

**MINUTES OF THE REGULAR COUNCIL MEETING  
OF THE CITY OF PAOLA, KANSAS  
5:30 O'CLOCK P.M.**

**December 12, 2006**

**HELD AT THE PAOLA PUBLIC WORKS BUILDING  
29370 Old KC Road in Paola**

The Governing Body of the City of Paola, Kansas, met with Mayor Stuterville presiding.

Councilmembers present: Mayor Stuterville and Council Members Pritchard, Dial, Rowlett, and Hamilton.

Council Members absent: None.

Also present: Manager VanderHamm, Clerk Droste, City Attorney Tettwiler, Public Works Director Bieker, Planner Givens, Police Chief Smail, Brian McCauley from the Miami County Republic, and others.

**PLEDGE OF ALLEGIANCE:** Mayor Stuterville invited everyone in attendance to join in the Pledge of Allegiance.

**Agenda Item 1 - CALL TO ORDER:** The regular council meeting was called to order by Mayor Stuterville.

**Agenda Item 2 - ROLL CALL:** Mayor Stuterville and Council Members Pritchard, Dial, Rowlett, and Hamilton were all present.

**Agenda Item 3 - PETITIONS, REMONSTRANCES, AND COMMUNICATIONS**  
No one addressed the Council.

**Agenda Item 4 - CONSENT AGENDA**

- a. **Approval of minutes of the meetings of November 28, 2006**
- b. **Approval of Salary Ordinance number 06-23**
- c. **Approval of Appropriation Ordinance No. 595**

Councilmember Pritchard asked about the \$25,000 expenditure to Ace Pipe Cleaning. Public Works Director Bieker indicated that this was a payment in connection with the manhole rehabilitation program.

Councilmember Rowlett made a motion to approve the Consent Agenda and authorize the Mayor to sign. Councilmember Hamilton seconded the motion and all voted aye.

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

**Agenda Item 5a - Report by Wayne Johnson on the Baptiste Peoria and Mary Ann Isaacs Bust project.**

Wayne Johnson and Rob Nichols of the Paola Heritage Foundation Committee presented a report to the Council on the project of placing a bust of Baptiste Peoria and Mary Ann Isaacs on the Park Square. Mr. Johnson introduced Mr. Tony Shagler who recently moved to Paola from Missouri. He became interested in the history of Paola and created the bust to honor the founders of Paola. Mr. Johnson and Mr. Nichols reported on the efforts to have the “Freedom Frontier” designated as a National Heritage Area.

The proposal for placing the bust of Baptiste Peoria and Mary Ann Isaacs at the Park Square was discussed in further detail. Some concern was raised regarding the possibility of vandalism to the monument. Mr. Shagler indicated that spray paint could be removed with a mild paint solvent and the monument would be very difficult to damage otherwise.

Mr. Johnson indicated that the Paola Heritage Foundation Committee was soliciting donations from individuals and businesses for the project. The Committee wanted the project to be supported by the entire community. In concluding their report, they made a request of \$4,000 in financial support from the City for the project. The request was taken under advisement and no specific action was taken.

**Agenda Item 5b - Consider approval of Payment Application #14 for CAS Construction for the new waste water treatment plant.**

Manager VanderHamm presented a payment request and change order from CAS Construction and a letter from Larkin explaining the payment request.

Public Works Director Bieker introduced Greg Kendall from Larkin who reviewed Change Order Number 7 as follows:

Additional Digester Ventilation	\$6,404.52
Sludge Conveyor Closure	\$3,311.12
Delete Belt Press Testing	-\$2,125.00
Additional Concrete Testing	<u>\$9,153.14</u>
Subtotal	\$16,744.14
Remaining Contingency Balance	-\$3,095.47
Net Increase in Contract Amount	\$13,648.67

After adding the amount of the change order, the final contract price for Contract “A” with CAS Construction will be \$5,662,348.67.

Councilmember Rowlett questioned the need for so much additional concrete testing. Mr. Kendall indicated that the concrete testing allowance was underestimated in the original specifications. Testing cylinders were taken from every truck that was pouring more than 5 yards of concrete. He also reported that all of the remaining “punch list” items are scheduled to be completed by December 24<sup>th</sup>.

Mr. Bob Hall, President of CAS Construction, indicated that his company would make sure that all items on the “punch list” would be taken care of by year end and that all warranty items would be taken care of as they arise.

After discussing status of the plant, the change order, and the pay request, Councilmember Rowlett made a motion to approve payment request #14 in the amount of \$82,228.73 to CAS Construction and Change Order No. 7 in the amount of \$16,744.14. The motion was seconded by Councilmember Dial and all voted aye.

