

The City of Muskogee encourages participation from all its citizens in public meetings. If participation is not possible due to a disability, notify the City Clerk, in writing, at least forty-eight hours prior to the scheduled meeting and necessary accommodations will be made (ADA 28 CFR/36).

(Public Comment during Public Hearing or Agenda item comment)

Council Rules of Decorum limit citizen comments on agenda items and public hearings to five (5) minutes and general comments for non-agenda items to three (3) minutes. Any person desiring to address the Committee during such period is required to sign in with the City Clerk prior to the meeting between 3:30 p.m. and 3:45 p.m. on the third floor of City Hall or anytime between 8:00 a.m. and 5:00 p.m. in the Office of the City Clerk. They shall provide their name, address and specify the agenda item they wish to address. Remarks shall be directed to the matter being considered and the speaker is allowed to speak only one time. If written materials are to be submitted twelve (12) copies should be made available, and may not be returned.

Agenda
Public Works Committee
November 7, 2017
4:00 P.M. - City Council Chambers

1. Consider approval of Public Works Committee minutes of October 17, 2017.
2. Hold a Public Hearing and take action on the approval of Ordinance No. 4031-A rezoning the property located at 4421 Denison Street, more particularly described in the ordinance, from "R-1" Single-Family Residential District, to "C-1" Local Commercial District, and if approved, authorize Staff to revise the Official Zoning Map of the City to reflect said change, or take other necessary action. (Gary D. Garvin)

LOTS 7 AND 8 IN BLOCK 19 IN CANARD ADDITION TO THE CITY OF MUSKOGEE,
LOCATED IN THE SOUTHEAST QUARTER (SE1/4) OF SECTION 14, TOWNSHIP 15
NORTH, RANGE 18 EAST, MUSKOGEE COUNTY, STATE OF OKLAHOMA.

3. Hold a Public Hearing and take action on the approval of Ordinance No. 4032-A rezoning the property located at 318 S. Cherokee Street, more particularly described in the ordinance, from "R-1" Single-Family Residential District to "I-1" Light Industrial District, and if approved, authorize Staff to revise the Official Zoning Map of the City to reflect said change, or take other necessary action. (Gary D. Garvin)

THE NORTH 61.4 FEET OF LOT 4 IN BLOCK 367 MOT TO THE CITY OF
MUSKOGEE, ACCORDING TO THE OFFICIAL PLAT THEREOF, LOCATED IN THE
SOUTHWEST QUARTER (SW1/4) OF SECTION 26, TOWNSHIP 15 NORTH, RANGE
18 EAST, MUSKOGEE COUNTY, STATE OF OKLAHOMA.

4. Consider approval of a Preliminary and Final Plat of Janie's Addition, consisting of one (1) lot on 4.33 acres, located on the south side of Gibson Street, west of Civitan Park, or take other necessary action. (Gary D. Garvin)

A TRACT OF LAND SITUATED IN THE NW/4 NE/4 OF SECTION 30, T15N, R19E OF THE I.B.& M., MUSKOGEE COUNTY, STATE OF OKLAHOMA: WITH THE BASIS OF BEARING OF THIS DESCRIPTION BEING NAD83(93) OKLAHOMA STATE PLANE, NORTH ZONE AND PREPARED ON 9/20/2017 BY TONY ROBINSON, LS #1686: SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS: BEGINNING AT THE NW CORNER OF THE NW/4 NE/4 OF SECTION 30, THENCE N88°20'49"E ALONG THE NORTH LINE OF SECTION 30 A DISTANCE OF 350.52 FEET; THENCE S5°00'51"W A DISTANCE OF 310.97 FEET; THENCE S89°00'47"W A DISTANCE OF 134.16 FEET; THENCE S0°39'19"E A DISTANCE OF 228.39 FEET; THENCE N89°00'47"E A DISTANCE OF 152.92 FEET TO A POINT ON A CURVE; THENCE ON A CURVE RIGHT WITH A RADIUS OF 2778.60 FEET AN ARC LENGTH OF 182.85 FEET AND A CHORD WHICH BEARS S1°22'14"W A DISTANCE OF 182.82 FEET; THENCE S88°20'49"W A DISTANCE OF 319.46 FEET; THENCE N1°39'11"W A DISTANCE OF 720.00 FEET TO THE POINT OF BEGINNING. CONTAINING 4.66 ACRES, MORE OR LESS.

5. Consider approval of Ordinance No. 4030-A amending the City of Muskogee Code of Ordinances, Chapter 2, Administration, Article II, Municipal Government Organization; by Amending Section 2-20, Meetings of the Council, by providing for modified meeting times for the City Council and City Council Committees; Providing for Repealer, Severability, and Setting an Effective date, or take other necessary action. (Roy D. Tucker)
6. Consider approval of Ordinance No. 4029-A amending the City of Muskogee Code of Ordinances, by Creating Section 91-102, Muskogee Arts and Cultural Authority, within Article I, Establishment and Recognition, of Chapter 91, Public Trusts; Providing for Repealer, Severability, and Declaring an Emergency. (Roy D. Tucker)
7. Discuss and take action approving the Trust Indenture creating the Muskogee Arts and Cultural Authority, accepting a beneficial interest thereto, allocating funding, and further authorizing and directing the Mayor and City Clerk to execute any necessary documents related thereto. (Roy D. Tucker)
8. Discuss and provide direction to Staff on existing permitting procedures required of new or expanded hospital or ambulatory surgical care centers as set forth in City Code 22-674 and 22-675. (Marlon Coleman)
9. Consider approval of lowest and best bid from Rehrig Pacific Company in the amount of \$552.50 per tank for purchase of 81 two (2) cubic yard containers-rear loading for Fiscal year 2017-2018, or take other necessary action. (Greg Riley)
10. Receive report regarding the installation of the new grill at Rotary Park. (Councilmember Ivory Vann)

RECOGNIZE CITIZENS WISHING TO SPEAK TO CHAIRMAN AND COMMITTEE MEMBERS.

Council Rules of Decorum limit citizen comments to three (3) minutes. Any person desiring to speak is required to sign-in with the City Clerk, provide their name, address, and the particular issue they wish to address. Under Oklahoma law, the Committee Members are prohibited from discussing or taking any action on items not on today's agenda. If written materials are to be submitted to the Committee twelve (12) copies should be made available, and may not be returned.

Public Works Committee

1.

Meeting Date: 11/07/2017
Initiator: Ashley Wallace, Office Adm 1
Department: City Clerk
Staff Information Source:

Information

AGENDA ITEM TITLE:

Consider approval of Public Works Committee minutes of October 17, 2017.

BACKGROUND:

RECOMMENDED ACTION:

Fiscal Impact

Attachments

10-17-2017 pwmin

MINUTES
PUBLIC WORKS COMMITTEE
October 17, 2017

The Public Works Committee of the City of Muskogee, Oklahoma, met at 4:00 p.m. on Tuesday, October 17, 2017 in Council Chambers, Third Floor, Municipal Building, with the following in attendance:

Deputy Mayor James Gulley presented on behalf of Mayor Bob Coburn a proclamation proclaiming the month of October as Domestic Violence Awareness Month for the City of Muskogee.

Present: Deputy Mayor James Gulley; Committee Member Janey Boydston; Committee Member Marlon Coleman; Committee Member Dan Hall; Committee Member Derrick Reed; Committee Member Ivory Vann

Absent: Mayor John R. Coburn; Committee Member Patrick Cale; Committee Member Wayne Johnson

Staff: Mike Miller, City Manager; Mike Stewart, Asst City Manager; Roy Tucker, City Attorney; Gary Garvin, City Planner; Greg Riley, Public Works Director; Michael O'Dell, Fire Chief; Rex Eskridge, Police Chief; Dan Hurd, Uniform Code Inspector; Carolyn Jones, Revenue Manager

1. Consider approval of Public Works Committee minutes of October 3, 2017.

Motion was made by Committee Member Dan Hall, seconded by Committee Member Janey Boydston to approve Public Works Committee minutes of October 3, 2017.

AYE: Deputy Mayor James Gulley, Committee Member Janey Boydston, Committee Member Marlon Coleman, Committee Member Dan Hall, Committee Member Derrick Reed, Committee Member Ivory Vann

Carried - Unanimously

2. Consider approval of a Mutual Police Assistance Agreement between the Jack C. Montgomery Veteran Affairs Medical Center/The United States Department of Veterans Affairs and the City of Muskogee, or take other necessary action. (Rex Eskridge)

Police Chief Rex Eskridge stated this is a Mutual Assistance Agreement between the City of Muskogee and the Jack C. Montgomery Veteran Affairs Medical Center (VA). This agreement is asking for the City's support if a significant event were to occur that requires immediate additional police response, to include the following: officer involved shootings, support of investigations both on and off property, transportation of persons (as required), traffic control adjacent to VA Property, arresting on local and state warrants, support and responsibilities in the event of VA facility emergencies. See attached agreement for additional information.

Motion was made by Committee Member Dan Hall, seconded by Committee Member Janey Boydston to approve Mutual Police Assistance Agreement between the Jack C. Montgomery Veteran Affairs Medical Center/The United States Department of Veterans Affairs and the City of Muskogee.

