

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

**August 14, 2012**

**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 Artie Stuteville and Council Members Jim Pritchard, Gee Gee Wilhoite, Leigh House and Kevin Clouse.

**Council Members absent:** None.

**Also present:** City Manager Jay Wieland, City Clerk Dan Droste, Police Chief Dave Smail, Human Resources Director Vicki Belt, Jeff Hartl, Phil Ward, Lee Mott, Richard Lentz, and Brian McCauley with 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, Wilhoite, House, and Clouse were all present. No one 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 July 24, 2012.
- b. Approval of Salary Ordinance 12-15 and 12-16.
- c. Approval of Appropriation Ordinance No 732.
- d. Approval of the Journal Entries Report for July, 2012.
- e. Approval of the Pledged Securities Report for July, 2012.

After a discussion, Councilmember Pritchard made a motion to approve the Consent Agenda as presented and authorize the Mayor to sign. The motion was seconded by Councilmember Wilhoite and all voted aye. The motion passed 4 to 0.

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

### **Agenda Item 5a – Public Hearing for and adoption of the proposed 2013 Paola City Budget.**

Councilmember Pritchard made a motion to open the Public Hearing on the proposed 2013 Paola City Budget. The motion was seconded by Councilmember House and all voted aye. The motion passed 4 to 0.

Mayor Stuteville asked if there was anyone in attendance who desired to address the City Council in regard to the 2013 Budget. No one addressed the Council.

Manager Wieland presented his budget summary report showing the total budget for 2013 at \$14,254,530 reflecting a decrease from the published amount of \$14,403,174. The mill levy for 2013 will be 41.808.

After additional discussion, Councilmember Pritchard made a motion to close the Public Hearing. The motion was seconded by Councilmember Wilhoite and all voted aye. The motion passed 4 to 0.

### **Agenda Item 5b – Consider adoption of the 2013 Budget.**

Pursuant to the aforementioned Public Hearing, Councilmember Wilhoite made a motion to adopt the 2013 Paola City Budget in the amount of \$14,254,530 pursuant to the Notice of Budget Hearing published in the Miami County Republic on August 1, 2012. The motion was seconded by Councilmember Pritchard and all voted aye. The motion passed 4 to 0.

### **Agenda Item 5c – Presentation and discussion about the 2012 Roots Festival.**

Lee Mott, President of the Paola Roots Festival Committee, addressed the Council regarding the upcoming 23<sup>rd</sup> annual Roots Festival. He reported that the festival would be held on August 24<sup>th</sup> and 25<sup>th</sup>. On Friday evening, the featured band will be *Mike Farris* and on Saturday evening Grammy Award winning *Los Lonely Boys* will be the headline act. The festival also is the home of the East Central Kansas BBQ Contest.

Mr. Mott read the names of the Roots Festival Committee Members who help coordinate everything to make the event possible. All Committee Members are volunteers and there are no paid positions. He reported that the budget for this year's festival is over \$90,000 and the entire event is run by more than 300 volunteers. Single day admission for the festival is \$10 and children 10 and under are free. He reported that a discounted 2 day pass could be purchased in advance for \$18 at First Option Bank.

The Roots Festival Committee is again requesting support from the City for the following:

- 1) Close the streets around the Park Square beginning at 9:00 pm on Thursday, August 25<sup>th</sup>.
- 2) Place "No Parking" signs for traffic redirected to Piankishaw, Gold and Miami Streets.
- 3) City Police presence equivalent to last year's festival.

- 4) Trash barrels, picnic tables, and barricades with delivery and pick up by city workers.
- 5) Request waiver of any fees associated with the use of the Park Square.

Mr. Mott reported that the Roots Festival Committee has decided not to sell alcohol at the festival; however they did apply for an alcohol consumption license as they have in past years. Clerk Droste reported that the Roots Festival Committee has submitted all of the required applications for city permits.