**Agenda Item 5c - Consider an Ordinance vacating a portion of Railroad Street in East Heights Addition to the City of Paola.**

Clerk Droste reported that at the November 14<sup>th</sup> meeting, the Council approved a request to vacate a portion of Railroad Street in Block 1, East Heights Addition, contingent upon Charlie Smith granting an ingress/egress easement to Christine Ripple. Droste presented the Ordinance, Easement, and Plat of Legal Description. He reported that copies were mailed to Mrs. Ripple on December 6th and that she had not responded with any questions or concerns.

After discussing the ordinance, Councilmember Pritchard made a motion to approve AN ORDINANCE VACATING A PORTION OF THE RIGHT-OF-WAY OF RAILROAD STREET IN BLOCK 1, EAST HEIGHTS ADDITION, IN THE CITY OF PAOLA, KANSAS. The motion was seconded by Councilmember Dial and all voted aye. Clerk Droste assigned No. 2933 to the Ordinance.

**Agenda Item 5d - Report by Chad Myers on the status of the Paola Community Center.**

Chad Myers, Paola Community Center Director, presented a report on the activities of the Paola Community Center. He reported that 611 persons attended meetings and programs that were held at the Center in the month of November including 14 rentals.

The Community Center Board has formed a Building Committee, Program Committee, and a Policy Committee and is working toward setting up goals and objectives for the next 6 months. They are also working on a redesigned website and a newsletter. They have submitted a grant request to the Baher Foundation for the Summer Enrichment Program.

December attendance through the 12<sup>th</sup> has already exceeded 500 persons and programming was planned to include movie nights, Festival of Carols, Misty Mountain Revival Bluegrass Concert. In January, the Kansas Day celebration will be held at the Center and coordinated by the Board and Volunteers.

Some of the goals and objectives that the Community Center Board has established were discussed and explained.

**Agenda Item 5e - Consider a recommendation from the Paola Community Center Board to select Douglas Loyd as the architect for renovations to the Paola Community Center.**

Community Center Director Myers presented a report on the proposals for architectural services for the Community Center remodeling project. Proposals were received from Douglas Loyd, Sabatini Architects, Bucher, Willis & Ratliff, and Hollis & Miller Architects. The low bid was presented by Douglas Loyd in the amount of \$66,500.00. The Board recommends the approval of Douglas Loyd to provide these services for the Community Center remodeling project.

The priorities for the Community Center Building include a new roof, new heating and cooling system, ADA Accessibility (elevator), and remodeled bathrooms. Additional parking was also discussed.

The \$40,000 that was budgeted in 2006 for the Community Center roof was discussed. Manager VanderHamm reminded the Council that the Community Center Board requested that the Council allocate the \$40,000 for a new roof with the condition that the Board would raise matching private funds to pay for the roof project. Manager VanderHamm indicated that the funds would be transferred to the Capital Improvement Project Fund until the Board is able to raise the required matching funds. Pete Bell questioned if sales tax dollars could be used as matching funds for the roof. The City Manager recommended and the Council agreed that the original request was that private funds be used for matching funds and not sales tax dollars. If matching funds could not be raised, 100% of the cost of the roof could be paid from the sales tax funds. Community Center Board President Mike Brown agreed that this was his understanding as well.

After discussing the proposal in detail, Councilmember Pritchard made a motion to approve the selection of Douglas Loyd as the architect for renovations to the Paola Community Center for a fee not to exceed \$66,500.00. The motion was seconded by Councilmember Dial and all voted aye.

#### **Agenda Item 5e - Request from Fire Chief Martin to purchase Rescue Squad Equipment.**

Fire Chief Martin presented bids on a Rescue, Light and Air Apparatus vehicle for the Fire Department. Bids were received from HME, Inc., KANOK, Inc., Pierce, and Hackney. The low bid was offered by Hackney Emergency Vehicles in the amount of \$264,725.81. Lease financing would be obtained for a 10 year payment period.

After discussing the vehicle, Councilmember Dial made a motion to approve the purchase of Rescue Squad Equipment from Hackney in the amount of \$264,725.81. The motion was seconded by Councilmember Rowlett and all voted aye.

#### **Agenda Item 5f - Convention and Tourism Committee By-Laws.**

Manager VanderHamm presented the By-Laws that were drafted by the new Convention and Tourism Committee that was recently formed. The group has been meeting monthly since July working on this and other issues.

After discussing the by-laws, Councilmember Rowlett made a motion to approve the By-Laws of the Convention and Tourism Committee as presented. The motion was seconded by Councilmember Hamilton and all voted aye.

