OSAWATOMIE CITY COUNCIL
AGENDA
June 23, 2016
6:30 p.m., Memorial Hall

1. Call to order
2. Roll Call
3. Pledge of Allegiance
4. Invocation – Pastor Wayne Ova, Faith Baptist Church
5. Consent Agenda
   Consent Agenda items will be acted upon by one motion unless a Council member requests an item be removed for discussion and separate action.
   A. June 23 Agenda
   B. Council Minutes for May 12 and May 26, 2016
6. Comments from the Public
   Citizen participation will be limited to 5 minutes. Please stand & be recognized by the Mayor.
7. Presentations & Proclamations
8. Public Hearings
   A. Proposed Condemnations
9. Unfinished Business
   A. Recommendations for Proposed Condemnation Resolutions
   B. Change Order #1 – Main Street Waterlines
   C. Pay Request #5 – Main Street Waterlines – Nowak Construction Co.
10. New Business
    A. Appointment – Library Board – Jessica Hall
    B. Discussion of Drone Regulation
11. Council Reports
12. Mayor's Report
13. City Manager & Staff Reports
14. Executive Session – Non-Elected Personnel
15. Other Discussion/Motions
16. Adjourn

SPECIAL MEETING – BUDGET WORKSHOP – July 7, 2016
REGULAR MEETING – July 14, 2016
SPECIAL MEETING – BUDGET WORKSHOP – July 21, 2016
REGULAR MEETING – July 28, 2016

Osawatomie, Kansas. **May 12, 2016.** The Council Meeting was held in Memorial Hall. Mayor Govea called the meeting to order at 6:30 p.m. Council members present were Dickinson, Farley, Hunter, LaDuex, Hampson, Maichel and Wright. Absent was Walmann. Also present was City Manager Don Cawby and City Clerk Tammy Seamands. Members of the public were: Teresa Seichepine and Pastor Debra Huss.

INVOCATION. Debra Huss with Let There Be Light Fellowship

CONSENT AGENDA. Approval of May 12th Agenda, April 14th, April 28th and April 30th Minutes, Appropriations Ordinance 2016-04, Approve City Fireworks Display Permit, Approve Fireworks Stand Permits, Approve Special Event Permits and Main Street Project Phase I. **Motion** made by Hunter, seconded by LaDuex to approve the Consent Agenda. Yeas: All.

COMMENTS FROM THE PUBLIC.

Debra Huss with Let There Be Light Fellowship spoke about the programs they have been offering with the children of the community. They will be starting their vacation bible school soon and towards the end of the summer they will be holding a back to school event.

Teresa Seichepine, 523 Chestnut Ave, addressed the grass issue behind her house. It is zoned residential, but is not being treated the same as residential lots, she stated. She is asking what her next step should be to make sure that the property gets mowed. Don Cawby, City Manager, explained that we are in the process of sending a letter out to the owner. He stated that this is something that the city needs to discuss in the future in order to more clearly define the ordinance on how to regulate un-platted or larger undeveloped residential lots. For now City Manager Cawby suggests a buffer zone between the portion of the lot that is used for hay production and the homes in question.

PRESENTATIONS. none

PUBLIC HEARINGS. none

UNFINISHED BUSINESS.

PROPOSED NEW WATER & SEWER RATES.

RESOLUTION – FEE STRUCTURE.

City Manager, Don Cawby, proposed to the council to raise the residential sewer $0.02 per 100 gallons ($0.27 to $0.29), non-residential billing is to be based on actual usage and new residential customers are to be billed based on a 4,000 gallon average until a winter average is established. Residential water will have a $1 increase on the meter fee and increase $0.03 per 100 gallons ($0.42 to $0.45 per 100 gallons). Commercial water will increase $1 on the meter fee and go from $0.42 to $0.45 per 100 gallons up to 75,000 gallons used and from $0.34 to $.36 per 100 gallons for 75,000 gallons and over. State Hospital and Rural Water Districts to increase

the meter fee by $1 and the usage rate by $0.20 per thousand ($2.90 per thousand to $3.10 per thousand). Bulk water sales per thousand will go from $5.50 to $5.80 per thousand (or $0.55 to $0.58 per 100 gallons). This will be on the bill that is send out at the end of June (June billing), but is due on July 15th. **Motion** made by Hampson, seconded by Maichel to Approve the New Water & Sewer Rates as well as the Resolution – Fee Structure. Yeas. All.

UPDATE ON CITY AUDITORIUM REPAIRS. City Manager Cawby explained how we have been tuck-pointing the front of the building and painting it to form a seal. There have also been big foam blocks brought in to be put on the east side of the building between the building and the residential house. Once the project is done, these foam blocks can be re-used for other things, such as out at the lake. Will update more at a later date as the project continues to move along.

NEW BUSINESS.

APPOINTMENT – MARAIS DES CYGNES RIVER WATER ASSURANCE DISTRICT #2. Martin Springer was the staff that had been on this board in the past for the City of Osawatomie. Now that he has retired, Cawby proposed that we appoint Stewart Kasper to this board to represent the city as he had attended meetings with Mr. Springer in the past. **Motion** made by LaDuex, seconded by Hunter to Approve the Appointment of Stewart Kasper to the Marais Des Cygnes River Water Assurance District #2. Yeas. All.

COUNCIL ROOM CONSTRUCTION AND CITY HALL UPDATES. City Manager Cawby provided the council a layout of what staff and architect Rick Zingre came up with for the City Hall building. He asked for them to review and provide any feedback.

COUNCIL REPORTS.

Karen LaDuex reminded everyone bout the Library Pancake Feed during Alumni weekend and that she has tickets available to purchase.

MAYOR'S REPORT.

Reported he has Library tickets as well for the Pancake Feed.

CITY MANAGER'S REPORT.

Interim Assistant Chief Stuteville reported activity to the council. The purchase of uniforms, vests and cameras have happened recently. They are incorporating policies to go along with the cameras for the vehicles. We have two officers beginning the academy in the middle of June. Tina Fenoughty has been appointed Sergeant in the department.

EXECUTIVE SESSION. Motion made by Hampson, seconded by Farley to go into Executive Session for the purpose of financial affairs of a business and to consult with attorney for the purposes of considering an economic development incentive agreement and to return at 8:30 p.m. Yeas. All. The Council returned from Executive Session at 8:30 p.m.

OTHER DISCUSSION/MOTIONS.

Motion made by Maichel, seconded by Hampson to adjourn. Yeas: All. Mayor declared the meeting adjourned at 8:30 p.m.

/s/ Ashley Kobe

Ashley Kobe, Deputy City Clerk

Osawatomie, Kansas. **May 26, 2016.** The Council Meeting was held in Memorial Hall. Mayor Govea called the meeting to order at 6:30 p.m. Council members present were Dickinson, Hunter, LaDuex, Hampson, Maichel, Walmann and Wright. Absent was Farley. Also present was City Manager Don Cawby, City Attorney Dick Wetzler and City Clerk Tammy Seamands. Members of the public were: Matt Kalin, Brooks Damron, John Wastlund and Charity Keitel with Miami County Newspapers.

INVOCATION. Brooks Damron with Spring Grove Friends Church

CONSENT AGENDA. Approval of May 26th Agenda and Approve Fireworks Stand Permit. **Motion** made by Hunter, seconded by LaDuex to approve the Consent Agenda. Yeas: All.

COMMENTS FROM THE PUBLIC.

Brooks Damron with Spring Grove Friends Church spoke regarding the marriage conference they have been holding and how it has been growing. He has been at the church for 9 years out of the 160 years that the church has been operating and sees so much growth.

John Wastlund, 1145 5th Street, shared his concern for the handicapped residents and would like the council to reconsider and discuss the use of golf carts for these residents. He stated that if the Council did not take action on the matter he was prepared to put a petition together to put the issue on the ballot.

PRESENTATIONS & PROCLAMATION.

JUNE BUSINESS APPRECIATION PROCLAMATION. **Motion** made by Hunter, seconded by Hampson to approve the June Business Appreciation Proclamation. Yeas. All.

PUBLIC HEARINGS. none

UNFINISHED BUSINESS.

CDBG SPECIAL ROUND PROJECT - BIDS FOR SPORTS COMPLEX COURTS. Bids were rejected in April with the low bid being over budget ad over the engineer's estimate, then put out for rebid. Bids were opened and the low bid within budget is from McConnell & Associates for $158,815 to build the tennis and basketball courts. **Motion** made by LaDuex, seconded by Hampson to approve the bid for $158,815 from McConnell & Associates. Yeas. All.

NEW BUSINESS.

GENERATION PROJECT CONTRACT APPROVALS. *IES COMMERCIAL – PHASE II OF 7TH STREET SUBSTATION, NMC POWER SYSTEMS – SUBSTATION CONTROLS, MID STATES ENERGY WORKS – 7TH STREET WITCHGEAR AND BELGER- CRANE TO LOAD PAD-MOUNT TRANSFORMERS.* Matt Kalin with JEO Consulting Group, reviewed the

contracts with the council and the purpose for each. **Motion** made by Maichel, seconded by Hampson to Approve all Contracts for the Generation Project. Yeas. All.

COUNCIL REPORTS.

Karen LaDuex reminded everyone that the Library Pancake Feed was this Saturday and she still has tickets available. Also, heard several compliments from residents on the work for the Main Street Project.

Ted Hunter reported that the sidewalks are coming along nicely as well as the whole project.

Lawrence Dickinson agreed that he likes what he sees with the project. He also liked getting the department reports with the packet.

Nick Hampson & Tamara Maichel both didn't have anything to report, other than they are happy to hear there is a possibility of looking into the golf carts for the handicapped residents again.

MAYOR'S REPORT.

Read a thank you card from the scholarship recipient Briona Fields.

CITY MANAGER'S REPORT.

Gave the Council an update on the Auditorium repairs. Staff is getting ready for Memorial Day weekend and will be putting up the new picnic tables at the shelter house at the lake. Reminder City Hall will be closed on Monday for the holiday. Announced the news of a grant for the Fire Department. The Rural Fire Board voted that Fontana take over their own fire coverage area, effective immediately. There is a Planning Commission meeting set up to review the comprehensive plan. The city received its first application for the mini grant from Fresh Start Home Professionals. Explained that we learned this week that KMEA has decided to bring power scheduling in house, we will be discussing how to move forward.

OTHER DISCUSSION/MOTIONS.

Motion made by Maichel, seconded by Hunter adjourn. Yeas: All. Mayor declared the meeting adjourned at 7:21 p.m.

/s/ Ashley Kobe
Ashley Kobe, Deputy City Clerk

CITY OF OSAWATOMIE

STAFF AGENDA MEMORANDUM

DATE OF MEETING: June 23, 2016

AGENDA ITEM: **Proposed Condemnations**

PRESENTER: Don Cawby, City Manager

ISSUE SUMMARY: On April 28, Resolution No. 719 was passed scheduling a hearing for tonight, June 23rd, at which the owners, the owners' agents, any lienholders of record, any occupants and other parties in interest, as that term is defined by law, of the nine proposed properties for condemnation. City staff presented detailed reports on nine recommended properties for the City Council that it believed were eligible, or on their way to being eligible for condemnations.

In the packet I have included updated, as of June 13, inspection reports for each of the proposed properties.

110 Brown	222 Lincoln	317 Mill
334 Main	427 Lincoln	805 Chestnut
917 Pacific	1003 Chestnut	1635 Main

The Council must conduct the hearing and then make a determination whether a resolution should be drafted and what findings of fact should be included. Staff will then draft the resolutions and put them on the agenda to be considered at the next regular meeting of the Council. At the next meeting, the City Council must pass a resolution of condemnation for each individual property.

As always, we have included the following to help explain how a non-emergency condemnation occurs.

Procedure for Condemnations

1. First step is to have the enforcing officer file a written statement that is presented to the governing body that describes the property, where the property is located and that the property is unsafe or dangerous or is abandoned. Often these reports are accompanied by photos of the property to help illustrate why the property is abandoned, unsafe or dangerous.

2. Governing Body passes a Resolution that fixes a time and place at which the owner, the owner's agent, any lienholders of record and any occupant of such structure may appear and show cause why such structure should not be condemned and ordered repaired or demolished in the case of unsafe or dangerous structures or rehabilitated in the case of abandoned property.
3. Resolution is published once each week for two consecutive weeks on the same day of each week.
4. The matter is set for hearing before the Governing Body at least thirty days after the date of the last publication.
5. A copy of the Resolution is mailed by certified mail within three days after its first publication to each such owner, agent, lienholder and occupant at the last known address with the letter marked as "deliver to addressee only."
6. At the date set for the hearing the Governing Body hears all evidence submitted by the owner, the owner's agent, lienholders of record and occupants having an interest in the structure as well as evidence submitted by the enforcing officer filing the statement.
7. Governing Body makes findings. If the Governing Body finds that the structure is unsafe or dangerous such resolution shall direct the structure to be repaired or removed and the premises made safe and secure. If the Governing Body finds that the property is abandoned, the governing body may authorize the rehabilitation of the property as provided by K.S.A. 12 1756a.
8. Resolution containing findings is published once in the official city paper and a copy mailed to the owners, agents, lienholders of record and occupants in the same manner provided for the notice of hearing, i.e., certified mail within three days of the publication of the Resolution to last known address marked as "deliver to addressee only."
9. Resolution should fix a reasonable time within which the repair or removal of the structure shall be commenced and a statement the if the owner of such structure fails to commence the repair or removal of such structure within the time stated or fails to diligently prosecute the same until the work is completed, the governing body will cause the structure to be repaired or razed and removed in the case of unsafe or dangerous structures or rehabilitated in the case of abandoned property.
10. If the owner fails to commence the repair or removal of the structure within the time stated in the resolution or has failed to diligently prosecute the same thereafter, the city may proceed to raze and remove such structure, make the premises safe and secure , or let the same to contract. The City shall keep an account of the cost of such work and may sell the salvage from such structure and apply the proceeds or any necessary portion thereof to pay the costs of removing such structure and making the premises safe and secure. Any money is excess of the costs shall be paid to the owner of the premises upon which the structure was located.

11. The City shall give notice to the owner of the structure by restricted mail of the total costs incurred by the city in removing the structure and making the premises safe and secure and providing notice. The notice shall state that payment of such cost is due and payable within 30 days following receipt of such notice. If the cost is not paid with the thirty-day period and if there is not salvageable material or if money received from the sale, the balance shall be collected in the manner provided by K.S.A. 12-1,115 or assessed as a special assessment against the lot or parcel. See 12-1755 for procedure.

