

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

March 14, 2006

**HELD AT THE MIAMI COUNTY COMMISSIONERS CHAMBERS
IN THE MIAMI COUNTY ADMINISTRATION BUILDING**

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

Councilmembers present: Mayor Stuteville, Council Members Shields, Rowlett, Moulder, and Pritchard.

Council Members absent: None.

Also present: Manager VanderHamm, Clerk Droste, City Attorney Tetwiler, Engineer/Planner Faust, Public Works Director Bieker, Police Chief Smail, a representative from the Miami County Republic, and others.

The regular council meeting was called to order.

Agenda Item 1 - ROLL CALL: Mayor Stuteville and Council Members Shields, Moulder, Rowlett, and Pritchard were all present.

Agenda Item 2 - PLEDGE OF ALLEGIANCE: Mayor Stuteville invited everyone in attendance to join in the Pledge of Allegiance.

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 February 28, 2005**
- b. **Approval of Salary Ordinance number 06-04**
- c. **Approval of Appropriation Ordinance No. 577**

Councilmember Rowlett made a motion to approve the Consent Agenda as presented and authorize the Mayor to sign. Councilmember Shields seconded the motion and all voted aye.

Agenda Item 5 – REPORTS OF OFFICERS, BOARDS, AND COMMITTEES.

Agenda Item 5a - Consider an Ordinance banning urinating or defecating in public.

Police Chief Smail presented an ordinance banning urinating or defecating in public. He explained that the ordinance was needed as a previous ordinance was overlooked in the last codification of the City's Code Book.

Councilmember Rowlett made a motion to approve an ORDINANCE AMENDING THE CODE OF THE CITY OF PAOLA, KANSAS, TITLE II. PUBLIC HEALTH, SAFETY AND WELFARE; CHAPTER 205: OFFENSES; ARTICLE IV. OFFENSES CONCERNING PEACE AND ORDER, BY CREATING A NEW SECTION 205.231 PROHIBITING ANY PERSON FROM URINATING OR DEFECATING IN PUBLIC. The motion was seconded by Councilmember Moulder and all voted aye. The Ordinance was assigned number 2907.

Agenda Item 5b - Consider an Ordinance amending sewer connection fees and monthly user charges.

Manager VanderHamm reported that in February, 2005, the Council established the service charge for the new waste water treatment plant at \$10 instead of the \$13 that was calculated to be necessary to begin paying the debt service and operational costs for the new plant, plus new sewer connections at \$2,600. At that time, staff was instructed to monitor the funding. With the new waste water nearly complete, the rate structure needs to be adjusted to insure that the debt can be serviced. This is a requirement of the SRF Loan and our current rates are not adequate.

Manager VanderHamm presented and explained financial projections based on various growth assumptions. The proposed ordinance includes a \$3 increase in flat rate in 2006 and in 2007 and also includes a \$200 increase in connection fees every five years.

Mayor Stuteville asked about commercial sewer rates. Clerk Droste indicated that commercial users pay sewer rates based on their actual monthly water consumption. Residential rates are fixed each year based on January and February water consumption.

Councilmember Rowlett indicated that he had visited with the City Manager about possibly increasing the connection fees by \$400 in 2006 and delaying the second \$3 monthly user fee. Manager VanderHamm presented a financial projection with these adjustments.

After discussing the financial projections Councilmember Rowlett suggested that the Ordinance be amended to reflect the fees identified in "Sewer Sheet H" which increases connection fees to \$3,000 in 2006 and increases the monthly user fee by an additional \$3 in 2006 with the second increase of \$3 to be delayed until 2008.

Councilmember Rowlett made a motion to approve an ORDINANCE AMENDING TITLE VII. UTILITIES, CHAPTER 715: SEWERS, ARTICLE II, CONNECTIONS-REGULATIONS, SECTION 715.082: CONNECTION AND SYSTEM FEES, AND ARTICLE III, DISCHARGE REQUIREMENTS AND PROHIBITIONS, SECTION 715.240: SCHEDULE OF CHARGES OF THE MUNICIPAL CODE OF THE CITY OF

PAOLA, KANSAS, as amended to reflect the charges as outlined in “Sewer Sheet H”. The motion was seconded by Councilmember Pritchard and all voted aye. The Ordinance was assigned number 2908.

Agenda Item 5c - Consider bids for the City’s insurance coverages.