**Agenda Item 5g - Consider the selection of Treanor for architectural design services for the new Paola Police Department and Paola Fire Department buildings.**

Manager VanderHamm reported that a Request for Proposal or RFQ was sent to more than 20 architecture firms for the new Police and Fire Department Buildings. Eight responses were received and three firms, Treanor Architects, Cole + Russell, and ASA1 Architecture, were interviewed. All three firms are highly qualified and the selection process was very difficult. The review committee that included Manager VanderHamm, Fire Chief Martin, Police Chief Smail, and Clerk Droste, recommended that Treanor Architects be selected for the projects. Treanor proposes that the initial fee of \$5,000.00 plus 8.5% of construction costs.

All three of the firms were advised of the short time frame for preliminary design work for the Fire Department Building in order to meet the deadlines for the ballot issue for the April election. Both Fire Chief Martin and Police Chief Smail indicated that they were pleased with the recommendation of Treanor for the projects.

Councilmember Hamilton made a motion to approve the selection of Treanor Architects for the Police and Fire Department Building projects. The motion was seconded by Councilmember Rowlett and all voted aye.

**Agenda Item 5h - Report on private roads / drives in the City of Paola.**

Planner Givens presented a report on private roads and drives in the City as requested by the Council at the last meeting. The report was received by the Council.

**Agenda Item 5i - Consider approval of an Ordinance changing the regular date and meeting place for Paola Municipal Court.**

Clerk Droste presented an Ordinance changing the date and place for Paola Municipal Court. The Miami County Commissioners have agreed to allow Paola Municipal Court to be held at the County Commission Chambers for \$40 per week to cover the cost of utilities and cleaning. Court will be held on Thursdays at 1:00 pm weekly at the Commissioner's Chamber beginning on January 1, 2007.

Councilmember Rowlett made a motion to approve AN ORDINANCE AMENDING SECTION 115.050, CHAPTER 115 OF THE MUNICIPAL CODE OF THE CITY OF PAOLA, KANSAS, and authorize the Mayor to sign the rental agreement with Miami County for the use of their facility. The motion was seconded by Councilmember Dial and all voted aye. Clerk Droste assigned No. 2934 to the Ordinance.

**Agenda Item 5j - Consider approval of the 2006 Corporate Boundary Resolution for the City of Paola.**

Clerk Droste presented the 2006 Corporate Boundary Resolution. Droste explained that the only change was the correction to the legal description for the Waste Water Treatment Plant.

After discussing the Resolution, Councilmember Dial made a motion to approve a Resolution declaring the boundaries of the City of Paola, Kansas. The motion was seconded by Councilmember Rowlett and all voted aye. Clerk Droste assigned No. 2006-012 to the Resolution.

**Agenda Item 5k - Consider approval of a Resolution defining the Taxable Fringe Benefit and Reimbursement Policy for the City of Paola.**

Clerk Droste presented a Resolution defining a Taxable Fringe Benefit and Reimbursement Policy for the City. Droste explained that the Resolution identifies when certain fringe benefits and reimbursements are taxable to employees, it does not create a detailed policy for each fringe benefit or reimbursement procedure.

After discussing the Resolution, Councilmember Rowlett made a motion to approve A RESOLUTION DECLARING, ESTABLISHING, AND DEFINING THE CITY OF PAOLA, KANSAS TAXABLE FRINGE BENEFIT AND REIMBURSEMENT POLICY. The motion was seconded by Councilmember Pritchard and all voted aye. Clerk Droste assigned No. 2006-013 to the Resolution.

**Agenda Item 5l -Consider a Resolution placing a Stop Sign for East Hedge Lane Court at Hedge Lane.**

Clerk Droste presented a Resolution adding a stop sign for eastbound traffic on East Hedge Lane Court at the intersection of Hedge Lane. Public Works Director Bieker reported that the City has requested that KCP&L install a street light at that intersection.

Councilmember Rowlett made a motion to approve A RESOLUTION AMMENDING THE OFFICIAL TRAFFIC CONTROL DEVICE MAP FOR THE CITY OF PAOLA. The motion was seconded by Councilmember Dial and all voted aye. Clerk Droste assigned No. 2006-014 to the Resolution.

