

# Staff Report

**To:** Honorable Mayor and City Council

**From:** Matt Stiles, City Administrator

**Date:** 10/03/2023

**Re:** Legal Publications on City Website

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**Background:** Based on the discussion from the last meeting, the City Attorney has prepared Resolution 2023-10 that would designate the city's website as the official publication for legal notices. The city completed the necessary Charter Ordinance substituting the provisions of K.S.A. 12-1651 in September 2021. The Charter Ordinance took effect in November 2021 with no known protest petition or comment from residents.

As noted during the policy discussion, the city has taken a conservative approach in implementing a change, waiting for an official Attorney General's opinion. An affirming opinion was issued on July 26, 2023. With the AG opinion the city is in firm legal standing to make the change if so desired.

During the discussion, staff provided a few reasons why moving to website publications would be beneficial. JT Klaus, filling in as City Attorney and also the city's long time bond counsel, provided additional insight on the issue from his experience in other communities. Owner and publisher of Hillsboro Star-Journal / Marion Record, Eric Meyer provided a letter to council that offered his perspective on why keeping the current arrangement is preferable. That letter along with the previous staff report and video of the meeting were placed on the city's website News section. The issue was covered in the Free Press on September 26. As of October 1, City Hall has received no comments on the issue.

One correction from the previous staff report. Previously it was stated that legal notices found on websites for the Hillsboro Star-Journal / Marion Record / Peabody Gazette-Bulletin were behind a paywall. Content for the paper is behind a pay wall after a certain number of page views. Access to the search feature and PDF copies of the paper require a subscription. Legal notices can be found for free by selecting "More..." button on the left hand menu, selecting "Classifieds" and scrolling to Classification 25 Public notices. All three paper websites (Hillsboro Star-Journal / Marion Record / Peabody Gazette-Bulletin) appear to have identical content and features with different color schemes and banners. The public notices do then appear on the three websites under Hoch Publishing in addition to the city's website. It should be noted that the publications that since 2019, legal notices have been summary notices, which refer readers to the city's website for the full text of the action taken. Some items, such as the city's annual budget notices will still be published in a paper of general circulation per state law. The official record of all city actions has always been retained by the city as part of its operational requirements.

An few additional follow-ups from the previous discussion. After the last meeting, the city received the outstanding affidavits of publication dating back to May 2023. Also Google Analytics report for [www.cityofhillsboro.net](http://www.cityofhillsboro.net) from September 14 to September 25 (11 complete days) shows that there were 1,721 views from 528 users. The main page was the highest trafficked page accounting for 481 views. Assuming that is typical data, one could assume the city's website receives around 4,700 views per month.

**Financial Impact:** As mentioned in the last staff report the cost of publication has increased since the charter ordinance was approved in 2021. At that time the annual fees for legal publication were averaging approximately \$5,000. Since that point, the city has averaged \$8,766 annualized. The increase represents a 75% increase in cost for the publications. The increase can be attributed to more actions taken by the city that require legal publication and increases in fees and changes in rates. Rates official newspapers can charge for legal publications are regulated by K.S.A. 28-137.

**Recommendation:** Based on the legal opinion we have received the city is on firm legal grounds to make a change to official publication location. The question then is not can we do it, but rather should we do it. If the Council would like to move forward with naming the city's website the home of official legal publications, then council can adopt Resolution 2023-10.