

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

**October 9, 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.

**Council Members present:** Mayor Artie Stuteville and Council Members Gee Gee Wilhoite, Leigh House, and Aaron Nickelson.

**Council Members absent:** Council Member Jim Pritchard.

**Also present:** City Clerk Dan Droste, Chief Building Inspector Bill Trout, City Attorney Lee Tetwiler, Police Chief Dave Smail, Public Works Director Browning, City Planner Gotfredson, Mark Ridihalgh, Patti Ridihalgh, Megen Male, Brandie Wilkins, Willy Glover, Kaylene Shore, Heath Harris, Disnie Marsalis, Mary Jackson, Joel Childers, John Brown, Cheryl Miller, Jennifer Stallbaumer, and Jesse Kratz 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 Wilhoite, House, and Nickelson were all present. Council Member Pritchard 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.

Megan Male addressed the Council regarding safety concerns on Osage Street following the recent fatality accident. She reported that last week a neighborhood meeting was held to bring the community together and to involve the City in an effort to make Osage Street safer. A list of concerns was presented which expressed the following:

- Speed/car counter are inaccurate due to placement.
- Trucks exceeding 10 tons use Osage.
- County EMS speed excessively on Osage.
- County Sherriff’s speed and use cell phones while driving on Osage.
- Suggest decreasing police patrol on US 169 and increase police patrol on Osage.
- Lack of lighting on Osage.

- Insufficient number of stop signs on Osage.
- Lack of Sidewalks and crosswalks.
- Restrict parking and reduce the speed limit on Osage.

Mayor Stuteville thanked Mrs. Male and all of the residents for attending and expressing their concerns. Several of the items were discussed. Mayor Stuteville indicated that the City was still working on a traffic study and the Council would consider the recommendations once that study was completed.

Heath Harris addressed the Council and inquired when improvements to Castle Street would be completed. Public Works Director Browning indicated that the work was still scheduled to be completed this year.

#### **Agenda Item 4 - CONSENT AGENDA**

- a. Approval of minutes of the meeting of September 25, 2012.
- b. Approval of Salary Ordinance 12-20.
- c. Approval of Appropriation Ordinance No 736.
- d. Approval of the Journal Entries Report for September, 2012.
- e. Approval of the Pledged Collateral Report for September, 2012.

Council Member Wilhoite made a motion to approve the Consent Agenda as presented and authorize the Mayor to sign. The motion was seconded by Council Member House and all voted aye. The motion passed 3 to 0.

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

##### **Agenda Item 5a – Public Hearing for structure located at 104 E Miami; for the owner, lien holder of record, occupant or interested parties to show cause why the structure should not be ordered repaired or demolished.**

Council Member Wilhoite made a motion to open the Public Hearing for 104 E Miami. The motion was seconded by Council Member House and all voted aye. The motion passed 3 to 0.

Clerk Droste reported that at the August 14<sup>th</sup> meeting, the City Council approved Resolution No 2012-007 setting a Public Hearing for the 9th day of October, 2012, at 6:00 p.m., at the Paola Justice Center, 805 N Pearl, Paola, Kansas, at which time the owner, the owner's agent, any lienholders of record and any occupant of 104 E Miami, may appear and show cause why such house should not be condemned and ordered repaired or demolished. He also reported that a copy of the Resolution was sent by certified mail to the owners, lienholders and other interested parties of this property within 7 days of the first date of publication.

Chief Building Inspector Bill Trout reported to the City Council that the Community Development Department has been attempting to get the owners of 104 E Miami to repair the porch since 2009. He presented photographs of the property and testified that the porch remains in a dilapidated condition and is unsafe and dangerous.

City Attorney Tetwiler reported that the property has been abandoned and the owners of the property have been involved in several legal and financial issues that affect the property.

Clerk Droste reported that he was contacted by Heather Harper by telephone requesting that this Public Hearing be postponed to a later date since she was unable to attend tonight. Clerk Droste stated that Harper gave no indication that she intended to make repairs to the porch.

Clerk Droste stated that if the Council finds that the property is unsafe and dangerous, that a Resolution should be adopted which stipulates that (1) The owner of such structure would be directed to commence the repair of the property within 14 days from the date of publication of the resolution and to have the repairs completed within 30 days of the commencement. Provided, that upon due application by the owner and for good cause shown, the governing body, in its sole discretion, may grant the owner additional time to complete the repairs to the property. (2) If the owner fails to commence the repair of the structure within the time stated, or any additional time granted by the governing body, or fails to diligently prosecute the same until the work is completed, the governing body will cause the front porch of said structure to be razed and removed and the costs of razing and removing, less salvage if any, shall be collected in the manner provided by KSA 12-1755, and amendments thereto or shall be assessed as a special assessment against the lot or parcel of land upon which the structure is located or by both, all as provided by law. (3) That if the owner fails to commence the repair or removal of the structure within the time provided or fails to diligently prosecute the same, the governing body may take such further action as it deems necessary to raze and remove the front porch of the structure without further notice to the owner or other parties of interest.