**Agenda Item 5 m - Consider approval of renewal applications for Cereal Malt Beverage Licenses and Pool Table Licenses for 2007 and the renewal of the Retail Liquor License for Shipman Liquor.**

Clerk Droste presented a listing of 10 Cereal Malt Beverage (CMB) License renewals and 3 Pool Table License renewals for consideration. The licenses to be renewed are as follows:

C.O.A. PIZZA HUTS INC.  
EMERY'S STEAK HOUSE

CMB – ON PREMISES  
CMB – ON PREMISES

CACTUS JACK'S	CMB - ON PREMISES
THE BBQ SHACK	CMB – ON PREMISES
DARREL'S LAST RESORT	CMB – ON & OFF PREMISES
CASEY'S GENERAL STORE #1	CMB – OFF PREMISES
CASEY'S GENERAL STORE #2	CMB – OFF PREMISES
ZARCO 66, INC.	CMB – OFF PREMISES
WAL-MART	CMB – OFF PREMISES
PRICE CHOPPER	CMB – OFF PREMISES
ROUNDER'S	POOL TABLE
DARREL'S LAST RESORT	POOL TABLE
VETERANS OF FOREIGN WARS	POOL TABLE

Clerk Droste reported that all of the applicants that requested a renewal of a CMB License have passed the required Fire Safety Inspection.

Councilmember Pritchard made a motion to approve the renewal of the Cereal Malt Beverage and Pool Table Licenses for 2007 as presented. The motion was seconded by Councilmember Dial and all voted aye.

Clerk Droste reported that that earlier this year, an application for a Drinking Establishment License was approved for Cactus Jack's contingent upon the State of Kansas issuing a valid State Liquor License. The owner's of Cactus Jack's did not follow through with that application and a State Liquor License was never obtained. They have instead, opted to continue selling Cereal Malt Beverages. Droste recommended that the Council take official action to revoke the approval of the Drinking Establishment License that was conditionally approved on March 28, 2006.

Councilmember Dial made a motion to revoke the approval of a Drinking Establishment License for Cactus Jack's that was conditionally approved on March 28, 2006. The motion was seconded by Councilmember Pritchard and all voted aye.

Clerk Droste reported that he has received an application for the renewal of the Retail Liquor License for Shipman's Retail Liquor at 115 W Wea. The current license expires on January 1, 2007. The facility has failed the required fire safety inspection and the structure has some serious deficiencies. While performing the normal fire safety inspection as a part of the license renewal process, fire investigators became aware of several serious fire safety deficiencies as well as potential structural issues at this facility. The fire safety inspector requested the assistance of the Building Inspection Department.

The Building Inspection Department Staff have been in contact with Mr. Shipman and they have requested that the Retail Liquor License be renewed with the following conditions:

- 1) The stairwell to the second floor must be cleared of all storage and debris and the storage material on the second floor must be removed or organized to allow safe passage through each of the rooms by January 31, 2007.

- 2) The roof must be repaired to seal any current leaks as the water continues to aggravate structural weaknesses by January 31, 2007.
- 3) Storage in the back (south) room including old liquor, amusement machines, compressors, motors and miscellaneous trash and debris must be removed or organized to reduce the weight on the collapsing floor, reduce fire load and allow full access to all parts of the building by December 22, 2006.
- 4) The walk-in door at the alley must have access cleared and must be repaired to be operable as a means of egress or access by February 28, 2007.
- 5) Storage must be cleared from above the dropped / suspended ceiling throughout the building by January 31, 2007.
- 6) Windows at the rear of the building must be repaired and / or replaced to keep water from the inside of the building by February 28, 2007.
- 7) A report must be obtained by a structural engineer and presented to the office of building inspection by close of business on December 22, 2006 addressing the weakened floor and roof structure at the rear of the building and a course of needed corrective actions. A consultation to discuss the content of the engineer's report with the fire department and the office of building inspection must be scheduled by December 27<sup>th</sup> and a building permit for corrective actions must be obtained by January 12, 2007. A \$50.00 consultation fee will be collected on or before the date of the consultation. As this is a commercial building, all contractors working on the project must hold a Paola Contractor's License.

Clerk Droste indicated that the obvious question is - why was this situation not discovered in previous fire safety inspections? Fire Inspection Staff who have previously inspected this facility have all indicated that they were unaware that the "back room" existed. Fire Chief Martin indicated that the door to this back room had been covered up with sheet Styrofoam insulation.

After discussing the situation, the Council agreed the building's structural issues were serious and needed to be addressed within the time frame outlined by the Building Inspection Department. However, the Council decided that it should take action on the liquor license renewal based on its normal guidelines and not link unsafe structure requirements to the renewal of the license.

Councilmember Rowlett made a motion to approve the renewal of the Liquor License for Shipman Liquor contingent on the facility passing a Fire Safety Inspection by January 1st. The motion was seconded by Councilmember Dial and all voted aye.

