

City of Peabody
Minutes of the City Council Meeting
May 9, 2016

Office of the City Clerk
May 9, 2016

CALL TO ORDER: The regular meeting was called to order by Mayor Larsen at 7:00 p.m. in the council chambers of City Hall located at 300 N. Walnut, Peabody, Kansas. The following council members were present: Mayor Larry Larsen, Travis Wilson, Janice Woodruff Megan Gallucci and Steve Rose. Tom Spencer was excused. A quorum was established.

STAFF: Stephanie Lago - City Clerk, Chief Bruce Burke, Rob Lane – City Attorney,

VISITORS: Susan Marshall – Peabody Gazette Bulletin, Jonathan Ballard – Pictometry, Beth Peter – Peabody Burns Recreation Commission, Mackenzie Young, Larry Lago

THE PLEDGE OF ALLEGIANCE led by Mayor Larsen

I. MINUTES: The council reviewed minutes of the regular city council meeting held April 25, 2016.

Rose commented the approval to purchase the Fire Chief's car should be funded from Special Law and Fire fund account.

MOTION by Gallucci to approve the minutes from April 25, 2016. Motion seconded by Wilson. Motion carried 3 - 0-1 (Woodruff abstained).

II. APPROPRIATIONS: The council reviewed:

PAYROLL 2016 5a	\$ 8,909.32
PAYROLL 2016 5a Tax & Benefits	\$ 5,291.70
PAYABLES 2016 4b	<u>\$ 19,690.95</u>
Totaling:	\$ 33,891.97

MOTION by Rose to approve appropriations in the amount of \$ 33,891.97. Motion seconded by Gallucci. Motion carried 4-0.

III. PUBLIC COMMENT: Beth Peter introduced Mackenzie Young to the city council.

IV. APPROVAL OF AGENDA:

Clerk Lago requested to add three (3) items to the agenda:

Jonathan Ballard to B.1
Air Conditioner to Building Committee Report 7.
Executive Session to Park & Swimming Pool Committee Report 6.

MOTION by Gallucci to approve the agenda as amended. Motion seconded by Rose. Motion carried 4-0.

V. AGENDA ITEMS:

A. Rob Lane, Attorney for the City

Ordinance # 02-2016 AN ORDINANCE PROVIDED FOR THE MANAGEMENT OF PUBLIC RIGHTS OF WAY IN THE CITY OF PEABODY, MARION COUNTY, KANSAS was recommended for approval to city council.

MOTION by Wilson to approve and adopt Ordinance #02-2016 Public Rights of Way as presented by counsel. Motion seconded by Gallucci. Motion carried 4-0.

Carrie L. Larson, General Counsel for **CTI Towers** Assets II, LLC located in Franklin, MA (in anticipation of the upcoming closing and sublease of the Sublease Area to CTI) requested the city sign and Estoppel Certificate as Exhibit B with respect to the Lease. Former tenants have changed from Multimedia Cable TV, Cox TV, TCI, Allegiance, BCI Allegiance, and currently VYVE. After lengthy research and location of the original lease dated November 24, 1997, attorney Lane felt comfortable in signing the Estoppel letter as presented.

MOTION by Gallucci to sign the Estoppel letter as presented by CTI. Motion seconded by Wilson. Motion carried 4-0.

Attorney Lane wanted to change direction in his conversation with council to discuss the **Quit Claim Deed for USD 398**. Mr. Lane met with Stephanie today from 5:00 – 5:30. p.m. After reviewing the city's zoning map as well as the Title / Deed from Marion County... he advised the city to get a title report from Hannaford before we file a quit claim deed. Further it might be advisable to get a quote for a title report first.

MOWING Private Properties.

There is much to consider in mowing private properties: man hours, wear and tear on machinery, gasoline, office work, postage costs, etc. Last year, the city billed \$9,550 in mowing invoices. We received \$300 in payments. As we begin this 2016 mowing season, we need to be prepared, and process everything accurately, swiftly and keep an open mind and eye to how best improve the overall process. We will never recoup all of our expenses. One of the first things we could do to reduce costs would be to do personal service of mow letters rather than mail notices by certified mail. Chief Burke will see what he can do to accommodate this suggestion.

