



DATE: Tuesday, May 7, 2025
TO: Mayor and City Council
FROM: City Attorney
SUBJECT: Self-Publication on City's Website

Recommendation: Pass the attached charter ordinance, and pass the ordinary ordinance calling a referendum election and fixing its date.

Background: The Bel Aire City Council wishes to exempt itself from the requirement to publish certain legal notices in a general circulation newspaper, a requirement created in K.S.A 12-1651. The City may do so, as this statute is not uniformly applicable to all Kansas cities; it expressly applies only to second and third class cities. Attorney General Opinion 2023-5 determined that once a City takes this action to exempt certain publication obligations, that it can designate its own website as the means to communicate the applicable public notices. However, this exemption will not affect public notices that apply in those areas the legislature felt statewide uniformity was important. Therefore, publication in a traditional, physical newspaper of general circulation in the City will still be the rule for imposition of taxes, actions affecting land use, purchase and eminent domain, City budget hearings, the City treasurer's report, and new ordinances.

The Kansas Constitution Article 12, Section 5 sets out the method to accomplish this exemption by charter ordinance, which requires adherence to additional procedural safeguards intended to empower citizen input should there be such interest. That citizen interest on this issue has already been demonstrated. The earlier attempt to pass a charter ordinance with the same effect was met with a successful petition that would have forced an immediate, special election. The City Council chose not to incur the costs of that special election, and allowed the proposed charter ordinance to expire.

Discussion: The City Council now has the opportunity to put the same issue before Bel Aire citizens at no additional cost to the City, if the election is timed to coincide with the state-wide primary election. By making the charter ordinance expressly contingent on a public referendum, the City Council can honor the public interest that was previously expressed. By altering the language of the original charter ordinance, the City Council can also improve its responsiveness to citizen concerns. The ordinance form now recommended to City Council would set up self-publication on the City's website as an alternative, but not exclusive means of legal notice publication. City staff can establish to the Council's satisfaction the effectiveness and reliability of self-publication before it would be used as the primary source for relevant legal notices. If the referendum passes, the charter ordinance would empower but not require Council to use the self-publication option. Were Council to so choose, that option would be put into use through a separate Resolution that would require a majority vote to pass.

The Kansas Constitution provisions noted above require that if the City Council chooses to make the charter ordinance contingent on the referendum outcome, then an additional, ordinary ordinance must be passed that calls the referendum election and fixes the date. Through use of this second ordinance, City Council can include this referendum as a question to be decided in conjunction with the primary election which begins with advance voting on Wednesday, July 17, 2024. The two ordinances have separate publication requirements set out in the Kansas Constitution.

Financial Considerations: Holding the referendum vote during the primary election avoids any additional costs to the City. The estimated cost savings, were self-publication on the City's website put into use, would be approximately \$4,500.00 per year.

Legal Considerations: The City Attorney has drafted and approved the proposed charter ordinance and related ordinary ordinance. The charter ordinance requires a 2/3rds vote for approval. The ordinary ordinance requires a simple majority for approval, but would be irrelevant and should not be considered if the charter ordinance were not approved.

Recommendation/Actions: It is recommended that City Council pass the proposed charter ordinance that will be effective contingent upon approval by public referendum, and further pass the ordinance setting and fixing the date for that referendum election.

Attachments: Proposed Charter Ordinance and proposed ordinary ordinance.