

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

**February 26, 2008**

**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 Stuteville presiding.

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

Council Members absent: None

Also present: Manager Wieland, Attorney Tetwiller, Police Chief Smail, Public Works Director Bieker, Planner Givens, Chamber of Commerce Director Carol Everhart, Brian McCauley of the Miami County Republic, Asst. Chief of Police Poore, Captain Kevin Colwell, Brad Kinaman, Park Supervisor, and Kevin Bradford of Heritage Tractor

Mayor Stuteville requested the addition of an Executive Session to discuss the acquisition of land as provided for under Kansas Statutes.

**Agenda Item 1 – CALL TO ORDER:** The regular council meeting was called to order by Mayor Stuteville at 5:30 p.m.

**Agenda Item 2 – ROLL CALL:** Mayor Stuteville 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 February 12, 2008 meeting.**
- b. Approval of Salary Ordinance Number 08-03**
- c. Approval of Appropriation Ordinance Number 623**

Mayor Stuteville asked for a clarification on the payments made to Jeff Boyle (Reference Nos. 89794 through 89799) and Louisburg Ford Sales (Reference Nos. 89628 through 89630). City Manager Wieland explained that payments made to Jeff Boyle were for commercial building plan reviews for various projects. Chief Smail stated the payments

to Louisburg Ford Sales were for the installation of remote starter units on two unmarked police vehicles.

Being no additional questions, Council Member Pritchard made a motion to approve the Consent Agenda and authorize the Mayor to sign. Council Member Dial seconded the motion and all voted aye. The motion passed 4 to 0.

**Agenda Item 5a – Public hearing for the purpose of considering a request to waive the restriction for selling any alcoholic beverage within 500 feet of a park, school, or church for Emery’s Steakhouse, Inc. at 16 W. Peoria.**

Council Member Dial made a motion to open the public hearing. Council Member Rowlett seconded the motion and all voted aye. The motion passed 4 to 0. Mayor Stuteville declared the public hearing open at 5:40 p.m.

City Manager Wieland explained that Emery’s Steakhouse, Inc. had submitted a request for a waiver of the requirements of Chapter 600, Section 600.020 of Municipal Code of the City of Paola which prohibits the sale of any alcoholic beverage within 500 feet of a church, public park, library or school. Wieland stated that Emery’s Steakhouse, Inc. is currently in negotiations with the ownership of Dock’s Landing to purchase the property at 16 W. Peoria. Emery’s would like to reopen their restaurant at the new location. Since Emery’s wishes to sell alcoholic beverages at the restaurant, they need a waiver of the restrictions set out in City Code Chapter 600, Section 600.020. The property at 16 W. Peoria is within 500 feet of a public park. Wieland further explained that Emery’s wished to move forward with the waiver due to the time it takes to get an alcoholic beverage license.

City Attorney Tetwiller asked if the purchase of Emery’s had been completed or if they were still attempting to purchase the building. City Manager Wieland said that Emery’s and Docks Landing were still in the negotiations stage and that the waiver would be in place when the sale was completed. City Attorney Tetwiller stated that he believed the waiver could be conditional upon the purchase of the property by Emery’s Steakhouse, Inc.

A discussion ensued as to the type of liquor licenses that were currently held by Dock’s Landing and Emery’s Steakhouse, Inc. City Attorney Tetwiller stated that he saw no problem with granting the waiver provided it was conditional upon Emery’s Steakhouse, Inc. purchasing the property and opening for business.

No one appeared to comment during the public hearing and the requesting party was not present for the hearing.

Being no further discussion, Council Member Rowlett moved to close the public hearing on the Emery’s Steakhouse, Inc. waiver request. The motion was seconded by Council Member Pritchard and all voted aye. The motion passed 4-0. Mayor Stuteville declared the public hearing closed at 5:56 p.m.

Council Member Dial made a motion to approve the waiver for selling any alcoholic beverages within 500 feet of a church, public park, library, or school for Emery's Steakhouse, Inc. at 16 W. Peoria, conditional upon Emery's purchasing the property and opening for business. Council Member Rowlett seconded the motion and all voted aye. The motion passed 4 to 0.

**Agenda Item 5b – Consider approval of a new cereal malt beverage license for consumption on premises for Emery's Steakhouse, Inc. at 16 W. Peoria.**

City Manager Wieland explained that Item 5b was a companion to Item 5a which granted the waiver for the sale of alcoholic beverages at 16 W. Peoria. Wieland noted that Emery's application was for a cereal malt beverage license.

After a brief discussion, Council Member Rowlett moved to approve a cereal malt beverage license for Emery's Steakhouse, Inc. at 16 W. Peoria conditional upon Emery's purchasing the property, passing all building code and life safety inspections, and opening the business. Council Member Hamilton seconded the motion and all voted aye. The motion passed 4 to 0.

**Agenda Item 5c – Consider approval for a preliminary site plan for Pinnacle Point.**

City Manager Wieland stated the Planning Commission had approved a preliminary site plan for a new apartment complex—Pinnacle Point Apartments. The new complex would consist of 33 “market based” apartment units. Wieland then asked City Planner Givens to give an overview of the preliminary site plan.

City Planner Givens explained the process for adopting a preliminary site plan and described the proposed project. He noted that 4 of the 33 units would meet ADA accessibility guidelines and that the complex would consist of three separate buildings with one building containing 9 dwelling units and the other 2 buildings having 12 units each. Givens stated that because of the proposed configuration, all of the apartment buildings would be well above the flood zones in that area. Givens also stated that the parking concerns that were previously expressed had been addressed and the buildings would set back a good distance from the roadway. He noted the parking would consist of both “off street” and “cut-in curb parking.”

