

(Published in the *Miami County Republic* on March 31, 2021)

ORDINANCE NO. 3160

AN ORDINANCE CREATING THE PAOLA CROSSINGS NO. 1 COMMUNITY IMPROVEMENT DISTRICT IN THE CITY OF PAOLA, KANSAS AND AUTHORIZING THE LEVY OF A COMMUNITY IMPROVEMENT DISTRICT RETAILERS' SALES TAX TO BE COLLECTED WITHIN THE DISTRICT AND REPEALING ORDINANCE NO. 3150.

WHEREAS, pursuant to K.S.A. 12-6a26 *et seq.*, as amended (the "Act"), the City of Paola, Kansas (the "City") is authorized to create community improvement districts in the City for economic development purposes and for any other purpose for which public money may be expended; and

WHEREAS, on May 29, 2020 a petition (the "Petition") was submitted to the City Clerk signed by the owners of record of more than 55% of the land area within the proposed community improvement district, and by owners collectively owning more than 55% by assessed value of the land area within the proposed (the "Petitioner") requesting (i) the creation of a community improvement district under the Act to be known as Paola Crossings No. 1 Community Improvement District (the "CID"), (ii) the construction of the Project as described in the Petition and authorized by the Act (the "Project"), and (iii) the imposition of a community improvement district sales tax within the CID in the amount of 1.25% to pay a portion of the costs of the Project (the "CID Sales Tax"); and

WHEREAS, pursuant to the Act and Resolution No. 2020-011 adopted June 9, 2020, and after providing notice of hearing as required by the Act, a public hearing on the creation of the CID and the imposition of the CID Sales Tax was opened on July 14, 2020 and all interested parties were given an opportunity to be heard; and

WHEREAS, the governing body of the City finds it necessary to repeal Ordinance No. 3150; and

WHEREAS, the governing body of the City finds and determines it is in the best interest of the City and in furtherance of the purposes of the Act to create the CID and authorize levy of the CID Sales Tax.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF PAOLA, KANSAS:

SECTION 1. Repeal of Ordinance No. 3150. Ordinance No. 3150 of the City of Paola, Kansas is hereby repealed.

SECTION 2. Creation of District. The CID is created within the City and shall be designated the Paola Crossings No. 1 Community Improvement District. The legal description of the CID is attached as **Exhibit A** and the boundaries of the District are depicted on the map attached as **Exhibit B**.

SECTION 3. Project and Project Costs. The Project is authorized and described as follows: construction, and procurement of certain improvements, costs and services within the CID, including but not limited to: land acquisition, infrastructure related items, sidewalks, parking lots, buildings, tenant improvements, utilities, landscaping, lighting, signage, marketing and advertising, security, administrative costs of the City and Petitioner, soft costs and other costs or items as permitted by the Act and identified in the Development Agreement between the City and Developer (the "Development Agreement"). The Project is located on the land described in **Exhibit A** and **Exhibit B** to this ordinance, in the city of Paola, Miami County, Kansas. The estimated cost of the Project is described in the Development Agreement between the City and Highlands Development, LLC (the "Developer"), the contract owner of the CID and developer of the Project (the "Development Agreement"), and a portion of such costs are expected to be reimbursed from the CID Sales Tax revenue, if authorized by the Act and the Development Agreement.

SECTION 4. Method of Finance. The portion of Project cost to be financed from revenues of the CID Sales Tax will be funded on a pay-as-you-go basis, as defined in the Act. No special assessments will be levied under the Act and no bonds of the City will be issued.

SECTION 5. Levy of Sales Tax. Pursuant to the Act, a 1.25% retailers' sales tax shall be levied within the CID on the selling of tangible personal property at retail or rendering or furnishing of services taxable under provisions of the Kansas retailers' sales tax act, as amended. The imposition of the CID Sales Tax shall begin upon the Developer's request as provided in the Development Agreement and as soon as the levy of the tax is approved by the Kansas Department of Revenue (KDOR), or any other effective date the City may approve by ordinance if a change in the effective date of the CID Sales Tax is requested by the Developer and such date is approved by KDOR. The CID Sales Tax shall be administered, collected by the KDOR, subject to the provisions of the Act, the Development Agreement between the City and Developer, K.S.A. 12-187 *et seq.*, and rules and regulations of the KDOR.