Clerk Droste reported that beginning in late December, a legal advertisement was run in the official city newspaper soliciting bids for the insurance coverage. Additionally, a solicitation letter was sent to every insurance agency in the City of Paola. Bids were received from Morris and Associates, Elliott Insurance Group, and Gliem & Giddings.

Clerk Droste stated that it is very difficult to get a true “apples to apples” comparison with insurance coverage when comparing different companies because of all of the variables involved. In an attempt to minimize this problem, copies of the existing coverage amounts, limits, deductibles, etc. were provided to each bidder and all were asked to bid the coverage as it currently exists. Several meetings were held with the insurance agents during the bidding process. Additionally, after all of the bids were received, meetings were held with each agency to review the bids to make sure that there were no misunderstandings.

Clerk Droste presented a spreadsheet comparing the bids from each agency. EMC Insurance Company through Morris and Associates bid \$72,558; St Paul Travelers through Elliott Insurance Group bid \$90,326; and Argonaut Insurance Co. through Gliem & Giddings bid \$95,296 for the City’s insurance coverages excluding law enforcement liability.

Manager VanderHamm thanked each of the agencies for bidding the coverage. He acknowledged their hard work and was pleased that there was so much competition for the City’s insurance policies. Manager VanderHamm recommended to the Council that the bid from EMC Insurance Company through Morris and Associates be accepted in the amount of \$72,558.

Clerk Droste stated that each of the agencies asked if the City would be bidding the coverage every year. Droste indicated that all three agencies stated that because of the work involved in bidding this type of coverage, they suggested that the coverage be bid not more often than every 3 to 5 years. If it is bid more often, there may be fewer bids received because of the amount of work involved in preparing the bids.

Councilmember Pritchard made a motion to accept the bid from EMC Insurance Companies through Morris and Associates for the City’s insurance coverages in the amount of \$72,558.00 and to bid the coverage every 3 to 5 years as suggested. The motion was seconded by Councilmember Shields and all voted aye.

Agenda Item 5d - Consider approval of an agreement for engineering services with Bartlett & West for the Marais des Cygne Public Utility Authority.

Manager VanderHamm presented an agreement from Bartlett & West for engineering services for the Marais des Cygnes Public Utility Authority water treatment facility. He

stated that the Marais des Cygnes Public Utility Authority Board (MDC PUA) went through an exhaustive selection process for engineering and design services. There were five companies who submitted proposals and PEC, HDR, and Bartlett & West were selected for interviews. The MDC PUA unanimously selected Bartlett & West for the project and recommends approval of the agreement for engineering services.

City Attorney Tetwiler questioned the section in the agreement that addresses dispute resolution through binding arbitration. He recommended that this section be changed to allow for disputes to be resolved in Miami County District Court.

City Attorney Tetwiler disclosed that he had been contacted by Bartlett & West to perform legal services as outlined under Article II.A.1.h. on page 4 of the agreement. He asked if the Council had any objections to this arrangement and if any Councilmember thought that it was a conflict of interest for him to represent both the City and Bartlett & West. City Attorney Tetwiler stated that if there was anyone who thought that a conflict existed, he would not agree to provide the legal services. No one on the Council objected.

Councilmember Rowlett asked about Article V.B.4. on page 7 of the agreement. He questioned why it was necessary for Bartlett & West to bill the City for a 10% surcharge for subcontracted services. It was suggested that legal and title work be excluded from this surcharge.

Councilmember Rowlett asked if the agreement confirms that the engineers are required to design a fully functional facility. Engineer Planner Faust stated that the MDC PUA Board had discussed this issue at length and that language was submitted to Bartlett & West to be included in the document.

After discussing the document, it was decided that it should be amended to address dispute resolution, the 10% surcharge, and designing a fully functional facility. Councilmember Shields made a motion to approve the Agreement for Professional Services with Bartlett & West for engineering services with the Marais des Cygne Public Utility Authority subject to the amendments and review by the City Attorney, City Manager, and City Engineer. The motion was seconded by Councilmember Rowlett and all voted aye.

Agenda Item 5e - Establish a fee for a new 2” water meter for Lakemary Center.

Engineer Planner Faust presented a request from Lakemary Center for a 2” water meter to replace an existing 5/8” water meter on their property at 1121 E Peoria. He indicated that the Council establishes the price for 2” meters.