COUNCIL ACTION NEEDED: Conduct the hearing for the proposed comdemnations.

STAFF RECOMMENDATION TO COUNCIL: Approve the drafting of resolutions as deemed appropriate for the proposed properties.

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BUILDING INSPECTION REPORT

May 12, 2016

By: Ted Bartlett, Building Inspector

Property: 110 Brown Ave. Osawatomie, KS 66064

Owner: Creative Custom Homes Inc.

County 2016 Appraised Value: Building $10,410; Land $7,520.

Taxes: Delinquent

Mortgage Lien: n/a

Legal Description: LOT 15 AND 16, BLOCK 1, IN MILLER'S ADDITION TO THE CITY OF OSAWATOMIE, MIAMI COUNTY, KANSAS

Background: The County shows that this two story home was built in 1910 and is a 1,644 sq. foot house. The house was once an apartment with three residences. The house has been sitting vacant for years. Owner has been responsive to nuisance calls about limbs and brush around the house. Stairs were demolished in 2013 and the windows were boarded over. The home was a foreclosure when the current owner purchased it. The bank paid a local contractor to secure the home in 2013.

Findings:

1. 110 Brown has been vacant since August 2010. Since that time the windows and doors have been secured and the exterior stairs to the upstairs apartment have been removed.

2. The home was a foreclosure that the bank sold to the current owner who has stated his intention to rehabilitate the home.

3. Tree limbs and brush are constantly falling near the house and needing to be removed.

4. Before the home was secured the front door was found open on numerous occasions and I was in the home. The home has 3 separate units and the s/w unit

someone has removed flooring and floor joists along the west wall. In this area the foundation is tilting out as is the bottom of the wall.

5. Siding is missing and insulation is showing, Guttering has fallen off

6. The roof was replaced in 2005 and appears to be in good condition.

Inspector's Opinion: In my opinion this home is beyond repair and should be demolished. It has structural damage from floor joist having been cut in the past and the west wall is leaning. There is siding missing or rotted away with insulation exposed and this has had to allow water to leak into the walls in these areas. The home has been vacant for years and has been a nuisance issue in that time with the doors being open and broken into. In recent visits to the home we did see cats coming in and out of the home or crawl space.

Owner has pulled permit for full home remodel and demonstrated a willingness to renovate older structures around town. Mr. Goss would prefer the property be allowed to remain multiple units and at least a duplex. Since taking ownership, Mr. Goss has kept up with the lawn maintenance.

UPDATE AS OF JUNE 13, 2016: OWNER HAS RECEIVED A PERMIT FOR REMODEL AND BEGUN WORK ON THE PROPERTY. OWNER PURCHASED THE HOME WITH THE UNDERSTANDING THE STRUCTURE COULD BE RE-OCCUPIED WITH 3 UNITS. OWNER IS CURRENTLY IN THE PROCESS OF REHABBING SINGLE UNIT WITH HOPE TO OCCUPY 2ND UNIT IN THE FUTURE.

Photos

2010/06/08

2010/09/14

RELIANCE
606
2010/06/08

2010/06/08

2010/06/08

2010/09/14

06 07 2016 15 25

06 07 2016 15 26

06 07 2016 15 25

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BUILDING INSPECTION REPORT

May 12, 2016

By: Ted Bartlett, Building Inspector

Property: 222 Lincoln Ave. Osawatomie, KS 66064

Owner: Franklin Jr. and Marie Austin

County 2016 Appraised Value: Building $0; Land $0.

Taxes: CURRENT

Mortgage Lien: N/A

Legal Description: LOTS 16, 17, 18, 19, 20, IN BLOCK 13, LASHER'S ADDITION TO THE CITY OF OSAWATOMIE, MIAMI COUNTY, KANSAS

Background: This is vacant trailer that has been unoccupied since September 2013 and has had no utilities since October 2015. Due to being unoccupied animals have taken residence inside and around the trailer. When we visited the home on March 14, 2016 the front door was open and nobody was inside.

Findings:

1. Trailer has aluminum siding that peeling with some along the top missing on east side of the trailer some has been replaced with a wooden type siding.
2. Skirting is nearly all missing with some along the front/south of the trailer and along the west side to the porch.
3. Rim joist which is visible has rotted and is hanging down
4. Shed is in poor but fair condition
5. Insulation is exposed and visible from underneath the trailer the plastic membrane is mostly gone.

6. Someone has removed floor covering and replaced some subfloor in the trailer. It does not appear that the roof leaks but there is water damage where the siding has leaked on the east side and where windows/door are of have been open.

7. I was contacted on 03/21/16 by an unlicensed individual who was asking about demolishing this home that person stated that "the owner" had contacted him wanting the home removed.

Inspector's Opinion: This is an older single wide trailer that is in very bad condition and it needs to be demolished. It is starting to become a home for Ferrell cats. It is in an area that single wide trailers are allowed.

UPDATE AS OF JUNE 13, 2016: THE OWNER HAS OBTAINED A PERMIT FOR DEMOLITION AND THE PROPERTY IS EXPECTED TO BE REMOVED BY THE HEARING ON JUNE 23, 2016

Photos

222
03 14 2016 12 53

03 14 2016 12 55

03 14 2016 12 56

03 14 2016 12 56

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BUILDING INSPECTION REPORT

April 22, 2016

By: Ted Bartlett, Building Inspector

Property: 317 Mill

Owner: US Bank NA Trustee

County 2016 Appraised Value: Building $7,020; Land $7,840.

Taxes: CURRENT

Mortgage Lien: N/A

Legal Description: LOT 5, BLOCK 2, BLAINE'S ADDITION TO THE CITY OF OSAWATOMIE, MIAMI COUNTY, KANSAS

Background: The County shows that this home was built in 1920 and is a 1,115 square foot one story home. This home was heavily damaged by fire on 01/19/15. The home was vacant at the time and was in foreclosure, I think. Property Maintenance letters have been sent and received with no other action taken by the owner.

Findings:

1. The home has been vacant since April 2014

2. A fire caused damage to the home on 01/19/2015 along with smoke and water damage. A number of windows were damaged by the fire.

3. I tried to contact the listed owner by phone and was told that they had sold the home in a lot of homes. It was explained to me that lenders often sale foreclosed homes in groups, they sale the mortgage to another bank. I tried to call the "new owner" and was again told that they had sold the home. I was unable to find anyone who claimed ownership of the home after repeating this a number of times.

4. We boarded the home up by using materials from within the home sometime after the fire.

5. We have had to mow the yard for the last several years and have to pay to have brush/trash removed.

6. The home has several broken windows, fascia is rotten and missing in spots, the guttering has fallen off or is hanging in several locations. The roof looks to be in bad condition.

7. Last year while mowing our employee said that he saw a copperhead snake in the back yard while moving brush.

8. The home has a garage off of the alley it is in comparable condition to the home and has "stuff" piled in it.

Inspector's Opinion: This home is in very bad condition. We have boarded the home up and someone kicks the back door in. It needs to be demolished and I would consider it to be at the top of the list.

UPDATE AS OF JUNE 13, 2016: THE PROPERTY REMAINS UNCHANGED

Photos

03 14 2016 12 42

03 14 2016 12 43

03 14 2016 12 44

03 14 2016 12 44

03 14 2016 12 45

2015/01/20

2015/01/20

2015/01/20

2015/01/20

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BUILDING INSPECTION REPORT

May 12, 2016

By: Ted Bartlett, Building Inspector

Property: 334 Main

Owner: Ronda & Gerald Chase

County 2016 Appraised Value: Building $42,240; Land $7,840.

Taxes: Delinquent

Mortgage Lien: State Department of Social Rehabilitation Services

Legal Description: LOT TWENTY-THREE (23), IN BLOCK TWENTY-FIVE (25), IN THE CITY OF OSAWATOMIE, MIAMI COUNTY, KANSAS

Background: The County shows that this home was built in 1900 and is a two story 1,884 sq. foot house. The house was once split into two apartments. It appears one up and one down. This home has been very recently occupied but the water was shut off at the owners request because of a leak. The electric was shut off sometime after that at the owners request and the home was posted as "Do not Occupy" on 02/16/16.

Findings:

1. This home has been vacant since February 2016

2. For the last several years this home has been a nearly constant nuisance battle with numerous letters and citations written to the owner.

3. The owner had told the police department that she had been renting out rooms to people needing a place to stay and she herself did not always stay there.

4. This lead to numerous calls for police service regarding drug activity, disturbance calls and theft calls.

5. From the outside as the home is today there are a number of nuisance violations, the roof appears to be in poor condition, there are numerous broken windows, the

home has rotten wood trim, siding and fascia in several locations and the back door is open.

6. The home use to have two electric meters located on the west side. I have been told that at one time the home was and upstairs/downstairs apartment and that the meter that is present serves the downstairs only. Note both meters have been pulled at this time.

7. A letter was written to the owner and was mailed certified on 03/02/16. Ronda Chase called me since that time to discuss the letter. At that time I verbally told Chase that the city would be moving forward with possible condemnation and the best thing that she could do at this time to keep from being issued tickets was to clean up the outside of the home of all trash.

   I also told Chase basically what I had written in the letter to her that utilities will not be turned on until after a qualified individual inspects the electrical and plumbing systems and verifies that these systems are safe and will function properly. I did also tell Chase that the water would have to be repaired and turned on before the home could be occupied.

8. On 02/24/16 I was at the home with Chief Ellis. Ellis said that Ronda Chase had asked him to go to the home to advise a person who had been renting a room that he needed to vacate the property and not come back. Ellis said that Chase given us permission to enter the home. We found and spoke with Billy Hice and Hice said that we could look in the home.

   a. Upstairs I noted that most all of the walls and ceiling had once been covered with lath and plaster and that had been removed.

   b. Most of the electrical wiring upstairs was missing what was still there was exposed.

   c. There were a few rooms that had sheetrock and none of those areas had been finished and that it appeared that the roof leaked leaving stain and mold on them.

   d. The interior trim on all of the windows that I saw throughout the home had been removed and I could see daylight around most of them.

   e. One bedroom upstairs still had wall and ceiling covering it was full or trash and stuff I found what appeared to be insulin syringes laying around on furniture and in a 5-gallon bucket. Ellis collected these items.

f. Throughout the entire home every room was full of trash, furniture, clothing, food and stuff. There were places that not even a path was present to walk. The home stunk horribly of what I can only describe as spoiled food.

g. Down stairs in two locations the floor was weak, spongy feeling and one of these two places there was holes in the floor.

9. I did not note any bug or rodent infestation and was surprised. I'm sure as the temperature increases and if the home remains unoccupied and if not cleaned up the home will become infested if not already. Also the odor will have to get worse as the temperature rises.

Inspector's Opinion: In my opinion this home is beyond repair and should be demolished. This home is going to become a health hazard if not cleaned up and will be a place of rodent and bug infestation. The letter I wrote to Ronda Chase details a number of issues and gives her 30 days to abate the issues and at that time if not corrected she will be issued citations.

UPDATE AS OF JUNE 13, 2016: THE PROPERTY REMAINS UNCHANGED

Photos

03 14 2016 12 49

03 14 2016 12 50

03 14 2016 12 49

03 14 2016 12 50

03 14 2016 12 50

2016/02/24

2016/02/24

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BUILDING INSPECTION REPORT

May 12, 2016

By: Ted Bartlett, Building Inspector

Property: 427 Lincoln Ave. Osawatomie, KS 66064

Owner: Dorothy Spencer

County 2016 Appraised Value: Building $4,320; Land $7,750.

Taxes: CURRENT

Mortgage Lien: N/A

Legal Description: LOT 8, BLOCK 18 OF THE ORIGINAL TOWNSITE OF THE CITY OF OSAWATOMIE, MIAMI COUNTY, KANSAS

Background: The owner has pulled permits for remodel as recently as August 2015. Most of the work appears to have gone unfinished. Window framing has not been completed on the west side. There is a small piece of glass that remains unfitted to the window. There is an exposed water heater on the south side of the trailer.

Findings:

1. This home has been vacant since May 2009
2. Water heater is exposed through the opening in the shed/room addition, which has a collapsed roof
3. The trailer appears to be full of household debris that has been left behind
4. The back porch has what appears to be a bathtub
5. Skirting is coming loose on the front

6. I have been in this home within the last year as the new owner did pull a permit for repairs. I found in numerous places the wall covering on the exterior wall had been removed and someone had been doing something with the electrical panel and wiring leaving exposes wiring near the panel.

7. The south side there has been a window removed and recently screwed back on to cover the opening the wall in this area was in bad, rotten condition.

8. The permit was issued 08/21/2015 as "self" doing the work and I quickly became aware that a person who was living in the home was doing the work for rent. I stopped this and warned the owner who said that she and her son would be doing the work. I have not been contacted by the owner since and it does not appear there has been any progress.

Inspector's Opinion: It is my opinion that this home is beyond being renovated and that it needs to be demolished.

UPDATE AS OF JUNE 13, 2016: THE PROPERTY OWNER OBTAINED A PERMIT ON AUGUST 20, 2015 TO BEGIN WINDOW FRAMING. THE OWNER HAS UNTIL AUGUST 20, 2016 TO BEGIN REPAIRS OR TRAILER WILL NO LONGER BE PERMITTED TO BE REOCCUPIED.

Photos

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May 12, 2016

By: Ted Bartlett, Building Inspector

Property: 805 Chestnut Osawatomie, KS 66064

Owner: William G Smith and Merle Jean Smith, Record Owners; Shannon Spillman, Purchaser under Contract for Deed

County 2016 Appraised Value: Building $3,610; Land $4,560.

Taxes: Delinquent

Mortgage Lien: Board of County Commissioners of Miami County, Kansas, Kansas Department of Revenue, Russel Rickerson

Legal Description: LOT ELEVEN (11), IN BLOCK FOUR (4) OF J.C. CHESTNUT'S ADDITION TO THE CITY OF OSAWATOMIE

Background: The County shows that this home was built in 1920 and is a one story 886 sq. foot house. The home was damaged by fire on 05/23/2007. Since that time the work that has been done has been limited to demolition. The County web site "Beacon" shows an individual owning the home that is not listed on the deed. I have checked with the Register of Deeds Office and the owners listed above are the owners of the home.

Findings:

1. This home has been vacant since May 2007

2. The home has been "gutted" since the fire with only a few stud walls remaining in the interior of the home. There are no windows in the home only window openings.

3. City staff boarded up the windows and doors and a citation was written to the owner, Bill Smith and a bill was sent to him as well.

