

Staff Report

To: Honorable Mayor and City Council

From: Matt Stiles, City Administrator

Date: 09/19/2023

Re: Legal Publications on City Website

Background: Back in September 2021 council approved Charter Ordinance 22 which exempted the city from K.S.A. 12-1651 and provided a substitute provision for designation of the official city newspaper for legal publications. The substituted provision allows for the designation of the website that is free, public facing and easily accessible from the City's website home page.

The Charter Ordinance was adopted by unanimous vote of the council and entered the petition period for charter ordinances. There was a 60-day period for public review with the notice being published twice, in its entirety in the official city newspaper. During that time there was an opportunity for a citizen petition to put the issue on a general election ballot. That petition would have required no less than 10% of the electors that voted in the last regular city election or 113 registered voters at the time, to sign the petition. There was no petition filed or even circulated to our knowledge. The Charter Ordinance took effect in November 2021; however, the city took no action on making an official change at that time.

On July 26, 2023, the Attorney General issued opinion 2023-5 which is attached. In the opinion, the Attorney General affirmed that opinion of TWG that it was acceptable for second and third class cities to charter out of the requirements of K.S.A. 12-1651 and designated their website for legal publications. There remain some items that are specifically stated in statute that must be published in a general circulation newspaper and would need to continue to be published in a newspaper. The biggest of these items is the annual budget notification.

There are a couple of reasons to consider making this designation. First, the city website is a free publication that is accessible by anyone with an internet connection. The Marion Record requires a subscription to access the paper and the online version is behind a paywall, limiting access to subscribers. Hillsboro has wide access to broadband internet and is considered a well-served area. Further, our residents and customers already regularly interact with the city's online presence. Currently there are 883 customers' accounts with Front Desk online utility accounts which they utilize to pay their bills or other fees from the city. Similarly, the RecDesk platform used for rec programming has over 2,600 unique members/participants in our system. The City's Facebook page, which would also have notices published on it, has 3,200 followers. Our website provider, Civic Plus could not provide the analytics for the previous year on the main city site due an error in the Google Analytics deployment.

The city is also adding an accessibility program called AudioEye that automatically brings any content uploaded in compliance with ADA standards. AudioEye allows differently abled users to

access the website depending on their needs offering more access to more people. AudioEye will be fully implemented by October 1.

The second reason to use the website for publications is the ability to publish notices in a timely manner. The Marion Record is a weekly paper and the deadline for publication is noon on Tuesday. With the council meeting schedule, official actions are published the following week. Record staff have indicated in the past they could try to include urgent matters in the next day's edition, but that was when we were meeting at 4PM. They have been accommodating with timelines in the past, most recently with a planning commission hearing in the July 5 issue. However, we have recently had issues in receiving affidavits of publication, which are required for things such as our recent lease-purchase agreement and submitting our budget to the County Clerk. Utilizing the website allows for the publication as the city needs and directly after council takes actions.

One point that was previously brought up was that there were many people without internet access in Marion County. According to the office of National Telecommunications and Information Administration (NTIA), Marion County has 18.4% of households without internet access, which corresponds with the 13.4% of households without a computer, smartphone, or tablet. Most unserved households are in the rural areas of the county and some of those areas are schedule to be connected by providers in the near future. Residents in town have access to multiple internet providers and programs designed to assist with the cost connection for lower income households. There are also places like the library that offer free access and assistance to anyone in the community. Physical copies of the notices and publications have always been available for review at city hall and are archived in physical form in some cases dating to founding of the city.

It has been asked why the city is required to use the Marion Record rather than using the Free Press as our official newspaper. While the Free Press is free and delivered to nearly every residence in Hillsboro, it does not meet the statutory requirements for general circulation newspaper. Statue requires that a paper must be a paid subscription paper of general circulation. While publication in the Free Press may be advisable and more widely available to our residents, it would not count as a legal publication under statute.

In 2022 the city invested in a new website platform and redesign. The new platform allows staff to easily make changes to the website. We have been able to add a front-page button for legal notices that is easy to find on a computer, smartphone, or tablet. Users can subscribe to notifications to receive legal notices or announcements by email. The full city code, zoning code, and municipal policies are all available and are updated after each is amended. The intention will be to publish notices on the website regardless of whether it is an official publication in a continued effort to inform citizens. The published copies with be signed PDF files when applicable.

TWG has prepared an affidavit form for website publications. Posts to the legals section will be time and date stamped. We have developed an internal process checklist for who is responsible and how those notices will be published. TWG has is also developing a list of items that require publication in a newspaper of circulation.

Financial Impact: The fiscal impact has grown since the charter ordinance was passed 2021. At that time the annual fees for legal publication were averaging approximately \$5,000. For 2021, the city spent \$7,332.96. In 2022 the total amount paid for legals and notices, was over

\$9,000. The year-to-date amount for 2023 is \$7,772.92 for legals, notices and a few ads. If the city moved to the website for publications, the annual amount spent would be significantly less. There would still be some notifications that would need to be published in the newspaper, most notably the annual budget notifications. Any ads that the city chooses to publish would also have a cost. The annual cost of website is just over \$8,000. That cost is partially paid by the CVB and would continue regardless of the outcome of this discussion.

Recommendation: This is a discussion item; no action is needed at this time. If the council would like to move forward with a resolution, then we can consider it at the October 3, 2023, meeting.