Council Member Rowlett asked how the developer was planning to address the incline of the east driveway entrance. He expressed concerns about the elevation drop between the street and the apartment curbing. Rowlett stated that he thought the flood plain elevation as compared to the buildings was a difference of 8 feet. Rowlett also expressed concern about the debris that had been dumped on the property over the years.

Council Member Hamilton expressed his concern about only one trash dumpster area being shown on the site plan. He thought that more than one dumpster would be needed given the density. Mayor Stuteville also expressed her concerns about the trash bin

situation and noted that Sundance Apartments has continual problems with having too much trash for their one dumpster.

Council Member Pritchard asked if the City should be concerned about cars backing into the traffic lanes from the “cut-in parking” spaces. Givens stated given the low traffic volumes on Ottawa Street, that it shouldn’t be a problem. He stated he would talk to the developer about possibly using angle parking instead of straight in parking spaces.

Council Member Dial made a motion to approve the preliminary site plan for the Pinnacle Point Apartment Complex. The motion was seconded by Council Member Pritchard and all voted aye. The motion passed 4 to 0.

**Agenda Item 5d – Consider the purchase of new mowers for the Public Works Department.**

City Manager Wieland stated that the Public Works Department annually budgets for the replacement of 2 heavy-duty mowers for use by the Parks Division. Wieland noted the bid specs had been sent to a number of area dealers and that 4 bids had been received. City Manager Wieland recommended the acceptance of the bid from Heritage Tractor of Paola for 2 Exmark mowers at a cost of \$22,700 or \$11,350 per unit.

Public Works Director Bieker stated that Heritage Tractor’s bid was \$50 higher than the low bid, but it was offset by the excellent service provided by Heritage and the fact that Heritage was a Paola business.

Council Member Pritchard made a motion to approve the purchase of 2 Exmark mowers from Heritage Tractor of Paola in the amount of \$22,700. Council Member Hamilton seconded the motion and all voted aye. The motion passed 4 to 0.

**Agenda Item 5e – Consider bids for lease financing for equipment for the Public Works Department.**

City Manager Wieland explained that requests for proposals for lease/purchase financing for Public Works equipment had been sent to local financial institutions. The amount of the lease/purchase financing was for \$107,000 and that the funds would be used to purchase a 1999 Vac-Con Combination Sewer Cleaner, a 2005 Hamm 3205 54” Vibratory Packer, and a 1979 John Deere 570A Road Grader. Wieland noted that the term of the lease would be for three years and that the City would make a down payment from this year’s budget.

City Manager Wieland recommended the approval of the bid proposal from First Option Bank for lease/purchase financing of \$107,000 with an interest rate of 3.64% and a term of three years. He stated that if approved, the City and First Option would close on the financing by March 5, 2008.

Council Member Hamilton made a motion to approve the bid from First Option Bank at 3.64% for a 3-year lease in the amount of \$107,000 to purchase equipment for the Paola Public Works Department. Council Member Dial seconded the motion and all voted aye. The motion passed 4 to 0.

**Agenda Item 5f – Consider Ordinance No. 2968 authorizing the execution of a lease purchase agreement by the City of Paola to provide for the acquisition of certain equipment for the Public Works Department.**

City Manager Wieland stated that Ordinance No. 2968 authorizes the City to proceed with the execution of the lease/purchase agreement with First Option Bank. He explained that approval of Ordinance No. 2968 was required to complete the transaction.

Council Member Rowlett made a motion to adopt Ordinance No. 2968, an ordinance of the City of Paola, Kansas, authorizing the execution of a lease/purchase agreement by the Mayor to provide for the acquisition of certain equipment for the Public Works Department. Council Member Hamilton seconded the motion and all voted aye. The motion passed 4 to 0.

**Agenda Item 6 – NEW BUSINESS**

City Manager Wieland asked City Attorney Tetwiller, department heads, and Chamber Director Everhart if they had anything to report. Chamber Director Everhart reported that Council Member Rowlett had agreed to serve as the chairperson of the Paola Economic Development Alliance. City Manager Wieland reviewed items for the March 4, 2008 Council Study Session.

Council Member Rowlett asked if the differential between funding and building costs for the fire station was being lowered. City Manager Wieland stated that significant progress had been made on closing the gap.

Council Member Dial asked if a date had been set for the Council Retreat. City Manager Wieland stated that he was waiting on the return of City Clerk Droste so they could work out a time, date, and place.

Mayor Stuteville stated she didn't have anything to report.

Council Member Dial made a motion to recess for the purpose of conducting a meeting of the Paola, Kansas Public Building Commission. Council Member Rowlett seconded the motion and all voted aye. The motion carried 4 to 0.

Upon completion of the Paola, Kansas Public Building Commission meeting, Council Member Dial moved to reconvene. The motion was seconded by Council Member Pritchard and all voted aye. The motion passed 4 to 0.

Council Member Dial then moved to go into Executive Session for approximately 20 minutes to discuss business relating to the acquisition of land by the City of Paola. K.S.A. 75-4319(B)(6) is the authority for this recess. The motion was seconded by Council Member Pritchard and all voted aye. The motion passed 4 to 0.

Upon completion of the Executive Session, Council Member Hamilton made a motion to close the Executive Session. The motion was seconded by Council Member Rowlett and all voted aye. The motion passed 4 to 0.

No action was taken pursuant to the Executive Session.

Being no further business, Council Member Pritchard moved to adjourn the Paola City Council meeting of February 26, 2008. Council Member Rowlett seconded the motion and all voted aye. The motion carried 4 to 0.

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Artie Stuteville, Mayor

ATTEST: (seal)

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Daniel G. Droste, City Clerk