4. When we boarded the home up I noted several areas around window openings that were spongy feeling like the subfloor and joist were compromised from exposure to rain/weather.

5. Siding is broken or missing in several locations, fascia is rotten and missing in places and the guttering is missing or sagging in places.

6. Several of the interior photos show debris in them, I should note that most of the debris has been removed and the home is for the most part empty.

Inspector's Opinion: It is my opinion that this home is beyond being renovated and that it needs to be demolished.

UPDATE AS OF JUNE 13, 2016: THE PROPERTY REMAINS UNCHANGED

Photos

03 14 2016 13 03

03 14 2016 13 04

2010/11/18

2010/11/18

03 14 2016 13 04

2010/11/18

2010/11/18

2010/11/18

2010/11/18

2010/11/18

2010/11/18

CITY OF OSAWATOMIE

439 Main Street
P.O. Box 37
Osawatomie, Kansas 66064

913.755.2146 (p)
913.755.4146 (f)
ozcity@osawatomieks.org
www.osawatomieks.org

BUILDING INSPECTION REPORT

May 12, 2016

By: Ted Bartlett, Building Inspector

Property: 917 Pacific Ave. Osawatomie, KS 66064

Owner: Derrick Gould

County 2016 Appraised Value: Building $3,210; Land $7,600.

Taxes: Delinquent

Mortgage Lien: Board of County Commissioners of Miami County, Kansas, case pending

Legal Description: LOT 5, BLOCK 3 OF MARY P. SMITH'S SUBDIVISION OF LOTS 8, 9, 10, 14 AND 19 OF MARY G. CRANE'S ADDITION, TO THE CITY OF OSAWATOMIE, MIAMI COUNTY, KANSAS

Background: The County shows that this home was built in 1925 and is a one story 1492 sq. foot house, single family residence home. This house has been sitting open since it was damaged by a fire in early 2012. The home had been completely remodeled at the time of the fire but was not yet occupied. It has become a place for feral cats and other non-domesticated animals. On April 16, Mr. Gould was sent a letter to secure the property and on April 21 the City was notified by Mr. Gould that 917 Pacific had been cleaned up and secured. Mr. Gould understands this does not change the status of 917 Pacific and intends on beginning a full home remodel in the coming weeks.

Findings:

1. Home sits open and vacant since March 2012
2. Due to being unoccupied and open animals have taken residence inside and around the house.
3. Some leftover debris from construction remains around the premises

4. Roof is patched on the east side with a sheet of plywood

5. There has been numerous letters written to the previous owner regarding nuisance issues.

6. The home recently sold and the new owner did pull a permit (07-20-2015) to demo to a point to access what would need done to make repairs and to install a new roof. To my knowledge some demo work has been done by the new only and the roof has not been repaired.

7. The new owner, Derrick Gould contacted me today 04/21/2016 and stated he had received my letter directing him to board up the property and he has cleaned up and secured the property. He also asked about obtaining a remodel permit saying he planned on getting started very soon.

Inspector's Opinion: It is my opinion that this home is beyond being renovated and that it needs to be demolished.

UPDATE AS OF JUNE 13 2016: PROPERTY HAS BEEN SECURED AND THE CITY HAS BEEN TOLD A PERMIT WILL BE OBTAINED TO BEGIN REMODEL

Photos

2015/02/19

2015/02/19

2015/02/19

2015/02/19

06 07 2016 13:29

CITY OF OSAWATOMIE

439 Main Street
P.O. Box 37
Osawatomie, Kansas 66064

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BUILDING INSPECTION REPORT

May 12, 2016

By: Ted Bartlett, Building Inspector

Property: 1003 Chestnut Osawatomie, KS 66064

Owner: Floyd & Phyllis Stephens

County 2016 Appraised Value: Building $31,850; Land $5,290.

Real Estate Taxes: Delinquent

Mortgage Lien: Department of Treasury-Internal Revenue Service and Kansas Department of Revenue

Legal Description: LOTS NUMBER TEN (10) AND ELEVEN (11), IN BLOCK NUMBER EIGHT (8) OF CAFFERY AND SHELDON'S ADDITION TO THE CITY OF OSAWATOMIE, MIAMI COUNTY, KANSAS

Background: The County shows that this home was built in 1984 and is a one story 1456 sq. foot house. The owners of the house are deceased and the remaining family members have, to my knowledge, had nothing to do with the property. The city mows this property multiple times annually.

Findings:

1. This home has been vacant since April 2012
2. Fascia is rotten
3. The back windows remain unsecured and open to outside intruders
4. A large tree has fallen on the shed and collapsed the roof of the shed
5. Brush and trees are constantly growing around and on the house and shed
6. The crawlspace is also open and likely harboring animals and rodents

7. City staff has secured the doors by screwing the front door shut and using paneling from the home covering the back door.

8. Most, if not all of the former owner's belongings are still in the home and it looks like someone has just went in and threw stuff everywhere.

Inspector's Opinion: It is my opinion that this home is beyond being renovated and that it needs to be demolished.

UPDATE AS OF JUNE 13, 2016: THE PROPERTY REMAINS UNCHANGED

Photos

03 14 2016 13 07

03 14 2016 13 08

03 14 2016 13 08

03 14 2016 13 08

2014/10/28

CITY OF OSAWATOMIE

439 Main Street
P.O. Box 37
Osawatomie, Kansas 66064

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BUILDING INSPECTION REPORT

May 12, 2016

By: Ted Bartlett, Building Inspector

Property: 1635 Main Street Osawatomie, KS 66064

Owner: Stan Gray

County 2016 Appraised Value: Building $15,230; Land $7,200.

Taxes: Delinquent

Mortgage Lien: N/A

Legal Description: THE NORTH 93.25 FEET OF THE WEST ONE-HALF OF LOT 18 AND THE NORTH 93.25 FEET OF LOTS 19 AND 20 IN BLOCK 2, IN LOWES ADDITION TO THE WEST HIGHLANDS ADDITION IN THE CITY OF OSAWATOMIE, MIAMI COUNTY, KANSAS

Background: The County shows that this home was built in 1951 and is a one story, single family residence, 814 sq. foot house. A new owner has recently purchased the property and secured the house. Some of the debris in the backyard has been picked up, no permit has been filed with the City.

Findings:

1. This home has been vacant since March 2011
2. There are still some broken windows at the front of the house
3. The gutter in the back of the house has almost completely fallen off
4. Brush and vines have grown up along the house
5. Garage door has been pushed in
6. Paint has almost completely peeled off at the top of the house

7. Water is standing in the crawl space either against the floor joist or very near them.

8. Last time I was in the home, a few years ago. Someone had removed most of the wiring and the home still had a lot of the former owner's belongings in it. It did appear that someone had been staying in the home and using the restroom even though the home had not running water leaving the bathroom a mess.

Inspector's Opinion: It is my opinion that this home is beyond being renovated and that it needs to be demolished.

UPDATE AS OF JUNE 13, 2016: THE PROPERTY REMAINS UNCHANGED

Photos

2011/03/23

2011/03/23

2011/03/23

2011/03/23

2011/03/23

2011/03/23

(Published in the Osawatomie Graphic,_____) 1t

RESOLUTION NO. ___

A RESOLUTION FINDING THAT THE STRUCTURE LOCATED AT LOT 15 AND 16, BLOCK 1, IN MILLER'S ADDITION TO THE CITY OF OSAWATOMIE, MIAMI COUNTY, KANSAS; COMMONLY KNOWN AND REFERRED TO AS 110 BROWN AVENUE, OSAWATOMIE, KANSAS, IS UNSAFE OR DANGEROUS AND DIRECTING THAT THE STRUCTURE BE REMOVED AND THE PREMISES MADE SAFE AND SECURE.

WHEREAS, the Enforcing Officer of the City of Osawatomie, Kansas, did on the 14th day of April, 2016, file with the Governing Body of said City a statement in writing that a certain structure, hereinafter described was abandoned or unsafe and dangerous; and

WHEREAS, the Governing Body did by Resolution No. 719, dated the 28th day of April, 2016, fix the time and place of a hearing at which the owner, his or her agent, and lienholders, any occupants and all other parties in interest of such structure would appear and show cause why such structure should not be condemned and ordered repaired or demolished and provided for giving notice thereof as provided by law; and,

WHEREAS, Resolution No. 719 was published in the official City newspaper on the 4th day of May, 2016, and a copy of said resolution was served upon all persons entitled thereto as provided by law; and,

WHEREAS, on the 23rd day of June, 2016, the Governing Body did conduct the hearing scheduled in Resolution No. 719 and took evidence from the following: the Enforcing Officer on behalf of the City, _____. The following parties in interest failed to appear or appeared and did not present evidence: _____.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OSAWATOMIE, KANSAS, THAT:

1. The Governing Body hereby finds that the structure located at Lot 15 and 16, Block 1, in Miller's Addition to the City of Osawatomie, Miami County, Kansas; commonly known and referred to as **110 Brown Avenue**, Osawatomie, Kansas is unsafe and dangerous based on the following findings:

a) The structure has been vacant since August 2010 and has been found unsecured on numerous occasions, with open doors, open windows and broken windows.
b) Large tree limbs and brush continually fall near the structure and need to be removed.
c) The structure's foundation is leaning, siding is missing, insulation is showing, and gutters have fallen off of the eaves.

2. The owner of such structure is hereby directed to commence the removal of the

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property within 14 days from the date of publication of this resolution, and to have the removal completed within 30 days of the commencement. Provided, that upon due application by the owner and for good cause shown, the Governing Body, in its sole discretion, may grant the owner additional time to complete the removal of the property.

3. If the owner fails to commence the repair of the structure within the time stated herein, or any additional time granted by the Governing Body, or fails to diligently prosecute the same until the work is completed, the Governing Body will cause the structure to be razed and removed and the costs of razing and removing, less salvage if any, shall be collected in the manner provided by K.S.A. 12-1755, and amendments thereto or shall be assessed as a special assessment against the lot or parcel of land upon which the structure is located or by both, all as provided by law.

BE IT FURTHER RESOLVED, that the City Clerk shall cause this Resolution to be published once in the official city paper and a copy mailed to the owners, agents, lienholders, occupants and other parties of interest.

PASSED AND ADOPTED by the Governing Body of the City of Osawatomie, Kansas this ____ day of _____, 2016, a majority being in favor thereof.

APPROVED AND SIGNED by the Mayor.

_____
L. Mark Govea
Mayor

(SEAL)

ATTEST:

_____
Tammy Seamands
City Clerk

DRAFT

(Published in the Osawatomie Graphic,_____) 1t

RESOLUTION NO. ___

A RESOLUTION FINDING THAT THE STRUCTURE LOCATED AT LOTS 16, 17, 18, 19, 20, IN BLOCK 13, LASHER'S ADDITION TO THE CITY OF OSAWATOMIE, MIAMI COUNTY, KANSAS; COMMONLY KNOWN AND REFERRED TO AS 222 LINCOLN AVENUE, OSAWATOMIE, KANSAS, IS UNSAFE OR DANGEROUS AND DIRECTING THAT THE STRUCTURE BE REMOVED AND THE PREMISES MADE SAFE AND SECURE.

WHEREAS, the Enforcing Officer of the City of Osawatomie, Kansas, did on the 14th day of April, 2016, file with the Governing Body of said City a statement in writing that a certain structure, hereinafter described was abandoned or unsafe and dangerous; and

WHEREAS, the Governing Body did by Resolution No. 719, dated the 28th day of April, 2016, fix the time and place of a hearing at which the owner, his or her agent, and lienholders, any occupants and all other parties in interest of such structure would appear and show cause why such structure should not be condemned and ordered repaired or demolished and provided for giving notice thereof as provided by law; and,

WHEREAS, Resolution No. 719 was published in the official City newspaper on the 4th day of May, 2016, and a copy of said resolution was served upon all persons entitled thereto as provided by law; and,

WHEREAS, on the 23rd day of June, 2016, the Governing Body did conduct the hearing scheduled in Resolution No. 719 and took evidence from the following: the Enforcing Officer on behalf of the City, _____. The following parties in interest failed to appear or appeared and did not present evidence: _____.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OSAWATOMIE, KANSAS, THAT:

1. The Governing Body hereby finds that the structure located at Lots 16, 17, 18, 19, 20, In Block 13, Lasher's Addition to the City Of Osawatomie, Miami County, Kansas; Commonly Known and Referred To as **222 Lincoln Avenue**, Osawatomie, Kansas is unsafe and dangerous based on the following findings:

   a) Structure is a trailer, where the rim joist is visible, rotten and hanging down, aluminum siding is falling off or missing and has been replaced in places mismatched with wooden type siding, and nearly all skirting is missing.
   b) Insulation is exposed and visible from underneath the structure.
   c) The structure has signs of visible water damage from a leaking roof.

2. The owner of such structure is hereby directed to commence the removal of the

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property within 14 days from the date of publication of this resolution, and to have the removal completed within 30 days of the commencement. Provided, that upon due application by the owner and for good cause shown, the Governing Body, in its sole discretion, may grant the owner additional time to complete the removal of the property.

3. If the owner fails to commence the repair of the structure within the time stated herein, or any additional time granted by the Governing Body, or fails to diligently prosecute the same until the work is completed, the Governing Body will cause the structure to be razed and removed and the costs of razing and removing, less salvage if any, shall be collected in the manner provided by K.S.A. 12-1755, and amendments thereto or shall be assessed as a special assessment against the lot or parcel of land upon which the structure is located or by both, all as provided by law.

BE IT FURTHER RESOLVED, that the City Clerk shall cause this Resolution to be published once in the official city paper and a copy mailed to the owners, agents, lienholders, occupants and other parties of interest.

PASSED AND ADOPTED by the Governing Body of the City of Osawatomie, Kansas this ____ day of _____, 2016, a majority being in favor thereof.

APPROVED AND SIGNED by the Mayor.

_____
L. Mark Govea
Mayor

(SEAL)

ATTEST:

_____
Tammy Seamands
City Clerk

DRAFT

(Published in the Osawatomie Graphic,_____) 1t

RESOLUTION NO. ___

A RESOLUTION FINDING THAT THE STRUCTURE LOCATED AT LOT 5, BLOCK 2, BLAINE'S ADDITION TO THE CITY OF OSAWATOMIE, MIAMI COUNTY, KANSAS; COMMONLY KNOWN AND REFERRED TO AS 317 MILL AVENUE, OSAWATOMIE, KANSAS, IS UNSAFE OR DANGEROUS AND DIRECTING THAT THE STRUCTURE BE REMOVED AND THE PREMISES MADE SAFE AND SECURE.

