

LAND BANK

Wednesday, June 21, 2021 - 6:00 pm



MEETING AGENDA

Ottawa City Hall

In accordance with Kansas Open Meetings Act (KOMA), the meeting can be viewed live on Channel 23 and via Facebook Live or listened to by dialing: 1-312-626-6799 and entering meeting ID 917 2655 6905#.

If you need this information in another format or require a reasonable accommodation to attend this meeting, contact the City's ADA Coordinator at 785-229-3621. Please provide advance notice of at least two (2) working days. TTY users please call 711.

Attendees who are fully vaccinated do not need to wear a mask. Unvaccinated attendees should follow CDC guidelines and wear a mask.

Citizens may attend in person or VIA ZOOM. Participants who generate unwanted or distracting noises may be muted by the meeting host. If this happens, unmute yourself when you wish to speak.

REGULAR AGENDA

1. Minutes from June 2, 2021
 2. History of Coves
 - A. Consideration Regarding Specials—Memo from Tyler Ellsworth, Kutak Rock
 3. Budget
 - A. 2021 Budget
 - B. 2022 Budget
 4. Payoff Status
 5. Land Use/Covenants/Plats
 - A. Consideration of Amendments
 - B. Meeting with neighbors
 6. Determining Value
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7. Future Topics
 - a. Sale Price
 - b. Method of sale
 - c. Advertise/Buyers List
 - d. Fund use

ANNOUNCEMENTS

1. Next Meeting:

**Land Bank
Regular Meeting Minutes
City Hall
101 S Hickory, Ottawa, Kansas
Minutes of June 2, 2021**

The Trustees of the Land Bank met at 6:00 pm this date for the Regular Meeting with the following members present and participating to wit: Trustee Caylor, Trustee Crowley, Trustee Skidmore, Trustee Weigand and Trustee Jorgensen. A quorum was present.

Trustee Caylor called the meeting to order.

Opening statement was read by City Clerk Melissa Reed providing information on accessing the meeting remotely and guidelines that will be followed for this meeting.

Election of Chair

The Trustee Body heard from Community Development Director Wynndee Lee who reviewed Article XI, Section 5-905 regarding the Land Bank Board organization. The Land Bank Board shall consist of a chairperson who shall be the Mayor. Trustee Jorgensen made a motion, seconded by Trustee Weigand, to elect Mayor Sara Caylor as the Chair of the Land Bank. The motion was considered and upon being put, all present voted aye. The Chair declared this appointment duly approved.

Election of Vice Chair

The Trustees Body heard from Community Development Director Wynndee Lee who reviewed Article XI, Section 5-905 regarding the Land Bank Board organization. The Land Bank Board shall consist of a vice chairperson who shall be the Mayor Pro Tem. Trustee Jorgensen made a motion, seconded by Trustee Weigand, to elect Mayor Pro Tem Crowley as the Vice Chair of the Land Bank. The motion was considered and upon being put, all present voted aye. The Chair declared this appointment duly approved.

Election of Treasurer

The Trustees heard from Community Development Director Wynndee Lee who reviewed Article XI, Section 5-905 regarding the Land Bank Board organization. The Land Bank Board shall consist of a treasurer who shall be a non-voting appointee. Trustee Jorgensen made a motion, seconded by Vice Chair Crowley, to elect City Manager Richard U. Nienstedt as the Treasurer of the Land Bank. The motion was considered and upon being put, all present voted aye. The Chair declared this appointment duly approved.

Updates

The Trustees heard from Community Development Director Wynndee Lee who reviewed the Land Bank ordinance which was adopted in 2018 by the Governing Body. Mrs. Lee reviewed the requirement for the Treasurer to be bonded which is currently covered by the City's current bonds. Mrs. Lee reviewed Resolution 1822-20 which describes land acquisition. The City Clerk will keep all inventory of land acquired by the Land Bank. GL Funds have been established and will follow the same procedures required for current accounts payable/receivable. The Land Bank does require an annual report to be produced.

Vice Chair Crowley requested clarification regarding Section 2 on Resolution 1822-20 which states the City Manager shall serve without bond which conflicts the other requirements in Article XI.

Mrs. Lee reviewed with the draft budget with the Trustees which includes meeting expenses, legal and other advertising, utilities, legal fees, office supplies, land purchase and potential rent and sale of property. It also includes a transfer to Economic Development for the City of Ottawa. An alternative would be to deposit revenue into the bond indebtedness since money is still owed on the lots. The bonds are callable but after review are not good candidates for refinancing. Mrs. Lee stated she would reach out to bond counsel to get opinion on options for proceeds as well as payoff information. With the tax sale the past special assessments have been paid by the City of Ottawa. The properties will not be on the tax roll while they are in the Land Bank. Once they are purchased, they will go back on the tax roll. The City Clerk is in the process of requesting the three parcels that were transferred to the City of Ottawa for tax exemption.

Mrs. Lee reviewed the current plat layout of the Coves at Tallgrass with the three parcels that have been transferred to the City of Ottawa for stormwater and green space. She also showed an example of different houses built in Ottawa in the last five years which shows how different units could fit on the parcels.