AYE: Deputy Mayor James Gulley, Committee Member Janey Boydston, Committee Member Marlon Coleman, Committee Member Dan Hall, Committee Member Derrick Reed, Committee Member Ivory Vann

Carried - Unanimously

3. Consider approval of an Intergovernmental Cross-Deputization Agreement between the United States, The Muscogee (Creek) Nation, and Political Subdivisions of the State of Oklahoma and the City of Muskogee Police Department, or take other necessary action. (Rex Eskridge)

Police Chief Rex Eskridge stated the purpose of this Intergovernmental Cross-Deputization Agreement between the Creek Nation and the City of Muskogee Police Department is to

- (1.) Provide for the cross-deputization of officers employed by the various governmental agencies which are or shall become parties hereto; and

- (2.) Authorize commissioned officers to provide law enforcement services and make lawful arrests on or near Indian country within the geographic area of the Muscogee (Creek) Nation reservation; and

- (3.) Authorize commissioned officers to react immediately to observed violations of the law and other emergency situations regardless of whether such occurrences violate the criminal statutes of the Muscogee (Creek) Nation, the United States, and/or the State of Oklahoma; and

- (4.) Provide for efficient, effective and cooperative law enforcement efforts on or near Indian country in the geographic area of the Muscogee Nation within the State of Oklahoma; and

- (5.) Eliminate the uncertainties which have caused reluctance among various law enforcement agencies to provide services on or near Indian country for fear of being subjected to tort or civil rights suits as a consequence of the good-faith errors of Officers making arrests or quelling disturbances in Indian country; and

- (6.) Provide comprehensive law enforcement protection to citizens of the State of Oklahoma and the Muscogee Nation whether they be on or off of Indian country within the geographic area of the Muscogee (Creek) Nation, including but not limited to, responding to observed violations of the law, effecting arrests, responding to calls for assistance, performing investigations and providing other assistance such as dispatching and detention. See attached Agreement for further details.

Motion was made by Committee Member Dan Hall, seconded by Committee Member Marlon Coleman to approve an an Intergovernmental Cross-Deputization Agreement between the United States, The Muscogee (Creek) Nation, and Political Subdivisions of the State of Oklahoma and the City of Muskogee Police Department.

AYE: Deputy Mayor James Gulley, Committee Member Janey Boydston, Committee Member Marlon Coleman, Committee Member Dan Hall, Committee Member Derrick Reed, Committee Member Ivory Vann

Carried - Unanimously

4. Consider approval of the appointment of E. Cedric Johnson to serve a five (5) year term on the Martin Luther King Jr. Community Center Trust Authority, beginning November 1, 2017, and ending July 31, 2022, replacing David Ragsdale, or take other necessary action. (Councilmember James Gulley)

Motion was made by Deputy Mayor James Gulley, seconded by Committee Member Dan Hall to approve appointment of E. Cedric Johnson to serve a five (5) year term on the Martin Luther King Jr. Community Center Trust Authority, beginning November 1, 2017, and ending July 31, 2022, replacing David Ragsdale.

AYE: Deputy Mayor James Gulley, Committee Member Janey Boydston, Committee Member Marlon Coleman, Committee Member Dan Hall, Committee Member Derrick Reed, Committee Member Ivory Vann

Carried - Unanimously

5. Consider approval of Resolution No. 2707 giving notice to the Secretary of the Muskogee County Election Board and calling a City General Election for Tuesday, the 13th of February, 2018, and a Run-Off Election in the event respective candidates for the offices of Mayor and Council members do not receive a majority vote, with said Run-Off Election to be held for Tuesday, the 3rd of April, 2018; Establishing filing, withdrawal and contest periods; Closing the 45th and 40th voting precincts; and Establishing all the same pursuant to the Charter of the City of Muskogee and the revised State election laws, or take other necessary action. (Roy D. Tucker)

City Attorney Roy D. Tucker stated attached is the resolution calling for the election of Mayor and Councilmembers. While the Charter provides the Council election to be held in January, the revised election laws do not require the County Election Board to hold any municipal election that is not within a month established by state law. As a result, the election will be held in February in accordance with state law. However, all other dates such as filing, do not conflict with state law and so will be held in accordance with the City's Charter.

Motion was made by Committee Member Marlon Coleman, seconded by Committee Member Janey Boydston to approve Resolution No. 2707 giving notice to the Secretary of the Muskogee County Election Board and calling a City General Election for Tuesday, the 13th of February, 2018, and a Run-Off Election in the event respective candidates for the offices of Mayor and Council members do not receive a majority vote, with said Run-Off Election to be held for Tuesday, the 3rd of April, 2018; Establishing filing, withdrawal and contest periods; Closing the 45th and 40th voting precincts; and Establishing all the same pursuant to the Charter of the City of Muskogee and the revised State election laws.

AYE: Deputy Mayor James Gulley, Committee Member Janey Boydston, Committee Member Marlon Coleman, Committee Member Dan Hall, Committee Member Derrick Reed, Committee Member Ivory Vann

Carried - Unanimously

RECOGNIZE CITIZENS WISHING TO SPEAK TO CHAIRMAN AND COMMITTEE MEMBERS.

Council Rules of Decorum limit citizen comments to three (3) minutes. Any person desiring to speak is required to sign-in with the City Clerk, provide their name, address, and the particular issue they wish to address. Under Oklahoma law, the Council Members are prohibited from discussing or taking any action on items not on today's agenda. If written materials are to be submitted to the Council twelve (12) copies should be made available, and may not be returned.

Marlon Coleman, 11 Oak Park Lane, Muskogee, Oklahoma 74401, stated Thursday, November 2, 2017, there will be a dedication of Elliott Park at 5:00 p.m. Elliott Park will be recognized as a historical marker in the City of Muskogee. At one time, Elliott Park was the only place where African-Americans were allowed to swim. Muskogee, Oklahoma, along with other cities, have come a long way, now welcoming all residents at every park. This will also be a time for the people to remember this place that once was the only park that allowed African-Americans to swim, now being a place where everyone can stand together in brotherly love.

CHAIRMAN JAMES GULLEY
PUBLIC WORKS COMMITTEE

pwmin
TT/aw

Public Works Committee

2.

Meeting Date: 11/07/2017

Initiator: Susan Ross, Office Adm 1

Information

AGENDA ITEM TITLE:

Hold a Public Hearing and take action on the approval of Ordinance No. 4031-A rezoning the property located at 4421 Denison Street, more particularly described in the ordinance, from "R-1" Single-Family Residential District, to "C-1" Local Commercial District, and if approved, authorize Staff to revise the Official Zoning Map of the City to reflect said change, or take other necessary action. (Gary D. Garvin)

LEGAL DESCRIPTION:

LOTS 7 AND 8 IN BLOCK 19 IN CANARD ADDITION TO THE CITY OF MUSKOGEE, LOCATED IN THE SOUTHEAST QUARTER (SE1/4) OF SECTION 14, TOWNSHIP 15 NORTH, RANGE 18 EAST, MUSKOGEE COUNTY, STATE OF OKLAHOMA.

BACKGROUND:

The applicant, Cassandra Logan, is requesting the property located at 4421 Denison Street be rezoned from "R-1" Single-Family Residential District to "C-1" Local Commercial District to allow a Day Care Center (8 or more persons) to be located on the property.

According to the Land Use Map, the area is classified as single-family residential. The request to rezone to "C-1" Local Commercial District would not comply with the Comprehensive Plan and Land Use Map adopted by the City of Muskogee. Additionally, allowing a commercial zoning within a residential area would be considered spot zoning.

Notices have been sent to the property owners within 300 foot radius, as required, and published in the paper twenty (20) days prior to the Public Hearing. A Public Hearing will be held on the following days:

November 6, 2017 at 9:00 a.m.: City of Muskogee Planning & Zoning Commission

November 7, 2017 at 4:00 p.m.: Public Works Committee

November 13, 2017 at 7:00 p.m. Muskogee City Council Meeting

RECOMMENDED STAFF ACTION:

Deny the Ordinance rezoning the property from "R-1" Single-Family Residential District to "C-1" Local Commercial District.

Fiscal Impact

Attachments

4031-A Ord 11-17-2017 Amending Zoning Map Cosandra Logan

Site Plan/Notice - Logan

ORDINANCE NO. 4031-A

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF MUSKOGEE AS PROVIDED BY CHAPTER 90, SECTION 01-03, OF THE MUSKOGEE CITY CODE, SEPTEMBER 2014, BY RE-ZONING LOTS 7 AND 8 IN BLOCK 19 IN CANARD ADDITION TO THE CITY OF MUSKOGEE, LOCATED IN THE SOUTHEAST QUARTER (SE1/4) OF SECTION 14, TOWNSHIP 15 NORTH, RANGE 18 EAST, MUSKOGEE COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE OFFICIAL PLAT THEROF, MUSKOGEE COUNTY, OKLAHOMA, CONTAINING 13,200 SQUARE FEET, MORE OR LESS, AND PROVIDING FOR SEVERABILITY. (CASANDRA LOGAN, Applicant)

FROM “R-1” SINGLE FAMILY RESIDENTIAL DISTRICT

TO

“C-1” LOCAL COMMERCIAL DISTRICT

WHEREAS, the City of Muskogee Planning and Zoning Commission, in a meeting held November 6, 2017, did recommend the approval of the rezoning of the property set out above in the title of the Ordinance, and did authorize the director of the Commission to advise the Council of the City of Muskogee of this recommendation,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUSKOGEE, OKLAHOMA,

Section 1. THAT, the official zoning map of the City of Muskogee as provided by Chapter 90, Section 01-03, of the Muskogee City Code, September 2014, is hereby amended by changing the District Classification by rezoning; LOTS 7 AND 8 IN BLOCK 19 IN CANARD ADDITION TO THE CITY OF MUSKOGEE, LOCATED IN THE SOUTHEAST QUARTER (SE1/4) OF SECTION 14, TOWNSHIP 15 NORTH, RANGE 18 EAST, MUSKOGEE COUNTY, STATE OF OKLAHOMA FROM “R-1” SINGLE FAMILY RESIDENTIAL DISTRICT TO “C-1” LOCAL COMMERCIAL DISTRICT.

