



Paola City Council Meeting - AGENDA

Tuesday, April 12, 2022 - 6:00 PM

Paola Justice Center - 805 N PEARL

YouTube Channel: https://www.youtube.com/channel/UCElgDJjzXV_XvXznUfKQomw?

PLEDGE OF ALLEGIANCE

CALL TO ORDER

ROLL CALL - Smail ___ Upshaw ___ Peckman ___ Shields ___ Mayor House ___

INTRODUCTIONS & PROMOTIONS - Police Department

INTRODUCE NEW EMPLOYEES - Mitch Gabbert & Jessica Newton

1. CONSENT AGENDA

The items on the Consent Agenda are considered by the Governing Body to be routine business items. Agenda items may be approved by a single motion, second and a majority vote with no separate discussion of any item listed. Should a member of the Governing Body desire to discuss any item, at his/her request it will be removed from the Consent Agenda and considered separately.

- a. Meeting Minutes – March 8, 2022.
- b. Salary Ordinances - 22-5, 22-6 & 22-7
- c. Appropriation Ordinances -971 & 972
- d. Pledged Collateral Report – March 2022
- e. Journal Entries Report - March 2022

Action - Motion to approve the Consent Agenda as presented and authorize the Mayor to sign.

Motion: _____ Second: _____ Vote: _____

2. COMMENTS FROM THE PUBLIC

When addressing the Council, please step to the podium and state your name and address so that it can be recorded in the minutes of the meeting. Please limit your comments to 3 minutes or less and to items NOT on the agenda. Thank you.

3. NEW BUSINESS

a. Consider Juneteenth Day

Action - Motion to approve Resolution 2022-004 amending the personnel manual to include Juneteenth as an observed holiday.

Motion: _____ Second: _____ Vote: _____

b. 2022 Street Improvement Plan

Action - Motion to approve the bid from McAnany Construction with the additional patching in the amount of \$273,548.75 and authorize the necessary signatures.

Motion: _____ Second: _____ Vote: _____

c. Drinking Establishment License for Beethoven's

Action - Motion to approve a new drinking establishment license for Beethoven's subject to receipt of the state license, passing the fire safety inspection.

Motion: _____ Second: _____ Vote: _____

d. Temporary Purchasing Authority

Action - Motion to grant the Acting City Manager the authority to approve lease agreements for one water truck, and one cemetery truck with the initial payments not to exceed the total budgeted amount of \$75,000.

Motion: _____ Second: _____ Vote: _____

e. Text Amendment to the Paola Municipal Code

Action - Motion to approve Ordinance No 3184 amending Chapter 8, Article 1, Section 8-107 of the Paola Municipal Code.

Motion: _____ Second: _____ Vote: _____

4. COMMITTEE REPORTS

5. STAFF REPORTS

6. MISCELLANEOUS MATTERS FROM THE COUNCIL

7. MISCELLANEOUS MATTERS FROM THE MAYOR

Consider the reappointment of Rick Schoenberger, Barb Dillenbeck, Alan Hire, Mike Folsom and Michelle Kaiser to the Convention & Tourism Committee.

Action – Motion to approve the reappointment of Rick Schoenberger, Barb Dillenbeck, Alan Hire, Mike Folsom and Michelle Kaiser to the Convention & Tourism Committee.

Motion: _____ Second: _____ Vote: _____

Consider the appointment of Jenna Kelsey to the Convention & Tourism Committee.

Action – Motion to approve the appointment of Jenna Kelsey to the Convention & Tourism Committee.

Motion: _____ Second: _____ Vote: _____

Consider terminating the appointment of Gabe Pfferkorn from the Planning Commission.

Action – Motion to terminate the appointment of Gabe Pfferkorn from the Planning Commission.

Motion: _____ Second: _____ Vote: _____

Consider the appointment of Andy Parks to the Planning Commission.

Action – Motion to approve the appointment of Andy Parks to the Planning Commission.

Motion: _____ Second: _____ Vote: _____

Consider the reappointment of Steve Cowman and Luke DeGrande to the Planning Commission.

Action – Motion to approve the reappointment of Steve Cowman and Luke DeGrande to the Planning Commission.

Motion: _____ Second: _____ Vote: _____

8. ADJOURNMENT

Action – Motion to adjourn.

Motion: _____ Second: _____ Vote: _____

~ NOTICE ~

In compliance with the American with Disabilities Act, individuals needing assistance or other services or accommodation for this meeting should contact City Clerk Stephanie Marler at least 24 hours in advance of this meeting at 913-259-3600.



