

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

May 23, 2006

**HELD AT THE MIAMI COUNTY COMMISSIONERS CHAMBERS
IN THE MIAMI COUNTY ADMINISTRATION BUILDING**

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

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

Council Members absent: None.

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

The regular council meeting was called to order.

Agenda Item 1 - ROLL CALL: Mayor Stuterville and Council Members Pritchard, Dial, Rowlett, and Hamilton were all present.

Agenda Item 2 - PLEDGE OF ALLEGIANCE: Mayor Stuterville invited everyone in attendance to join in the Pledge of Allegiance.

Agenda Item 3 - PETITIONS, REMONSTRANCES, AND COMMUNICATIONS

Wayne Johnson and Rob Nichols addressed the Council regarding the purchase of a bust of Baptiste Peoria and Mary Ann Isaacs to commemorate their role in the founding of the City of Paola. They desire to establish a foundation to purchase the bust and place it in the Park Square and to promote other similar projects in town. The target date for installation would be August of this year in time for the Roots Festival.

Agenda Item 4 - CONSENT AGENDA

- a. **Approval of minutes of the meetings of May 9, 2005**
- b. **Approval of Salary Ordinance number 06-09**
- c. **Approval of Appropriation Ordinance No. 582**

Councilmember Pritchard asked about an item on page 6 of the Appropriation Ordinance. He questioned the expenditure of \$4,240 for replacing the curb in front of Zarco. Manager VanderHamm indicated that half of that cost would be reimbursed by Zarco. Councilmember

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

Agenda Item 5 – REPORTS OF OFFICERS, BOARDS AND COMMITTEES

Agenda Item 5a - Discussion/Consider the position of Paola Community Center Director.

Manager VanderHamm presented a report regarding the position of Paola Community Center Director. He read a report on the background regarding this subject for the benefit of all in attendance.

In addressing the financial impact, Manager VanderHamm stated that it is implicit that funding for the position will continue in some manner in future budgets, unless it is specifically determined to be a temporary position. He indicated that hopefully, the new position would increase non-tax revenues and help reduce the reliance on the property tax transfer from the General Fund. He stated that trying to make an educated guess as to how much tax revenue is needed is difficult at best because the city does not have a complete picture of the revenues generated by the Community Center.

Manager VanderHamm reported that a major concern is that there have been several events this year and last where the revenue has not gone to the Community Center Fund, but instead to the Endowment Fund, with no financial reporting to the City as required by Ordinance No. 2419.

Manager VanderHamm stated that with the voters approving the ½% sales tax which included improvements to the Community Center, it seems clear that the Paola Community Center has new life. From this perspective, a director is needed to manage and promote existing programs and create new ones.

Manager VanderHamm concluded by stating that the issues before the Council are (1) is this a full-time or a part-time position, (2) what should the salary range be, and (3) what funding sources should be used in helping pay for this position in the future.

Mayor Stuteville discussed the future funding for the position and stated that she had questioned the one time \$20,000 transfer to create the position without a plan for funding beyond 2006.

Councilmember Pritchard indicated that it was his intention that the original \$20,000 transfer was “seed money” for the position. He questioned if the position demanded a salary of \$40,000 and was unsure if a full time position was necessary. He also questioned why the issue was being discussed since the position had already been advertised in the paper. Manager VanderHamm stated that he had made the assumption that the position would be a full time position and that he had received questions about the ad and he wanted questions to be resolved before the position is filled.

Mayor Stuteville asked if the Endowment Fund would be willing to contribute to the funding of the position and also asked about the financial reporting that the Community Center Board was required to submit. Wayne Johnson, President of the Endowment Board, stated that he did not feel that it was the place of the Endowment Fund to provide funds for this position. He stated that the director's position was critical to the success of the Community Center. He stated that the Endowment Board would provide financial reports for the funds received by them from activities held and the Community Center.