AND that this change be so ordered and declared by the City Council.

Section 2. THAT, the City Clerk is authorized and directed to show such change on the zoning map record.

Section 3: REPEALER. All other ordinances or parts of ordinances in direct conflict herewith are repealed to the extent of the conflict only.

Ordinance No. _____

Section 4: SEVERABILITY. Should any part, section, subsection, sentence, provision, clause, or phrase hereof be held invalid, void, or unconstitutional for any reason, such holding shall not render invalid, void, or unconstitutional any other section, subsection, sentence, provision, clause, or phrase of this Ordinance, and the same are deemed severable for this purpose.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MUSKOGEE, OKLAHOMA, THIS 13TH DAY OF NOVEMBER, 2017.

JOHN R. COBURN, MAYOR

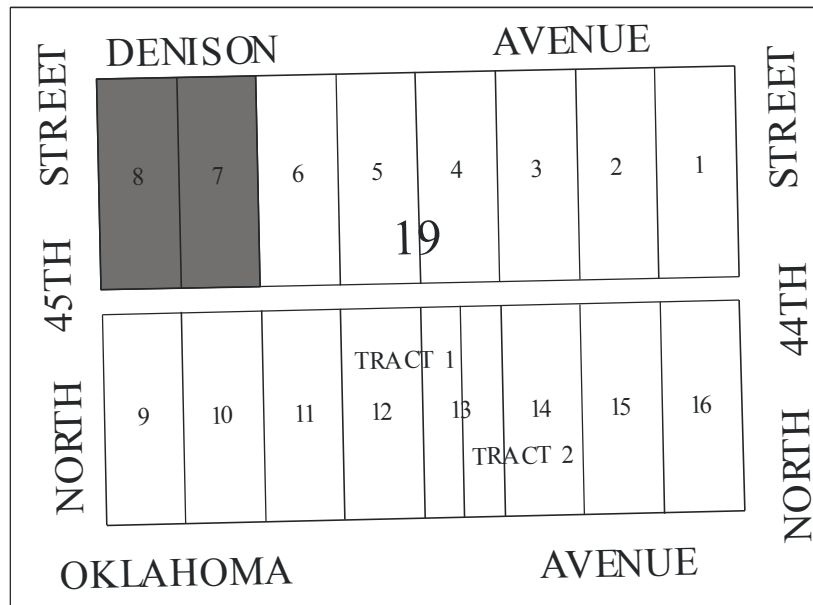
ATTEST:

TAMMY L. TRACY, CITY CLERK
(SEAL)

APPROVED as to form and legality this ____ day of _____, 2017.

ROY D. TUCKER, CITY ATTORNEY

Public Hearing Notice



Proposal: To rezone property located at 4421 Denison Street, from “R-1” Single Family Residential District to “C-1” Local Commercial District. The property is more particularly described as:

Lots 7 and 8 in Block 19 in Canard Addition to the City of Muskogee, located in the Southeast Quarter (SE1/4) of Section 14, Township 15 North, Range 18 East, according to the official plat thereof, Muskogee County, Oklahoma. Containing 13,200 square feet, more or less.

Applicant: Casandra Logan

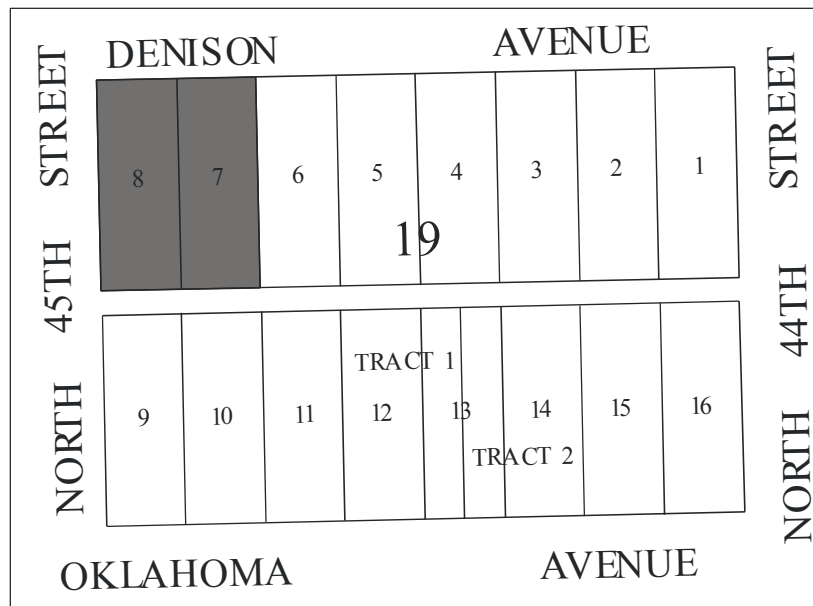
This notice is provided to property owners within 300 feet of the above site to inform them of the following public hearings regarding the above proposal:

November 6, 2017 at 9:00 a.m.: City of Muskogee Planning & Zoning Commission

November 7, 2017 at 4:00 p.m.: City of Muskogee Public Works Committee

November 13, 2017 at 7:00 p.m.: City Council

All of the public hearings will be held in the Council Chambers, 3rd Floor of the City Municipal Building, 3rd Street and Okmulgee, Muskogee, Oklahoma. The purpose of the public hearing is to discuss the above proposal. You are welcome to attend the meeting and express your opinion. If you have questions about the proposal, or need additional information prior to the public hearing, please contact the Planning Department at 918.684-6232.



(Casandra Logan, Applicant)

PUBLIC NOTICE

Notice is hereby given that on November 6, 2017, at 9:00 a.m., in the Council Chambers of the Municipal Building, Muskogee, Oklahoma, a public hearing will be conducted by the City of Muskogee Planning & Zoning Commission, on November 7, 2017, at 4:00 p.m., by the Public Works Committee, and on November 13, 2017, at 7:00 p.m., by the City Council to consider an application to rezone property located at 4421 Denison Street, from “R-1” *Single Family Residential* District to “C-1” Local Commercial District. The property is more particularly described as:

Lots 7 and 8 in Block 19 in Canard Addition to the City of Muskogee, located in the Southeast Quarter (SE1/4) of Section 14, Township 15 North, Range 18 East, according to the official plat thereof, Muskogee County, Oklahoma. Containing 13,200 square feet, more or less.

And for taking any other actions as authorized by law, of which all interested persons will take notice.

**Mark Luttrull, Chairman
City of Muskogee Planning & Zoning Commission**

Public Works Committee

3.

Meeting Date: 11/07/2017

Initiator: Susan Ross, Office Adm 1

Information

AGENDA ITEM TITLE:

Hold a Public Hearing and take action on the approval of Ordinance No. 4032-A rezoning the property located at 318 S. Cherokee Street, more particularly described in the ordinance, from "R-1" Single-Family Residential District to "I-1" Light Industrial District, and if approved, authorize Staff to revise the Official Zoning Map of the City to reflect said change, or take other necessary action. (Gary D. Garvin)

LEGAL DESCRIPTION:

THE NORTH 61.4 FEET OF LOT 4 IN BLOCK 367 MOT TO THE CITY OF MUSKOGEE, ACCORDING TO THE OFFICIAL PLAT THEREOF, LOCATED IN THE SOUTHWEST QUARTER (SW1/4) OF SECTION 26, TOWNSHIP 15 NORTH, RANGE 18 EAST, MUSKOGEE COUNTY, STATE OF OKLAHOMA.

BACKGROUND:

The applicant, City of Muskogee (Public Works), is requesting the property located at 318 S. Cherokee Street to be rezoned from "R-1" Single-Family Residential District to "I-1" Light Industrial District to allow a new Public Works (Maintenance Headquarters) building to be located on the property.

According to the Land Use Map, the Cherokee Street corridor (running parallel to the railroad) is classified as Light Industrial. The request to rezone to "I-1" Light Industrial complies with the Comprehensive Plan and Land Use Map adopted by the City of Muskogee.

Notices have been sent to the property owners within 300 foot radius, as required, and published in the paper twenty (20) days prior to the Public Hearing. A Public Hearing will be held on the following days:

November 6, 2017 at 9:00 a.m.: City of Muskogee Planning & Zoning Commission

November 7, 2017 at 4:00 p.m.: Public Works Committee

November 13, 2017 at 7:00 p.m. Muskogee City Council Meeting

RECOMMENDED STAFF ACTION:

Approve the Ordinance rezoning the property from "R-1" Single-Family Residential District to "I-1" Light Industrial District, and authorize staff to revise the Official Zoning Map of the City to reflect said change.

Fiscal Impact

Attachments

4032-A 11-13-2017 Rezoning 318 S. Cherokee St.