SUBJECT: Text Amendment to Chapter 8, Article 1, Section 8-107(a)
CONTACT: Randi Shannon, Acting City Manager
DATE: April 12, 2022

Background

Chapter 8, Article 1 of the Paola Municipal Code pertains to public nuisances. Our current Paola Municipal Code references K.S.A. 12-1617e when referring to the requirements for notifying a property owner of a nuisance issue, but does not state the statute verbatim. In the Paola Municipal Code, our Code Enforcement Officer is required to send the Notice of a Public Nuisance by certified mailing. According to K.S.A 12-1617e “The order shall be served on the owner or agent of such property by certified mail, return receipt request **or by personal service.**”

Issue

The City has issues with property owners purposefully not picking up their certified mail due to them knowing they are receiving a nuisance violation. Therefore, our Code Enforcement Officer receives the certified mail back, after three attempts to deliver from the post office, and then will post the nuisance letter to the property, which extends the initial 10 day abatement period.

Summary

Amending the current language of the Paola Municipal Code to reflect K.S.A 12-1617e, will allow for our Code Enforcement Officer to hand deliver nuisance letters. This will cut down on the abatement timeline, as well as unnecessary certified mailing charges.

Recommendations

Motion to approve Ordinance 3184 amending Chapter 8, Article 1, Section 8-107 of the Paola Municipal Code.

Attachments

1. K.S.A 12-1617e
2. Current Chapter 8, Article 1, Section 8-107
3. Proposed amendment

2021 Kansas Statutes

12-1617e. Abatement of nuisances; notice; assessment and collection of costs; procedure; disposition of motor vehicles. (a) The governing body of any city may have removed or abated from any lot or parcel of ground within the city any and all nuisances, including rank grass, weeds or other vegetation. The governing body may have drained any pond or ponds of water, at the cost and expense of the owner of the property on which the nuisance is located, whenever the city, county or joint board of health or other agency as may be designated by the governing body of the city files with the clerk of such city its statement in writing that such nuisance, rank vegetation or pond of water, describing the same and where located, is a menace and dangerous to the health of the inhabitants of the city, or of any neighborhood, family or resident of the city. The governing body of the city, by resolution, also may make such determination.

(b) Except as provided by subsection (c), the governing body of the city shall order the owner or agent of the owner of the property to remove and abate from the property the thing or things therein described as a nuisance within a time, not exceeding 10 days, to be specified in the order. The governing body of the city shall grant extensions of such ten-day time period if the owner or agent of the property demonstrates that due diligence is being exercised in abating the nuisance. The order shall state that before the expiration of the waiting period or any extension thereof, the recipient thereof may request a hearing before the governing body or its designated representative. **The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service.** If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

(c) If the owner or agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice sent pursuant to this section during the preceding twenty-four month period, the governing body of a city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property in the manner provided by subsection (b) or as provided in this subsection. Except as specifically provided in this subsection, the governing body may provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail.

(d) If the owner or agent fails to comply with the requirement of the order for a period longer than that named in the order, the city shall proceed to have the things described in the order removed and abated from the lot or parcel of ground. If the city abates or removes the nuisance, the city shall give notice to the owner or agent by certified mail, return receipt requested, of the total cost of such abatement or removal incurred by the city. Such notice also shall state that payment of such cost is due and payable within 30 days following receipt of such notice. The city also may recover the cost of providing notice, including any postage, required by this section. If the cost of such removal or abatement and notice is not paid within the thirty-day period, the cost shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed and charged against the lot or parcel of ground on which the nuisance was located. If the cost is to be assessed, the city clerk, at the time of certifying other city taxes to the county clerk, shall certify such costs, and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground, and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a

special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and any applicable interest has been paid in full.

(e) Any city may remove and abate from property other than public property or property open to use by the public a motor vehicle determined to be a nuisance. Disposition of such vehicle shall be in compliance with the procedures for impoundment, notice and public auction provided by paragraph (2) of subsection (a) of K.S.A. 8-1102, and amendments thereto. Following any sale by public auction of a vehicle determined to be a nuisance, the purchaser may file proof thereof with the division of vehicles, and the division shall issue a certificate of title to the purchaser of such motor vehicle. If a public auction is conducted, but no responsible bid received, the city may file proof thereof with the division of vehicles, and the division shall issue a certificate of title of such motor vehicle to the city. Any person whose motor vehicle has been disposed of pursuant to this subsection shall be eligible for a refund of the tax imposed pursuant to K.S.A. 79-5101 et seq., and amendments thereto. The amount of such refund shall be determined in the manner provided by K.S.A. 79-5107, and amendments thereto.

History: L. 1903, ch. 134, § 1; L. 1905, ch. 120, § 1; R.S. 1923, § 12-1641; L. 1959, ch. 77, § 1; L. 1975, ch. 66, § 1; L. 1985, ch. 73, § 1; L. 1986, ch. 74, § 1; L. 1987, ch. 70, § 1; L. 1990, ch. 72, § 1; L. 1998, ch. 80, § 1; L. 2003, ch. 120, § 18; L. 2004, ch. 44, § 1; July 1.

Current Chapter 8, Article 1, Section 8-107:

8-107. Notice.

(a) The Public Officer shall give notice of any nuisance, by certified mail, return receipt requested, to the last address of the property owner.