Manager VanderHamm stated that as soon as the 2007 budget process is completed, planning would begin on the improvements that were approved with the ½ cent sales tax. He stated that it would be important that the new director be involved in that process from the beginning.

Pete Bell, Community Center Board Member, stated that the Board was learning as they go along and that they are doing the best they can. He addressed some of his concerns and indicated that the director's position was needed to move forward with the Community Center. The director would allow the Community Center Board to address all of these concerns for the Council.

Mike Brown, Community Center Board President, stated that until the improvements to the building are made, rentals will be slow in coming and that they need the director to pull the entire program together.

Councilmember Rowlett asked Mike Brown about the financial reports of the Community Center. Brown indicated that the Endowment Board has had membership changes that have caused some changes in duties and that the new members are still sorting through their responsibilities. Councilmember Rowlett stated that the Endowment Board is completely independent of the City, as it should be. He stated that the Council was not requesting financial records of the Endowment Board; they were requesting the records of the activities of the Community Center as previously requested by the City Manager. Brown indicated that the records have been maintained and that an accounting would be provided.

After discussing these issues and the budgeting process, it was agreed that the Community Center Board should provide financial reports and their 2007 budget request. These items would be reviewed and discussed prior to making a decision on the director's position.

Councilmember Hamilton made a motion to table this issue until the June 13th Council Meeting. The motion was seconded by Councilmember Pritchard and all voted aye.

Agenda Item 5b - Presentation by Amiee Seck of the Paola Chamber of Commerce Welcome Committee.

Amiee Seck and Amy Winterscheid with the Paola Chamber of Commerce Welcome Committee presented a report to the Council on the "Welcome to Paola" program that the Chamber provides to new residents. They reported that the program started in 2002, there

are eighteen committee members that distribute the welcome bags to new residents. The bags contain promotional items and informational resources and directories. Last year the committee distributed 65 bags and so far this year, 18 have been distributed. The group requested that the City continue its support of the program with a donation of \$700 to cover the cost of printing the bags, printing of post cards, and postage.

Agenda Item 5c - Consider an Ordinance addressing the consumption of Alcoholic Beverages on City property during the Roots Festival.

Manager VanderHamm reported that as a result of the discussion at the Council Meeting on May 9th, revisions were made to the draft ordinance that addresses the consumption of alcoholic beverages on city property during the Roots Festival. Changes to the draft ordinance include the addition of alcoholic beverages in addition to cereal malt beverages, adding specific language prohibiting glass containers, eliminate gender specific language, eliminate the permit fee, and define the Roots Festival area as stated in the application.

Pastor Roy Rhodes of the Paola Assembly of God addressed the Council expressing disapproval of allowing the consumption of alcohol at the Roots Festival. He stated that his position was based on his personal experiences being the son of alcoholic parents. It is his position that the current ordinance banning the consumption of alcohol on city property should be enforced at the Roots Festival rather than changing the ordinance to allow it. The City spends thousands of dollars each year to fund a DARE officer for our schools and it seems a contradiction to allow alcohol to be consumed around the city's most notable landmark during its biggest event. It is his belief that the proposed ordinance would increase the consumption of alcohol and therefore the potential of drunken driving and create a moral liability for the city. He stated that he and several other pastors in town will pursue an additional course of action should this ordinance be approved. Pursuant to Statute 12-3013, they will present a petition to force a public vote to overturn the ordinance.

Lee Mott with the Roots Festival asked to address some of the issues. He indicated that the festival organizers have not asked for this ordinance nor have they requested that the current ordinance be enforced as it has in the past. They have made efforts to keep alcohol out of the festival in the past and they have even hired additional security to deal with the issue. The Roots Festival organizers do not want the festival to become a political issue because it will ruin the event.

The issue was discussed at length and in great detail. Pastor Gene Dollar of the Pearl Street Baptist Church and Jennifer Ferguson also spoke against the ordinance.