We published this year's mowing ordinance in January, numbered 01- 2016. As of 5/5/16 the police department has mailed out 44 letters via certified mail @ \$6.74 each = \$296.56. Attorney Lane attended a meeting this evening from 5:30 – 6:45 with all departments to get on the same page in the 2016 mowing process.

Lane advised us that if we are going to continue to be meticulous in code enforcement it will translate into higher costs to the city. If we want to pursue reimbursement for the mowing of properties, go ahead and use the ability to assess costs to property tax. Later on we can look at the big picture – perhaps in October to look at 2016 costs. Maybe it would be more productive to go through municipal court – we don't have to but it is an option. We will also have the updated city code in hand by then and see if there are some changes that give us alternative procedures.

B. GSS Project #W16672-KS-11 – UPRR

May 3, 2016 the City received a letter for GSS, Inc. regarding project #W16672-KS-11 which notified us that they are seeking comments on the potential effects of the proposed construction on Historic Properties is scheduled to be published in the Marion County Record on May 11, 2016. Also GSS, Inc. invited comments on the potential effects of the proposed facility on Historic Properties from other relevant individuals or groups of which we may be aware.

Looking at the enclosed map and coordinates it appears that the site would be where Plum Street would have intersected with the UPRR, if Plum Street had continued out of the south end of town.... south of the city's burn pit. So this site is well out of our city limits.

Questions about this matter may be submitted to GSS, Inc., 3311 109th Street, Urbandale, IA 50322 or by calling 515-331-2103.

B.1 Jonathan Ballard – Pictometry

Mr. Ballard is the District Manager for Pictometry, and Eagleview Company based in Rochester, NY. (c) 918-864-2218. He spoke with Mayor Larsen a couple of weeks ago.

His firm has approximately 99 planes, outfitted with five cameras each. Not only does one cameras take one straight down photo, the other four cameras take left and right side views as well as front and back views resulting in a three dimensional photo of terrain they fly over.

Pictometry photographed all of Marion County in 2013 which cost the county \$141,000.00. Within the county are 12 cities which were photographed as well (at a higher resolution than that of rural areas). This computerized photography is already available through Marion County. Chief Burke and Councilman Wilson have already used it in some police applications.

It is time for a second flight. The county desires to raise money from communities this time but it is not required. Peabody is about seven sectors of photography. The cost for Peabody's photos would run \$4,514.00 over three years or \$1054.67 per year. Peabody's partnering would be appreciated by the county. Hard copies of the data could be provided to city personnel / offices at no additional cost. Or you can get an online subscription for \$2,200.00 per year.

Mr. Ballard distributed his business card to council members and will be in touch again, down the road.

C. Employee Reports

1. Stephanie Lago, City Clerk

The city received a 2015 audited Premium Refund from KMIT (Kansas Municipal Insurance Trust) in the amount of \$169.00. This was based upon the audit report I submitted in March 2016.

Effective July 1, 2016 all non-state employer groups will need to make premium payments to the SEHP by setting up a Recurring Payment (ACH Bank Draft) for monthly premiums or by making an online payment on or before the 8th of every month.

Kansas Open Records Act (KORA) specifically addresses (KSA 45-221(a))... A city shall not be required to disclose records of a utility or other public service pertaining to individually identifiable residential customers of the utility or service. This exception is provided to prevent persons from making commercial use of customer utility records and helps prevent stalking. There may be exceptions under the LIEAP program or federal employee such as a census worker. It does not apply to information regarding commercial or industrial customers.

D. Reports from Standing Committees

1. Water (Spencer) -

Clerk Lago distributed a copy of Hillsboro's Annual Consumer Confidence Report dated 2016 covering calendar year 2015. Hillsboro's mailing also included their notice in April 2016 about the presence of drinking water contaminants in the 3rd quarter of 2015.

2. Streets and Alleys (Woodruff & Wilson) -

Wilson questioned when the American flag was going to be replaced at city hall? Clerk Lago replied the new tether had been purchased and we were waiting on a cherry picker truck to proceed with installation. Wilson further stated he would like to see a flag pole at the 9th Street location of Public Works and Police Department. Lago will check into purchasing of the pole.

3. Sanitation (Larsen & Wilson) - nothing to report

4. Lights Committee (Gallucci & Wilson) -

Today, May 9th, Clerk Lago's work with Karen at Westar was realized by erecting the new light pole at the SE side of the intersection of Elm and 5th. The mayor thanked Frank Woodruff for his effort trimming the trees in the vicinity.