Council Member Nickelson asked how the City would be reimbursed if it were forced to pay for the removal of the porch. City Attorney Tetwiler explained the legal procedures that would be followed to recover the expenses incurred by the City.

After the discussion, Council Member Wilhoite made a motion to open the Public Hearing for 104 E Miami. The motion was seconded by Council Member Nickelson and all voted aye. The motion passed 3 to 0.

**Agenda Item 5b – Consider a Resolution establishing a time for the structure located at 104 E Miami to be repaired or removed.**

After hearing all the evidence presented and pursuant to the discussion held during the Public Hearing, Council Member Wilhoite made a motion that the property located at 104 E Miami is found to be unsafe and dangerous and to approve A RESOLUTION FINDING THAT THE STRUCTURE LOCATED ON LOT 7, BLOCK 19, OF THE CITY OF PAOLA, MIAMI COUNTY, KANSAS COMMONLY KNOWN AS 104 E MIAMI, PAOLA, KANSAS, IS UNSAFE OR DANGEROUS AND DIRECTING THE STRUCTURE TO BE REPAIRED OR REMOVED AND THE PREMISES MADE SAFE AND SECURE. The motion was seconded by Council Member Nickelson and all voted aye. The motion passed 3 to 0 and the Resolution was assigned number 2012-009.

**Agenda Item 5c – Public Hearing for structure located at 303 N Silver; for the owner, lien holder of record, occupant or interested parties to show cause why the structure should not be ordered repaired or demolished.**

Council Member Wilhoite made a motion to open the Public Hearing for 303 N Silver. The motion was seconded by Council Member House and all voted aye. The motion passed 3 to 0.

Clerk Droste reported that at the August 14<sup>th</sup> meeting, the City Council approved Resolution No 2012-007 setting a Public Hearing for the 9th day of October, 2012, at 6:00 p.m., at the Paola Justice Center, 805 N Pearl, Paola, Kansas, at which time the owner, the owner's agent, any lienholders of record and any occupant of 303 N Silver, may appear and show cause why such house should not be condemned and ordered repaired or demolished. He also reported that a copy of the Resolution was sent by certified mail to the owners, lienholders and other interested parties of this property within 7 days of the first date of publication.

Chief Building Inspector Bill Trout reported to the City Council that the collapsed garage at 303 N Silver had been satisfactorily removed and that the dangerous and unsafe condition created by the garage had been abated.

Clerk Droste reported that since the situation had been resolved, no further action was required by the City Council.

Council Member Wilhoite made a motion to open the Public Hearing for 303 N Silver. The motion was seconded by Council Member Nickelson and all voted aye. The motion passed 3 to 0.

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

Clerk Droste reported that Legacy Contractors, LLC has submitted a Contractor's Application for Payment in the amount of \$283,680.00 for approval and payment. The retainage was reduced from 10% to 5% per the original contract, a total of \$50,628 is now being held. This payment request represents 86% of the total project with \$97,471.00 in stored materials, consisting mostly wood trim, doors and flooring.

After a discussion, Council Member Nickelson made a motion to approve payment request #5 from Legacy Contractors, LLC in the net amount of \$283,680.00 for the City Hall renovation project.

**Agenda Item 5e – Consider a request from *Christmas in October* for the waiver of a building permit fees.**

Clerk Droste reported that an anonymous donor paid the building permit fee on behalf of *Christmas in October* and action was no longer necessary for this request.

Mayor Stuteville indicated that if *Christmas in October* was reorganizing and becoming active again, the Council may want to consider amending the "Policy for Waiving Building

Permit Fees” to include them. She noted that current policy does not provide for approving exceptions to the policy.

Clerk Droste reported that the current policy provides for waivers from the following:

- 1) Entities that have statutory authority to levy local property taxes (these entities shall not include the State of Kansas or the U.S. Federal Government).
- 2) Entities that are primarily funded by entities that have statutory authority to levy local property taxes.
- 3) Individual projects for public recreation facilities that are not located on property owned by the City of Paola.

### **Agenda Item 6 – NEW BUSINESS**

Public Works Director Browning reported that work on the new basketball court at Whitaker Park was underway and should be completed soon.

Police Chief Smail reported that the Department’s annual Children’s Fall Festival was held on Saturday, October 6<sup>th</sup>. Approximately 60 children attended along with their parents.

Clerk Droste reported that he had contacted the Carol Everhart with Heartland Group regarding their request to close the streets around the Park Square for the Harvest Festival and Chili Cook-Off on October 27<sup>th</sup>. He stated that after discussing the issue, Mrs. Everhart withdrew the request to close the streets.

Clerk Droste reminded the Council that the League of Kansas Municipalities 2012 Regional Supper will be held in Kansas City, Kansas on Tuesday, October 30<sup>th</sup>. The deadline for registration is October 23<sup>rd</sup>.

Council Member Wilhoite reported that she had been contacted by a resident of Parker who asked about the sales tax rate in Paola

### **Agenda Item 7 – ADJOURNMENT**

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