**Agenda Item 5n - Report on elected offices that are to be placed on the April 2007 ballot.**

Clerk Droste presented a report on elected offices for the Governing Body of the City of Paola that will be placed on the April 3, 2007 General Election Ballot. The offices to be elected are Mayor, Council Member Ward 1, and Council Member Ward 3.

### **Agenda Item 5o - Consider approval of the 2% COLA salary adjustments for 2007.**

Clerk Droste presented a request to approve the budgeted 2% cost of living salary adjustments for full-time employees. The total amount of the cost of living increase amounts to \$42,098.17.

Councilmember Dial made a motion to approve a 2% cost of living increase for full-time City employees. The motion was seconded by Councilmember Pritchard and all voted aye.

### **Agenda Item 6 - NEW BUSINESS**

Manager VanderHamm reported that he had received a letter from Tri-Ko, Inc. requesting a letter of support for the services that they provide to the area communities. The Council authorized the City Manager to send a letter of support as requested.

Manager VanderHamm reported that he, Public Works Director Bieker, and Planner Givens met with Dennis Dougherty and Dick Allenbrand regarding the preliminary plat and 295<sup>th</sup> Street issues that were discussed at the November Planning Commission meeting. Several key questions need to be answered prior to bringing this issue to the City Council, and after Randy Medlin returns from Hawaii, they will meet again with the Medlins, Crawfords and the Country Club to make sure everyone that is directly impacted by 295<sup>th</sup> understands and concurs with the proposed recommendations. It is anticipated that this issue will be on the January 9<sup>th</sup> agenda.

Fire Chief Martin indicated that those members of the Fire Department that are trained as First Responders will begin assisting the Miami County EMS on December 7<sup>th</sup>.

Manager VanderHamm presented a spreadsheet that shows the amount of water that has been billed since 2000. So far this year, the City has sold over 9,500,000 gallons more than 2005 for a total of nearly 220,000,000 gallons.

Manager VanderHamm reported that he has contacted Donna Crawford about the status of our CDBG Housing Rehab grant application. Mrs. Crawford surmised that only 5 or 6 projects would be funded and thought that since we did not make the “walk-thru”, we were probably not going to be selected again this year. No official word has been received.

Manager VanderHamm presented November Financial Summaries. During the next couple of weeks, he indicated that he would be sitting down with each department and projecting year end balances, as well as budget expenditure authority to insure that we are in compliance with the budget laws, as well as meeting or exceeding our budgeted carryovers.

Manager VanderHamm reported that he and Don Osenbaugh will be presenting the Municipal Leadership Academy’s “Advanced Municipal Finance” seminar on Friday, Jan. 19<sup>th</sup> in Wellington and Saturday, Jan. 10<sup>th</sup> in Gardner.

A work study session will be scheduled for Tuesday, Jan. 2<sup>nd</sup> beginning at 6:30 p.m. Topics include: Types of planning; review draft sidewalk policy; and 2007 projects/funding issues.

Councilmember Hamilton asked about lighting on the Square. Several merchants have expressed concerns that the Park Square was very dark in the early evening hours. Councilmember Hamilton also asked about merchants and their patron parking on the Square after 11:00 pm. Police Chief Smail indicated that the merchants can contact Police Dispatch when they are staying late and no ticket would be issued.

Councilmembers Rowlett, Dial, and Prichard had no new issues to discuss.

Mayor Stuteville asked about the status of the Baptiste drive improvements. Public Works Director Bieker reported that today the milling of the outside lanes started. The first base of asphalt will be laid beginning tomorrow and may be completed by the end of the week. Work will begin on some entrances and progress will continue as long as weather allows.

**Agenda Item 7 -EXECUTIVE SESSION** - K.S.A. 75-4319(B)(1) and K.S.A. 75-4319(B)(2) are the authorities for this recess.

Councilmember Rowlett made a motion to adjourn to Executive Session, to include the Mayor, Council, City Manager, and City Attorney, for 25 minutes for the purpose of discussing personnel matters of non-elected personnel and for the purpose of a consultation with an attorney for the governing body which is deemed privileged in the attorney-client relationship; the regular meeting to reconvene at 9:00 p.m. The motion was seconded by Councilmember Dial and all voted aye.

Councilmember Rowlett made a motion to reconvene the adjourned meeting. The motion was seconded by Councilmember Dial and all voted aye.

**Agenda Item 7 – ADJOURNMENT.**

With no additional business to come before the Council, Councilmember Hamilton made a motion to adjourn the meeting. Councilmember Pritchard seconded the motion and all voted aye.

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Artie Stuteville, Mayor

ATTEST: (seal)

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Daniel G. Droste, City Clerk