Mrs. Lee reviewed the staff memo from the City Attorney and herself regarding the Coves Covenants. Discussion was had regarding the current property owners and the need for their input on changes that might be requested.

The Trustees heard from Community Development Director Wynndee Lee who reviewed topics for future Land Bank meetings. The City Attorney acquired the property the tax sale and the parcels were titled either to the Land Bank or to the City of Ottawa. The past specials were paid by the City of Ottawa. Mrs. Lee will get information on the bond status and what is currently owed for review. The City has also invested other general fund revenue into the plats and the intent is not to try to recollect that. The last few years the City has mowed along the sidewalk and front of the property due to cost restrictions. This year the entire parcels will be mowed, and two bids have been received which will be alternated.

The funds for the Land Bank have been set up and have accrued some expenses such as property acquisition and filing fees.

Future Topics

Chair Caylor inquired about including a portion of staff salaries in a draft budget due to the time required on this project. Trustee Weigand inquired about additional properties that may be added. This will be added to a future agenda for more discussion. Trustee Jorgensen clarified the need for a 2021 and 2022 budget for the Land Bank. Trustee Weigand requested a historical review of the project at the next meeting.

The Trustees discussed potential meeting dates for the next Land Bank meeting. The next meeting will be held on June 21, 2021 immediately following the Study Session. The City Clerk will verify with the City Attorney if an exact time is needed for the public notice.

Adjournment

There being no further business to come before the Trustees, the Chair declared the meeting duly adjourned at 6:58 pm.

Melissa Reed, City Clerk

MEMORANDUM

TO: CITY COMMISSION, CITY OF OTTAWA, KANSAS

FROM: WYNNDEE LEE, COMMUNITY DEVELOPMENT DIRECTOR

DATE: JUNE 14, 2021

RE: THE COVES AT TALLGRASS

The following information was from a Memo from Kutak Rock from May 2018 with some highlighted updates.

Background

In 2006, the City Commission approved the creation of three special benefit districts to finance the costs of water, sewer, and street improvements in the Coves at Tallgrass residential development (the “Coves”). In 2009, the City issued its Series 2009 General Obligation Bonds in the original principal amount of \$1,065,000 (the “2009 Bonds”) to provide long term financing for the benefit district improvements. The intent was to pay debt service on the 2009 Bonds from the special assessments. Because the Coves failed to develop, and most special assessments have not been paid, the City has been paying debt service on the 2009 Bonds. Annual debt service is approximately \$100,000. The last maturity of the 2009 Bonds is in 2024, and the current outstanding principal amount is \$365,000; however, the 2009 Bonds are callable at par at any time.

In 2006, the City Commission also approved a TIF project plan to finance certain improvements relating to the Tallgrass project. The Tallgrass project included the Coves as well as a separate residential and commercial project known as the Estates at Tallgrass. The improvements described in the TIF project plan for Tallgrass include the water, sewer, and street improvements financed with the Coves benefit districts. The intent was to finance the TIF project – which included more than just the water, sewer, and street improvements in the Coves – on a pay-as-you-go basis from property tax increment collected from the Tallgrass properties. Because both the Coves and the Estates failed to develop, property tax increment collected for the Tallgrass portion of the TIF district has been less than anticipated; however, the Tallgrass project is within a larger TIF district, the City’s K-68 TIF district. Although Tallgrass, including the Coves and Estates projects, did not proceed as planned, the larger K-68 TIF district has and continues to generate property tax increment.

Use of Land Bank

Under the Kansas land bank statutes, cities can create land banks to take title to property, extinguish existing tax liabilities, and abate or reamortize special assessments. The City Commission *established a City land bank by passing an ordinance on February 19, 2021 and City Commissioners were appointed as a board of trustees for the bank*. By statute, the bank is required to prepare annual budgets for approval by the Commission, prepare audited financials, and prepare

and publish an inventory of properties held by the bank each year. As a result, there is some cost associated with operating the bank, but establishing the bank also provides two specific advantages.

First, through a land bank, the City can take title to property sold at tax sale without paying delinquent taxes. Pursuant to K.S.A. 79-2804i, if a city is a successful bidder at a tax sale, the city is required to pay delinquent taxes. In contrast, pursuant to K.S.A. 12-5909(b), the county treasurer must remove from the tax roll all taxes, charges, penalties and interest when a land bank acquires property. Of the 55 lots in the Coves, 45 are undeveloped and have significant delinquent taxes. The total delinquent taxes are approximately \$4,800 per property, making the properties difficult to develop. Because of the tax delinquencies, and certain steps already taken by the County, these properties can be sold at tax sale. Taking title to these properties through a land bank would allow the City to acquire the properties without paying these taxes and would allow the delinquent taxes to be extinguished.