WHEREAS, the Enforcing Officer of the City of Osawatomie, Kansas, did on the 14th day of April, 2016, file with the Governing Body of said City a statement in writing that a certain structure, hereinafter described was abandoned or unsafe and dangerous; and

WHEREAS, the Governing Body did by Resolution No. 719, dated the 28th day of April, 2016, fix the time and place of a hearing at which the owner, his or her agent, and lienholders, any occupants and all other parties in interest of such structure would appear and show cause why such structure should not be condemned and ordered repaired or demolished and provided for giving notice thereof as provided by law; and,

WHEREAS, Resolution No. 719 was published in the official City newspaper on the 4th day of May, 2016, and a copy of said resolution was served upon all persons entitled thereto as provided by law; and,

WHEREAS, on the 23rd day of June, 2016, the Governing Body did conduct the hearing scheduled in Resolution No. 719 and took evidence from the following: the Enforcing Officer on behalf of the City, _____. The following parties in interest failed to appear or appeared and did not present evidence: _____.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OSAWATOMIE, KANSAS, THAT:

1. The Governing Body hereby finds that the structure located at Lot 5, Block 2, Blaine's Addition to the City of Osawatomie, Miami County, Kansas; Commonly Known and Referred to as **317 Mill Avenue**, Osawatomie, Kansas is unsafe and dangerous based on the following findings:

a) The structure has been vacant since April 2014.
b) The structure was damaged by fire on January 10, 2015, sustaining smoke, water and some window damage. The structure was boarded up by the City shortly after the fire.
c) The structure has several broken windows, rotten and missing boards, missing or damaged gutters, and a damaged roof.
d) Both the primary and accessory structures are full of trash and are attracting pests, including a poisonous snake that was observed by staff.

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e) Ownership of the property is in question and appears to have been abandoned.
f) The property has been a habitual nuisance violation with the only remediation occurring as a result of City action.

2. The owner of such structure is hereby directed to commence the removal of the property within 14 days from the date of publication of this resolution, and to have the removal completed within 30 days of the commencement. Provided, that upon due application by the owner and for good cause shown, the Governing Body, in its sole discretion, may grant the owner additional time to complete the removal of the property.

3. If the owner fails to commence the repair of the structure within the time stated herein, or any additional time granted by the Governing Body, or fails to diligently prosecute the same until the work is completed, the Governing Body will cause the structure to be razed and removed and the costs of razing and removing, less salvage if any, shall be collected in the manner provided by K.S.A. 12-1755, and amendments thereto or shall be assessed as a special assessment against the lot or parcel of land upon which the structure is located or by both, all as provided by law.

BE IT FURTHER RESOLVED, that the City Clerk shall cause this Resolution to be published once in the official city paper and a copy mailed to the owners, agents, lienholders, occupants and other parties of interest.

PASSED AND ADOPTED by the Governing Body of the City of Osawatomie, Kansas this ____ day of _____, 2016, a majority being in favor thereof.

APPROVED AND SIGNED by the Mayor.

_____
L. Mark Govea
Mayor

(SEAL)

ATTEST:

_____
Tammy Seamands
City Clerk

DRAFT

(Published in the Osawatomie Graphic,_____) 1t

RESOLUTION NO. ___

A RESOLUTION FINDING THAT THE STRUCTURE LOCATED AT LOT TWENTY-THREE (23), IN BLOCK TWENTY-FIVE (25), IN THE CITY OF OSAWATOMIE, MIAMI COUNTY, KANSAS; COMMONLY KNOWN AND REFERRED TO AS 334 MAIN STREET, OSAWATOMIE, KANSAS, IS UNSAFE OR DANGEROUS AND DIRECTING THAT THE STRUCTURE BE REMOVED AND THE PREMISES MADE SAFE AND SECURE.

WHEREAS, the Enforcing Officer of the City of Osawatomie, Kansas, did on the 14th day of April, 2016, file with the Governing Body of said City a statement in writing that a certain structure, hereinafter described was abandoned or unsafe and dangerous; and

WHEREAS, the Governing Body did by Resolution No. 719, dated the 28th day of April, 2016, fix the time and place of a hearing at which the owner, his or her agent, and lienholders, any occupants and all other parties in interest of such structure would appear and show cause why such structure should not be condemned and ordered repaired or demolished and provided for giving notice thereof as provided by law; and,

WHEREAS, Resolution No. 719 was published in the official City newspaper on the 4th day of May, 2016, and a copy of said resolution was served upon all persons entitled thereto as provided by law; and,

WHEREAS, on the 23rd day of June, 2016, the Governing Body did conduct the hearing scheduled in Resolution No. 719 and took evidence from the following: the Enforcing Officer on behalf of the City, _____. The following parties in interest failed to appear or appeared and did not present evidence: _____.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OSAWATOMIE, KANSAS, THAT:

1. The Governing Body hereby finds that the structure located at Lot Twenty-Three (23), In Block Twenty-Five (25), in the City of Osawatomie, Miami County, Kansas; Commonly Known and Referred to as **334 Main Street**, Osawatomie, Kansas is unsafe and dangerous based on the following findings:

a) The structure has been vacant since February 2016.
b) The property has been issued several nuisance letters and citations since 2010.
c) The structure's roof is in poor condition, there are numerous broken windows, rotten wood trim, siding and fascia and the home has not been secured. On the interior almost all walls are damaged and wiring has been stripped in various locations.
d) There have been numerous police visits to the property related to complaints concerning drug activity, disturbances and thefts. Upon a physical inspection of the

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vacant property, police officers observed drug paraphernalia and evidence of regular drug use.

2. The owner of such structure is hereby directed to commence the removal of the property within 14 days from the date of publication of this resolution, and to have the removal completed within 30 days of the commencement. Provided, that upon due application by the owner and for good cause shown, the Governing Body, in its sole discretion, may grant the owner additional time to complete the removal of the property.

3. If the owner fails to commence the repair of the structure within the time stated herein, or any additional time granted by the Governing Body, or fails to diligently prosecute the same until the work is completed, the Governing Body will cause the structure to be razed and removed and the costs of razing and removing, less salvage if any, shall be collected in the manner provided by K.S.A. 12-1755, and amendments thereto or shall be assessed as a special assessment against the lot or parcel of land upon which the structure is located or by both, all as provided by law.

BE IT FURTHER RESOLVED, that the City Clerk shall cause this Resolution to be published once in the official city paper and a copy mailed to the owners, agents, lienholders, occupants and other parties of interest.

PASSED AND ADOPTED by the Governing Body of the City of Osawatomie, Kansas this ____ day of _____, 2016, a majority being in favor thereof.

APPROVED AND SIGNED by the Mayor.

_____
L. Mark Govea
Mayor

(SEAL)

ATTEST:

_____
Tammy Seamands
City Clerk

DRAFT

(Published in the Osawatomie Graphic,_____) 1t

RESOLUTION NO. ___

A RESOLUTION FINDING THAT THE STRUCTURE LOCATED AT LOT 8, BLOCK 18 OF THE ORIGINAL TOWNSITE OF THE CITY OF OSAWATOMIE, MIAMI COUNTY, KANSAS; COMMONLY KNOWN AND REFERRED TO AS 427 LINCOLN AVENUE, OSAWATOMIE, KANSAS, IS UNSAFE OR DANGEROUS AND DIRECTING THAT THE STRUCTURE BE REMOVED AND THE PREMISES MADE SAFE AND SECURE

WHEREAS, the Enforcing Officer of the City of Osawatomie, Kansas, did on the 14th day of April, 2016, file with the Governing Body of said City a statement in writing that a certain structure, hereinafter described was abandoned or unsafe and dangerous; and

WHEREAS, the Governing Body did by Resolution No. 719, dated the 28th day of April, 2016, fix the time and place of a hearing at which the owner, his or her agent, and lienholders, any occupants and all other parties in interest of such structure would appear and show cause why such structure should not be condemned and ordered repaired or demolished and provided for giving notice thereof as provided by law; and,

WHEREAS, Resolution No. 719 was published in the official City newspaper on the 4th day of May, 2016, and a copy of said resolution was served upon all persons entitled thereto as provided by law; and,

WHEREAS, on the 23rd day of June, 2016, the Governing Body did conduct the hearing scheduled in Resolution No. 719 and took evidence from the following: the Enforcing Officer on behalf of the City, _____. The following parties in interest failed to appear or appeared and did not present evidence: _____.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OSAWATOMIE, KANSAS, THAT:

1. The Governing Body hereby finds that the structure located At Lot 8, Block 18 of the Original Townsite of the City of Osawatomie, Miami County, Kansas; Commonly Known And Referred To As **427 Lincoln Avenue**, Osawatomie, Kansas is unsafe and dangerous based on the following findings:

a) This structure is a trailer and it has been vacant since May 2009.
b) The structure has a collapsed roof, loose skirting, areas of rotten walls, exposed wiring near the electrical panel and a water heater that is exposed to the exterior.
c) The structure was observed to be full of household debris.

2. The owner of such structure is hereby directed to commence the removal of the property within 14 days from the date of publication of this resolution, and to have the removal

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completed within 30 days of the commencement. Provided, that upon due application by the owner and for good cause shown, the Governing Body, in its sole discretion, may grant the owner additional time to complete the removal of the property.

3. If the owner fails to commence the repair of the structure within the time stated herein, or any additional time granted by the Governing Body, or fails to diligently prosecute the same until the work is completed, the Governing Body will cause the structure to be razed and removed and the costs of razing and removing, less salvage if any, shall be collected in the manner provided by K.S.A. 12-1755, and amendments thereto or shall be assessed as a special assessment against the lot or parcel of land upon which the structure is located or by both, all as provided by law.

BE IT FURTHER RESOLVED, that the City Clerk shall cause this Resolution to be published once in the official city paper and a copy mailed to the owners, agents, lienholders, occupants and other parties of interest.

PASSED AND ADOPTED by the Governing Body of the City of Osawatomie, Kansas this ____ day of _____, 2016, a majority being in favor thereof.

APPROVED AND SIGNED by the Mayor.

_____
L. Mark Govea
Mayor

(SEAL)

ATTEST:

_____
Tammy Seamands
City Clerk

DRAFT

(Published in the Osawatomie Graphic,_____) 1t

RESOLUTION NO. ___

A RESOLUTION FINDING THAT THE STRUCTURE LOCATED AT LOT ELEVEN (11), IN BLOCK FOUR (4) OF J.C. CHESTNUT'S ADDITION TO THE CITY OF OSAWATOMIE; COMMONLY KNOWN AND REFERRED TO AS 805 CHESTNUT AVENUE, OSAWATOMIE, KANSAS, IS UNSAFE OR DANGEROUS AND DIRECTING THAT THE STRUCTURE BE REMOVED AND THE PREMISES MADE SAFE AND SECURE.

WHEREAS, the Enforcing Officer of the City of Osawatomie, Kansas, did on the 14th day of April, 2016, file with the Governing Body of said City a statement in writing that a certain structure, hereinafter described was abandoned or unsafe and dangerous; and

WHEREAS, the Governing Body did by Resolution No. 719, dated the 28th day of April, 2016, fix the time and place of a hearing at which the owner, his or her agent, and lienholders, any occupants and all other parties in interest of such structure would appear and show cause why such structure should not be condemned and ordered repaired or demolished and provided for giving notice thereof as provided by law; and,

WHEREAS, Resolution No. 719 was published in the official City newspaper on the 4th day of May, 2016, and a copy of said resolution was served upon all persons entitled thereto as provided by law; and,

WHEREAS, on the 23rd day of June, 2016, the Governing Body did conduct the hearing scheduled in Resolution No. 719 and took evidence from the following: the Enforcing Officer on behalf of the City, _____. The following parties in interest failed to appear or appeared and did not present evidence: _____.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OSAWATOMIE, KANSAS, THAT:

1. The Governing Body hereby finds that the structure located at Lot Eleven (11), In Block Four (4) of J.C. Chestnut's Addition to the City of Osawatomie; Commonly Known and Referred to as **805 Chestnut Avenue**, Osawatomie, Kansas is unsafe and dangerous based on the following findings:

a) This structure has been vacant since a fire occurred at the structure in of May 2007.
b) All sheetrock, wiring, and windows were removed after the fire, with only a few stud walls remaining in the interior of the home.
c) The structure has broken and missing siding, rotten and missing fascia boards, and missing and damaged guttering.

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d) In 2015, the City boarded up the windows and doors after it was not addressed by the owner. A citation was issued and the owner was billed for work performed by the City.

2. The owner of such structure is hereby directed to commence the removal of the property within 14 days from the date of publication of this resolution, and to have the removal completed within 30 days of the commencement. Provided, that upon due application by the owner and for good cause shown, the Governing Body, in its sole discretion, may grant the owner additional time to complete the removal of the property.

3. If the owner fails to commence the repair of the structure within the time stated herein, or any additional time granted by the Governing Body, or fails to diligently prosecute the same until the work is completed, the Governing Body will cause the structure to be razed and removed and the costs of razing and removing, less salvage if any, shall be collected in the manner provided by K.S.A. 12-1755, and amendments thereto or shall be assessed as a special assessment against the lot or parcel of land upon which the structure is located or by both, all as provided by law.

BE IT FURTHER RESOLVED, that the City Clerk shall cause this Resolution to be published once in the official city paper and a copy mailed to the owners, agents, lienholders, occupants and other parties of interest.

PASSED AND ADOPTED by the Governing Body of the City of Osawatomie, Kansas this ____ day of _____, 2016, a majority being in favor thereof.

APPROVED AND SIGNED by the Mayor.

_____
L. Mark Govea
Mayor

(SEAL)

ATTEST:

_____
Tammy Seamands
City Clerk

DRAFT

(Published in the Osawatomie Graphic,_____) 1t

RESOLUTION NO. ___

A RESOLUTION FINDING THAT THE STRUCTURE LOCATED LOT 5, BLOCK 3 OF MARY P. SMITH'S SUBDIVISION OF LOTS 8, 9, 10, 14 AND 19 OF MARY G. CRANE'S ADDITION, TO THE CITY OF OSAWATOMIE, MIAMI COUNTY, KANSAS; COMMONLY KNOWN AND REFERRED TO AS 917 PACIFIC AVENUE, OSAWATOMIE, KANSAS, IS UNSAFE OR DANGEROUS AND DIRECTING THAT THE STRUCTURE BE REMOVED AND THE PREMISES MADE SAFE AND SECURE..