Site Plan/Notice - COM

ORDINANCE NO. 4032-A

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF MUSKOGEE AS PROVIDED BY CHAPTER 90, SECTION 01-03, OF THE MUSKOGEE CITY CODE, SEPTEMBER 2014, BY RE-ZONING THE NORTH 61.4 FEET OF LOT 4 IN BLOCK 367 MOT TO THE CITY OF MUSKOGEE, ACCORDING TO THE OFFICIAL PLAT THEREOF, LOCATED IN THE SOUTHWEST QUARTER (SW1/4) OF SECTION 26, TOWNSHIP 15 NORTH, RANGE 18 EAST, MUSKOGEE COUNTY, STATE OF OKLAHOMA; AND PROVIDING FOR SEVERABILITY. (City of Muskogee, Applicant)

FROM "R-1" SINGLE FAMILY RESIDENTIAL DISTRICT

TO

"I-1" LIGHT INDUSTRIAL DISTRICT

WHEREAS, the City of Muskogee Planning and Zoning Commission, in a meeting held November 6, 2017, did recommend the approval of the rezoning of the property set out above in the title of the Ordinance, and did authorize the director of the Commission to advise the Council of the City of Muskogee of this recommendation,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUSKOGEE, OKLAHOMA,

Section 1. THAT, the official zoning map of the City of Muskogee as provided by Chapter 90, Section 01-03, of the Muskogee City Code, September 2014, is hereby amended by changing the District Classification by rezoning THE NORTH 61.4 FEET OF LOT 4 IN BLOCK 367 MOT TO THE CITY OF MUSKOGEE, ACCORDING TO THE OFFICIAL PLAT THEREOF, LOCATED IN THE SOUTHWEST QUARTER (SW1/4) OF SECTION 26, TOWNSHIP 15 NORTH, RANGE 18 EAST; MUSKOGEE COUNTY, STATE OF OKLAHOMA; FROM "R-1" SINGLE FAMILY RESIDENTIAL DISTRICT TO "I-1" LIGHT INDUSTRIAL DISTRICT.

AND that this change be so ordered and declared by the City Council.

Section 2. THAT, the City Clerk is authorized and directed to show such change on the zoning map record.

Section 3: REPEALER. All other ordinances or parts of ordinances in direct conflict herewith are repealed to the extent of the conflict only.

Ordinance No. _____

Section 4: SEVERABILITY. Should any part, section, subsection, sentence, provision, clause, or phrase hereof be held invalid, void, or unconstitutional for any reason, such holding shall not render invalid, void, or unconstitutional any other section, subsection, sentence, provision, clause, or phrase of this Ordinance, and the same are deemed severable for this purpose.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MUSKOGEE, OKLAHOMA, THIS 13TH DAY OF NOVEMBER, 2017.

JOHN R. COBURN, MAYOR

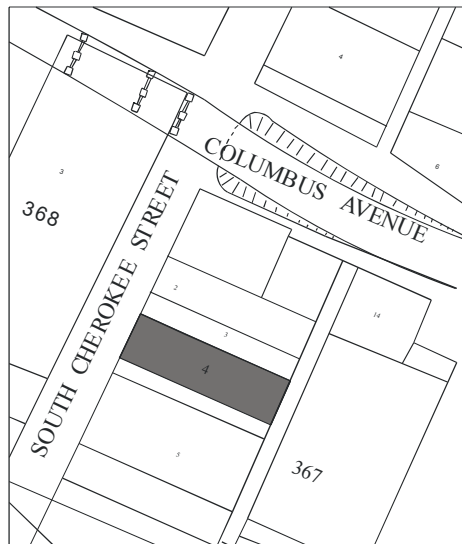
ATTEST:

TAMMY L. TRACY, CITY CLERK
(SEAL)

APPROVED as to form and legality this ____ day of _____, 2017.

ROY D. TUCKER, CITY ATTORNEY

Public Hearing Notice



Proposal: To rezone property located at 318 S Cherokee, from “R-1” Single Family Residential District to “I-1” Light Industrial District. The property is more particularly described as:

The North 61.4 feet of Lot 4 in Block 367 of the City of Muskogee, according to the official plat thereof, Muskogee County, Oklahoma.

Applicant: City of Muskogee

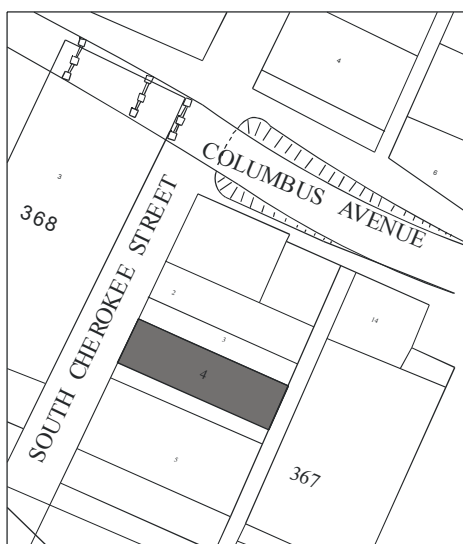
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(City of Muskogee, Applicant)

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The North 61.4 feet of Lot 4 in Block 367 of the City of Muskogee, according to the official plat thereof, Muskogee County, Oklahoma.

And for taking any other actions as authorized by law, of which all interested persons will take notice.

**Mark Luttrull, Chairman
City of Muskogee Planning & Zoning Commission**

Meeting Date: 11/07/2017

Initiator: Susan Ross, Office Adm 1

Information

AGENDA ITEM TITLE:

Consider approval of a Preliminary and Final Plat of Janie's Addition, consisting of one (1) lot on 4.33 acres, located on the south side of Gibson Street, west of Civitan Park, or take other necessary action. (Gary D. Garvin)

LEGAL DESCRIPTION:

A TRACT OF LAND SITUATED IN THE NW/4 NE/4 OF SECTION 30, T15N, R19E OF THE I.B.& M., MUSKOGEE COUNTY, STATE OF OKLAHOMA: WITH THE BASIS OF BEARING OF THIS DESCRIPTION BEING NAD83(93) OKLAHOMA STATE PLANE, NORTH ZONE AND PREPARED ON 9/20/2017 BY TONY ROBINSON, LS #1686: SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS: BEGINNING AT THE NW CORNER OF THE NW/4 NE/4 OF SECTION 30, THENCE N88°20'49"E ALONG THE NORTH LINE OF SECTION 30 A DISTANCE OF 350.52 FEET; THENCE S5°00'51"W A DISTANCE OF 310.97 FEET; THENCE S89°00'47"W A DISTANCE OF 134.16 FEET; THENCE S0°39'19"E A DISTANCE OF 228.39 FEET; THENCE N89°00'47"E A DISTANCE OF 152.92 FEET TO A POINT ON A CURVE; THENCE ON A CURVE RIGHT WITH A RADIUS OF 2778.60 FEET AN ARC LENGTH OF 182.85 FEET AND A CHORD WHICH BEARS S1°22'14"W A DISTANCE OF 182.82 FEET; THENCE S88°20'49"W A DISTANCE OF 319.46 FEET; THENCE N1°39'11"W A DISTANCE OF 720.00 FEET TO THE POINT OF BEGINNING. CONTAINING 4.66 ACRES, MORE OR LESS.

BACKGROUND:

The applicant, Anthony Glen Cox, has indicated the property is being platted into one (1) lot on 4.33 acres to allow the property to be developed residentially. The applicant is proposing to build a new single-family dwelling on the property. Subdivision Review Committee reviewed the Preliminary and Final Plats, and recommended approval with conditions (all conditions have been complied with).

RECOMMENDED STAFF ACTION:

Approve the Preliminary and Final Plat of Janie's Addition.

Fiscal Impact

Attachments

Final Plat - Janie's Addition

P.O.B.
NW CORNER
NW/4 NE/4
SEC.30,T15N,R19E
N: 285759.05
E: 2760126.58

GIBSON STREET

N: 2857
E: 2760

N88°20'49"E--(M)350.43' (D)350.52'

N88°20'49"E--345.75'

25' BLDG. S/B

270.7'
S55°00'51"W--310.97'

BLOCK 1
LOT 1
4.33 AC.

20' U/E

S89°00'47"W--134.16'

KINGSTON STREET

N1°39'11"W--720.00'
680.00'

S0°39'19"E--228.39'

N89°00'47"E--152.92'

L=182.
R=277
CH=S1'
CH L=

S88°20'49"W--319.46'

N: 285039.35
E: 2760147.35

N: 285048.5
E: 2760466.

HORN'S
ADDITION

CIRCLE ACRES
ADDITION

Public Works Committee**5.**

Meeting Date: 11/07/2017

Submitted For: Roy Tucker, City Attorney

Initiator: Roy Tucker, City Attorney

Department: City Attorney

Staff Information Source:

Information**AGENDA ITEM TITLE:**

Consider approval of Ordinance No. 4030-A amending the City of Muskogee Code of Ordinances, Chapter 2, Administration, Article II, Municipal Government Organization; by Amending Section 2-20, Meetings of the Council, by providing for modified meeting times for the City Council and City Council Committees; Providing for Repealer, Severability, and Setting an Effective date, or take other necessary action. (Roy D. Tucker)

BACKGROUND:

At the City Council meeting on October 23, 2017, the City Council approved changing the times of the City Council meeting and the dates and times of the Public Works and Finance Committees. Staff has prepared an ordinance memorializing the change for consideration.

RECOMMENDED ACTION:

Approve the Ordinance.

Fiscal Impact**Attachments**

4030-A Ord 11-13-2017 Amending Meetings

ORDINANCE NO. 4030-A

AN ORDINANCE AMENDING THE CITY OF MUSKOGEE CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION, ARTICLE II, MUNICIPAL GOVERNMENT ORGANIZATION; BY AMENDING SECTION 2-20, MEETINGS OF THE COUNCIL, BY PROVIDING FOR MODIFIED MEETING TIMES FOR THE CITY COUNCIL AND CITY COUNCIL COMMITTEES; PROVIDING FOR REPEALER, SEVERABILITY, AND SETTING AN EFFECTIVE DATE.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUSKOGEE, OKLAHOMA, AS FOLLOWS:

AN AMENDED ORDINANCE

Section 1. The City of Muskogee Code of Ordinances, Chapter 2, Administration, Article II, Section 2-20, Meetings of the council, is hereby amended to read as follows:

SEC. 2-20. MEETINGS OF THE COUNCIL.