**Agenda Item 5d – Consider Adoption of an Ordinance amending the definition of a “Non-specialist contractor” in Section 500.420 of the Municipal Code of the City of Paola.**

Manager Wieland reported that the City of Paola Code Review Board met on August 7<sup>th</sup> to review contractor licensing issues. Specifically, they discussed issues regarding non-specialist contractors and are recommending that the definition of this contractor category be amended to provide the Code Official with greater authority to require qualified contractors for some types of work on commercial properties. The Code Review Board recommended that the definition of non-specialized contractor as follows:

**Current definition:**

A non-specialist contractor’s license shall entitle the holder thereof to remodel or repair any structure. A higher level of contractor license may be required if, in the opinion of a Code Official, the extent of work exceeds the scope of work intended by this classification.

**Proposed definition:**

A non-specialist contractor’s license shall entitle the holder thereof to remodel or repair any residential structure. Minor structural modifications can be performed if they are in compliance with the International Residential Code. Major structural modifications or repairs will require drawings and approval at the discretion of the Code Official. A higher level of contractor license may be required if, in the opinion of a Code Official, the extent of work exceeds the scope of work intended by this classification.

The circumstances where a contractor’s license is required for residential and commercial properties were discussed.

Mr. Phil Ward addressed the Council with questions concerning expansion plans for a local family-owned business.

Councilmember Pritchard indicated that if there were no real urgency in passing this ordinance, he would prefer that it be discussed at the next Work Study Meeting so that the Council could have a thorough understanding of the need for the change.

After additional discussion, Councilmember Pritchard made a motion to table any action on AN ORDINANCE AMENDING SECTION 500.410 CATEGORIES OF CONTRACTOR LICENSES – TYPES OF WORK AUTHORIZED OF THE CODE OF THE CITY OF PAOLA, KANSAS, 2009 and requested that this issue be placed on the next City Council Work Study Agenda. The motion was seconded by Councilmember House and all voted aye. The motion passed 4 to 0.

**Agenda Item 5e – Consider Street Closure Applications for upcoming Community Events.**

Councilmember House made a motion to approve the Street Closure Applications for the Roots Festival from August 23<sup>rd</sup> to the 26<sup>th</sup>; The Midwest Meltdown Triathlon on August 26<sup>th</sup>; the Heads Up 5K on September 8<sup>th</sup>; and the Lakemary Run for the Stars 5K on September 29<sup>th</sup>, as presented. The motion was seconded by Councilmember Clouse and all voted aye. The motion passed 4 to 0.

**Agenda Item 5f – Consider options for the City’s Group Health, Life and Dental Insurance policies.**

Human Resources Director Belt presented a summary of renewal options for the City’s employee group insurance policies. She reported that the renewal options were previously discussed at the City Council Work Study Meeting on August 7<sup>th</sup>.

After a discussion, Councilmember Pritchard made a motion to approve the proposals for the City’s Group Health Insurance with United Health Care, Group Dental Insurance with Delta Dental, and Group Life Insurance through Lincoln Life as presented. The motion was seconded by Councilmember Clouse and all voted aye. The motion passed 4 to 0.

**Agenda Item 5g – Consider the approval of Change Order No 1 for the City Hall Renovation Project.**

Manager Wieland presented a change order for the City Hall renovation project. The change order includes the following:

Add the geothermal system with 400’ wells:	+ 58,189.00
City to coordinate with KCPL	- 916.00
Reuse existing HVAC unit for public rest rooms	- 2,000.00
Add small conference room on 2 <sup>nd</sup> floor	+ 2,747.00
Add conduit for underground electric service	<u>+ 4,645.00</u>
Total	\$ 62,665.00

This change order increases the total contract with Legacy Contractors from \$949,900.00 to \$1,012,565.00.

After a discussion, Councilmember Pritchard made a motion to approve Change Order #1 from Legacy Contractors, LLC in the amount of \$62,665.00 making the new total contract amount \$1,012,565.00 for the City Hall renovation project. The motion was seconded by Councilmember Wilhoite and all voted aye. The motion passed 4 to 0.

**Agenda Item 5h – Consider the approval of Payment Request No 3 for the City Hall Renovation Project.**

Manager Wieland presented payment request # 3 from Legacy Contractors, LLC on the City Hall renovation project in the amount of \$207,765.00. He reported that Work on the project is progressing very quickly. The faux doors in the old fire truck bays are completed with the

exception of the window glass. The interior framing on the first floor is nearly complete and the plumbing, electrical, HVAC, and fire suppression systems are moving along quickly. The payment request represents 39% of the total project with \$39,593 held as a retainage.