At the conclusion of the discussion, Councilmember Rowlett made a motion to approve AN ORDINANCE AMENDING CERTAIN SECTIONS OF CHAPTER 600, ARTICLE II and IV, AND SECTION 300 TABLE VII-A, OF THE MUNICIPAL CODE OF THE CITY OF PAOLA, KANSAS, TO ALLOW THE ISSUANCE OF A TEMPORARY PERMIT FOR CONSUMPTION OF CEREAL MALT BEVERAGES AND ALCOHOLIC BEVERAGES DURING THE ROOTS FESTIVAL AND AMENDING AND REPEALING EXISTING

SECTIONS OF SAID CHAPTER AND ARTICLE THAT ARE IN CONFLICT THEREWITH AND ALLOWING PARKING AFTER 11:00 P.M.. The motion was seconded by Councilmember Dial and all voted aye. The Ordinance was assigned number 2913.

Agenda Item 5d - Consider an ordinance setting the Transient Guest Tax rate at 5% beginning on July 1, 2006.

Clerk Droste reported that Charter Ordinance No 19 which increased the amount of the Transient Guest Tax from 3% to 5% had been forwarded to the Kansas Department of Revenue (KDOR) for collection. The KDOR contacted City Hall to advise that an additional ordinance was required to definitively set the amount of the tax and the commencement date.

Councilmember Pritchard made a motion to approve AN ORDINANCE ESTABLISHING THE RATE AND EFFECTIVE DATE FOR THE LEVY OF TRANSIENT GUEST TAX AS AUTHORIZED UNDER CHARTER ORDINANCE NO. 19 OF THE CITY OF PAOLA, KANSAS. The motion was seconded by Councilmember Rowlett and all voted aye. The Ordinance was assigned number 2914.

Agenda Item 5e - Consider a Conditional Use Permit for a Day Care Center at 31790 Hedge Lane.

Engineer Planner Faust presented a request for a Conditional Use Permit (CUP) for a day care center at 31790 Hedge Lane. The CUP was approved by the Planning Commission contingent upon the following conditions:

- 1) The day care may operate under the temporary permit until 7/25/06 with a copy of the permanent license to be provided to the Zoning Administrator prior to 7/25/06.
- 2) The maximum number of children was limited to 9 at any one time.
- 3) Hours of operation are 6 am to 6 pm.
- 4) Applicant must seek renewal of the CUP at the end of 1 year.

Mayor Stuterville questioned if there was any concern regarding the bee hives next to the applicant's property. Engineer Planner Faust stated that the applicant was going to advise the parents about the bee hives and keep an EpiPen on premises as a precautionary measure.

After discussing the request, Councilmember Dial made a motion to approve AN ORDINANCE RELATING TO ZONING: AUTHORIZING A CONDITIONAL USE PERMIT FOR CERTAIN PROPERTY. The motion was seconded by Councilmember Pritchard and all voted aye. The Ordinance was assigned number 2915.

Agenda Item 5f - Consider an Ordinance to rezone Block 58 in the City of Paola from Suburban District to Neighborhood Conservation District.

Engineer Planner Faust presented a request to rezone Block 58 in the City of Paola from Suburban to Neighborhood Conservation. The applicant desires to construct traditional

housing on the property that is similar to the surrounding neighborhood. The Paola Planning Commission approved the rezoning request at their meeting on May 16th.

After discussing the request, Councilmember Rowlett made a motion to approve AN ORDINANCE CHANGING THE ZONING CLASSIFICATION OF CERTAIN LAND LOCATED IN THE CITY OF PAOLA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE LAND DEVELOPMENT ORDINANCE OF THE CITY OF PAOLA, KANSAS. The motion was seconded by Councilmember Hamilton and all voted aye. The Ordinance was assigned number 2916.

Agenda Item 5g - Consider an Ordinance to rezone a portion of the Ursuline Property in and around Block 136, City of Paola, from Suburban District to Thoroughfare Access District.

