

**MINUTES OF THE COUNCIL MEETING  
OF THE CITY OF PAOLA, KANSAS  
6:00 O'CLOCK P.M.  
May 14, 2019**

**Held in the Municipal Court Room at the Paola Justice Center  
806 N 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 Dave Smail, Trent Upshaw, Leigh House and Aaron Nickelson.

**Council Members absent:** None

**Also present:** City Manager Jay Wieland, City Clerk Dan Droste, Assistant City Clerk Stephanie Marler, City Attorney Lee Tetwiler, Chief of Police Don Poore, Public Works Director Kirk Rees, Assistant City Manager Randi Shannon, Human Resource Director Vicki Belt, Brian McCauley with the Miami County Republic, Members of the Paola Police Department and their families, Residents living on Waterworks Rd., members of the Discover Historic Paola group, and others

**CALL TO ORDER:** The regular council meeting was called to order by Mayor Stuteville.

**ROLL CALL:** Mayor Stuteville and Council Members Smail, Upshaw, House and Nickelson were all present.

Police Chief Don Poore presented members of the Paola Police Department with awards to recognize their work throughout the year. Officers Luke Hornbacher and Mitch Gabbert received the Medal of Merit Award for discovering a house fire early in the morning and extinguishing it before anyone was harmed. Captain Eric Jenkins and Lieutenant Chad Corbin received Letters of Commendation for assisting an elderly woman when her water heater started leaking and her apartment manager was unavailable. Sergeant Ryan Rayzor received a Medal of Merit Award for implementing the "Take Me Home" program for children with autism. Officer Michael Bliss received the Officer of the Year Award for his positive attitude, loyalty and dedication to the Paola Police Department.

Chief Poore introduced Catelyn Brady as Paola's newest patrol officer. She will be transitioning from dispatch. Also recognized were Officer Mitch Gabbert and Officer Keith Myers for graduating from the Police Academy. Captain Jenkins and Detective Jason Frizzell were recognized for their rolls in receiving a grant from the Baehr Foundation to purchase new AED's. Sergeant Mark Miller was recognized for his work on installing the new MDT's in the police vehicles.

**Agenda Item 1 - CONSENT AGENDA**

- a. Approval of minutes of the meeting of April 9, 2019.
- b. Approval of Salary Ordinances 19-9 and 19-10.
- c. Approval of Appropriation Ordinances 901 and 902.
- d. Approval of the Pledged Collateral Report for April 2019.
- e. Approval of the Journal Entries Reports for April 2019.

Council Member Smail made a motion to approve the Consent Agenda as presented and authorize the Mayor to sign. The motion was seconded by Council Member Upshaw and all voted aye. The motion passed 4 to 0.

## **Agenda Item 2 - COMMENTS FROM THE PUBLIC:**

Several residents that reside on Waterworks Road addressed the council regarding their concerns about the FMS North America, Inc. project. Adam Ward, Aaron Quint, Tim Kelley, Alan Hire and Andrew Kelley stated they thought the Old Water Treatment Plant was the wrong location for such an operation and that this would hurt the value of their properties. They believe that this would cause a dramatic increase in traffic and turn into a junkyard. Alan Hire who owns a business on the street also expressed concerns about the truck traffic and flood plain.

City Manager Wieland informed the group that the property had not yet been sold and that there were several steps that would need to take place before considering a sale contract. He mentioned that in all probability the site will not work for the company anyway.

Gary Lasher addressed the council regarding the building at 115 W Wea. He is very concerned about integrity of the structure and would like to see the building made structurally sound.

Assistant City Manager Shannon addressed Mr. Lashers concerns, stating that the inspector has been involved and the owners had 48 hours to get a structural plan submitted to make the building water tight.

## **Agenda Item 3 – UNFINISHED BUSINESS:**

### **Agenda Item 3a - Consider adoption of a Mobile Food Vendor Ordinance.**

Assistant City Clerk Marler reported that after the Council's initial review of the proposed Mobile Food Vendors Ordinance she was able to get in touch with 3 food truck operators as well as 3 restaurant owners. They were asked to all review the proposed Ordinance and give their feedback. After a newspaper article and Facebook post several more comments that were received.

Assistant City Clerk Marler said there were some very strong opinions regarding the food trucks and the regulations from both vendors and restaurant owners. Many restaurant owners do not want to see the trucks in Paola outside of special events, while the food truck owners believe State regulations are enough without the City imposing rules and assessing licensing fees. Assistant Clerk Marler said City staff tried to take their recommendations into consideration when the proposed regulations were reviewed.