(a) Regular meetings of the council shall be held in council chambers at city hall on the second and fourth Mondays of each month, beginning at ~~7:00~~ 5:30 p.m. In the event a regular meeting falls on a holiday, the regular meeting shall be held the following day at ~~7:00~~ 5:30 p.m.

(b) Regular meetings of council committees, such as the public works committee and the finance committee, shall be held in council chambers at city hall on the first and third Mondays of each month, beginning at 5:30 p.m., consecutively. In the event that a regular committee meeting falls on a holiday, the committee meetings shall be held the following day at 5:30 p.m., consecutively.

~~(b) The public body may charge a fee of up to \$36.00 per year to persons or entities filing a written request for notice of meetings, and may require such persons or entities to renew the request for notice annually.~~

(c) Special meetings of the city council may be called at any time by the mayor or by five council members.

(d) In all respects the Oklahoma Open Meetings Act, Title 25, Oklahoma Statutes, Sections 301 et seq., as it now exists or as may be amended from time to time by the Oklahoma Legislature shall be followed.

(e) Except as otherwise provided by ordinance or by rules adopted by the council, Robert's Rules of Order, most current edition, shall govern the proceedings of the council insofar as it is applicable.

Section 2. REPEALER. All other ordinances or parts of ordinances in direct conflict herewith are repealed to the extent of the conflict only.

Section 3. SEVERABILITY. Should any part section, subsection, sentence, provision, clause or phrase hereof be held invalid, void, or unconstitutional for any reason, such holding shall not render invalid, void, or unconstitutional any other section, subsection, sentence, provision.

CITY OF MUSKOGEE

JOHN R. COBURN, MAYOR

ATTEST:

TAMMY L. TRACY, CITY CLERK

(seal)

Approved as to form and legality this _____ day of _____, 2017.

ROY D. TUCKER, CITY ATTORNEY

Public Works Committee

6.

Meeting Date: 11/07/2017

Submitted For: Roy Tucker, City Attorney

Initiator: Roy Tucker, City Attorney

Department: City Attorney

Staff Information Source:

Information

AGENDA ITEM TITLE:

Consider approval of Ordinance No. 4029-A amending the City of Muskogee Code of Ordinances, by Creating Section 91-102, Muskogee Arts and Cultural Authority, within Article I, Establishment and Recognition, of Chapter 91, Public Trusts; Providing for Repealer, Severability, and Declaring an Emergency. (Roy D. Tucker)

BACKGROUND:

Nine (9) proposed Trustors who currently comprise the Muskogee Medical Center Authority and the Oklahoma Music Hall of Fame and Museum, Inc. are interested in requesting the City create a new public trust to be called the Muskogee Arts and Cultural Authority. The purpose of the trust would be the further the public purpose of undertaking and supporting activities within the community of Muskogee, Oklahoma, which enhance, support, and foster arts, artists, artistic and other creative or cultural endeavors of all types, mediums, and genres.

RECOMMENDED ACTION:

Approve the Ordinance.

Fiscal Impact

Attachments

4029-A 11-13-2017 MACA Trust

ORDINANCE NO. 4029-A

AN ORDINANCE AMENDING THE CITY OF MUSKOGEE CODE OF ORDINANCES, BY CREATING SECTION 91-102, MUSKOGEE ARTS AND CULTURAL AUTHORITY, WITHIN ARTICLE I, ESTABLISHMENT AND RECOGNITION, OF CHAPTER 91, PUBLIC TRUSTS; PROVIDING FOR REPEALER, SEVERABILITY, AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUSKOGEE, OKLAHOMA, AS FOLLOWS:

AN EMERGENCY ORDINANCE

Section 1: That Section 91-102, *Muskogee Arts and Cultural Authority*, is hereby created in Chapter 91, *Public Trusts*, Article I, *Establishment and Recognition*, as follows:

SEC. 91-102. – MUSKOGEE ARTS AND CULTURAL AUTHORITY

(a) The City Council of the City of Muskogee does hereby establish and recognize the **Muskogee Arts and Cultural Authority**.

Section 2: REPEALER. All ordinances or parts of ordinances in direct conflict herewith are hereby repealed to the extent of the conflict.

Section 3: SEVERABILITY. Should any section, subsection, sentence, provision, clause or phrase hereof be held invalid, void or unconstitutional for any reason, such holding shall not render invalid, void or unconstitutional any other section, subsection, sentence, provisions, clause or phrase of this ordinance, and the same are deemed severable for this purpose.

Section 4: EMERGENCY. This ordinance being designated to protect the public health, safety and welfare of the inhabitants of the City of Muskogee, Oklahoma, and its passage being immediately necessary, an emergency is hereby declared to exist and by reason whereof this ordinance shall take effect immediately upon its passage, approval and publication as provided by law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MUSKOGEE, OKLAHOMA, THIS _____ DAY OF _____, 2017.

JOHN R. COBURN, MAYOR

ATTEST:

TAMMY L. TRACY, CITY CLERK

Approved as to form and legality, this _____ day of _____, 2017.

ROY D. TUCKER, CITY ATTORNEY

Public Works Committee**7.**

Meeting Date: 11/07/2017

Submitted For: Roy Tucker, City Attorney

Initiator: Roy Tucker, City Attorney

Department: City Attorney

Staff Information Source:

Information**AGENDA ITEM TITLE:**

Discuss and take action approving the Trust Indenture creating the Muskogee Arts and Cultural Authority, accepting a beneficial interest thereto, allocating funding, and further authorizing and directing the Mayor and City Clerk to execute any necessary documents related thereto. (Roy D. Tucker)

BACKGROUND:

For several weeks staff has been working with the Oklahoma Music Hall of Fame to determine the best method for ensuring the continuation of the Oklahoma Music Hall of Fame, due to their recent funding problems. Recognizing that the Hall of Fame and its purpose are important to the local economy, as well as, to the musical and artistic scene within the community, staff has come up with a viable plan which will promote the ideals which the Hall of Fame has become known for, as well as providing city oversight to ensure any public funding made to support it is done for the public purpose. Nine Trustors (7 comprising the Muskogee Medical Center Authority and 2 from the OMHOF board) have come forward in support of the creation of a new trust to be called the Muskogee Arts and Cultural Authority. The purpose of the Trust will be to assume and receive an assignment of all intellectual property related to the OMHOF, and to further and to support all artistic and creative endeavors within the community to ensure a continued high quality of life.

The City Council will bear the responsibility to appoint all successor trustees. Initial funding for the Trust in the amount of \$230,000 will come from a distribution made to the City from the Muskogee Medical Center Authority. Future funding will be considered yearly by the City of Muskogee and the Muskogee Medical Center Authority.

RECOMMENDED ACTION:

Approve the creation of the Trust and allocate funding as necessary.

Fiscal Impact**Attachments****Proposed Trust Indenture**

**TRUST INDENTURE
MUSKOGEE ARTS AND CULTURAL AUTHORITY**

KNOW ALL MEN BY THESE PRESENTS:

THAT THIS TRUST INDENTURE is executed this ____ day of _____, 2017, by the City Council of the City of Muskogee, Trustors, and by Al Stevens, Evelyn Hibbs, Reverend Rodger L.B. Cutler, Tim McElroy, Paul Birchfiel, Ed Gage, and Wayne Wilburn, who shall be known as the Trustees of the Muskogee Arts and Cultural Authority, for the purpose of undertaking or supporting activities within the community of Muskogee, Oklahoma, which enhance, support, and foster arts, artists, artistic and other creative or cultural endeavors of all types, mediums, and genres.

NOW THEREFORE, WITNESSETH:

That in consideration of the payment by the Trustors to the Trustees the total sum of One Dollar (\$1.00), receipt of which is hereby acknowledged, and of the mutual covenants herein set forth, and other valuable considerations, the said Trustees agree to hold, manage, invest, assign, convey, and distribute as herein provided, authorized and directed, such property as the Trustors or other persons may from time assign, transfer, convey, give, bequeath, devise or deliver to the Trust herein created or to the Trustees thereof,

TO HAVE AND TO HOLD such property and the proceeds, rents, profits, and increases thereof unto the said Trustees and their duly appointed successors and assigns, but nevertheless in trust, for the use and benefit of the residents of the City of Muskogee, Oklahoma hereinafter referred to collectively as the Beneficiary, and upon the following trusts, terms, and conditions herein stated.

**ARTICLE I
CREATION OF TRUST**

The undersigned Trustors, hereby create and establish a trust for the use and benefit of the Beneficiary, to finance, operate, construct and administer, hold, and/or receive and administer, for the public purpose, the Trust Estate hereinafter set forth, in the manner provided in this instrument, or in the absence of any applicable provision herein, in the manner now or hereafter provided by law, and under the provisions of Okla. Stat. Tit., 60 Secs. 176-180, as may be amended from time to time and any other applicable laws of the State of Oklahoma.

The undersigned Trustors hereby contract with the above named persons and the latter, as individuals and as holders of public office, do hereby declare and covenant, between themselves and unto the Trustors, the State of Oklahoma and the Beneficiary hereinafter described, that they and their successors do and will accept the rights, privileges, duties, and responsibilities of the office of Trustee within this Trust.