After a discussion, Councilmember Wilhoite made a motion to approve payment request #3 from Legacy Contractors, LLC in the net amount of \$207,765.00 for the City Hall renovation project. The motion was seconded by Councilmember Clouse and all voted aye. The motion passed 4 to 0.

**Agenda Item 5i – Adoption of the 2012 Uniform Public Offense Code.**

Clerk Droste reported that the City has adopted the Uniform Public Offense Code (UPOC) since 2004. This document is published annually by the League of Kansas Municipalities incorporating any new statutory changes passed by the State Legislature.

Since it was first adopted in 2004, the City has chosen to omit certain sections of the UPOC, specifically:

Section 3.8	Violation of Protection From Abuse Order
Section 6.16	Giving a Worthless Check
Section 6.19	Equity Skimming
Section 9.5	Maintaining or Permitting a Public Nuisance

These sections are omitted because the natures of these offenses are such that they are more appropriately dealt with in District Court rather than in Municipal Court. And in the case of Section 9.5, there is a current court case challenging the “vagueness” of the language.

Additionally, in 2005 and amended in 2009, City Council adopted an Ordinance restricting the open carry of firearms. Therefore, Section 10.1 Criminal Use of Weapons in the 2010 UPOC is deleted in preference to the City’s ordinance.

After additional discussion, Councilmember Pritchard made a motion to approve AN ORDINANCE AMENDING SECTION 205.005 OF THE CODE OF THE CITY OF PAOLA, KANSAS, 2009, REGULATING PUBLIC OFFENSES WITHIN THE CORPORATE LIMITS OF THE CITY OF PAOLA, KANSAS; INCORPORATING BY REFERENCE THE “UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES, EDITION OF 2012”, WITH CERTAIN OMISSIONS; AND AFFIRMING THAT SECTION 205.240 CRIMINAL USE OF WEAPONS OF THE CODE OF THE CITY OF PAOLA, KANSAS, 2009 IS NOT AMENDED, MODIFIED OR REPEALED. The motion was seconded by Councilmember House and all voted aye. The motion passed 4 to 0 and the Ordinance was assigned No. 3049.

**Agenda Item 5j – Consider Adoption of the 2012 Standard Traffic Ordinance.**

Clerk Droste reported that the City has adopted the Standard Traffic Ordinance (STO) annually since 1993. This document is published annually by the League of Kansas Municipalities incorporating any new statutory changes passed by the State Legislature.

In past years, the City Council has adopted the STO without modification or omission. However, the City Council has previously adopted Ordinances relating to all-terrain vehicles and the lawful operation of golf carts on city streets. Therefore, Sections 114.1 and 114.4 are deleted in preference to the City's ordinances.

Additionally, Section 194 of the STO provides for minimum mandatory sentencing of 90 days in jail and a \$1,500 fine for a third conviction for driving with a canceled, suspended, or revoked license. Per the advice of the City Attorney, this Section is amended to remove language referring to this minimum mandatory sentencing.

After additional discussion, Councilmember Wilhoite made a motion to approve AN ORDINANCE AMENDING SECTION 300.010 OF THE CODE OF THE CITY OF PAOLA, KANSAS, 2009, INCORPORATING BY REFERENCE THE "STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES, EDITION OF 2012", WITH CERTAIN OMISSIONS AND AMENDMENTS; AND AFFIRMING THAT SECTION 305.060 UNLAWFUL OPERATION OF ALL-TERRAIN AND UNREGISTERED VEHICLES AND SECTION 305.070 OPERATION OF GOLF CARTS OF THE CODE OF THE CITY OF PAOLA, KANSAS, 2009, ARE NOT AMENDED, MODIFIED OR REPEALED. The motion was seconded by Councilmember House and all voted aye. The motion passed 4 to 0 and the Ordinance was assigned No. 3050.

**Agenda Item 5k – Consider a new Drinking Establishment License for Casa Grande Paola, LLC located at 120 W Peoria.**

Clerk Droste presented an application for a new Drinking Establishment License for Casa Grande Paola at 120 W Peoria. He indicated that the restaurant currently has a Cereal Malt Beverage license and desires to surrender that license in favor of the new license.