Renee Bowman, Bobby Knudsen, and Kenny Birkholtz addressed the council stating that they would like to see food trucks on the Square. Mr. Knudsen went around the square and provided a petition with signatures from business owners and patrons. They believe the way to grow the Farmers Market would be to allow trucks.

After some discussion the Council agreed to amend the Ordinance to add an exception for one food truck on the square in conjunction with and as part of the Farmers Market on Saturdays

between the hours of 7:00 am to 2:00 pm . They must be set up on the inside Southeast corner facing the square.

Council Member Nickelson made a motion to approve AN ORDINANCE ADOPTING TITLE VI: BUSINESS AND OCCUPATION, CHAPTER 607: MOBILE FOOD VENDORS, OF THE MUNICIPAL CODE OF THE CITY OF PAOLA, KANSAS as amended. Council Member House seconded and all voted aye. The motion passed 4 to 0 and the Ordinance was assigned number 3141

#### **Agenda Item 4 – NEW BUSINESS**

##### **Agenda Item 4a - Presentation of the 2018 Audit Report by Harold Mayes of Agler & Gaeddert.**

Mr. Harold Mayes with Agler & Gaeddert presented the Audit Report for the City of Paola for calendar year 2018. He reported that the opinion of the financial statements for the City is presented on a “Cash Basis” per the Kansas Municipal Audit and Accounting Guide.

Mr. Mayes reviewed the Summary of Receipts, Expenditures Regulatory Basis and Unencumbered Cash for the calendar year 2018. He explained that the unencumbered cash balance for all funds decreased by a little over \$376,000 from \$5,962,331 at the beginning of the year to \$5,585,800 at year end. The decrease was mainly due to Family Aquatics Center and Employee Benefits payments.

Mr. Mayes reviewed the City’s schedule of long-term debt and noted there has been no new General Obligation bonds but did add two new capital leases, one for a Dump Truck and the other for copiers. The debt amount did go down even with the addition of the new leases.

Mr. Mayes went on to review some of the details of the activity in various funds. He also discussed the potential pension liability for KPERS and KP&F. He noted that as of December 31, 2018 the City’s proportionate share of the collective net pension liability reported to KPERS was \$1,348,450 and \$1,529,554 for KP&F.

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 2018 Budget.

After additional discussion, Council Member Nickelson made a motion to accept the 2018 Audit Report from Agler & Gaeddert. The motion was seconded by Council Member House and all voted aye. The motion passed 4 to 0.

##### **Agenda Item 4b - Consider a Letter of Engagement for the 2019 audit.**

Clerk Droste presented a Letter of Engagement from Agler & Gaeddert for the preparation of the 2019 audit. The audit firm proposed a fee of \$15,100 plus out of pocket expenses.

Council Member Upshaw made a motion to approve a Letter of Engagement with Agler & Gaeddert to perform audit services for the City of Paola for calendar year 2019 in the amount

of \$15,100.00 plus costs. The motion was seconded by Council Member Smail and all voted aye. The motion passed 4 to 0.

**Agenda Item 4c - Consider a Resolution requesting a waiver from conformance to fixed asset accounting provisions as provided in KSA 75-1120a(c)1.**

Clerk Droste presented a Resolution requesting a waiver from conformance with Generally Accepted Accounting Principles for 2019. 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.

Council Member House 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 Council Member Nickelson and all voted aye. The motion passed 4 to 0 and the Resolution was assigned number 2019-002.

**Agenda Item 4d - Consider adoption of an Ordinance amending the hours in which a Drinking Establishment allows the serving, mixing or consumption of alcoholic liquor.**

Clerk Droste reported that when the new CMB Kansas laws were enacted the City took that opportunity to update the Alcoholic Beverages section of the Municipal Code. During that review Droste realized that there were no regulations on the hours a Drinking Establishment could serve liquor. It was agreed to include the addition of section 600.345 to address this and set the hours from 9:00am to 2:00 am to coincide with the State regulations. The City was unaware that when the State changed the hours for Caterers to serve liquor from 6:00 am to 2:00 am that the hours for Drinking Establishments were also changed.

Council Member Nickelson made a motion to approve AN ORDINANCE AMENDING CHAPTER 600: ALCOHOLIC BEVERAGES, ARTICLE V. DRINKING ESTABLISHMENTS, SECTION 600.345: BUSINESS REGULATIONS, OF THE CODE OF THE CITY OF PAOLA, KANSAS, 2009. The motion was seconded by Council Member Upshaw and all voted aye. The motion passed 4 to 0. The Ordinance was assigned number 3139.