Engineer Planner Faust presented a request to rezone a portion of the Ursuline Property in and around Block 136 in the City of Paola from Suburban to Thoroughfare Access. During the Public Hearing at the Planning Commission Meeting on May 16th, there was some opposition to the rezoning request. The Planning Commission approved the rezoning request for Tract #2, but denied the request for Tract 1, 3, 4, and 5. Tract 2 includes the Community Center and the former Monica Hall that will be remodeled for office use.

Councilmember Pritchard asked why the Planning Commission denied the request for tract 1, 3, 4, and 5. Engineer Planner Faust stated that there currently is no development plan for those tracts.

After discussing the request, Councilmember Rowlett made a motion to approve AN ORDINANCE CHANGING THE ZONING CLASSIFICATION OF CERTAIN LAND LOCATED IN THE CITY OF PAOLA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE LAND DEVELOPMENT ORDINANCE OF THE CITY OF PAOLA, KANSAS. The motion was seconded by Councilmember Pritchard and all voted aye. The Ordinance was assigned number 2917.

Agenda Item 5h - Consider an Ordinance amending the Land Development Ordinance to clarify Pet Grooming Services.

Engineer Planner Faust presented amendments to the Land Development Ordinance to clarify Pet Grooming Services. The amendment is needed to clarify where and when pet grooming services would be an “allowed use”, a “conditional use”, or a “prohibited use”. The amendment was passed by the Planning Commission at their meeting on May 16th.

After discussing the amendment, Councilmember Pritchard made a motion to approve AN ORDINANCE AMENDING THE PAOLA LAND DEVELOPMENT ORDINANCE, INCLUDING: AMENDING TABLE 3.110A “GENERAL USE TABLE” TO INCLUDE PET GROOMING SERVICES; SECTION 23.210 “AGRICULTURAL USES” SUBSECTION F “KENNELS AND COMMERCIAL STABLES”; AND THE ADDITION

OF SECTIONS 23.210 “AGRICULTURAL USES” SUBSECTION G “PET GROOMING SERVICES AND SECTION 03.317 “PET GROOMING SERVICES” The motion was seconded by Councilmember Dial and all voted aye. The Ordinance was assigned number 2918.

Agenda Item 6 - NEW BUSINESS

Manager VanderHamm reported on recent legislative developments at the State level.

SB 55, formerly HB 2023, was passed by both the House and Senate and sent to the Governor for approval. SB 55 restores uniformity to the Sales Tax Act by eliminating all of the various classes of cities for the purpose of establishing maximum limits on sales tax rates. The Kansas Department of Revenue has argued for a number of years that uniformity is necessary in order to keep Kansas in compliance with the Streamlined Sales Tax Act.

The final eminent domain bill, Substitute for SB 323, is on its way to the Governor for signature. The bill applies only to eminent domain for economic development purposes and has a delayed implementation date. For cities, this means a period of 14 months before the bill affects any use of eminent domain. During that time, there is to be an interim study on blight to look at the definition and policy issues, and there will be one more legislative session to work on the eminent domain limitations contained within Substitute for SB 323. While the bill has more restrictions than the League and cities would have liked, no city will be immediately affected by the bill as a result of the delayed implementation date. To summarize, the bill contains the following features:

- Implementation date of July 1, 2007, for all provisions of the bill;
- No heightened compensation requirement, but an advisory statement that the Legislature should consider 200% of fair market value for all economic development uses of eminent domain;
- The current eminent domain law remains the same for public improvement projects;
- Almost all eminent domain uses for economic development must be approved by the Legislature, including blight remediation; and
- Clearing up clouded titles or acquiring a structure that is considered dangerous or unfit for human habitation under the building codes of the city are both situations under which eminent domain could be used without the consent of the Legislature.

The Legislature passed the machinery and equipment bill (now HB 2583) which will exempt newly acquired commercial and industrial machinery and equipment from property tax effective July 1, 2006. The exemption contained in HB 2583 will also apply to railroad and telecommunication equipment acquired after the same date. The Governor is expected to sign this legislation into law.