WHEREAS, the Enforcing Officer of the City of Osawatomie, Kansas, did on the 14th day of April, 2016, file with the Governing Body of said City a statement in writing that a certain structure, hereinafter described was abandoned or unsafe and dangerous; and

WHEREAS, the Governing Body did by Resolution No. 719, dated the 28th day of April, 2016, fix the time and place of a hearing at which the owner, his or her agent, and lienholders, any occupants and all other parties in interest of such structure would appear and show cause why such structure should not be condemned and ordered repaired or demolished and provided for giving notice thereof as provided by law; and,

WHEREAS, Resolution No. 719 was published in the official City newspaper on the 4th day of May, 2016, and a copy of said resolution was served upon all persons entitled thereto as provided by law; and,

WHEREAS, on the 23rd day of June, 2016, the Governing Body did conduct the hearing scheduled in Resolution No. 719 and took evidence from the following: the Enforcing Officer on behalf of the City, _____. The following parties in interest failed to appear or appeared and did not present evidence: _____.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OSAWATOMIE, KANSAS, THAT:

1. The Governing Body hereby finds that the structure located at Lot 5, Block 3 of Mary P. Smith's Subdivision of Lots 8, 9, 10, 14 and 19 of Mary G. Crane's Addition, to the City of Osawatomie, Miami County, Kansas; Commonly Known and Referred to as **917 Pacific Avenue**, Osawatomie, Kansas is unsafe and dangerous based on the following findings:

a) Structure has been vacant and has been unsecured since a structure fire occurred in March 2012.
b) Being unsecured, animals to take residence in the structure and around the property.
c) Repairs to the structure were abandoned leaving a roof patched with a sheet of plywood and construction debris laying around the premises.

DRAFT

d) The property has received numerous letters regarding nuisance issues but no action was taken by the owner.

2. The owner of such structure is hereby directed to commence the removal of the property within 14 days from the date of publication of this resolution, and to have the removal completed within 30 days of the commencement. Provided, that upon due application by the owner and for good cause shown, the Governing Body, in its sole discretion, may grant the owner additional time to complete the removal of the property.

3. If the owner fails to commence the repair of the structure within the time stated herein, or any additional time granted by the Governing Body, or fails to diligently prosecute the same until the work is completed, the Governing Body will cause the structure to be razed and removed and the costs of razing and removing, less salvage if any, shall be collected in the manner provided by K.S.A. 12-1755, and amendments thereto or shall be assessed as a special assessment against the lot or parcel of land upon which the structure is located or by both, all as provided by law.

BE IT FURTHER RESOLVED, that the City Clerk shall cause this Resolution to be published once in the official city paper and a copy mailed to the owners, agents, lienholders, occupants and other parties of interest.

PASSED AND ADOPTED by the Governing Body of the City of Osawatomie, Kansas this ____ day of _____, 2016, a majority being in favor thereof.

APPROVED AND SIGNED by the Mayor.

_____
L. Mark Govea
Mayor

(SEAL)

ATTEST:

_____
Tammy Seamands
City Clerk

DRAFT

(Published in the Osawatomie Graphic,_____) 1t

RESOLUTION NO. ___

A RESOLUTION FINDING THAT THE STRUCTURE LOCATED: LOTS NUMBER TEN (10) AND ELEVEN (11), IN BLOCK NUMBER EIGHT (8) OF CAFFERY AND SHELDON'S ADDITION TO THE CITY OF OSAWATOMIE, MIAMI COUNTY, KANSAS; COMMONLY KNOWN AND REFERRED TO AS 1003 CHESTNUT AVENUE, OSAWATOMIE, KANSAS, IS UNSAFE OR DANGEROUS AND DIRECTING THAT THE STRUCTURE BE REMOVED AND THE PREMISES MADE SAFE AND SECURE.

WHEREAS, the Enforcing Officer of the City of Osawatomie, Kansas, did on the 14th day of April, 2016, file with the Governing Body of said City a statement in writing that a certain structure, hereinafter described was abandoned or unsafe and dangerous; and

WHEREAS, the Governing Body did by Resolution No. 719, dated the 28th day of April, 2016, fix the time and place of a hearing at which the owner, his or her agent, and lienholders, any occupants and all other parties in interest of such structure would appear and show cause why such structure should not be condemned and ordered repaired or demolished and provided for giving notice thereof as provided by law; and,

WHEREAS, Resolution No. 719 was published in the official City newspaper on the 4th day of May, 2016, and a copy of said resolution was served upon all persons entitled thereto as provided by law; and,

WHEREAS, on the 23rd day of June, 2016, the Governing Body did conduct the hearing scheduled in Resolution No. 719 and took evidence from the following: the Enforcing Officer on behalf of the City, _____. The following parties in interest failed to appear or appeared and did not present evidence: _____.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OSAWATOMIE, KANSAS, THAT:

1. The Governing Body hereby finds that the structure located at Lots Number Ten (10) and Eleven (11), In Block Number Eight (8) of Caffery And Sheldon's Addition to the City of Osawatomie, Miami County, Kansas; Commonly Known and Referred to as **1003 Chestnut Avenue**, Osawatomie, Kansas is unsafe and dangerous based on the following findings:

a) The structure has been vacant since April 2012.
b) The structure's fascia is rotten, the home is unsecured and the crawlspace is open and believed to be harboring animals.
c) A large tree has fallen on the accessory structure and collapsed its roof.
d) Both the structure and accessory structure have brush and trees growing around them.
e) In 2015, City staff secured the structure by screwing shut the front and back doors.

DRAFT

f) The structure is full of the former owners' belongings.

2. The owner of such structure is hereby directed to commence the removal of the property within 14 days from the date of publication of this resolution, and to have the removal completed within 30 days of the commencement. Provided, that upon due application by the owner and for good cause shown, the Governing Body, in its sole discretion, may grant the owner additional time to complete the removal of the property.

3. If the owner fails to commence the repair of the structure within the time stated herein, or any additional time granted by the Governing Body, or fails to diligently prosecute the same until the work is completed, the Governing Body will cause the structure to be razed and removed and the costs of razing and removing, less salvage if any, shall be collected in the manner provided by K.S.A. 12-1755, and amendments thereto or shall be assessed as a special assessment against the lot or parcel of land upon which the structure is located or by both, all as provided by law.

BE IT FURTHER RESOLVED, that the City Clerk shall cause this Resolution to be published once in the official city paper and a copy mailed to the owners, agents, lienholders, occupants and other parties of interest.

PASSED AND ADOPTED by the Governing Body of the City of Osawatomie, Kansas this ____ day of _____, 2016, a majority being in favor thereof.

APPROVED AND SIGNED by the Mayor.

_____
L. Mark Govea
Mayor

(SEAL)

ATTEST:

_____
Tammy Seamands
City Clerk

DRAFT

(Published in the Osawatomie Graphic,_____) 1t

RESOLUTION NO. ___

A RESOLUTION FINDING THAT THE STRUCTURE LOCATED AT THE NORTH 93.25 FEET OF THE WEST ONE-HALF OF LOT 18 AND THE NORTH 93.25 FEET OF LOTS 19 AND 20 IN BLOCK 2, IN LOWES ADDITION TO THE WEST HIGHLANDS ADDITION IN THE CITY OF OSAWATOMIE, MIAMI COUNTY, KANSAS; COMMONLY KNOWN AND REFERRED TO AS 1635 MAIN STREET, OSAWATOMIE, KANSAS, IS UNSAFE OR DANGEROUS AND DIRECTING THAT THE STRUCTURE BE REMOVED AND THE PREMISES MADE SAFE AND SECURE.

WHEREAS, the Governing Body did by Resolution No. 660, dated the 10th day of January, 2013, did find that the structure located 1635 Main Street, Osawatomie, Kansas, was abandoned property and directed rehabilitation of the property by the owner, and no such rehabilitation occurred and the property was subsequently sold; and

WHEREAS, the Enforcing Officer of the City of Osawatomie, Kansas, did on the 14th day of April, 2016, file with the Governing Body of said City a statement in writing that a certain structure, hereinafter described was abandoned or unsafe and dangerous; and

WHEREAS, the Governing Body did by Resolution No. 719, dated the 28th day of April, 2016, fix the time and place of a hearing at which the owner, his or her agent, and lienholders, any occupants and all other parties in interest of such structure would appear and show cause why such structure should not be condemned and ordered repaired or demolished and provided for giving notice thereof as provided by law; and,

WHEREAS, Resolution No. 719 was published in the official City newspaper on the 4th day of May, 2016, and a copy of said resolution was served upon all persons entitled thereto as provided by law; and,

WHEREAS, on the 23rd day of June, 2016, the Governing Body did conduct the hearing scheduled in Resolution No. 719 and took evidence from the following: the Enforcing Officer on behalf of the City, _____. The following parties in interest failed to appear or appeared and did not present evidence: _____.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OSAWATOMIE, KANSAS, THAT:

1. The Governing Body hereby finds that the structure located at the North 93.25 Feet of the West One-Half of Lot 18 and the North 93.25 Feet Of Lots 19 and 20 In Block 2, In Lowes Addition to the West Highlands Addition In the City of Osawatomie, Miami County, Kansas; Commonly Known and Referred To as **1635 Main Street**, Osawatomie, Kansas is unsafe and dangerous based on the following findings:

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a) The structure has been vacant since March 2011.
b) The structure has broken windows, a broken garage door, peeling paint, detached guttering, vegetation growth against the structure, and standing water in the crawl space near or against floor joists.
c) During an inspection of the property, it was observed that most of the wiring had been removed from the structure and that it was full of household debris and belongings.

2. The owner of such structure is hereby directed to commence the removal of the property within 14 days from the date of publication of this resolution, and to have the removal completed within 30 days of the commencement. Provided, that upon due application by the owner and for good cause shown, the Governing Body, in its sole discretion, may grant the owner additional time to complete the removal of the property.

3. If the owner fails to commence the repair of the structure within the time stated herein, or any additional time granted by the Governing Body, or fails to diligently prosecute the same until the work is completed, the Governing Body will cause the structure to be razed and removed and the costs of razing and removing, less salvage if any, shall be collected in the manner provided by K.S.A. 12-1755, and amendments thereto or shall be assessed as a special assessment against the lot or parcel of land upon which the structure is located or by both, all as provided by law.

BE IT FURTHER RESOLVED, that the City Clerk shall cause this Resolution to be published once in the official city paper and a copy mailed to the owners, agents, lienholders, occupants and other parties of interest.

PASSED AND ADOPTED by the Governing Body of the City of Osawatomie, Kansas this ____ day of _____, 2016, a majority being in favor thereof.

APPROVED AND SIGNED by the Mayor.

_____
L. Mark Govea
Mayor

(SEAL)

ATTEST:

_____
Tammy Seamands
City Clerk

DRAFT

CITY OF OSAWATOMIE

STAFF AGENDA MEMORANDUM

DATE OF MEETING: June 23, 2016

AGENDA ITEM: **2015 Main Street Waterline Improvements, Contractor Pay Request #5 and Change Order #1**

PRESENTER: Blake Madden, Director of Public Works and Utilities

ISSUE SUMMARY: Attached is Pay Request #5 and Change Order #1 which was submitted by Nowak Construction, the contractor for the 2015 Main Street Waterline Improvements project. City staff has reviewed both and has found them to be accurate. The following is an explanation for each adjustment made to the contractor's bid:

Bid Items #7 and #8: Self-explanatory.

Bid Item #11: An additional 8-inch gate valve was installed on the northeast corner of the intersections of 1st and Main Streets in anticipation of future improvements.

Bid Item #25: Tracer wire was installed with all service lines to facilitate locating those lines in the future.

Bid Item #26: Additional pavement removal and replacement was necessary to complete work at 7th, 8th, and 11th Streets.

Bid Item #28: Shallow bedrock at 11th Street extending approximately 250 feet west did not allow the installation of the waterline to be done by directional boring underneath the existing sidewalk. Installation by open trenching required removal and replacement of the sidewalk.

Bid Item #29: Self-explanatory.

Bid Item #30: Self-explanatory.

Item CO-1: Design plans called for 3/4-inch meter setters. The existing meters have 5/8-inch fittings. The adapters were necessary properly install the meters in the setters.

Item CO-2: Self-explanatory.

Item CO-3: Self-explanatory.

COUNCIL ACTION NEEDED: Review, discuss, and determine whether to approve payment.

STAFF RECOMMENDATION TO COUNCIL: Staff recommends approval of Change Order No. 1 and Payment No. 5 to Nowak Construction in the amount of $50,912.64.

2016-06-23 SAM 2015 Waterline Change Order and Pay Request.docx

EJCDC
ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

Change Order No. 1

Date of Issuance: June 2, 2016		Effective Date:	June 2, 2016
Owner:	City of Osawatomie, KS	KDHE Contract No.:	
Contractor:	Nowak Construction Co., Inc.	CDBG Project No.:	
Engineer:	BG Consultants, Inc. (Lawrence)	USDA Project No.:	
Project:	2014 Main Street Waterline Improvements	Engineer's Project No.:	14-1101L

The Contract is modified as follows upon execution of this Change Order:

Description: ***Please see the attached "Change Order #1 Description of Changes" for a description of each affected bid item.***

Attachments: ***Change Order #1 Description of Changes and Change Order #1 Quantities Table***

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES *[note changes in Milestones if applicable]*
Original Contract Price: $ 792,898.75	Original Contract Times: Substantial Completion: 90 working days Ready for Final Payment: 120 working days days or dates
[Increase] [Decrease] from previously approved Change Orders No. __ to No. __: $ _____	[Increase] [Decrease] from previously approved Change Orders No. __ to No. __: Substantial Completion: _____ Ready for Final Payment: _____ days
Contract Price prior to this Change Order: $ 792,898.75	Contract Times prior to this Change Order: Substantial Completion: 90 working days Ready for Final Payment: 120 working days days or dates
Increase of this Change Order: $ 30,344.25	[Increase] [Decrease] of this Change Order: Substantial Completion: 0 Ready for Final Payment: 0 days or dates
Contract Price incorporating this Change Order: $ 823,243.00	Contract Times with all approved Change Orders: Substantial Completion: 90 working days Ready for Final Payment: 120 working days days or dates

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By: Brett Wagner	By:	By:
Engineer (if required)	Owner (Authorized Signature)	Contractor (Authorized Signature)
Title: Engineer	Title	Title Project Manager
Date: 6/22/16	Date	Date 6-22-16

CHANGE ORDER NO. 1
DESCRIPTION OF CHANGES

Engineer's Project. No. 14-1101L

Project: Osawatomie 2014 Main Street Waterline Improvements
Contractor: Nowak Construction Co., Inc.