**Agenda Item 4e - Consider adoption of an Ordinance adding a cemetery regulation to include the restriction of dogs and cats on cemetery grounds.**

Clerk Droste stated that a problem has been brought to the City's attention concerning citizens taking their dogs to the cemetery for a walk and not cleaning up the animal's waste. The cemetery has posted signs stating that pets are not allowed in the cemetery but there was no prohibition in City Code. Staff recommends amending the Municipal Code to include the pet restriction in the Cemetery Provisions.

Council Member House made a motion to approve AN ORDINANCE AMENDING CHAPTER 125 CEMETERY PROVISIONS, SECTION 125.120, REGULATIONS, OF THE CODE OF THE CITY OF PAOLA, KANSAS, 2009. The motion was seconded by Council Member Nickelson and all voted aye. The motion passed 4 to 0. The Ordinance was assigned number 3140.

#### **Agenda Item 4f - Consider an agreement with Eastern Kansas Multi-County Task Force**

Manager Wieland suggested the Council enter into an agreement that provides for our investigator to call on more experienced personnel in other jurisdictions to assist on difficult cases, and it allows our investigator to participate in investigations in other jurisdictions to gain additional experience. Should Mr. Ferguson get called to another jurisdiction it would be at the cost of the City of Paola. Should he need assistance it would not cost the Paola Fire Department. This is a renewal of the contract that already exists between the City of Paola Fire Department and the Eastern Kansas Multi-County Task Force.

Council Member Smail made a motion to approve an agreement with Eastern Kansas Multi-County Task Force and authorize the Mayor to sign. The motion was seconded by Council Member Upshaw and all voted aye. The motion passed 4 to 0.

#### **Agenda Item 4g - Consider a Resolution for the sale of real property to Klaasmeyer, LLC**

City Clerk Droste explained that the City Council authorized Mayor Stuteville to sign a Real Estate Contract with Klaasmeyer, LLC. on July 10, 2018, for the sale of property in the Industrial Park. A resolution is needed to complete the transfer paperwork.

Council Member Upshaw made a motion to approve A RESOLUTION FOR THE SALE OF REAL PROPERTY TO KLAASMEYER, LLC. The motion was seconded by Council Member Smail and all voted aye. The motion passed 4 to 0. The Resolution was assigned number 2019-003.

#### **Agenda Item 4h - Consider bids for the 2019 Street Improvement Program.**

Public Works Director Rees presented the proposed street repair program for 2019. The plan includes the mill and overlay, chip seal, microsurfacing, and concrete patching of various streets and intersections. Intersection replacement and concrete patching will be completed by the City's Street Department.

Bids for the work performed by outside contractors are as follows:

##### **Mill & Overlay Bids**

|                       |              |
|-----------------------|--------------|
| Killough Construction | \$220,756.85 |
|-----------------------|--------------|

|                      |              |
|----------------------|--------------|
| McAnany Construction | \$309,856.00 |
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##### **Chip & Seal Bids**

|                |             |
|----------------|-------------|
| Vance Brothers | \$83,247.12 |
|----------------|-------------|

##### **Microsurfacing**

|                |              |
|----------------|--------------|
| Vance Brothers | \$132,733.34 |
|----------------|--------------|

The Vance Brothers bid includes a breakdown of each project to compare the price between chip seal and microsurfacing.

After some discussion Council Member Upshaw made a motion to approve the bids from Killough Construction in the amount of \$220,756.85 for Mill and Overlay; and the bid from Vance Brothers in the amount of \$44,703.12 for Chip and Seal and \$65,340.00 for Microsurfacing for the 2019 Street Improvement Program. The motion was seconded by council member Nickelson and all voted aye. The motion passed 4 to 0.

**Agenda Item 4i - Consider proposals for the repair of a sewer lift station pump.**

Public Works Director Rees reported that he has requested bids to repair one of the pumps at the Main Sewer Lift Station due to pump failure. The Cornell Sewage Pump will be pulled and disassembled at another location. The company will replace parts and then reinstall and test operations.

Two proposals were received:

Alliance Pump & Mechanical Services, Inc. - \$5,489.17  
Douglas Pump Service, Inc.- \$5,875.00

With no further discussion Council Member House made a motion to approve a bid from Alliance Pump & Mechanical Service, Inc to remove and repair a Cornell Sewage pump for the Main Lift Station in the amount of \$5,489.17. The motion was seconded by Council Member Nickelson and all voted aye. The motion passed 4 to 0.