ARTICLE II NAME

A. The name of this Trust shall be, and the Trustees thereof in their respective fiduciary capacity shall be designated as:

Muskogee Arts and Cultural Trust Authority

Under that name, the Trustees shall, so far as practical, conduct all business and execute all instruments in writing, and otherwise perform their duties and functions in the execution of this Trust.

B. Any references to "Trust," "Trustees," or "The Authority" shall mean the said Muskogee Arts and Cultural Trust Authority or the Trustees thereof.

C. Any references to "Center," shall mean the said Oklahoma Music Hall of Fame and Museum building located at 401 S. 3rd Street, Muskogee, Oklahoma.

ARTICLE III PURPOSE

The purpose of this trust, for and on behalf of the Beneficiary as hereinafter described, are:

A. To undertake or support, either through financial or other means, activities within the community of Muskogee, Oklahoma, which enhance, support, and foster arts, artists, artistic and other creative or cultural endeavors of all types, mediums and genres.

B. To encourage the involvement and cooperation of all interested individuals and community groups for the efficient operation of the Center; to establish, encourage and further the mission and vision of the Center; to provide for record-keeping by the Trust and for audits of the utilization of the funds provided for the operation of the Center; to provide for the storage of records of the Trust's activities and for such office spaces as may be required for trust meetings, to provide for the ongoing management, maintenance, upkeep, development, and growth of the Center;

C. To hold maintain and administer any leasehold rights in and to properties of the Beneficiary demised to the Trustees, and to comply with the terms and conditions of any lease providing said rights; to acquire by lease, purchase, or otherwise, and to hold, construct, reconstruct, extend, install, equip, repair, enlarge, remodel, furnish, maintain, and operate or otherwise deal with any and all physical properties, real or personal, improvements, building, and other facilities whether within or without the territorial boundaries of the Beneficiary, which may be helpful, needful, or convenient for

utilization in executing or promoting the general purposes of the Trust and the area; to lease, rent, furnish, provide, relinquish, sell, or otherwise dispose of, or otherwise make provision for, any or all of the Trust purposes of in the event that any such property of facility shall no longer be needful for such purposes;

D. To provide and administer funds for the cost of financing, acquiring, constructing, installation, equipping, repairing, remodeling, improving, extending, enlarging, maintaining, operating, administering, and disposing, of or otherwise dealing with any of the said physical properties and facilities, and for administering the Trust for any or all of the said Trust purposes, and for all other charges, costs and expenses incidental thereto; and in so doing to incur indebtedness, either unsecured or secured by any part or parts of the Trust Estate and/or revenues thereof as allowed by law;

E. To expend all funds coming into the hands of the Trustees, as revenue or otherwise, in payment of the said costs and expenses, and in the payment of any indebtedness incurred by the Trustees for the purposes specified herein, and in the payment of any debt or obligation properly chargeable against the Trust Estate, and to distribute the residue and remainder of such funds to the Beneficiary for the payment of all or any part of the principal and/or interest of any bonded indebtedness of the Beneficiary and/or one or more authorized purposes of the Beneficiary as shall be specified by the Trustees.

This Trust shall have duration for the term of duration of the Beneficiary and/or until such time as the Trust's purposes shall have been fully executed and fulfilled or until it shall be terminated as herein provided.

ARTICLE V TRUST ESTATE

THE TRUST ESTATE SHALL CONSIST OF:

A. The funds and property presently in the hand of the Trustees or to be acquired or constructed by the Trustees and dedicated or funded by the Trustor and others to be used for Trust purposes;

B. Any and all leasehold rights demised to the Trustees by the Beneficiary as authorized and empowered by laws of the State of Oklahoma;

C. Any and all monies provided to the Trust by the Beneficiary, or by grant, donation, income or other legal funding source.

D. Any and all property, (real, personal or mixed), rights, chose in action, contracts, leases, privileges, immunities, licenses, franchises, benefits, and all other things of value (whether or not above described) presently in or hereafter coming into hands or control of the Trustees, pursuant to the provisions of this Trust Indenture or by virtue of the Trusteeship herein declared or otherwise by the laws of the State of Oklahoma.

ARTICLE VI TRUSTEES

A. The Trustees of this Trust shall be the citizens and residents of the Beneficiary. There shall be seven Trustees: all Trustees shall be appointed by a majority of the City Council pursuant to the nomination and confirmation methods effective at the time of the appointment. The original Trustees of this Trust shall be composed of the individuals who were selected as set forth in paragraph one of this Trust Indenture and each shall serve a term commensurate with their term on the Muskogee Medical Center Authority.

Each successor Trustee in office so appointed and confirmed, upon vacancy by the original trustee, shall without any further act, deed or conveyance become a Trustee of this Trust and become fully vested with all of the estate, properties, rights, powers, duties, and obligations of his or her predecessor with like effects as if originally named Trustee herein. Each successor Trustee shall serve a term of seven (7) years, or until his or her successor is named. No successor Trustee shall be eligible for reappointment until one year shall have elapsed.

Any Trustee may be removed for cause in the same manner as is provided for other public officials within the general laws of the State. Additionally, however, any Trustee failing to attend three (3) consecutive regular meetings of the Board shall be automatically deemed to have forfeited his or her position and a successor Trustee shall be named in accordance with this Article.

All Trustees shall serve without compensation but may, upon majority approval from the Trustees, be reimbursed for reasonable expenses incurred in the performance of their duties hereunder.

B. Until the first meeting of the Trustees, the chairperson of the Trust shall be Trustee Wayne Wilburn. Thereafter the Chairman of the Trustees shall be elected, and then annually by a majority vote of the Trustees. The Chairman of the Trustees shall preside at all meetings and perform other duties designated by a majority of the Trustees. He or she shall have all customary duties and obligations expected of a trustee, including, but not limited to, authority to call special meetings of the Trust from time to time. At the first meeting of the Trustees, the Trustees shall select one or more of their members to be a Vice-Chairman who shall act in the place of the Chairman during the latter's absence or incapability to act as Chairperson.

C. Beginning at the first meeting of the Trustees, the Trustees shall elect annually, by majority vote of the Trustees, one or more of their members to be Secretary. The Secretary shall keep minutes of all meetings of the Trustees and shall maintain complete and accurate records of all their financial transactions, and all such minutes, books, and

records shall be on file in the office of the Trust. The Trustees may elect Assistant Secretaries who may or may not be Trustees. The Assistant Secretary or Secretaries shall act in the place of the Secretary during the latter's absence or incapability to act.

D. Beginning at the Trustee's first meeting, and annually thereafter, the Trustees, by majority vote, shall elect a Treasurer of the Trust who may or may not be a Trustee.

E. The Trustees may appoint a general manager for the Trust Estate, under such terms and conditions as the Trustees and the general manager may agree, and further may, at their discretion, employ such other clerical, professional, legal, and technical assistance as may be deemed necessary in the discretion of the Trustees to properly operate the business of the Trust Estate, and may upon majority vote, fix their duties, terms of employment and compensation.

In the event a general manager is appointed by the Trustees, the said general manager shall administer the business of the Trust Estates as directed from time to time by the Trustees. The general manager shall assume responsibility for the employment of any subordinate employees of the Trust as necessitated by the needs of the Trust. The Trustees themselves shall not deal directly with the subordinates of the general manager, but shall do so only through the general manager.

F. The Trustees are authorized to contract, in connection with the incurring of any funded indebtedness secured by the Trust Estate and/or its revenues, or any part of either or both, that in the event of a default in the fulfillment of any contract obligation undertaken on behalf of the Trust Estate, or in the payment of any indebtedness incurred on behalf of the Trust Estate, then a temporary trustee or trustees or receiver shall be appointed to succeed to the rights, powers, and duties of the Trustee then in office. Any such contract, if made, shall set out terms and conditions under which such a temporary trustee or trustees or receiver shall be appointed and shall operate the Trust Estate, and provide for compensation to be paid, and provide for the said appointment(s) to be vacated and the permanent Trustees to be automatically reinstated upon the termination of all defaults by which the said appointment(s) was (were) authorized.

G. Bonds or other evidences of indebtedness to be issued by the Trustees shall not constitute any indebtedness of the State of Oklahoma, or of the Beneficiary, nor shall they be considered personal obligations of the Trustees of the Trust. Any such indebtedness shall constitute obligations of the Trustees as Trustees, payable solely from the Trust Estate.

H. The Trustees, the State of Oklahoma, and the Beneficiary hereof shall not be charged personally with any liability whatsoever by reason of any act or omission committed or suffered in good faith or in the exercise of their honest discretion on the performance of such Trust, or in the operation of the Trust Estate; but any act or liability for any omission or obligation of the Trustees on the execution of such Trust, or in the operation of the Trust Estate, shall extend to the whole of the Trust Estate or so much thereof as may be necessary to discharge such liability or obligation.

I. Notwithstanding any other provision of this Trust Indenture which shall appear to provide otherwise, no Trustee or Trustees shall have the power or authority to bind or obligate any other Trustee or the Beneficiary, in his or her or its capacity, nor can the Beneficiary bind or obligate the Trust or any individual Trustee.

J. All Trustees appointed hereunder shall qualify by executing written acceptances of all the terms of this instrument, filed in the office of the clerk of the City of Muskogee, and by subscribing and filing such oaths as shall be required by law of public officers of the State of Oklahoma.

K. The acceptance of the officers of Trustee of this Trust shall not constitute any agreement of the Trustees, or any of them, to be in any partnership or association each with the other, but each shall be an individual and wholly independent Trustee only.