Second, through a land bank, the City can abate or reamortize delinquent special assessments. Per K.S.A. 12-5909(c) and (d), the governing body of any municipality which has levied special assessments on property acquired by the bank may abate part or all of the specials by agreement with the bank. Alternately, the governing body may defer or reamortize part or all of the specials if the governing body provides for such deferral or reamortization by passage of an ordinance. The 45 undeveloped lots in the Coves have accrued unpaid special assessments of approximately \$20,000 per property, which increases at the rate of approximately \$1,600 per year. Taking title to these properties through a land bank would allow the City flexibility in addressing the specials in order to make the properties more attractive for development.

In particular, a land bank would allow the City options for addressing the specials, (a memo from bond counsel will be forthcoming) which could include the following:

- Abating all delinquent specials and *leaving existing specials in place* going forward
- Abating all delinquent specials and *reamortizing specials* going forward to reduce the annual payments and spread them over additional years; or
- Abating all delinquent specials and *abating all or some portion of existing specials* going forward through 2024.

45 lots at the Coves were purchased at the Tax Sale on March 9, 2021 for \$1,293.00. Three properties 1710 E. Wilson Street, 1730 Elderberry Lane and 1732 Elderberry were retained by the City for stormwater and parks. The remaining 42 lots were transferred to the Land Bank in June 2021.

MEMORANDUM

TO: BOARD OF TRUSTEES, LAND BANK
CITY OF OTTAWA, KANSAS

FROM: WYNNDEE LEE, COMMUNITY DEVELOPMENT DIRECTOR
TYLER ELLSWORTH, KUTAK ROCK LLP

DATE: JUNE 16, 2021

RE: THE COVES AT TALLGRASS / SPECIAL ASSESSMENTS

This memo outlines the options for abating or reamortizing the special assessments levied against properties in the Coves at Tallgrass residential development. Certain background on the Coves development has been provided in a separate memo to the City Commission dated June 14, 2021. The focus of this memo is, now that the City's Land Bank has acquired title to several of the undeveloped properties, to outline the options for addressing the special assessments in order to make the properties attractive for development. These options are scheduled for discussion at the Land Bank's June 21 meeting.

Modifying Specials through the Land Bank

As a general rule, Kansas law does not authorize cities to modify or abate special assessments once they have been levied and bonds have been issued for the associated public improvements. The Kansas land bank statutes, however, are an exception. Pursuant to K.S.A. 12-5909(d) and (e), cities can abate or reamortize special assessments if a land bank takes title to the assessed property and there is an agreement to abate or reamortize the specials between the city's governing body and the land bank.

The City's Land Bank recently acquired title to 42 undeveloped lots in the Coves. Now that the Land Bank has acquired the properties, the City Commission and the Land Bank can consider options for addressing the existing special assessments, which include the following:

- Abating the delinquent specials and *leaving existing specials in place* going forward through 2024 at approximately \$1,600 per year per lot;
- Abating all delinquent specials and *reamortizing existing specials* going forward to reduce the annual payments and spread them over five additional years, going out through 2029; or
- Abating all delinquent specials and *abating all or some portion of existing specials* going forward through 2024.

In weighing these options, it may be helpful to consider the following:

- the sales price per lot that prospective developers or builders might be willing to pay for the properties, with or without modification to the special assessments;
- the impact that modifying the special assessments would have on the sales price per lot; and
- whether any proposed modification of the special assessments on the undeveloped properties is fair to owners of developed property in the Coves who have been paying specials all along and who will continue to pay specials through 2024.

In particular, if the Land Bank first determines the market price per lot, then meaningful discussions can follow about whether the existing specials need to remain in place, either on the 42 undeveloped parcels or on the privately owned parcels which have been paying assessments for many years. For example, if the 42 undeveloped lots can be sold for an amount sufficient to pay off the bonds which financed the original infrastructure improvements, there would be no need to keep assessments in place for any properties, either developed or undeveloped, after the payoff is completed.¹

We look forward to the discussion of these options, and the related considerations, at the June 21 meeting.

¹ Under Kansas law, land banks can only be used to modify special assessments on property owned by the land bank and not on privately owned property; however, K.S.A. 12-6a12(b) could be used to reassess privately owned properties if the City Commission found those assessments to be “excessive.”

Land Bank Proposed Budgets

	Proposed 2021 Budget	Proposed 2022 Budget
Unencumbered Cash Balance Jan 1	\$ -	\$ 46,900

Revenue:

Other Rent/Farm Lease	\$ 1,000	\$ 1,000
Sale of Property	\$ 420,000	\$ -
Transfer from Economic Development Fund	\$ 10,000	\$ -
Interest on Idle Funds	\$ 500	\$ 250
Total Revenue	\$ 431,500	\$ 1,250

Expenditures:

Contractual	\$ 18,000	\$ 18,000
Commodities	\$ 300	\$ 300
Land Purchase	\$ 1,300	\$ -
Transfer to Economic Development	\$ -	\$ 10,000
Transfer to General Fund	\$ -	\$ -
Transfer to Debt Service Fund	\$ 365,000	\$ -
Total Expenditures	\$ 384,600	\$ 28,300

Cash Balance Dec 31 / Reserve for Future Projects	\$ 46,900	\$ 19,850
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