**Agenda Item 4j - Consider a purchase agreement for a new cab and chassis to replace the damaged Heavy Rescue truck.**

Clerk Droste reported that on March 5<sup>th</sup> the Fire Department had pulled the Heavy Rescue truck out of the fire bay to conduct routine maintenance. When it was time to pull the truck back inside, the firefighters realized that the cab was on fire and quickly called it in and extinguished the fire. There was severe damage to the inside of the cab and console. This is a critical piece of equipment that goes on almost every call, so they had to figure out how to get the equipment onto another vehicle.

Clerk Droste stated that Fire Chief Andy Martin was able to work with the insurance company and the City received an insurance claim of \$154,400.00. The box of the truck and equipment inside of it were still salvageable. Chief Martin also worked with VT Hackney, Inc. to negotiate the purchase of a 2019 cab and chassis, the original box from the 2007 Heavy Rescue will be mounted to the new vehicle. The original purchase price is \$309,650.00 with a transport and delivery fee of \$7,821.75. There is an early payment discount of \$3,200.00 for the chassis and \$717.00 for the options. After the insurance check in the amount of \$154,400.00 is taken off a total of \$159,154.75 will be paid out of the Fire Department Sales Tax Capital Fund.

After some discussion Council Member Nickelson made a motion to approve an agreement with VT Hackney, Inc. to purchase a new cab and chassis for a total of \$309,650.00 and authorize the Mayor to sign. The motion was seconded by Council Member Smail and all voted aye. The motion passed 4 to 0.

**Agenda Item 4k - Consider entering into a contract with Osenbaugh Consulting City Manager Recruitment Program.**

City Manager Wieland notified the Governing Body earlier this year of his intent to retire at the end of 2019. Wieland expressed his appreciation for the opportunity to serve the Paola community as its city manager for the 11 plus years and for the support and direction of the Mayor and City Council.

After a previous discussion at a work study meeting of the options the City Council could explore to hire a new city manager, Wieland offered to gather information on how various search firms conducted their searches and what the cost for those services would run. He also expressed his belief that Paola's position would be attractive to people in the city management business and that starting the recruitment process in June or July would be extremely beneficial to the city.

Over the last several weeks Wieland has provided the City Council with information concerning various search firms and the processes they use to recruit executive positions. Following a discussion of the options for the city manager search at the April 2019 Council study session, it was decided to invite Osenbaugh Consulting to make a presentation on the process they use for city manager recruitment. Don Osenbaugh and John Deardoff of Osenbaugh Consulting met with city staff and the City Council at last Tuesday's study session. Following the presentation by Mr. Osenbaugh and Mr. Deardoff and discussion by the Council, City Manager Wieland was asked to request a proposal for a contract with Osenbaugh Consulting for the city management recruitment process.

The cost of the proposed "Contract for City Manager Search" sets out a fee of \$10,000 for the services outlined in the contract and additional fees related to travel, lodging, and miscellaneous costs such as printing. These additional fees are not anticipated to exceed \$1,500. The City will be responsible for paying advertising costs and costs associated with candidate travel

Council Member Smail made a motion to approve the Contract for City Manager search with Osenbaugh Consulting and authorize the Mayor to sign. The motion was seconded by council member Upshaw and all voted aye. The motion passed 4 to 0.

#### **Agenda Item 5 - COMMITTEE REPORTS – None.**

#### **Agenda Item 6 - STAFF REPORTS**

Manager Wieland reported that the dog park and community garden will be on the agenda for discussion at the next Council work study session.

Manager Wieland said the environmental study for the Water Treatment Plant is back and there were some issues that needed to be addressed. He stated that in all probability this would eliminate the FMS North America interest in the property.

Manager Wieland asked the Council if they would be interested in a special meeting to get started on the city manager search process. Council agreed that they would like to get started.

#### **Agenda Item 7 - MISCELLANEOUS MATTERS FROM THE COUNCIL**

Council Member House thanked staff for all the work put in on the Mobile Food Vendor Ordinance.

**Agenda Item 8 - MISCELLANEOUS MATTERS FROM THE MAYOR**

Mayor Stuteville asked about the work being done on Park Square. Director Rees informed her that the sidewalks need to be repaired and the work was completed.

**Agenda Item 9 – ADJOURNMENT**

With no additional business to come before the Council, Council Member House made a motion to adjourn. The motion was seconded by Council Member Upshaw 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