L. All persons, firms, associates, trusteeships, corporations, municipalities, governments, and all agents, agencies, and instrumentalities thereof, contracting with any Trustee or Trustees shall take notice that all expenses and obligations, and all debts, damages, judgments, decrees or liabilities incurred by any Trustee or Trustees, and any of the foregoing incurred by agent, servant or employee of any such Trustee or Trustees, in the execution of the purposes of this Trust, whether arising from incident to, or growing out of the execution of this Trust, nor shall they, nor shall these, be liable for the acts or omission(s) of each other or any other such Trustee; PROVIDED, however, that the foregoing shall not apply to the individual Trustees for any willful or grossly negligent breach of trust of any said Trustee or Trustees.

M. All of the legal rights, powers, and duties of each Trustee shall terminate when he or she ceases to be a Trustee hereunder and all of such legal rights, powers, and duties shall devolve upon his or her successor and successors, with full right and power of the later to do or perform any act or things which his or her predecessor could have done or performed.

ARTICLE VII POWERS AND DUTIES OF TRUSTEES

Subject to and in full compliance with all requirements of law applicable to this Trust or to the Trustees thereof:

A. The Trustees, in the manner hereinafter set forth, shall do, or cause to be done, all things which are incidental, necessary, proper or convenient to carry fully into effect the purposes enumerated in Article III of this instrument, with the general authority hereby given and being intended to make effective the power of the Trustees under this instrument; and to effectuate the said purpose the Trustees are specifically authorized to conduct the following activities in a lawful manner (without excluding such other as may be authorized elsewhere in this Indenture or otherwise necessary to perform the required duties of Trustees) :

- (1) To sue and be sued;
- (2) To enter onto and conduct and execute, apply for, purchase or otherwise acquire franchises, property (real or personal), contracts, leases, rights, privileges, benefits, chose in action, or other things of value, and to pay for the same in cash, with bonds or evidence of indebtedness, or otherwise, PROVIDED, that no transaction shall be completed without the approval of a majority of the Trustees;
- (3) To own, hold, manage, and in any manner to convey, lease, assign, liquidate, dispose of, compromise or realize upon any property, contract, franchise, lease, right, privilege, benefit, chose in action, or other thing of value, and to exercise any and all power necessary or convenient with respect to same, PROVIDED, that no transaction shall be completed without the approval of a majority of the Trustees;
- (4) To guarantee, acquire, hold, sell, transfer, assign, encumber, dispose of, and deal in the stocks, bonds, debentures, shares, or evidences of interest or indebtedness in or of any sovereignty, government, municipality, corporation, association, trusteeship, firm or individual, and to enter into and perform any lawful contract in relation thereto, and to exercise all rights and privileges in relation thereto, to the same extent as a natural person might or could do; and the foregoing shall include (without limitation by reason of enumeration), the power and authority to guarantee or assume, out of the distributive funds of the Trust, the payment of any part or all of the principal of and/or the interest on any bonded indebtedness;
- (5) To enter into, make and perform contracts of every lawful kind or character, including but not limited to management contracts, with any person, firm, association, corporation, trusteeship, municipality, government, or sovereignty; and, without limit as to amount, to draw, make, accept, endorse, assume, guarantee, discount, execute, and issue, promissory notes, drafts, bills of exchange, acceptances, warrants, bonds, debentures, and any other negotiable or non-negotiable, or transferable or non-transferable, instruments, obligations, and evidences of secured or unsecured indebtedness, and if secured by all or any part or parts of the income of the Trust, in the same manner and to the same extent as a natural person might or could do; PROVIDED, that no transaction shall be completed without the approval of a majority of the Trustees;
- (6) To promote contracts of every lawful kind of character, including but not limited to management contracts, with any person, firm, association, corporation, trusteeship, municipality, government, or sovereignty; and, without limit as to amount, to draw, make, accept, endorse, assume, guarantee, discount, execute, and issue promissory notes, drafts, bills of exchange, acceptances, warrants, bonds, debentures, and any other negotiable or non-negotiable, transferable or non-transferable, instruments, obligations, and evidence of secured or unsecured indebtedness, and if secured by mortgage, deed if trust, or otherwise, then secured by all or any part of the income of the Trust; PROVIDED, that no transaction shall be completed without the approval of a majority of the Trustees;

(7) To exercise all powers authorized under Title 60 of the Oklahoma Statutes, including such powers as may be authorized by subsequent amendments to the said Title.

B. The Trustees shall collect and receive all property, money, rents, and income of all kinds belonging to or due the Trust Estate, and shall use all of the same solely for the purposes, and the furtherance of the purpose, set forth on Article III of this instrument, and otherwise. Without limiting the foregoing provisions of this paragraph, none of the net earnings or income derived from or accruing to the Trust Estate, nor any part of the Trust, in any instance beyond that necessary to pay the principal of and interest on the indebtedness incurred for purposes set forth in Article III of this instrument and to pay the costs and expenses of the implementation of the said purposes, shall insure to the benefit of any person or entity other than the beneficiary.

C. The Trustees shall take and hold title to all property at any time belonging to the Trust in the name of the Authority and shall have and exercise exclusively the management and control of the same for the use and benefit of the Beneficiary as provided herein, in the execution of the purposes of this Trust; and the right of the Trustees to manage, control, and administer the said Trust and its property, assets and business shall be absolute and unconditional and free from any direction, control or management by the beneficiary; PROVIDED, that no transaction shall be completed without the approval of a majority of the Trustees;

D. The Trustees may employ such agents, servants, and employees as they deem necessary, proper or convenient for the execution of the purposes of this Trust, and prescribe their duties and fix their compensation, and may establish policies and procedures for hiring, position description, training, retention, supervision, compensation, benefits and any other related needs; PROVIDED, that no transaction shall be completed without the approval of a majority of the Trustees;

E. The Trustees may contract for the furnishings of any services or the performances of any duties that the trustees deem necessary, proper or convenient to the execution of the purposes of this Trust, and shall pay for the same as they see fit to provide in such a contract; PROVIDED, that no transaction shall be completed without the approval of a majority of the Trustees. Contracts for construction, labor, equipment, material or repairs in excess of \$50,000.00 shall be let in accordance with 60 O.S. §176 (H), as may be amended from time to time.

F. The Trustees, by Resolution, may divide the duties of the Trustees hereunder, delegating all or any part of such duties to one or another of the Trustees as they deem proper; but where a specific duty is not so delegated, a majority of the Trustees must act for the Authority. The Trustees are hereby authorized to adopt By-Laws and to change the same from time to time at any regular or special meeting of the Trustees at which at least two-thirds of the incumbent Trustees vote in favor of such amendment. PROVIDED, however, that the notice of any meeting at which an amendment to the By-

Laws is to be made shall contain notice that such an amendment will be proposed, and the said notice shall be mailed to all Trustees at least fifteen (15) days prior to the meeting. By-Laws may prescribe notice and quorum requirements for the meetings of the Trustees so long as the same does is not in conflict with the Oklahoma Open Meeting Law as set forth in Article VI section K of this indenture, the frequency of meetings, the duties of officers and any and all other matters normally prescribed by By-Laws consisted with the provisions of the Trust Indenture.

G. The Trustees shall in the name of the Trust hereinabove set forth or in their names as Trustees, bring any suit or action which in their judgment shall be necessary to properly protect the interest of the Trust or to enforce any claim, demand or contract for the Trust or for the benefit of the Trust; and they shall defend, in their discretion, any action or proceeding against the Trust or the Trustees or agents, servants or employees thereof; and the Trustees are expressly authorized, in their discretion, to bring, enter, prosecute or proceeding against the Trust or the Trustees or agents, servants or employees thereof; and the Trustees are expressly authorized, in their discretion, to bring, enter, prosecute or defend any action or proceeding in which the Trust shall be interested and to compromise and such action or proceeding, and discharge the same out of the Trust property and assets; and the Trustees also are expressly authorized to pay or transfer out of the Trust property or assets such money or property as shall be required to satisfy any judgment or decree rendered against them as Trustees, or against the Trust, together with all costs, including court costs, counsel and attorney fees, and also to pay out the Trust property and assets such sums of money, or transfer appropriate property or assets of the Trust, for the purpose of settling, compromising, or adjusting any claim, demand, controversy, action or proceedings, together with all costs and expenses connected therewith; and all such expenditures and transfers shall be treated as proper expenses of executing the purposes of this Trust; PROVIDED, that no transaction shall be completed without the approval of a majority of the Trustees;

H. No bond shall be required of the Trustees, or any of them, unless they shall deem the same proper and shall provide therefore by Resolution.

I. All actions by the Trustees pursuant to the provisions of this Trust Indenture, except for the adoption and/or amendment of By-Laws provided above, shall be approved by the majority vote of at least a majority of the Trustees. All meetings of the Trustees shall be open to the public; all proceedings of the Trustees shall be in compliance with the laws of the State of Oklahoma and the Trustees shall make or cause to be made a written record of all their proceedings. All books, records and minutes of the Trust and of the meetings of the Trustees shall be considered to be public records and shall be available for inspection by any interested party during customary business hours in the same interested party during customary business hours in the same manner and under the same conditions as are public record of the Beneficiary.