(b) K.S.A. 12-1617e requires that the notice of abatement shall state the following:

(1) A common or legal description of the property, or both;

(2) That the property is in violation of this Article;

(3) The nature of the violation, including relevant ordinances, with sufficient information that would reasonably allow the recipient to determine the nature of the violation to allow for self abatement;

(4) That the condition creating the violation shall be abated within ten (10) days from the date of the notice;

(5) That the recipient, upon written request, may obtain a hearing before the Enforcing Officer appointed pursuant to the terms of Section 8-105, provided that such notice is received by the City Clerk within the ten (10) day notice period;

(6) That failure to comply with the notice of abatement shall result in the City abating the violation with the assessment of costs made against the property or by filing judgment against the recipient;

(7) That failure to pay such assessments within thirty (30) days of the notice of costs shall result in the filing of a tax lien against the property, or for filing for judgment against the recipient, or both; and

(8) That such violations are subject to prosecution.

(Prior Code 2016 §210.050; Ord. 2664; Code 2021)

Proposed Amendment:

8-107. Notice.

(a) The Public Officer shall give notice of any nuisance, by certified mail, return receipt requested, or **by personal service** to the last address of the property owner.

(b) K.S.A. 12-1617e requires that the notice of abatement shall state the following:

- (1) A common or legal description of the property, or both;
- (2) That the property is in violation of this Article;
- (3) The nature of the violation, including relevant ordinances, with sufficient information that would reasonably allow the recipient to determine the nature of the violation to allow for self abatement;
- (4) That the condition creating the violation shall be abated within ten (10) days from the date of the notice;
- (5) That the recipient, upon written request, may obtain a hearing before the Enforcing Officer appointed pursuant to the terms of Section 8-105, provided that such notice is received by the City Clerk within the ten (10) day notice period;
- (6) That failure to comply with the notice of abatement shall result in the City abating the violation with the assessment of costs made against the property or by filing judgment against the recipient;
- (7) That failure to pay such assessments within thirty (30) days of the notice of costs shall result in the filing of a tax lien against the property, or for filing for judgment against the recipient, or both; and
- (8) That such violations are subject to prosecution.

(Prior Code 2016 §210.050; Ord. 2664; Code 2021)

Ordinance Summary published in the Miami County Republic on April 20, 2022 and the full text of the Ordinance made available at www.cityofpaola.com for a minimum of 1 week from the date of publication.

Ordinance No. 3184 Summary

On April 12, 2022 the City of Paola, Kansas, adopted Ordinance No. 3184, amending Section 8-107 Notice, in Chapter 8 Health and Welfare, of the Code of the City of Paola, Kansas, 2021, by including language in Kansas Statute 12-1617e allowing notices to be delivered by personal service. A complete copy of this ordinance may be obtained or viewed free of charge at the Office of the City Clerk at City Hall, 19 E Peoria Street or at www.cityofpaola.com. This summary is certified by Lee H. Tetwiler, Paola City Attorney pursuant to K.S.A. 12-3001, et seq.

ORDINANCE NO 3184

AN ORDINANCE AMENDING SECTION 8-107, NOTICE, IN CHAPTER 8, HEALTH AND WELFARE, OF THE CODE OF THE CITY OF PAOLA, KANSAS, 2021.

Be it Ordained by the Governing Body of the City of Paola, Kansas:

SECTION 1. That Section 8-107, Notice, in Chapter 8 Health and Welfare, of the Code of the City of Paola, Kansas, 2021, is hereby amended to read as follows:

8-107. Notice.

- (a) The Public Officer shall give notice of any nuisance, by certified mail, return receipt requested or by personal service to the last address of the property owner.
- (b) K.S.A. 12-1617e requires that the notice of abatement shall state the following:
 - (1) A common or legal description of the property, or both;
 - (2) That the property is in violation of this Article;
 - (3) The nature of the violation, including relevant ordinances, with sufficient information that would reasonably allow the recipient to determine the nature of the violation to allow for self abatement;
 - (4) That the condition creating the violation shall be abated within ten (10) days from the date of the notice;
 - (5) That the recipient, upon written request, may obtain a hearing before the Enforcing Officer appointed pursuant to the terms of Section 8-105, provided that such notice is received by the City Clerk within the ten (10) day notice period;
 - (6) That failure to comply with the notice of abatement shall result in the City abating the violation with the assessment of costs made against the property or by filing judgment against the recipient;

- (7) That failure to pay such assessments within thirty (30) days of the notice of costs shall result in the filing of a tax lien against the property, or for filing for judgment against the recipient, or both; and
- (8) That such violations are subject to prosecution.

SECTION 2. That this ordinance shall become effective after its passage, approval and publication in the official city newspaper pursuant to KSA 12-3001, et seq.

PASSED AND APPROVED by the Governing Body this 12th day of April, 2022.

Leigh House, Mayor

ATTEST: [seal]

Stephanie Marler, City Clerk