

**MINUTES OF THE COUNCIL MEETING  
OF THE CITY OF PAOLA, KANSAS  
6:00 O’CLOCK P.M.**

**June 22, 2010**

**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, Rowlett and Minden.

Council Members absent: Wilhoite.

Also present: City Manager Wieland, City Clerk Droste, City Attorney Tetwiler, Public Works Director Browning, Police Chief Smail, Harold Mayes, Rev. Kirk Johnston, Richard Lentz, Carol Everhart with the Paola Chamber of Commerce, and Jesse Trimble from the Miami County Republic.

**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, Rowlett, and Minden were all present. Councilmember Wilhoite was absent.

**Agenda Item 3 - PETITIONS, REMONSTRANCES, AND COMMUNICATIONS**

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 June 8, 2010.
- b. Approval of Salary Ordinances 10-12.
- c. Approval of Appropriation Ordinance No 680.
- d. Approval a Water Leak Allowance for 301 E Shawnee.
- e. Approval of the renewal of a Drinking Establishment License for Beethoven’s #9.

Councilmember Rowlett made a motion to approve the Consent Agenda as presented and authorize the Mayor to sign. The motion was seconded by Councilmember Pritchard and all voted aye. The motion passed 3 to 0.

**Agenda Item 5 - REPORTS OF OFFICERS, BOARDS AND COMMITTEES**

**Agenda Item 5a - Presentation of the 2009 Audit Report by Harold Mayes of Agler & Gaeddert.**

Harold Mayes with Agler & Gaeddert, Chartered, Certified Public Accountants, presented a summary of the 2009 audit report to the Governing Body.

Mr. Mayes directed the Council to the auditor's opinion included in the report. That opinion states that the City is in compliance with the cash basis and budget laws of the State of Kansas. The cash basis and budget laws of the State of Kansas do differ somewhat from generally accepted accounting principles. Mr. Mayes explained that the auditor's opinion for 2009 is an "unqualified opinion" which is the best opinion that an auditor can offer.

Mr. Mayes reviewed the Summary of Cash Receipts, Expenditures, and Unencumbered Cash for the calendar year 2009. He explained that the cash balance for the General Fund decreased by approximately \$165,027 and the cash balances in the Special Revenue Funds in total decreased \$137,213. The Debt Service fund decreased approximately \$82,521 and the Capital Project Accounts also decreased by \$2,246,710 primarily due to the spend down of bond proceeds for projects under construction during the year. The cash balances in the Enterprise Funds decreased approximately \$162,382. Overall, the total cash balances for the City decreased approximately \$2,793,853 primarily due to the balances in the Capital Project Accounts.

Mr. Mayes reviewed the Statement of Cash Receipts and Expenditures – Actual and Budget. He explained that this is the schedule that the State of Kansas is most interested in as it determines if there are any budget violations for the fiscal year. The schedule indicates that the City had no unfavorable variances with the 2009 Budget.

Mr. Mayes noted that there was an effort by management and the City to cut expenses in 2009. He noted that General Fund expenses in 2009 were \$313,855 less than in 2008 and that the Unencumbered Cash Balance in the General Fund at the end of 2009 was \$621,578. Councilmember Rowlett asked Clerk Droste what the budgeted General Fund cash balance for 2009. Clerk Droste stated that the 2009 Amended Budget anticipated a cash balance of \$478,146. Councilmember Rowlett complimented the City Manager and City Staff for their efforts in controlling costs and for ending the year with a larger cash balance than anticipated.

After discussing the audit report, Councilmember Rowlett made a motion to accept the 2009 Audit Report from Agler & Gaeddert as presented. The motion was seconded by Councilmember Pritchard and all voted aye. The motion passed 3 to 0.

**Agenda Item 5b - Consider a "Letter of Engagement" for the 2010 audit.**

Manager Wieland presented a Letter of Engagement from Agler & Gaeddert for the 2010 audit. The proposal for the 2010 audit is \$13,600.00 plus out of pocket expenses, an increase of \$100 over the 2009 amount.