J. At their first meeting, which shall occur within thirty (30) days of the execution of this Trust Indenture, the trustees shall designate the principal office of the Trust; and they also shall designate the time and place for regular meetings of the Trustees. The time and

place for regular meetings shall not be changed unless at a meeting where all incumbent Trustees are present. No notice shall be required for the holding of a regular meeting of the Trustees other than such as is otherwise required by law. Special meetings may be held upon such call as shall be fixed by Resolution of the Trustees adopted at a meeting where all of the Trustees are present. The Trustees shall cause to be filed, in all places where this instrument is recorded, a certificate designating the principal office of the Trust and the time and place of regular meetings of the Trustees; and any changes therein shall be filed of record on the like manner. Within sixty (60) days of the first meeting, the Trustees shall adopt By-Laws for the governing of the Trust. The Trustees shall provide for an independent audit on an annual basis and set a date of the auditor to perform said audit. Said auditor shall be selected and employed from an affirmative vote of a majority of the Trustees. The Trustees shall ensure that financial documents and reports sufficient to demonstrate fiscal activity are filed annually with the City Clerk of the City of Muskogee.

K. The Trustees shall in all respect comply with the Open Meeting Act of the Statutes of the State of Oklahoma, Okla. Stat. Tit. 25, Secs. 301-314, and as amended or changed. Further the Trustees shall in all respects comply with the Oklahoma Open Records Act of the Statutes of the State of Oklahoma, Okla. Stat. Tit. 51, Secs. 24A.1 *et seq.*

ARTICLE VIII BENEFICIARY

A. The term "Beneficiary" as used in this instrument, under and pursuant to Okla. Stat. Tit. 60, Secs. 176-180, inclusive as amended and supplemented, and other statutes of the State of Oklahoma presently in force and effect; shall denote the entity.

THE CITY OF MUSKOGEE

State of Oklahoma. Trustor now declares that this Trust Indenture shall not be subject to revocation, alteration, amendment, revision, or modification from and after the date indebtedness is incurred by the Trustees.

RESIDENTS OF THE CITY OF MUSKOGEE STATE OF OKLAHOMA

The Trustors now declare that this Trust Indenture shall not be subject to revocation, alteration, amendment, revision, or modification from and after the date that any indebtedness is incurred by the Trustees.

B. The Beneficiary shall have no legal claim or right to the corpus of the Trust Estate, or to any part thereof, against the Trustees or anyone holding under them; nor shall the Beneficiary, as such, have any authority, power, or right whatsoever to do or transact any business whatsoever for or on behalf of, or binding upon the Trustees or the Trust Estate; neither shall the Beneficiary have the right to control or direct the actions of

the Trustees in respect of the Trust Estate, or any part thereof, nor shall the Beneficiary shall be entitled solely to the benefits of the Trust, as administered by the Trustees hereunder, and at the termination of the Trust, as provided herein, and then only, the Beneficiary shall receive the residue of the Trust Estate. Notwithstanding anything in the aforesaid appearing to be to the contrary, no provision in this instrument and/or of the Acceptance of the Beneficial Interests there under by the governing body of the said Beneficiary limiting, restricting, or denying any such be construed or interpreted, to effect a surrender, or to attempt to effect a surrender, of any of the sovereign governmental powers of the State of Oklahoma or of the Beneficiary; but any and all provisions of this Trust instrument are intended, and shall be applied, to relate solely and only to the proprietary rights and property interests of the said Beneficiary, in trust as distinguished from its sovereign governmental powers and authority. Moreover, it is further agreed that nothing contained in this Trust Indenture and/or in the Acceptance of the Beneficiary Interest there under shall be constructed, interpreted or applied as granting or intending to grant to the Trustees hereunder an exclusive franchise in relation to any powers, rights, or authority of the Trustees under this Trust Instrument.

ARTICLE IX TERMINATION

A. This Trust shall be irrevocable by the Trustors and shall terminate:

(1) When the purpose set forth in Article III of this instrument shall have been fully executed and fulfilled as determined by the Trustees and concurred by the City Council of the City of Muskogee, State of Oklahoma;

(2) In the event of the happening of any event or circumstance that would prevent the said purpose of this Trust from being executed and fulfilled and if all of the Trustees, and the City Council of the City of Muskogee, as the elected representatives of the Beneficiary hereunder, shall agree that such an event or circumstance had taken place; PROVIDED, however, that all indebtedness of the Trust shall have been paid;

(3) In the manner provided by Okla. Stat. Tit., 60 Sec. 180; PROVIDED, however that all indebtedness of the Trust shall not be terminated by voluntary action if there be any outstanding indebtedness or fixed-term obligations of the Trustees, unless all owners of such indebtedness or obligations, or someone authorized by them so to do, shall have consented in writing to such termination.

B. Upon the termination of this Trust the Trustees shall proceed to wind up the affairs of the Trust and after payment of all debts and obligations of the Trust out of Trust assets, if any there be, to the Beneficiary hereunder as provided in Section III of this Instrument. Upon final distribution as aforesaid, the powers, duties, and authority of the Trustees hereunder shall cease.

ARTICLE X AMENDMENT

This Trust may be amended upon the approval of two-thirds (2/3) of the Trustees, with any amendment subject to approval of the Beneficiary prior to its effectiveness.

**ARTICLE XI
PARTIAL INEFFECTIVENESS**

The invalidity of ineffectiveness for any reason of any one or more words, phrases, clauses, paragraphs, sections, or subsections of this instrument shall not affect the remaining portions hereof so long as such remaining portions shall constitute upon its being valid and effective only, and this instrument shall be constructed as though such invalid or ineffective portion had not been inserted herein.

**ARTICLE XI
COVENANT**

The undersigned Trustees hereby accept the Trust herein created and agree to comply with all the provisions and requirements placed upon them by this Trust Indenture. The provisions hereof shall be binding upon the undersigned, their heirs, executors, administrators, and assigns:

IN WITNESS WHEREOF, the Trustors and the Trustees have hereunto set their hands, executing this Trust Indenture on this _____ day of _____, 2017.

Al Stevens, Trustee

Tim McElroy, Trustee

Evelyn Hibbs, Trustee

Paul Birchfiel, Trustee

Rev. Rodger L.B. Cutler, Trustee

Ed Gage, Trustee

Wayne Wilburn, Trustee

Trustees of the Muskogee Arts and Cultural Authority

State of Oklahoma)
) ss.
County of Muskogee)

Before me, the undersigned Notary Public in and for said state and county, on this ____ day of _____, 2017, personally did appear Al Stevens, Evelyn Hibbs, Reverend Rodger L.B. Cutler, Tim McElroy, Chad Wetz, Ed Gage, and Wayne Wilburn, to me known to be the identical persons who executed the within and foregoing instrument and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth.

Witness my hand this day.

Notary Public: Leslie Arnold

My Commission expires:

Approval and Consent of Trustor-City of Muskogee

The City Council of City of Muskogee as Trustor of the Muskogee Arts and Cultural Authority hereby expressly approves and consents and agrees to the above and foregoing Trust Indenture, this ____ day of _____, 2017.

John R. Coburn, Mayor

Attest:

Tammy L. Tracy, City Clerk

(seal)

APPROVED as to form this ____ day of _____, 2017.

Roy D. Tucker, City Attorney

Public Works Committee

8.

Meeting Date: 11/07/2017

Submitted For: Roy Tucker, City Attorney

Initiator: Roy Tucker, City Attorney

Department: City Attorney

Staff Information Source:

Information

AGENDA ITEM TITLE:

Discuss and provide direction to Staff on existing permitting procedures required of new or expanded hospital or ambulatory surgical care centers as set forth in City Code 22-674 and 22-675. (Marlon Coleman)

BACKGROUND:

At the September 19, 2017 committee meeting, Staff was directed to research how other cities license hospitals and ambulatory care centers to determine how our current provisions relate to other communities in Oklahoma. Staff will be prepared to present findings in accordance with the request and receive additional direction.

RECOMMENDED ACTION:

Discuss and provide direction to staff.

Fiscal Impact

Attachments

No file(s) attached.

Public Works Committee**9.**

Meeting Date: 11/07/2017

Initiator: Christy Byrd, Office Administrator I

Department: Public Works

Staff Information Source: Greg Riley, Director of Public Works; Jim Wixom, Assistant Director of Public Works-Operations

Information**AGENDA ITEM TITLE:**

Consider approval of lowest and best bid from Rehrig Pacific Company in the amount of \$552.50 per tank for purchase of 81 two (2) cubic yard containers-rear loading for Fiscal year 2017-2018, or take other necessary action. (Greg Riley)

BACKGROUND:

The 2017 budget includes \$45,000.00 for purchase of two (2) cubic yard containers for our rear loading commercial routes. One (1) bid and two (2) no-bids were received, and Rehrig Pacific Company was the lowest bid. This is the company that we have used in the past for this type of container. There were bids per each and the bid amount allows us to purchase 81 containers within the budget. This bid is approximately 1% more per container than last year's low bid price.

RECOMMENDED ACTION:

Approval of lowest and best bid from Rehrig Pacific Company in the amount of \$522.90 per tank for purchase of 81, two (2) cubic yard containers-rear loading, for Fiscal year 2017-2018.

Fiscal Impact**FUNDING SOURCE:**

212-6050-432-64-50-Solid Waste Collection Fund . Budgeted \$45,000.00.

Attachments

Tab sheet



Bid Item: 2 Cubic Yard Plastic Rear Loading Containers
Date: 10/19/2017
Department: Public Works-Sanitation

Approved by Purchasing: _____

Approved by City Council: _____

[illegible]

Witnessed by: Ruby Charles
John R. S.
Cheryl Brown

Approved by:

Public Works Committee

10.

Meeting Date: 11/07/2017
Initiator: Ashley Wallace, Office Adm 1
Department: City Clerk
Staff Information Source:

Information

AGENDA ITEM TITLE:

Receive report regarding the installation of the new grill at Rotary Park. (Councilmember Ivory Vann)

BACKGROUND:

RECOMMENDED ACTION:

Fiscal Impact

Attachments

No file(s) attached.