Description of Changes:

Bid Item #7:

During Construction, it was determined that the bid item for 10" PVC Waterline (C900)(HDD) should be increased by 134 LF. This change was necessary due to a difference between the planned quantity and actual measured quantity in the field. This results in an **increase of $11,926.00** to the Construction Contract Price.

Bid Item #8:

During Construction, it was determined that the bid item for 8" PVC Waterline (C900)(HDD) should be decreased by 69 LF. This change was necessary due to a difference between the planned quantity and actual measured quantity in the field. This results in a **decrease of $5,244.00** to the Construction Contract Price.

Bid Item #11:

During Construction, it was determined that the bid item for 8" M.J. Gate valve should be increased by 1 Each. This change was necessary to increase operational efficiency in this portion of the distribution system. This results in an **increase of $1,600.00** to the Construction Contract Price.

Bid Item #25:

During Construction, it was determined that the bid item for Tracer Wire should be increased by 4,015 LF. This change was necessary to meet the owner's request for tracer wire installed with all new service lines. This results in an **increase of $1,003.75** to the Construction Contract Price.

Bid Item #26:

During Construction, it was determined that the bid item for Remove and Replace Surfacing (Asphalt) should be increased by 44 SY. This change was necessary due to a difference between the planned quantity and actual measured quantity in the field. This results in an **increase of $8,492.00** to the Construction Contract Price.

Bid Item #28:

During Construction, it was determined that the bid item for Remove and Replace Concrete Sidewalk (4")(AE) should be increased by 105 SY. This change was necessary due to a

difference between the planned quantity and actual measured quantity in the field. This results in an **increase of $15,225.00** to the Construction Contract Price.

Bid Item #29:

During Construction, it was determined that the bid item for Remove and Replace Concrete Sidewalk Ramp was not necessary to complete the project. This results in a **decrease of $8,085.00** to the Construction Contract Price.

Bid Item #30:

During Construction, it was determined that the bid item for Remove and Replace Curb and Gutter should be increased by 23 LF. This change was necessary due to a difference between the planned quantity and actual measured quantity in the field. This results in an **increase of $1,966.50** to the Construction Contract Price.

Item #CO-1:

During Construction, it was determined that an adapter for each of the City's water meters would be needed in order for proper installation in the new meter pits. The City and Contractor agreed to a price of $5.00 per each setting. A total of 150 settings were required. This results in an **increase of $750.00** to the Construction Contract Price.

Item #CO-2:

During Construction, it was determined that an extension for some of the new fire hydrants would be needed in order to adjust the bury depth required near existing gas lines. The City and Contractor agreed to a price of $525.00 per each extension. A total of 4 extensions were required. This results in an **increase of $2,100.00** to the Construction Contract Price.

Item #CO-3:

During Construction, it was determined that a modified meter pit lid would be required at each meter pit to accommodate the remote-read system. The City and Contractor agreed to a price of $5.00 per each lid. A total of 122 lids were required. This results in an **increase of $610.00** to the Construction Contract Price.

This results in a total **increase** of **$30,344.25** to the Construction Contract Price and **NO CHANGE** in **Working Days** to the Contract Times. See attached table for the total tabulation.

Change Order #1 Quantities

Bid Item No.	Description	Bid Quantity	Unit	Unit Price	Total	Units Installed	Installed Value	Change Order Quantities: Over/Under	Change Order Quantities: Over/Under Value
7	10" PVC Waterline (C900)(HDD)	1,969	Lin. Ft.	$ 89.00	$ 175,241.00	2,103	$ 187,167.00	134	$11,926.00
8	8" PVC Waterline (C900)(HDD)	3,458	Lin. Ft.	$ 76.00	$ 262,808.00	3,389	$ 257,564.00	-69	-$5,244.00
11	8" M.J. Gate Valve	11	EA.	$ 1,600.00	$ 17,600.00	12	$ 19,200.00	1	$1,600.00
25	Tracer Wire	5,427	L.F.	$ 0.25	$ 1,356.75	9,442	$ 2,360.50	4,015	$1,003.75
26	Remove and Replace Surfacing (Asphalt)	31	S.Y.	$ 193.00	$ 5,983.00	75	$ 14,475.00	44	$8,492.00
28	Remove and Replace Concrete Sidewalk (4")(AE)	14	S.Y.	$ 145.00	$ 2,030.00	119	$ 17,255.00	105	$15,225.00
29	Remove and Replace Concrete Sidewalk Ramp	35	S.Y.	$ 231.00	$ 8,085.00	0	$ -	-35	-$8,085.00
30	Remove and Replace Curb & Gutter (AE)	20	L.F.	$ 85.50	$ 1,710.00	43	$ 3,676.50	23	$1,966.50
C01-1	Water Meter Adapters	0	EA.	$ 5.00	$ -	150	$ 750.00	150	$750.00
C01-2	Fire Hydrant Extensions	0	EA.	$ 525.00	$ -	4	$ 2,100.00	4	$2,100.00
C01-3	Water Meter Lids for AMR Meters	0	EA.	$ 5.00	$ -	122	$ 610.00	122	$610.00
TOTALS					$474,813.75		$505,158.00		$30,344.25

Contractor's Application for Payment No. 5

	Application Period: Through 5/23/16	Application Date: 6/22/2016
To (Owner): City of Osawatomie, KS	From (Contractor): Nowak Construction Co., Inc.	Via (Engineer): BG Consultants, Inc.
Project: 2014 Main Street Waterline Improvements	Contract: 2014 Main Street Waterline Improvements	
Owner's Contract No.: N/A	Contractor's Project No.: 151020	Engineer's Project No.: 14-1101L

Application For Payment

Change Order Summary

Approved Change Orders		
Number	Additions	Deductions
1	$30,344.25	
TOTALS	$30,344.25	
NET CHANGE BY CHANGE ORDERS	$30,344.25	

1. ORIGINAL CONTRACT PRICE	$ $792,898.75
2. Net change by Change Orders	$ $30,344.25
3. Current Contract Price (Line 1 ± 2)	$ $823,243.00
4. TOTAL COMPLETED AND STORED TO DATE (Column I on Progress Estimate)	$ $823,243.00
5. RETAINAGE:	
a. 5% X $823,243.00 Total Completed and Stored	$ $41,162.15
6. AMOUNT ELIGIBLE TO DATE (Line 4 - Line 5c)	$ $782,080.85
7. LESS PREVIOUS PAYMENTS (Line 6 from prior Application)	$ $731,168.21
8. AMOUNT DUE THIS APPLICATION	$ $50,912.64
9. BALANCE TO FINISH, PLUS RETAINAGE (Column K on Progress Estimate + Line 5 above)	$ $41,162.15

Contractor's Certification

The undersigned Contractor certifies that to the best of its knowledge: (1) all previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with Work covered by prior Applications for Payment; (2) title of all Work, materials and equipment incorporated in said Work or otherwise listed in or covered by this Application for Payment will pass to Owner at time of payment free and clear of all Liens, security interests and encumbrances (except such as are covered by a Bond acceptable to Owner indemnifying Owner against any such Liens, security interest or encumbrances); and (3) all Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

By: ALAN BLOUGH Date: 6-22-16

Payment of: $ $50,912.64
(Line 8 or other - attach explanation of the other amount)

is recommended by: Brett Wagner (Engineer) 6/22/16 (Date)

Payment of: $ _____
(Line 8 or other - attach explanation of the other amount)

is approved by: _____ (Owner) _____ (Date)

Approved by: _____ Funding Agency (if applicable) _____ (Date)

00620-1

Progress Estimate

Contractor's Application

For (contract): 2014 Main Street Waterline Improvements

Application Numbe 5

Application Period: Through 5/23/16

Application Date: 5/23/2016

A				B	C	D	E	F	G	H	I	J	K
Bid Item No.	Description	Bid Quantity	Unit	Unit Price	Total	Units Previously Installed	Value Previously Installed	Units Installed This Period	Value Installed This Period	Materials Presently Stored (not in G)	Total Completed and Stored to Date (E+G+H)	% (I/C)	Balance to Finish
1.	Mobilization	1	L.S.	$ 23,800.00	$ 23,800.00	1	$ 23,800.00				$23,800.00	100.0%	
2.	Clearing and Grubbing	1	L.S.	$ 3,000.00	$ 3,000.00	1	$ 3,000.00				$3,000.00	100.0%	
3.	Contractor Construction Staking	1	L.S.	$ 2,800.00	$ 2,800.00	1	$ 2,800.00				$2,800.00	100.0%	
4.	Traffic Control	1	L.S.	$ 10,100.00	$ 10,100.00	1	$ 10,100.00				$10,100.00	100.0%	
5.	Seeding	1	L.S.	$ 12,100.00	$ 12,100.00	0.5	$ 6,050.00	0.5	$6,050.00		$12,100.00	100.0%	
6.	Erosion Control	1	L.S.	$ 3,000.00	$ 3,000.00		$ -	1	$3,000.00		$3,000.00	100.0%	
7.	10" PVC Waterline (C900)(HDD)	2,103	L.F.	$ 89.00	$ 187,167.00	1969	$ 175,241.00	134	$11,926.00		$187,167.00	100.0%	
8.	8" PVC Waterline (C900)(HDD)	3,389	L.F.	$ 76.00	$ 257,564.00	3458	$ 262,808.00	-69	-$5,244.00		$257,564.00	100.0%	
9.	6" DIP Waterline (In Place)	23	L.F.	$ 95.00	$ 2,185.00	23	$ 2,185.00				$2,185.00	100.0%	
10.	10" M.J. Gate Valve	6	EA.	$ 2,450.00	$ 14,700.00	6	$ 14,700.00				$14,700.00	100.0%	
11.	8" M.J. Gate Valve	12	EA.	$ 1,600.00	$ 19,200.00	11	$ 17,600.00	1	$1,600.00		$19,200.00	100.0%	
12.	10" Tapping Valve	3	EA.	$ 4,000.00	$ 12,000.00	3	$ 12,000.00				$12,000.00	100.0%	
13.	8" Tapping Valve	4	EA.	$ 2,700.00	$ 10,800.00	4	$ 10,800.00				$10,800.00	100.0%	
14.	4" Tapping Valve	3	EA.	$ 1,800.00	$ 5,400.00	3	$ 5,400.00				$5,400.00	100.0%	
15.	5 ¼" Standard Fire Hydrant Assembly	9	EA.	$ 3,400.00	$ 30,600.00	9	$ 30,600.00				$30,600.00	100.0%	
16.	Remove Existing Fire Hydrant	8	EA.	$ 200.00	$ 1,600.00	8	$ 1,600.00				$1,600.00	100.0%	
17.	Connect to Existing Yard Hydrant	1	EA.	$ 600.00	$ 600.00	1	$ 600.00				$600.00	100.0%	
18.	Connect to Existing Waterline	10	EA.	$ 1,200.00	$ 12,000.00	10	$ 12,000.00				$12,000.00	100.0%	
19.	Disconnect Existing Waterline	9	EA.	$ 500.00	$ 4,500.00	9	$ 4,500.00				$4,500.00	100.0%	
20.	3/4" Water Service (Short)	49	EA.	$ 840.00	$ 41,160.00	49	$ 41,160.00				$41,160.00	100.0%	
21.	3/4" Water Service (Long)	73	EA.	$ 1,335.00	$ 97,455.00	73	$ 97,455.00				$97,455.00	100.0%	
22.	New Water Meter Pit	122	EA.	$ 61.00	$ 7,442.00	122	$ 7,442.00				$7,442.00	100.0%	
23.	New Water Meter Setter	122	EA.	$ 111.00	$ 13,542.00	122	$ 13,542.00				$13,542.00	100.0%	
24.	New Water Meter Ring/Lid	122	EA.	$ 30.50	$ 3,721.00	122	$ 3,721.00				$3,721.00	100.0%	
25.	Tracer Wire	9,442	L.F.	$ 0.25	$ 2,360.50	5427	$ 1,356.75	4015	$1,003.75		$2,360.50	100.0%	
26.	Remove and Replace Surfacing (Asphalt)	75	S.Y.	$ 193.00	$ 14,475.00	15	$ 2,895.00	60	$11,580.00		$14,475.00	100.0%	
27.	Remove and Replace Surfacing (Gravel)	10	S.Y.	$ 30.00	$ 300.00		$ -	10	$300.00		$300.00	100.0%	
28.	Remove and Replace Concrete Sidewalk (4")(AE)	119	S.Y.	$ 145.00	$ 17,255.00	7	$ 1,015.00	112	$16,240.00		$17,255.00	100.0%	
29.	Remove and Replace Concrete Sidewalk Ramp		S.Y.	$ 231.00	$ -		$ -					#DIV/0!	
30.	Remove and Replace Curb & Gutter (AE)	43	L.F.	$ 85.50	$ 3,676.50		$ -	43	$3,676.50		$3,676.50	100.0%	
31.	Flowable Fill	48	C.Y.	$ 110.00	$ 5,280.00	48	$ 5,280.00				$5,280.00	100.0%	
CO - 1	Water Meter Adapters	150	EA.	$ 5.00	$ 750.00		$ -	150	$750.00		$750.00	100.0%	
CO - 2	Fire Hydrant Extensions	4	EA.	$ 525.00	$ 2,100.00		$ -	4	$2,100.00		$2,100.00	100.0%	
CO - 3	Meter Lids	122	EA.	$ 5.00	$ 610.00		$ -	122	$610.00		$610.00	100.0%	
	Quantities Changed by Change Order	Total Contract Price			$ 823,243.00		$ 769,650.75	Totals	$53,592.25		$823,243.00		

Public Service Application

City of Osawatomie, KS

(one application per committee)

Name: Jessica Hall

Maiden Name: Noyes

Address: 509 Pacific Ave

[redacted]

Mailing Address (if different): same

City, State, Zip: Osawatomie, KS 66064

Home Phone: —

Cell: [redacted]

E-Mail: [redacted]

Place of Employment: Osawatomie Middle School

Position: Para

Product or services rendered by employer: education

Brief description of job duties/responsibilities: helping any student(s) with educational needs.

Spouse's place of employment: A&M - Clorox

Position: Maintenance Tech.