After a discussion, Councilmember Pritchard made a motion to approve a Drinking Establishment License for Casa Grande Paola, LLC doing business as Casa Grande Mexican Restaurant at 120 W Peoria subject to a final fire safety inspection and the issuance of a State of Kansas Drinking Establishment License. The motion was seconded by Councilmember House. Councilmembers Pritchard, House and Clouse voted aye and Councilmember Wilhoite voted nay. The motion passed 3 to 1.

**Agenda Item 5l – Consider approval of disbursements from the Transient Guest Tax Fund.**

Manager Wieland reported that the Paola Convention and Tourism Committee met and has recommended approval of a \$300 grant to the Paola Cal Ripken Baseball Tournament Committee to help cover expenses related to the State baseball tournament that was held in Paola.

After a discussion, Councilmember Wilhoite made a motion to approve disbursements from the Transient Guest Tax Fund as presented. The motion was seconded by Councilmember Pritchard and all voted aye. The motion passed 4 to 0.

**Agenda Item 5m – Consider approval of a Resolution setting a hearing date for an alleged dangerous structure located at 104 E Miami Street.**

Manager Wieland presented a Resolution calling for a Public Hearing for a dangerous structure located at 104 E Miami Street. He indicated that the front porch of the home is extreme disrepair and needs to be removed from the property. After publication and proper notifications, the Public Hearing will be set for October 9, 2012.

After a discussion, Councilmember Pritchard made a motion to approve A RESOLUTION FIXING A TIME AND PLACE AND PROVIDING FOR NOTICE OF A HEARING BEFORE THE GOVERNING BODY OF THE CITY OF PAOLA, KANSAS, AT WHICH THE OWNER, HIS OR HER AGENT, LIENHOLDERS OF RECORD, OCCUPANTS, AND OTHER PARTIES IN INTEREST OF STRUCTURES LOCATED WITHIN SAID CITY AND DESCRIBED HEREIN MAY APPEAR AND SHOW CAUSE WHY SUCH STRUCTURE SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED AS AN UNSAFE OR DANGEROUS STRUCTURE. The motion was seconded by Councilmember House and all voted aye. The motion passed 4 to 0 and the Resolution was assigned No. 2012-007.

**Agenda Item 5n – Consider approval of a Resolution setting a hearing date for an alleged dangerous structure located at 303 N Silver Street.**

Manager Wieland presented a Resolution calling for a Public Hearing for a dangerous structure located at 303 N Silver Street. The detached garage on this property has collapsed and has fallen onto the neighboring property. After publication and proper notifications, the Public Hearing will be set for October 9, 2012.

After additional discussion, Councilmember Wilhoite made a motion to approve A RESOLUTION FIXING A TIME AND PLACE AND PROVIDING FOR NOTICE OF A HEARING BEFORE THE GOVERNING BODY OF THE CITY OF PAOLA, KANSAS, AT WHICH THE OWNER, HIS OR HER AGENT, LIENHOLDERS OF RECORD, OCCUPANTS, AND OTHER PARTIES IN INTEREST OF STRUCTURES LOCATED WITHIN SAID CITY AND DESCRIBED HEREIN MAY APPEAR AND SHOW CAUSE WHY SUCH STRUCTURE SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED AS AN UNSAFE OR DANGEROUS STRUCTURE. The motion was seconded by Councilmember House and all voted aye. The motion passed 4 to 0 and the Resolution was assigned No. 2012-008.

**Agenda Item 6 – NEW BUSINESS**

Manager Wieland reported that there is an ongoing dispute between two property owners on the Park Square. He indicated that it is a civil matter between the two parties and that the City should not get involved in the dispute.

Councilmember Pritchard inquired about the patio area near Beethoven's Restaurant. Clerk Droste reported that the restaurant has received approval from the State of Kansas for an "extended premises" to serve drinks in the patio area.

The City Council complimented and thanked City staff for their hard work on the City's 2013 Budget.

**Agenda Item 7 – ADJOURNMENT**

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