5. Fire Committee (Larsen & Woodruff & Rose) nothing to report

6. Park and Swimming Pool Committee (Woodruff & Spencer)

MOTION by Wilson to enter into executive session at 8:10 p.m. for 10 minutes to discuss personnel matters of non-elected personnel. Motion was seconded by Gallucci. Motion carried 4-0. The City Council, Mayor Larsen, Clerk Lago, Mackenzie Young and Beth Peter, were invited to attend. The council returned to regular session at 8:22 p.m.

MOTION by Woodruff to re-enter executive session at 8:24 p.m. for 15 minutes. Motion was seconded by Rose. Motion carried 4-0. The council returned to regular session at 8:39.

MOTION to offer the position of Pool Manager to Mackenzie Young effective 5/1/16 for the seasonal contract amount of \$5,500. Motion seconded. Motion carried 4-0. Mackenzie Young accepted the position. Clerk Lago asked Ms. Young to stop by city hall to fill out a K-4, W-4 and I-9 by the end of the week.

Returning Life Guards (Anna Lubbers and Malory Harris) will receive a \$.15 cent and hour raise. Other life guards will be Raegan Schreiber (P/T) and Jacob Funk (F/T).

Lots of swim parties are already scheduled for Saturdays. Councilman Woodruff seriously objects to the swimming pool being open for pool parties on Saturdays, and not open to the general public as well on Saturdays – as they are the taxpayers who are paying for the pool. Whereas, if the pool is open to the public, it requires two life guards be on duty, and pool parties only require one life guard.

7. Building Committee (Larsen & Woodruff) –

Denny's Heating and Cooling recommended replacing the bad ECM motor to the existing Lennox unit and air conditioner coil for \$3,828.00. A second bid was researched for an Air Conditioner at Public Works / Police building. Flamings – the original installer – suggested to repair the current Lennox system. The following are needed to complete the repair, but are not limited to:

Lennox CX35 4-ton all aluminum evap coil
Lennox variable speed blower motor
8 lbs. of R410A refrigerant
Setting PD damper minimum position to compensate for the much smaller office zone
Labor
Totaling \$2,047.00.

MOTION by Wilson to hire Flamings for the repair of the air conditioning system and blower motor at the public works, police department building for the amount of \$2,047.00. Motion seconded by Gallucci. Motion carried 4-0.

8. Finance and Ordinance (Gallucci – Rose) -

Councilman Wilson inquired about the expenditures posted to fund 01-7000-310-50 Christmas lights accounts to date? Clerk Lago will investigate.

9. Economic Development Committee (Larsen & Holt) –

A reminder to the city council that next 5/24/16 there will be a follow-up brain storming meeting at the library at 7 p.m.

10. Personnel (Larsen & Wilson & Rose) -

Clerk Lago requested the council determine what they want to do with the updated “travel time” policy as per the federal government which she presented to the council on 4-11-16 and referred to here:

Personnel Policy and Guidelines

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11. OTHER:

Meetings, Seminars. Any employee may be granted leave with pay to attend meetings, seminars and conventions of professional and technical organizations when such attendance is properly authorized by the city council. Mileage reimbursements will be made in accordance with current tax laws. Regular pay for attending an all-day seminar will be made based on the normal workday of eight (8) hours. Travel time will not be reimbursed unless authorized in advance with the governing body. (to be stricken)

Educational Leave. An employee may be granted leave without pay for a period up to one year to further his education or seek specialized training upon approval of the city council.

Leave of Absence. An employee, upon written request, and with the approval of his department head, may be granted a leave of absence without pay for a period of up to one year subject to prior approval by the city council.

NEW CONTENT:

Hours Worked Under the Fair Labor Standards Act (FLSA) Lectures, Meetings and Training Programs:

Attendance at lectures, meetings, training programs and similar activities need not be counted as working time only if four criteria are met, namely: it is outside normal hours, it is voluntary, not job related, and no other work is concurrently performed.