After discussing the proposal, Councilmember Pritchard made a motion to approve a Letter of Engagement with Agler & Gaeddert to audit the City of Paola for calendar year 2010. The

motion was seconded by Councilmember Rowlett and all voted aye. The motion passed 3 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 presented a Resolution requesting a waiver from conformance with Generally Accepted Accounting Principles for 2010. He reported that pursuant to Kansas Statutes, the City has the option of preparing all audit reports on a cash basis rather than accounting for the fixed assets of the City.

After discussing the Resolution, Councilmember Pritchard 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 Minden and all voted aye. The motion passed 3 to 0 and the Resolution was assigned number 2010-004.

**Agenda Item 5d - Consider approval of a final site plan at the northwest corner of 303<sup>rd</sup> and Hedge Lane.**

Planner Gotfredson presented the final site plan for the Lighthouse Presbyterian Church at the northwest corner of 303<sup>rd</sup> and Hedge Lane. He reported that the Planning Commission discussed the site plan at their June 15<sup>th</sup> meeting and has recommended approval subject to the drainage swale at all discharge points being a maximum of 2% grade; and that the applicant sign a letter of agreement with the City to install sidewalks along Hedge Lane when the City determines that they are necessary.

Planner Gotfredson discussed the sidewalk issue noting that the Land Development Ordinance (LDO) does require that the sidewalks be installed at the time that other improvements are made on the site. Planner Gotfredson noted that the LDO does provide a mechanism for altering these requirements as was done when Cottonwood Elementary was constructed. At that time, the School District was allowed to put off construction of the sidewalk along Hedge until it was deemed necessary by the City. Such an arrangement could be made in this instance, however he stated that delay agreements for improvements are difficult to execute. Additionally, transfers of ownerships often result in misunderstandings by future owners. Planner Gotfredson also noted that while there is sidewalk along 303<sup>rd</sup>, Hedge Lane has no sidewalk and the current need is minimal. Therefore, it would be the preference of staff to put money in escrow for the future construction of the sidewalk rather than to enter into a delay agreement.

Councilmember Rowlett asked if the Building Permit had been issued prior to the approval of the site plan. Planner Gotfredson reported that a Grading Permit has been issued. Councilmember Rowlett expressed concerns about issuing a Grading Permit before the site plan is approved in the event that there are problems with the plan. Planner Gotfredson noted that the owner is made aware that they are proceeding at their own risk until the site plan is approved.

Councilmember Rowlett stated that he was trying to think of any situation where a business was allowed to build without a sidewalk. He expressed concerns that the Council needs to be consistent with this issue and that other businesses are required to install sidewalks. Planner Gotfredson stated that the agreement with the School District for Cottonwood Elementary would be a similar situation. Councilmember Rowlett stated that the only reason that the School District was allowed to proceed with that agreement was that the School District is a taxing entity.

Councilmember Rowlett asked what the benchmark would be that would trigger the installation of the sidewalk. Public Works Director Browning indicated that additional development in Heatherwood Estates with the extension of subdivision roads to Hedge Lane would be a logical trigger as children would be walking to and from school. Manager Wieland stated that the reason that staff recommends that funds be placed in escrow is that the City can make the determination when the sidewalks need to be constructed and there is no debate with the current or future property owner.

Mayor Stuteville asked if future improvements to Hedge Lane would change the location where the sidewalk would be built. Public Works Director Browning stated that the sidewalk would be installed based on the current right-of-way which is sufficient to accommodate future improvements to Hedge Lane.

Councilmember Minden asked if the funds were placed in escrow for the future construction of the sidewalks and the cost of building the sidewalk is more than the funds in escrow, who is responsible for the difference. Manager Wieland stated that interest earnings on the funds would be used to offset some increases, but the City would be responsible for any shortage.