The League and the Kansas Association of Counties, in conjunction with individual city and county lobbyists, worked very hard to make sure that the Legislature understood the negative fiscal impact

of this legislation. In the end, the Legislature included two separate provisions designed to mitigate for lost revenues to cities and counties:

- 1) “Reimbursement Slider.” Reimbursement payments would begin in February, 2008 for property tax revenue losses related to the M & E tax exemptions. Prior to reimbursement, the Secretary of Revenue is required to calculate for each county the amount equal to the difference between business and machinery equipment property tax receipts in tax year 2005 and the various future tax years, beginning with tax year 2007. Payments to each county would be based upon the following:

90% of the difference for tax year 2007 (February, 2008)
70% of the difference for tax year 2008 (February, 2009)
50% of the difference for tax year 2009 (February, 2010)
30% of the difference for tax year 2010 (February, 2011)
10% of the difference for tax year 2012 (February, 2012)

Distribution of the slider payments would be made in the same fashion as payment in lieu of taxes is made.

- 2) LAVTR. Local Ad Valorem Tax Reduction (LAVTR) transfers would be reinstated beginning in July, 2009 (State FY 2010). The FY 2010 transfer amount would be \$13.5 million. Subsequent amounts are: \$27.0 million in FY 2011; \$40.5 million in FY 2012; and, \$54.0 million in FY 2013 and all subsequent years.

Manager VanderHamm reported that the June 5th (not June 6th) Study Session will include a discussion by Bartlett & West regarding pumping upgrades at our current water plant for the new water tower, and a review with the Fire Department on the Keating report and direction on funding for a new fire station (i.e. 1/4% sales tax ballot).

The City Clerk and City Manager will be meeting with Donna Crawford with Governmental Assistance Services on Thursday, June 8th regarding a strategy for applying for another housing grant for the west side.

Manager VanderHamm reported that he, Fire Chief Harris, and Assistant Chief Martin met with Jason Jenkins, the new Miami County EMS Director and Darren Hall, the Assistant Director regarding some of the city's fire personnel being trained as First Responders - but only as a back up for Paola when the ambulance crews are busy - similar to Louisburg and Osawatomie. He has asked for a letter outlining their request.

Manager VanderHamm reported that the City Attorney has outlined his concerns and comments regarding any formal Fire Aid or Tender Agreements. His letter has been given to the Fire Department Administration for their review and follow-up.

Manager VanderHamm reported that the Emergency Wheels will be mailed to all Paola residences and businesses this next week. We will also handout these to all new comers to Paola as they sign up for services. The wheels will also be provided to apartment buildings in town.

Councilmembers Hamilton, Dial and Pritchard had no new business to discuss.

Councilmember Rowlett attended the leadership conference on Friday and Saturday in Hutchison. He asked that some of the information on economic development be included in a work study session in the future. He also asked about the report on the citizen surveys from Jim Kaup. Engineer Planner Faust reported that Mr. Kaup would be presenting his formal report in June.

Mayor Stuteville nominated the following individuals to the Transient Guest Tax Committee: Cathy Luft, Alan Hire, Julie Miller, Thea Kawakami, and Hugo Carrete, plus ex-officio non-voting members from the Paola Chamber of Commerce Tourism Committee and from the Heartland Group. Councilmember Rowlett made a motion to approve the Mayor's nominations to the Transient Guest Tax Committee. The motion was seconded by Councilmember Pritchard and all voted aye.

Agenda Item 7 - EXECUTIVE SESSION - Executive Session for preliminary discussions relating to the acquisition of real property. K.S.A. 75-4319(B)(6) is the authority for this recess.

Councilmember Dial made a motion to adjourn to Executive Session for 50 minutes for the purpose of preliminary discussions relating to the acquisition of real property; the regular meeting to reconvene at 9:00 p.m. The motion was seconded by Councilmember Pritchard and all voted aye.

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

Artie Stuteville, Mayor

ATTEST: (seal)

Daniel G. Droste, City Clerk