Waiting Time: Whether waiting time is hours worked under the Act depends upon the particular circumstances. Generally, the facts may show that the employee was engaged to wait (which is work time) or the facts may show that the employee was waiting to be engaged (which is not work time). For example, a secretary who reads a book while waiting for dictation or a fireman who plays checkers while waiting for an alarm is working during such periods of inactivity. These employees have been "engaged to wait."

On-Call Time: An employee who is required to remain on call on the employer's premises is working while "on call." An employee who is required to remain on call at home, or who is allowed to leave a message where

he/she can be reached, is not working (in most cases) while on call. Additional constraints on the employee's freedom could require this time to be compensated.

Rest and Meal Periods: Rest periods of short duration, usually 20 minutes or less, are common in industry (and promote the efficiency of the employee) and are customarily paid for as working time. These short periods must be counted as hours worked. Unauthorized extensions of authorized work breaks need not be counted as hours worked when the employer has expressly and unambiguously communicated to the employee that the authorized break may only last for a specific length of time, that any extension of the break is contrary to the employer's rules, and any extension of the break will be punished. Bona fide meal periods (typically 30 minutes or more) generally need not be compensated as work time. The employee must be completely relieved from duty for the purpose of eating regular meals. The employee is not relieved if he/she is required to perform any duties, whether active or inactive, while eating.

Lectures, Meetings and Training Programs: Attendance at lectures, meetings, training programs and similar activities need not be counted as working time only if four criteria are met, namely: it is outside normal hours, it is voluntary, not job related, and no other work is concurrently performed.

Travel Time: The principles which apply in determining whether time spent in travel is compensable time depends upon the kind of travel involved.

Home to Work Travel: An employee who travels from home before the regular workday and returns to his/her home at the end of the workday is engaged in ordinary home to work travel, which is not work time.

Home to Work on a Special One Day Assignment in Another City: An employee who regularly works at a fixed location in one city is given a special one day assignment in another city and returns home the same day. The time spent in traveling to and returning from the other city is work time, except that the employer may deduct/not count that time the employee would normally spend commuting to the regular work site.

Travel That is All in a Day's Work: Time spent by an employee in travel as part of their principal activity, such as travel from job site to job site during the workday, is work time and must be counted as hours worked.

Travel Away from Home Community: Travel that keeps an employee away from home overnight is travel away from home. Travel away from home is clearly work time when it cuts across the employee's workday. The time is not only hours worked on regular working days during normal working hours but also during corresponding hours on nonworking days. As an enforcement policy the Division will not consider as work time that time spent in travel away from home outside of regular working hours as a passenger on an airplane, train, boat, bus, or automobile.

MOTION by Gallucci to adopt the "travel time" policy amendment as presented on 4-11-16 to update the city's personnel policy and guidelines. Motion seconded by Wilson. Motion carried 4-0.

G. Report from the Mayor –

There are an interesting amount of active groups in our community. Thank you all for what you do.

VI: COMMUNICATIONS:

ENCLOSURES:

April 25, 2016 minutes
Payroll 5a 2016
Payroll 5a tax and benefits 2016
Bills 5a 2016
5/3 email atty re rights of way
Proposed ordinance 02-2016 Rights of Way
5/3 email atty re estoppel letter CTI
5/3 letter GSS Inc. re UPRR and FCC Program
2 related maps
City of Hillsboro Consumer Confidence Report 2016 re 2015
4/12 ltr Vyve Pay Per View deletions
Personnel Policy and Guidelines amendment

Revenue Spread Sheets to date 2016
Expenditure Spread Sheets to date 2016

VII: ITEMS TO BE ON AGENDA FOR UPCOMING MEETINGS:

1. Quit Claim Deed to USD 398 – still with attorney
2. Kevin Burke – breaking curb
3. C. Bickley Foster -Planning Analysis - & Estimate
4. Process procedures for Lack of Water Service
5. Purchase of new pool cover
6. Personnel Policy & Guideline Review
7. BALLOT 2016 1% City Sales Tax
8. Performance Evaluations

VIII. ADJOURNMENT:

There being no more business to be brought before the council **MOTION** by Wilson to adjourn the meeting at 8:45 p.m. Motion was seconded by Gallucci . Motion carried 4-0.

CERTIFICATE

I hereby certify that the foregoing minutes are a true and correct recording of the proceedings of the governing body of the City of Peabody, Kansas, held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

(SEAL)

Stephanie Lago, City Clerk