Rev. Johnston stated that the Planning Commission had a similar discussion and that they acknowledged that it would be a "sidewalk to nowhere" and being required to install the sidewalk now or being required to pay funds into an escrow account could be punitive and delay the project. Mayor Stuteville indicated that the sidewalk along 303<sup>rd</sup> Street was installed last year by the City. Public Works Director Browning estimated that cost to install the sidewalk today would be at least \$20,000.00.

Councilmember Rowlett stated that we either should remove the sidewalk requirement from the LDO or everyone is going to have to live with it. Manager Wieland stated that he has discussed the obligation of the School District to install sidewalks under the original delay agreement.

Mayor Stuteville asked Rev. Johnston when the project is scheduled to be completed. Rev. Johnston stated that they hope to be finished with construction by April of 2011. Mayor Stuteville asked if the completion of the church would be enough to trigger the installation of the sidewalk by the School District. City Attorney Tetwiler cautioned that Council that this is the problem with "future agreements" and that this is why the LDO requires that sidewalks be installed at the time that the site is developed.

Councilmember Pritchard stated that he sympathized with that church but he agreed that the sidewalks needed to be installed now and that discussions with the School District should be held about installing the sidewalk on the other side of Hedge Lane.

Councilmember Minden asked about the distance of the entrance to the property from the intersection of 303<sup>rd</sup> and Hedge Lane, and about the landscaping requirements. Planner Gotfredson reported that the entrance was the appropriate distance from the intersection and that the landscaping plan was based on the complete development plan and was also acceptable.

After additional discussion, Councilmember Rowlett made a motion to approve the final site plan for the Lighthouse Presbyterian Church at the northwest corner of 303<sup>rd</sup> and Hedge Lane subject to the sidewalks be completed prior to the time that the final occupancy permit is issued, and subject to the drainage swale at all discharge points being a maximum of 2% grade. The motion was seconded by Councilmember Pritchard and all voted aye. The motion passed 3 to 0.

**Agenda Item 5e - Consider approval of an Ordinance amending the text of Article 7 Signs of the Land Development Ordinance.**

Planner Gotfredson presented an ordinance amending the Article relating to signs in the Land Development Ordinance (LDO). He reported that over the past year, some time had been spent reviewing sign regulations. Specifically, issues relating to yard signs, banner signs, electronic signs, enforcement, and the goals of the regulations.

Mayor Stuteville asked about the maximum size of a “free speech sign”. Councilmember Rowlett agreed that a 3 foot by 4 foot yard sign was too large. Councilmember Minden disagreed and stated that he did not feel that the limitation was too large.

Mayor Stuteville asked if these restrictions also applied to the Growth Area. She noted a situation where a political sign was required to be removed due to its large size. Councilmember Rowlett agreed and stated that the sign restrictions should not apply to the Growth Area. After discussing the issue, Planner Gotfredson agreed to contact Miami County and modify our growth area sign regulations for residences to conform to County regulations.

Planner Gotfredson discussed the addition of regulations regarding electronic signs. He reported that changes to the LDO were necessary to keep up with sign technology rather than making every electronic sign a deviation.

After additional discussion, Councilmember Pritchard made a motion to table action on the sign ordinance until the next meeting. The motion was seconded by Councilmember Minden and all voted aye. The motion passed 3 to 0.

**Agenda Item 5f - Consider approval of an Ordinance amending the text of the Land Development Ordinance related to the Community Growth Area.**

Planner Gotfredson presented an ordinance that amended the regulations relating to driveways, fences, and landscaping for residences in the Growth Area. He stated that driveways could be gravel unless otherwise required by Miami County; fences on properties of 3 acres or more would not be required to be constructed of decorative materials; and that

the requirement for plant units would be reduced for single family properties in the Estate District from 4 to 1 and in the Suburban District from 2 to 1.

Councilmember Rowlett stated that the changes were a step in the right direction but there may be additional changes that may be required for the Growth Area. Councilmember Minden questioned the changes to the landscaping regulations, stating that he liked the landscaping requirements and that most large lots will already have a sufficient number of trees and shrubs to meet the requirements.

