotfredson reported that he had a draft of the report on the K-68 Highway Study for the Council to take home for review. He indicated that there was an informational meeting regarding the document that will be held on Thursday at the Ottawa City Hall. A second meeting is scheduled in Paola next week.

Planner Gotfredson asked for direction regarding a request to install a banner sign at the Cross Point Assembly of God. The LDO requires that banners be attached to the structure of the building and these banners would be located near the roadway next to the church's sign. Councilmember Rowlett stated that before we deviate from the LDO, we need to determine if such signs would be considered "clutter" and develop a policy around that. Size, location, and how long it could be displayed should be considered. Councilmember Pritchard agreed that we should not allow something that is contrary to the LDO.

Planner Gotfredson asked for direction regarding yard signs and signs placed in the City's street right of way. He stated that signs are regularly removed from the street right of way by compliance officers. Other signs, such as real estate for sale signs, are allowed to be in the yards of private property. Planner Gotfredson went on to explain the LDO regulations

pertaining to signs and specific examples were discussed. After a lengthy discussion, the Council agreed that advertising signs placed in the right of way should continue to be removed as they are now.

Chief Smail reported that traffic control at the US 169 exit ramp at Baptiste Drive was working well.

Carol Everhart with the Chamber of Commerce asked for clarification for public information signs such as for the Roots Festival. Manager Wieland indicated that perhaps an application process for such signs could be developed. These types of signs have never been a problem because they are never up very long.

Carol Everhart with Chamber of Commerce reported that on September 9<sup>th</sup>, a recognition was planned for the American Red Cross and their new disaster preparedness and food service mobile units. The vehicles will be parked on the south side of the Park Square for the recognition.

Manager Wieland reported that the Roots Festival and the Triathlon were both planned for this coming weekend. He also presented information on a free conference sponsored by UMKC on “Sustainability, Green Development and the Law” on September 17<sup>th</sup>.

Councilmember Bell asked the City Manager if he intended to continue to spend money on training travel and dues – yes or no. Manager Wieland stated that he will answer the question the same way that he has answered before: he will look at every expenditure very closely and make a decision based on the benefits and will continue to approve those training items that we believe are necessary and beneficial to the City. We will not approve those that are not beneficial to the City. Councilmember Bell stated that the answer was a reason for the spending and that his question is that given the City’s financial situation, why we continue to spend money on training travel and dues especially in a department that is already over budget on that item. Councilmember Bell stated that he is not opposed to mandatory trainings and certifications, he is opposed to discretionary training. Manager Wieland stated that he appreciated Councilmember Bells comments and stated that especially in the 2010 Budget, substantial cuts have been made in the training budget and that his comments were duly noted. Councilmember Bell stated that he accepted the City Manager’s response.

Councilmember Bell stated that he did not have any problems with anyone expressing themselves or getting emotional at meetings. He stated that he does get upset if someone takes things personally in a discriminatory way.

Councilmember Rowlett discussed the funds for the Skate Board Park. He stated that any extra resources should be returned to the General Fund to increase reserves. Mayor Stuteville asked if the funds received by the Baehr Foundation should be returned. Councilmember Rowlett indicated that the Foundation should be contacted for their input. Other options would be to build the park in phases as the City has funding available or leave the funds in the CIP until the General Fund reserves are increased.

Mayor Stuteville commented on a recent article in the Kansas City Star about an area resident who wrote about Paola and what a wonderful community that it is. Mayor Stuteville asked if the road grader could be used in the alleys to eliminate some of the pot holes.

Mayor Stuteville recommended that Barb Dillenbeck be appointed to the Convention and Tourism Committee. Councilmember Dial made a motion to approve the Mayor's appointment of Barb Dillenbeck to the Convention and Tourism Committee. The motion was seconded by Councilmember Rowlett and all voted aye. The motion passed 4 to 0.

**Agenda Item 7 - ADJOURNMENT.**

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

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Artie Stuteville, Mayor

ATTEST: (seal)

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Daniel G. Droste, City Clerk