Product or Service rendered by spouse's employer: Clorox- Fresh Step Kitty litter plant

Committee, Board, Commission, Task Force or other position to which you wish to be appointed: library board

Why do you wish to serve in this position? Not only do I have my children that are involved and interested in the library, but the children I work with at the school. I would like to help any way I can.

Have you served on any other board, committee, commission or in an elected position with the City? If yes, please state your experience as a member: No

Do you or your spouse have any monetary interest, direct or indirect, in any pending or incomplete transaction or contract to which the City is, or is to be, a party? If yes, please explain: NO

* It is the policy of the City of Osawatomie to conduct criminal background checks on all potential applicants for the PUBLIC SAFETY COMMITTEE. Appointment to the Committee is contingent on the results of such checks. In order to conduct the check, a birthdate and social security number are required. **By signing below, I understand that the above information I have voluntarily provided is to be used solely for the purpose of the background check.**

I [redacted] e city of Osawatomie. I reside in Ward No. 4.

S[redacted]

5/24/16
Date

PLEASE RETURN TO CITY CLERK

439 Main Street | PO Box 37, Osawatomie, KS 66064 | cityclerk@osawatomieks.org

---- OFFICE USE ONLY ----

Received:	Council Approval Date:	Letter of Approval:
Scanned:	Term Expiration Date:	Letter of Non- Approval:

[G: COUNCIL\ADVISORY BOARDS\Public Service App.yyyy.mm.dd] 5/15/2014

CITY OF OSAWATOMIE

STAFF AGENDA MEMORANDUM

DATE OF MEETING: June 23, 2016

AGENDA ITEM: **Drone Ordinance**

PRESENTER: Kyle Glaser, Management Analyst

ISSUE SUMMARY: Unmanned aircraft systems (UAS), or drones, are becoming increasingly available and affordable to members of the public. There is currently no legislation that regulates UAS operations in the City of Osawatomie or provides specific enforcement authority to local law enforcement. It is important that this new technology be used safely and responsibly. States and municipalities across the country are increasingly exploring regulation of drones.

The primary goal of any drone regulation has been to protect the privacy and safety of the public. Throughout the country local governments have chosen to regulate UAS's in three distinct categories; recreational use, commercial use, and public use. Recreational use involves any citizen operating a UAS for hobby and recreational purposes. Commercial use is authorized by the FAA on a case-by-case basis. Drones may not be flown for commercial purpose without express permission from the FAA. Public entities, which include publically funded universities, law enforcement, fire departments and other government agencies, may currently apply for a Certificate of Waiver or Authorization (COA) from the FAA in order to use small unmanned aircraft systems (sUAS) in public aircraft operations. Public use of drone has been a topic of debate among local governments and their citizens. Many municipalities have allowed for government and law enforcement use of drones under strict regulation.

Anyone who owns a small unmanned aircraft that weighs more than 0.55 lbs. (250g) and less than 55 lbs. (25kg) must register with the Federal Aviation Administration's UAS registry before they fly outdoors. People who do not register could face civil and criminal penalties.

Under the FAA Modernization and Reform Act of 2012, a hobbyist is only required to (1) flown strictly for hobby or recreational use; (2) operate in accordance with community-based set of safety guidelines and within the programming of a nationwide community based-organization; (3) aircrafts must weigh less than 55 lbs.; (4) stay five miles outside of a regulated airport; (5) operate in a manner that does not interfere with and gives way to any manned aircraft. The FAA has partnered with several industry

associations to promote *Know Before You Fly*, a campaign to educate the public about using unmanned aircraft safely and responsibly. Individuals are strongly encouraged by the FAA to follow safety guidelines, which include:

a) Fly below 400 feet altitude.
b) Keep the drone within eye sight.
c) Never fly near manned aircraft.
d) Never fly over an airport or its landing and takeoff spaces.
e) Never fly over groups of people, stadiums or sporting events.
f) Never fly near responding emergency vehicles.

Incidents involving unauthorized use of remote controlled aircraft have risen dramatically across the country. Some cities like Wichita have banned drones from certain areas, like public buildings and airports. Other cities have placed moratoriums on drones in hope the State and Federal government will adopt a framework for drone use. Some ordinances have gone as far as to ban drones within city limits completely. Cleveland, Ohio has decided the best way to enfore drone safety is to follow current FAA established rules and allow local authorities to enforce and penalize FAA regulations already in place.

Although the FAA retains the responsibility for enforcing Federal Aviation Regulations, including those applicable to the use of UAS, local law enforcement Agencies are often in the best position to deter, detect, and investigate reckless and unsafe use of UAS operations. Drone enforcement is especially important due to the proximity of the city limits of Osawatomie to the Miami County Airport. The goal of Cleveland's recently passed ordinance is operate in conjunction with the FAA to promote public safety, while recognizing the limitations in the FAA's enforcement capabilities.

Attached:

Ordinance Summaries of Other Cities
FAA State and local Regulation of Unmanned Aircraft Systems (UAS) Fact Sheet
FAA Law Enforcement Guidance for Suspected Unauthorized UAS Operations

COUNCIL ACTION NEEDED: Review and discuss Drone issues and goals. Provide direction to staff.

STAFF RECOMMENDATION TO COUNCIL: Provide feedback and direction to staff.

Drone Regulation Examples

Federal Aviation Administration

Basic Guidelines

g) Fly below 400 feet altitude.
h) Keep the drone within eye sight.
i) Never fly near manned aircraft.
j) Never fly over an airport or its landing and takeoff spaces.
k) Never fly over groups of people, stadiums or sporting events.
l) Never fly near responding emergency vehicles.

Barstow, California

No person shall operate an unmanned aircraft:

a) within 50 ft. of a public right of way
b) in a manner that harasses, startles, or annoys pedestrians or vehicles, or threatens their safety and welfare
c) over and private property located in the city in which the resident and/or owner of the subject real property has a reasonable expectation of privacy
d) to record or transmit any visual image or audio recording of any person or private real property located in the city under circumstances in which the subject person or owner of the subject real property has a reasonable expectation of privacy.
e) To peek in the door or window of any inhabited building or structure without visible or lawful business with the owner or occupant

Exemption:

a) If a warrant is issued authorizing the use of an unmanned aircraft
b) For the purpose of providing emergency management, fire, or police protections services in response to a life threatening emergency
c) Under circumstances where a warrant would not otherwise be required by law

Augusta, Georgia

Restrictions: No person shall launch or operate any UAS including those classified by the FAA as model aircraft in a populated area within the limits of Richard County, Georgia, without prior written FAA authorization, and written permission from the Augusta, Georgia commission. Exempted from the classification as populated area is existing model aircraft fields.

Aberdeen, South Dakota

Drone operation authorized for recreational except:

a) Within one mile of the Aberdeen regional airport and within the 10,000 feet non precision approach areas to its runways. The protected airspace hereafter shall be referred to as the “airport drone no fly zone”.
b) Over and person who is not involved in the operation of the drone without such persons consent
c) Over vehicular traffic
d) Over property that the operator does not own, unless the property owner consents and subject to any restrictions the owner may place on such operation
e) Over property owned, leased, or operated by the city, including but not limited to airports, parks lakes, public swimming pool, trials, parking lots and buildings

f) By a child under 13 years of age when not accompanied by the child's parent or guardian or an adult designated by the child's parent or guardian. The failure of a parent or designated adult to supervise an underage child's operation of a drone shall be a violation by the parent or designated adult
g) At an altitude higher than 400 ft. above ground level
h) Outside the visual line of sight of the operator's natural vision
i) In a manner that interferes with or fails to give way to, any manned aircraft or moving vehicle.
j) During the period between sunset and sunrise
k) Whenever weather conditions impair the operators ability to operate the drone safely
l) Over any open air assembly unit, school, yard, hospital, swimming pool, place of worship, or law enforcement building without the property owners consent
m) Within 500 feet of any electric generating facility, substation, or control center
n) For the purpose of conducting surveillance, unless expressly permitted by law
o) With 0.08 percent or more by weight of alcohol in that person's blood or while under the influence of alcohol, any drug, any intoxicant or combination thereof,
p) That is equipped with a firearm or other weapon
q) With intent to use such drone or anything attached to it to cause ham to persons or property
r) In a reckless or careless manner

Wichita, KS

Operation of gliders, glider towing, remote control, and other aeronautical devices. The release, launch or operation of remote radio controlled aircraft, balloons, hot air balloons, kites, rockets, gliders/sailplanes, unmanned aerial vehicles, and the towing of banners at or from any Airport, Airport property, or property immediately adjacent to and bordering Airport property shall not be permitted without the prior written consent of the Director.

Any person violating any provision of this Section of the Code is guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars ($500) and/or an imprisonment of not more than six (6) months and/or both such fine and imprisonment.

St Bonifacius, MN

Now, therefore, let it be resolved, that the city Council of St. Bonifacius, Minnesota, calls for a two year moratorium on the use of drones in the state of Minnesota; and calls on the United States Congress and Minnesota State Legislature to adopt legislation prohibiting information obtained unlawfully from the domestic use of drones from being introduced into a Federal or State court, and precluding the domestic use of drones equipped with anti-personnel devices, meaning any projectile, chemical, electrical, directed energy (visible or invisible), or other device designed to harm, incapacitate, or otherwise negatively impact a human being; and pledges to abstain from similar uses with city-owned, lease, or borrowed drones

Antigo, WI

Resolution No. 090-15 re Approving Support from City for Unmanned Aerial Vehicle Project in Conjunction with the Langlade County Airport

WHEREAS, an Unmanned Aerial Vehicle (UAV) is an aircraft piloted by remote control or onboard computers; and,

WHEREAS, a business known as Unmanned Systems Incorporated (USI) has expressed an interest in conducting UAV testing and training at the Langlade County Airport; and,

WHEREAS, Mr. Don Bintz, the owner of Unmanned Systems Incorporated, has requested a formal declaration from community leaders indicating whether or not the community supports UAV testing and training at the Langlade County Airport, as Mr. Bintz needs to supply this information to federal agencies which regulate the use of UAV, such as the Federal Aviation Administration (FAA); and,

WHEREAS, USI's proposal for UAV Testing is outlined as follows: Testing required would be to upgrade UAV from Experimental Category to Normal Category. The regulatory requirement to conduct this certification would be FAR Part 23 modified for Unmanned Aircraft. Testing would determine Gross Weight, Max/Min Flight speeds, Endurance, Max Altitude, Range, G-Loading, Mean Time, Before Failure of Components and Airframe. We expect this to be a two year project. Currently our operating agreement allows USI to operate the aircraft within Visual Line-of-Sight out to 1 mile distance. Altitude is below 700 feet. These limitations confine the aircraft to the Airport traffic area. There will be times when we will petition the FAA for additional airspace to determine Max Altitude, Range, etc., but this will be done with a chase aircraft and on an occasional basis; and,

WHEREAS, USI's proposal for UAV Training is outlined as follows: Training pilots to remotely operate UAV would be conducted using both Fixed Wing and Multi-Rotor Aircraft. A "Fixed Wing" aircraft is just like a regular airplane. Multi-Rotor Aircraft would be similar to helicopters, having the ability to take off and land vertically and maneuver in limited areas. Training would be conducted on a daily basis. The plan is for the Multi-Rotor training to be confined to an area about the size of the current ramp on the Airport premises. If the current ramp area is used, it would have to be clear of all other aircraft. When conducting training on Fixed Wing aircraft, we would remain within the confines of the Airport using whichever runway is active. Currently, our Traffic Pattern Altitude is 200 feet Above Ground Level (AGL) where manned pattern altitude is generally 800 feet; this is done to prevent any conflict in the airspace used by manned and unmanned aircraft. Ninety-nine percent (99%) of the time we would operate within the physical boundaries and airspace of the Airport. Any operation of UAV beyond those limits would only occur with the permission of the FAA and with a manned chase aircraft. We would plan on flying daily during daylight hours only; currently we are not authorized to fly at night. We would operate below from ground level up to 700 feet Above Ground Level; and,

WHEREAS, USI is willing and able to grant additional assurances including: UAV operation will comply with all applicable legal requirements at all times, including but not limited to FAA Regulatory requirements. UAV will not be equipped with surveillance equipment and surveillance operations will not be conducted. The cameras on the UAV have a fixed lens that only streams real time video to allow the pilot to operate the aircraft. The imagery from these cameras provide about the same view that an individual would see if actually in the aircraft during flight; and,

NOW THEREFORE BE IT RESOLVED, BY THE COMMON COUNCIL, City of Antigo to support the efforts of Unmanned Systems Incorporated to establish UAV Testing and Training at the Langlade County Airport advanced through the mutual agreement of the Langlade County Board, Langlade County Economic Development Corporation and the Langlade County Airport Board.

Daly City, CA

No person, group or organization in any park or recreational are shall use unmanned aircraft systems (drones) of any size

Cherry Hills Village, CO

Operating requirements. Except as otherwise provided in this Article, persons operating a UAS in City airspace shall comply with the following operating regulations:

1. UAS operated by hobby operators must weigh no more than fifty-five (55) pounds at the time of operation, inclusive of equipment, payload and fuel.
2. Hobby operators must have a visual line of sight of the UAS at all times. Visual line of sight means the UAS must be visible at all times to the operator, using his or her own natural vision to observe the UAS, including the use of standard eyeglasses or contact lenses.
3. Without express prior written authorization from the City Manager, no person may operate a UAS on or over any City property inclusive of public streets, alleys, bridle paths, trails, playgrounds, parks, open space, parking lots, and public buildings.
4. No person shall enter, hover, launch, or land an unmanned aircraft system on or over another person's property without the prior consent of the property owner. Such unauthorized entry onto another's property shall be deemed a trespass.
5. No person shall operate a UAS in a reckless or careless manner so as to endanger or cause reasonable risk of harm or actual harm to persons, property, or any domestic animal or livestock.

State and Local Regulation of Unmanned Aircraft Systems (UAS)
Fact Sheet

Federal Aviation Administration
Office of the Chief Counsel

December 17, 2015

BACKGROUND

Unmanned aircraft systems (UAS) are aircraft subject to regulation by the FAA to ensure safety of flight, and safety of people and property on the ground. States and local jurisdictions are increasingly exploring regulation of UAS or proceeding to enact legislation relating to UAS operations. In 2015, approximately 45 states have considered restrictions on UAS. In addition, public comments on the Federal Aviation Administration's (FAA) proposed rule, "Operation and Certification of Small Unmanned Aircraft Systems" (Docket No. FAA-2015-0150), expressed concern about the possible impact of state and local laws on UAS operations.