Councilmember Pritchard made a motion to establish a fee of \$3,000 for a new 2” water meter for Lakemary Center for a property at 1121 E Peoria. The motion was seconded by Councilmember Moulder and all voted aye.

Agenda Item 5f - Consider a change order from CAS Construction for the new Waste Water Treatment Plant.

Engineer Planner Faust reported that in February 2006, the City Council approved Change Order No. 2 for \$8,399.94 and an additional amount as shown below. Staff identified these additional items as a 'future' Change Order No. 3 but asked for approval (ahead of the Change Order) to allow construction to continue.

Staff has now received Change Order No. 3 but with the elimination of the additional material testing for \$6,000 and the addition of a request for a 24 day time extension. The change order requested is as follows:

The request for additional time was the result of a possible late delivery of electronic controls for the plant. Engineer Planner Faust indicated that there was concern that granting the additional time to CAS Construction will increase the cost of inspection services. Based on the contract with Larkin for construction services there is no concern for any additional charges.

Manager VanderHamm questioned if it was necessary to grant the time extension before it is known that additional time is needed. It was suggested that the time extension not be granted until it is known when the electrical controls will be delivered and whether or not the delivery impacts the completion date.

Councilmember Rowlett made a motion to approve change order number 3 with CAS Construction in the amount of \$6,996.63 without the request for an additional time extension of 24 days. The motion was seconded by Councilmember Moulder and all voted aye.

Agenda Item 5g - Consider approval of the Waste Water Treatment Plant Construction Draw #9.

Engineer Planner Faust presented construction draw #9 for the waste water treatment plant.

Councilmember Pritchard made a motion to approve construction draw #9 in the amount of \$316,851.41 for the new waste water treatment plant. The motion was seconded by Councilmember Shields and all voted aye.

Agenda Item 5h - Consider approval of the Lewis Drive Construction Draw #2.

Engineer Planner Faust presented construction draw number 2 for the Lewis Drive reconstruction. He reported that the project is moving along ahead of schedule and that installation of curbs and gutters may begin as early as next week.

Councilmember Pritchard asked about the parking lots at the Electric Shop and Thompson Vending. He indicated that the heavy equipment was damaging the parking lots. Engineer Planner Faust reported that these lots would be repaired and topped with a “chip and seal” at the conclusion of the project.

Councilmember Shields made a motion to approve construction draw #2 in the amount of \$86,458.32 to Cutting Edge Excavating and Trucking and \$9,960.15 to Anthony Construction Management for the Lewis Drive improvements. The motion was seconded by Councilmember Moulder and all voted aye.

Agenda Item 5i - Consider approval of an engineering contract for the Lewis Drive reconstruction.

Engineer Planner Faust presented a contract with Landplan Engineering for the Lewis Drive reconstruction for “follow-on” engineering services.

Councilmember Moulder made a motion to approve a contract with Landplan Engineering for the amount of \$2,800 plus reimbursable expenses. The motion was seconded by Councilmember Pritchard and all voted aye.

Agenda Item 5j - Consider approval a Resolution for KDOT for the Baptiste Drive reconstruction.

Engineer Planner Faust presented a Resolution for KDOT for the Baptiste Drive reconstruction. He indicated that the resolution was necessary to reflect a change in the KDOT documents that increase the City’s portion of the project by \$100,000. Faust indicated that he has always included this \$100,000 in his cost estimates; the documents were being modified to reflect the actual numbers.

Councilmember Rowlett made a motion to approve a RESOLUTION RELATING TO THE BENEFITS OBTAINABLE BY CITIES UNDER PROGRAM FOR FEDERAL AID ON HIGHWAY CONSTRUCTION. The motion was seconded by Councilmember Shields and all voted aye. The Resolution was assigned number 2006-002.

Added Agenda Item – Direct staff to draft an ordinance to reduce water, sewer, and trash rates for Senior Citizens.

Manager VanderHamm apologized for not including this item on the original agenda as was discussed in the work study session.

Councilmember Moulder asked if an ordinance was passed at the next Council Meeting, would it become effective before the sewer rate increase that was approved in Ordinance No. 2908. Manager VanderHamm indicated that the Ordinance could be written to accomplish that intent.

Councilmember Pritchard asked if a flat rate could be provided for all qualified Senior Citizens rather than multiple different rates based on when they apply for the discount. Manager VanderHamm was not concerned about needing to set up multiple rate structures in the utility billing program.