Section 6. Development Agreement; Pre-condition to Publication and Effectiveness of Ordinance. As a pre-condition to the City Clerk's publication of this ordinance, the City and the Developer shall enter into the Development Agreement in substantially the form submitted to the governing body with this Ordinance, further describing the Project and the costs thereof, setting forth the terms and conditions of the Developer's construction and completion of the CID Project, as well as the reimbursement procedures for CID Eligible Project Costs.

SECTION 7. Effective Date. This Ordinance shall be in full force and effect from and after passage by the governing body and publication one time in the official City newspaper. When this Ordinance is effective, the City Clerk shall provide a certified copy of the ordinance to the Kansas Department of Revenue. This Ordinance shall also be recorded in the office of the Miami County Register of Deeds, as required by the Act.

PASSED AND APPROVED by vote of the governing body of the City of Paola, Kansas on July 14, 2020.

CITY OF PAOLA, KANSAS

[seal]

By _____
Artie Stuteville, Mayor

ATTEST:

By _____
Stephanie Marler, City Clerk

EXHIBIT A

(Legal Description of Paola Crossings No. 1 Community Improvement District)

Tract 1

Lot 1, Paola Business Park No. 3, a subdivision in the city of Paola, Miami County, Kansas

Tract 2

ALL THAT PART OF THE SOUTH HALF OF THE NORTHEAST QUARTER AND ALL THAT PART OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 17 SOUTH, RANGE 23 EAST, MIAMI COUNTY, KANSAS BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SAID SECTION 15; THENCE S01°52'42"E, ALONG THE WEST LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 358.47 FEET; THENCE S29°03'42"W, A DISTANCE OF 9.42 FEET TO THE POINT OF BEGINNING OF THE TRACT OF LAND TO BE HEREIN DESCRIBED; THENCE S59°50'08"E, A DISTANCE OF 323.68 FEET; THENCE S28°03'24"W, A DISTANCE OF 263.42 FEET; THENCE S60°47'33"E, A DISTANCE OF 167.29 FEET; THENCE S09°56'07"E, A DISTANCE OF 418.73 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF HIGHWAY 69; THENCE S57°32'18"W, ALONG SAID LINE, A DISTANCE OF 77.17 FEET; THENCE S88°26'54"W, CONTINUING ALONG SAID LINE, A DISTANCE OF 259.77 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF BAPTISTE DRIVE; THENCE N69°14'50"W, ALONG SAID LINE, A DISTANCE OF 503.97 FEET TO A POINT ON THE EAST RIGHT OF WAY LINE OF HEDGE LANE; THENCE N29°03'42"E, ALONG SAID LINE, A DISTANCE OF 868.41 FEET TO THE POINT OF BEGINNING.

EXHIBIT B

(Map of Paola Crossings No. 1 Community Improvement District)



EXCERPT OF MINUTES

The governing body of the City of Paola, Kansas, met in regular session at the usual meeting place in the City on July 14, 2020, at 6:00 p.m., Central Time, with Mayor Artie Stuteville presiding, and the following members of the governing body present: Council Members Smail, Upshaw, House and Nickelson

The following members were absent: None

The Mayor opened a public hearing on creation of the proposed Paola Crossings No. 1 Community Improvement District and the levy of a sales tax within the proposed district pursuant to public notice given as authorized by Resolution No. 2020-011. All those persons present to speak to the issue were heard. The Mayor closed the public hearing.

An Ordinance was presented to the governing body entitled:

AN ORDINANCE CREATING THE PAOLA CROSSINGS NO. 1
COMMUNITY IMPROVEMENT DISTRICT IN THE CITY OF PAOLA,
KANSAS AND AUTHORIZING THE LEVY OF A COMMUNITY
IMPROVEMENT DISTRICT RETAILERS' SALES TAX TO BE COLLECTED
WITHIN THE DISTRICT AND REPEALING ORDINANCE NO. 3150.

The Ordinance was considered and discussed; and on motion of Upshaw, seconded by House, the Ordinance passed by the following vote of the governing body:

Yes: 4

No: 0

The Ordinance was assigned No. 3160.

CITY CLERK'S
CERTIFICATION OF EXCERPT OF MINUTES

I certify that the foregoing is a true and correct Excerpt of Minutes of the July 14, 2020 meeting of the governing body of the City of Paola, Kansas.

[Seal]

Stephanie Marler, City Clerk