Incidents involving unauthorized and unsafe use of small, remote-controlled aircraft have risen dramatically. Pilot reports of interactions with suspected unmanned aircraft have increased from 238 sightings in all of 2014 to 780 through August of this year. During this past summer, the presence of multiple UAS in the vicinity of wild fires in the western U.S. prompted firefighters to ground their aircraft on several occasions.

This fact sheet is intended to provide basic information about the federal regulatory framework for use by states and localities when considering laws affecting UAS. State and local restrictions affecting UAS operations should be consistent with the extensive federal statutory and regulatory framework pertaining to control of the airspace, flight management and efficiency, air traffic control, aviation safety, navigational facilities, and the regulation of aircraft noise at its source.

Presented below are general principles of federal law as they relate to aviation safety, and examples of state and local laws that should be carefully considered prior to any legislative action to ensure that they are consistent with applicable federal safety regulations. The FAA's Office of the Chief Counsel is available for consultation on specific questions.

WHY THE FEDERAL FRAMEWORK

Congress has vested the FAA with authority to regulate the areas of airspace use, management and efficiency, air traffic control, safety, navigational facilities, and aircraft noise at its source. 49 U.S.C. §§ 40103, 44502, and 44701-44735. Congress has directed the FAA to "develop plans and policy for the use of the navigable airspace and assign by regulation or order the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace." 49 U.S.C. § 40103(b)(1). Congress has further directed the FAA to "prescribe air traffic regulations on the flight of aircraft (including regulations on safe altitudes)" for navigating, protecting, and identifying aircraft; protecting individuals and property on the ground; using the navigable

airspace efficiently; and preventing collision between aircraft, between aircraft and land or water vehicles, and between aircraft and airborne objects. 49 U.S.C. § 40103(b)(2).

A consistent regulatory system for aircraft and use of airspace has the broader effect of ensuring the highest level of safety for all aviation operations. To ensure the maintenance of a safe and sound air transportation system and of navigable airspace free from inconsistent restrictions, FAA has regulatory authority over matters pertaining to aviation safety.

REGULATING UAS OPERATIONS

In § 333 of the FAA Modernization and Reform Act of 2012 (Public Law No. 112-95), Congress directed the Secretary to determine whether UAS operations posing the least amount of public risk and no threat to national security could safely be operated in the national airspace system (NAS) and if so, to establish requirements for the safe operation of these systems in the NAS.

On February 15, 2015, the FAA proposed a framework of regulations that would allow routine commercial use of certain small UAS in today's aviation system, while maintaining flexibility to accommodate future technological innovations. The FAA's Notice of Proposed Rulemaking offered safety rules for small UAS (under 55 pounds) conducting non-recreational or non-hobby operations. The proposed rule defines permissible hours of flight, line-of-sight observation, altitude, operator certification, optional use of visual observers, aircraft registration and marking, and operational limits.

Consistent with its statutory authority, the FAA is requiring Federal registration of UAS in order to operate a UAS. Registering UAS will help protect public safety in the air and on the ground, aid the FAA in the enforcement of safety-related requirements for the operation of UAS, and build a culture of accountability and responsibility among users operating in U.S. airspace. No state or local UAS registration law may relieve a UAS owner or operator from complying with the Federal UAS registration requirements. Because Federal registration is the exclusive means for registering UAS for purposes of operating an aircraft in navigable airspace, no state or local government may impose an additional registration requirement on the operation of UAS in navigable airspace without first obtaining FAA approval.

Substantial air safety issues are raised when state or local governments attempt to regulate the operation or flight of aircraft. If one or two municipalities enacted ordinances regulating UAS in the navigable airspace and a significant number of municipalities followed suit, fractionalized control of the navigable airspace could result. In turn, this 'patchwork quilt' of differing restrictions could severely limit the flexibility of FAA in controlling the airspace and flight patterns, and ensuring safety and an efficient air traffic flow. A navigable airspace free from inconsistent state and local restrictions is essential to the maintenance of a safe and sound air transportation system. *See Montalvo v. Spirit Airlines*, 508 F.3d 464 (9th Cir. 2007), and *French v. Pan Am Express, Inc.*, 869 F.2d 1 (1st Cir. 1989); *see also Arizona v. U.S.*, 567 U.S. ___, 132 S.Ct. 2492, 2502 (2012) ("Where Congress occupies an entire field . . . even complimentary state regulation is impermissible. Field preemption reflects a congressional decision to foreclose any

state regulation in the area, even if it is parallel to federal standards."), and *Morales v. Trans World Airlines, Inc.*, 504 U.S. 374, 386-87 (1992).

EXAMPLES OF STATE AND LOCAL LAWS FOR WHICH CONSULTATION WITH THE FAA IS RECOMMENDED

- Operational UAS restrictions on flight altitude, flight paths; operational bans; any regulation of the navigable airspace. For example – a city ordinance banning anyone from operating UAS within the city limits, within the airspace of the city, or within certain distances of landmarks. Federal courts strictly scrutinize state and local regulation of overflight. *City of Burbank v. Lockheed Air Terminal*, 411 U.S. 624 (1973); *Skysign International, Inc. v. City and County of Honolulu*, 276 F.3d 1109, 1117 (9th Cir. 2002); *American Airlines v. Town of Hempstead*, 398 F.2d 369 (2d Cir. 1968); *American Airlines v. City of Audubon Park*, 407 F.2d 1306 (6th Cir. 1969).
- Mandating equipment or training for UAS related to aviation safety such as geo-fencing would likely be preempted. Courts have found that state regulation pertaining to mandatory training and equipment requirements related to aviation safety is not consistent with the federal regulatory framework. *Med-Trans Corp. v. Benton*, 581 F. Supp. 2d 721, 740 (E.D.N.C. 2008); *Air Evac EMS, Inc. v. Robinson*, 486 F. Supp. 2d 713, 722 (M.D. Tenn. 2007).

EXAMPLES OF STATE AND LOCAL LAWS WITHIN STATE AND LOCAL GOVERNMENT POLICE POWER

Laws traditionally related to state and local police power – including land use, zoning, privacy, trespass, and law enforcement operations – generally are not subject to federal regulation. *Skysign International, Inc. v. City and County of Honolulu*, 276 F.3d 1109, 1115 (9th Cir. 2002). Examples include:

- Requirement for police to obtain a warrant prior to using a UAS for surveillance.
- Specifying that UAS may not be used for voyeurism.
- Prohibitions on using UAS for hunting or fishing, or to interfere with or harass an individual who is hunting or fishing.
- Prohibitions on attaching firearms or similar weapons to UAS.

CONTACT INFORMATION FOR QUESTIONS

The FAA's Office of the Chief Counsel is available to answer questions about the principles set forth in this fact sheet and to consult with you about the intersection of federal, state, and local regulation of aviation, generally, and UAS operations, specifically. You may contact the Office of Chief Counsel in Washington, D.C. or any of the following Regional Counsels:

FAA Office of the Chief Counsel
Regulations Division (AGC-200)
800 Independence Ave. SW
Washington, DC 20591
(202) 267-3073

Alaskan Region
Office of the Regional Counsel
222 West 7th Ave.
Anchorage, AK 99513
(909) 271-5269
(AK)

Central Region
Office of the Regional Counsel
901 Locust St., Room 506
Kansas City, MO 61406-2641
(816) 329-3760
(IA, KS, MO, NE)

Eastern Region
Office of the Regional Counsel
1 Aviation Plaza, Room 561
Jamaica, NY 11434-4848
(718) 553-3285
(DC, DE, MD, NJ, NY, PA, VA, WV)

Great Lakes Region
Office of the Regional Counsel
O'Hare Lake Office Center
2300 East Devon Ave.
Des Plaines, IL 60018
(847) 294-7313
(IL, IN, MI, MN, ND, OH, SD, WI)

New England Region
Office of the Regional Counsel
12 New England Executive Park
Burlington, MA 01803
(781) 238-7040
(CT, ME, MA, NH, RI, VT)

Northwest Mountain Region
Office of the Regional Counsel
1601 Lind Ave. SW
Renton, WA 98055-4056
(425) 227-2007
(CO, ID, MT, OR, UT, WA, WY)

Southern Region
Office of the Regional Counsel
1701 Columbia Ave., Suite 530
College Park, GA 30337
(404) 305-5200
(AL, FL, GA, KY, MS, NC, SC, TN)

Southwest Region
Office of the Regional Counsel, 6N-300
10101 Hillwood Parkway Dr.
Fort Worth, TX 76177
(817) 222-5099
(AR, LA, NM, OK, TX)

Western-Pacific Region
Office of the Regional Counsel
P.O. Box 92007
Los Angeles, CA 90009
(310) 725-7100
(AZ, CA, HI, NV)

APPENDIX – LIST OF AUTHORITIES

Federal Statutes

- 49 U.S.C. §§ 40103, 44502, and 44701- 44735 (former Federal Aviation Act of 1958, as amended and recodified).

- FAA Modernization and Reform Act of 2012, Public Law No. 112-95 (Feb. 14, 2012), Subtitle B, "Unmanned Aircraft Systems."

Federal Regulations

- Title 14 of the Code of Federal Regulations, Chapter 1.

The U.S. Supreme Court

- "Congress has recognized the national responsibility for regulating air commerce. Federal control is intensive and exclusive. Planes do not wander about in the sky like vagrant clouds. They move only by federal permission, subject to federal inspection, in the hands of federally certified personnel and under an intricate system of federal commands. The moment a ship taxies onto a runway it is caught up in an elaborate and detailed system of controls. It takes off only by instruction from the control tower, it travels on prescribed beams, it may be diverted from its intended landing, and it obeys signals and orders. Its privileges, rights, and protection, so far as transit is concerned, it owes to the Federal Government alone and not to any state government." *Northwest Airlines v. State of Minnesota*, 322 U.S. 292, 303 (1944)(Jackson, R., concurring).

- "If we were to uphold the Burbank ordinance [which placed an 11 p.m. to 7 a.m. curfew on jet flights from the Burbank Airport] and a significant number of municipalities followed suit, it is obvious that fractionalized control of the timing of takeoffs and landings would severely limit the flexibility of FAA in controlling air traffic flow. The difficulties of scheduling flights to avoid congestion and the concomitant decrease in safety would be compounded." *Burbank v. Lockheed Air Terminal Inc*., 411 U.S. 624, 639 (1973).

- "The Federal Aviation Act requires a delicate balance between safety and efficiency, and the protection of persons on the ground … The interdependence of these factors requires a uniform and exclusive system of federal regulation if the congressional objectives underlying the Federal Aviation Act are to be fulfilled." *Burbank* at 638-639.

- "The paramount substantive concerns of Congress [in enacting the FAA Act] were to regulate federally all aspects of air safety … and, once aircraft were in 'flight,' airspace management…." *Burbank* at 644 (Rehnquist, J. dissenting).

U.S. Courts of Appeals

- "Air traffic must be regulated at the national level. Without uniform equipment specifications, takeoff and landing rules, and safety standards, it would be impossible to operate a national air transportation system." *Gustafson v. City of Lake Angeles*, 76 F.3d 778, 792-793 (6th Cir. 1996)(Jones, N., concurring).

- "The purpose, history, and language of the FAA [Act] lead us to conclude that Congress intended to have a single, uniform system for regulating aviation safety. The catalytic events leading to the enactment of the FAA [Act] helped generate this intent. The FAA [Act] was drafted in response to a series of fatal air crashes between civil and military aircraft operating under separate flight rules …. In discussing the impetus for the FAA [Act], the Supreme Court has also noted that regulating the aviation industry requires a delicate balance between safety and efficiency. It is precisely because of 'the interdependence of these factors' that Congress enacted 'a uniform and exclusive system of federal regulation.'" *Montalvo v. Spirit Airlines,* 508 F.3d 464, 471 (9th Cir. 2007), citing *City of Burbank v. Lockheed Air Terminal Inc*., 411 U.S. 624, 638-39 (1973).

- "[W]hen we look to the historical impetus for the FAA, its legislative history, and the language of the [FAA] Act, it is clear that Congress intended to invest the Administrator of the Federal Aviation Administration with the authority to enact exclusive air safety standards. Moreover, the Administrator has chosen to exercise this authority by issuing such pervasive regulations that we can infer a preemptive intent to displace all state law on the subject of air safety." *Montalvo* at 472.

- "We similarly hold that federal law occupies the entire field of aviation safety. Congress' intent to displace state law is implicit in the pervasiveness of the federal regulations, the dominance of the federal interest in this area, and the legislative goal of establishing a single, uniform system of control over air safety. This holding is fully consistent with our decision in *Skysign International, Inc. v. Honolulu*, 276 F.3d 1109 (9th Cir. 2002), where we considered whether federal law preempted state regulation of aerial advertising that was distracting and potentially dangerous to persons on the ground. In upholding the state regulations, we held that federal law has not 'preempt[ed] altogether any state regulation purporting to reach into the navigable airspace.' *Skysign* at 1116. While Congress may not have acted to occupy exclusively all of air commerce, it has clearly indicated its intent to be the sole regulator of aviation safety. The FAA, together with federal air safety regulations, establish complete and thorough safety standards for interstate and international air transportation that are not subject to supplementation by, or variation among, states." *Montalvo* at 473-474.

- "[W]e remark the Supreme Court's reasoning regarding the need for uniformity [concerning] the regulation of aviation noise, see *City of Burbank v. Lockheed Air Terminal*, 411 U.S. 624 (1973), and suggest that the same rationale applies here. In *Burbank*, the Court struck down a municipal anti-noise ordinance placing a curfew on jet flights from a regional airport. Citing the 'pervasive nature of the scheme of federal

regulation,' the majority ruled that aircraft noise was wholly subject to federal hegemony, thereby preempting state or local enactments in the field. In our view, the pervasiveness of the federal web is as apparent in the matter of pilot qualification as in the matter of aircraft noise. If we upheld the Rhode Island statute as applied to airline pilots, 'and a significant number of [states] followed suit, it is obvious that fractionalized control ... would severely limit the flexibility of the F.A.A ….' [citing *Burbank*] Moreover, a patchwork of state laws in this airspace, some in conflict with each other, would create a crazyquilt effect … The regulation of interstate flight-and flyers-must of necessity be monolithic. Its very nature permits no other conclusion. In the area of pilot fitness as in the area of aviation noise, the [FAA] Act as we read it 'leave[s] no room for ... local controls.' [citing *Burbank*]. *French v. Pan Am Express, Inc*., 869 F.2d 1, 6 (1st Cir. 1989).