Councilmember Moulder made a motion to authorize staff to prepare an ordinance for the March 28th Council Meeting establishing a “freeze” of water and sanitary sewer fees for qualified senior citizens that will be associated with the debt service requirements for the new plant projects and incorporating the current senior citizen reduced trash rates. The motion was seconded by Councilmember Shields and all voted aye. Manager VanderHamm indicated that a financial impact analysis would be presented also.

Agenda Item 6 – NEW BUSINESS

Manager VanderHamm reported that Don Moler, Executive Director of the League of Kansas Municipalities, wrote a good article on what is happening in Topeka to local governments. Specifically, there are 3 bills that could have adverse effects on local government funding:

- a. HB 2619: Machinery & Equipment Tax Exemption – passed out of the House 108 to 14, and has been sent to the Senate.
- b. SB 438: Motor Vehicle Property Tax Phase Down – did not pass out of the Senate Tax Committee, but may still be worked by the committee and continues to be a viable bill.
- c. HB 2601: Sales Tax Holiday – No action has been taken on this bill, and it appears that this bill is now dead.
- d. Eminent Domain - a compromise bill has been drafted and will be debated later this week.

Manager VanderHamm reported that Dave Consiglio has advised City Staff that he has purchased the old Walters Foundation property on North Silver. In April of 2005, the city committed part of lot #3 in the Industrial Park to Industrial Sealing and Lubrication (ISL). We will be getting a letter from him indicating that he is no longer interested in lot #3. This property is not in the Neighborhood Revitalization Area.

Manager VanderHamm advised that he had sent the Regional Superintendent of the Union Pacific Rail Road a letter requesting help in minimizing the amount of time the train whistles are blown as they go through Paola. There is a Federal Law that addresses this issue.

Manager VanderHamm reported that the Fire Department review will begin Friday, March 31st and run through that weekend.

Manager VanderHamm reported that an employee Safety Committee is being formed that will focus on Workers Comp issues. The goal is to make our employees and workplace safer, as well as reduce our premiums over the long term.

Manager VanderHamm reported that CivicPlus held a nation-wide *Extreme Website Makeover Contest* for “needy” sites. Our entry placed 2nd and the City will receive a credit of \$2,500 in setup services for our new website.

The annual Spring Clean up is scheduled for April 10th through the 14th.

February Financial Reports were presented and reviewed.

Councilmembers Shields and Rowlett had no new business to discuss.

Councilmember Moulder asked the City Manager about pet license fees. Manager VanderHamm indicated that he has not yet addressed that issue.

Councilmember Pritchard asked if there was a change for the construction entrance at Rockwood. Manager VanderHamm indicated that there was a sign placed at the primary entrance that directed construction traffic to use the back entrance off of Old KC Road. Councilmember Pritchard asked about the house on South Silver that has had scaffolding set up in the yard for quite some time. Staff will check into it.

Mayor Stuteville shared with the Council news from Discover Mid America about Paola, Pigeon West Antiques and the Swan River Museum. She thanked Ann Davis for her efforts in that regard.

Mayor Stuteville recommended that Sr. Helen Smith, Mike Brown, Eleanor Watson be appointed to the Community Center Board and that Jarrod Youk, Blake Heid and Larry McGee be appointed to the Library Board. Councilmember Rowlett made motion to approve the board appointments. Councilmember Pritchard seconded the motion and all voted aye.

Mayor Stuteville asked for the consent of the Council for the Mayor and City Manager to meet with Community Center Board to review the ½ cent sales tax and to assure them that the Mayor and Council are not attempting to change that funding that was approved by the voters.

Agenda Item 7 – EXECUTIVE SESSION for the purpose of discussing personnel matters of non-elected personnel. K.S.A. 75-4319(B)(1) is the authority for this recess.

Councilmember Rowlett made a motion to adjourn to Executive Session for 15 minutes for the purpose of discussing personnel matters of non-elected personnel; the regular meeting to reconvene at 7:15 p.m. The motion was seconded by Councilmember Moulder and all voted aye.

Councilmember Rowlett made a motion to reconvene the adjourned meeting. The motion was seconded by Councilmember Pritchard and all voted aye.

Agenda Item 8 – ADJOURNMENT.

With no additional business to come before the Council, Councilmember Moulder made a motion to adjourn the meeting. Councilmember Pritchard seconded the motion and all voted aye.

Artie Stuteville, Mayor

ATTEST: (seal)

Daniel G. Droste, City Clerk