After additional discussion, Councilmember Pritchard made a motion to approve AN ORDINANCE AMENDING SECTION 03.210, SECTION 15.525 AND TABLE 04.110A OF THE LAND DEVELOPMENT ORDINANCE (LDO) FOR THE CITY OF PAOLA, KANSAS, RELATED TO RURAL RESIDENTIAL REGULATIONS. The motion was seconded by Councilmember Rowlett and all voted aye. The motion passed 3 to 0 and the Ordinance was assigned number 3017.

**Agenda Item 5g - Consider approval disbursements from Transient Guest Tax Funds.**

Manager Wieland presented a request from the Paola Convention and Tourism Committee for disbursements from Transient Guest Tax Funds. The Committee recommended payments of \$2,000 to the Roots Festival Committee and \$500 to the Paola Chamber of Commerce/Paola Convention and Tourism Committee.

After discussion, Councilmember Rowlett made a motion to approve disbursements from the Transient Guest Tax in the amount of \$2,000 to the Roots Festival Committee and \$500 to the Paola Chamber of Commerce/Paola Convention and Tourism Committee. The motion was seconded by Councilmember Minden and all voted aye. The motion passed 3 to 0.

**Agenda Item 5h - Consider a request to temporarily close the streets around the Park Square for the Annual Paola Heartland Car Show on July 17th.**

Manager Wieland presented a request from the Paola Heartland Committee to temporarily close the streets around the Park Square for their 8<sup>th</sup> Annual Car Show.

After discussion, Councilmember Pritchard made a motion to approve the request to temporarily close streets around the Park Square on Saturday, July 17<sup>th</sup> for the Annual Paola Heartland Car Show. The motion was seconded by Councilmember Minden and all voted aye. The motion passed 3 to 0.

**Agenda Item 6 – NEW BUSINESS**

City Attorney Tetwiler reported that he has received an official notice from the US Department of the Interior that no violation was committed by the City in enforcing the removal of docks that were in violation of City Ordinances.

Clerk Droste presented a copy of the Paola Farmers' Market Newsletter.

Clerk Droste presented a copy of the 2011 assessed valuation certification from the County. The final assessed valuation as of July 2010 was \$47,200,376 compared to \$48,337,291 for 2009. A decrease of -2.35%.

Police Chief Smail suggested that consideration be given to a new Ordinance requiring uniform numbering for residences so that emergency response vehicles can more easily locate a residence.

Councilmember Minden asked if the water in the back yards of the homes on East Piankishaw would be remedied by the storm sewer improvements at Pearl and Piankishaw. Public Works Director Browning indicated that it would not help their situations because the improvements are downhill from these properties.

Councilmember Minden asked about the drainage ditch at Durham Apartments. Public Works Director Browning reported that the responsible party has made arrangements to resolve this issue.

Councilmember Rowlett reported that he noticed a road crew in Tonganoxie that was using a crack filling wand that places the filler in the crack without spreading the material beyond the crack. Public Works Director Browning said that he would research the issue.

Councilmember Minden asked about stop signs on Redbud Drive. Public Works Director Browning reported that the signs are being moved from behind the trees.

Mayor Stuteville reported that the MDCPUA open house at the new water plant is this coming Saturday from 10:00 am to 2:00 pm.

Mayor Stuteville reported that the Independence Day Fireworks are scheduled for July 3<sup>rd</sup> at Lake Miola.

Mayor Stuteville reported that the Art and Wine Stroll was a huge success. Those that attended agreed and reported that many of the participants were from out of town.

#### **Agenda Item 7 – ADJOURNMENT.**

With no additional business to come before the Council, Councilmember Rowlett made a motion to adjourn. Councilmember Pritchard seconded the motion and all voted aye. The motion passed 3 to 0.

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Artie Stuteville, Mayor

ATTEST: (seal)

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Daniel G. Droste, City Clerk