

II. VENUE AND JURISDICTION

3. Venue is proper in Pottawatomie County pursuant to 12 O.S. §§ 133, 134, 143, 1653. The Court has jurisdiction over this case pursuant to 20 O.S. §§ 91.1 *et seq.* and 12 O.S. § 1451.

III. FACTUAL BACKGROUND

4. On September 6, 1994, the City Commission adopted Resolution 5848, a copy of which is attached hereto as Exhibit "1". Resolution 5848 speaks for itself, but, in short, it created the Greater Shawnee Area Convention and Visitor Bureau ("CVB") and a Tourism Advisory Committee ("TAC"), both under the auspices of the Chamber, for the purposes of promoting and facilitating tourism in the City of Shawnee. The CVB and the TAC were to be funded by the City. Resolution 5848 remains in full force and effect.¹

5. Also on September 6, 1994, the Chamber entered into a Contract for Services (the "Contract") with the City, a copy of which is attached hereto as Exhibit "7". While the Contract speaks for itself, in short, the Contract provides that the Chamber will provide all services necessary for the operation of the CVB and the TAC and that the Chamber's expenses incurred in so doing would be reimbursed by the City, which would transfer 99% of the revenue collected from the City of Shawnee Hotel Occupancy Surcharge Ordinance of 1994. The Contract does not contain a term of expiration.

6. From the date of the Contract's execution until August 13, 2012, both parties performed under the terms of the Contract. In reliance upon the Contract and Resolution

¹ Resolution 5848 has been periodically supplemented and amended, but these amendments have been merely to increase the size or alter the makeup of the TAC *See* Resolutions 5950, 5996, 6233, 6209, and 6299, which are attached as Exhibits "2-6".

5848, the Chamber entered into agreements with third parties to facilitate the operation of the CVB and TAC.

7. On August 13, 2012, the City Commission called a special meeting, at which the Commission voted to terminate the Contract and to cease paying any revenues to the Chamber for the operation of the CVB and TAC effective August 31, 2012. A copy of the agenda of the special meeting is attached hereto as Exhibit "8". The minutes of the meeting have not yet been approved. The City has a business practice of paying revenues from the Hotel Occupancy Surcharge Fund on a sixty day lag. Thus, the Chamber has yet to be paid for services rendered in the months of July and August.

IV. CAUSES OF ACTION

A. DECLARATORY RELIEF

8. The Declaratory Judgments Act, 12 O.S. § 1651 provides in pertinent part:

District courts may, in cases of actual controversy, determine rights, status, or other legal relations, including but not limited to a determination of the construction or validity of any foreign judgment or decree, deed, contract, trust, or other instrument or agreement or of any statute, municipal ordinance, or other governmental regulation, whether or not other relief is or could be claimed ... The determination may be made either before or after there has been a breach of any legal duty or obligation, and it may be either affirmative or negative in form and effect; provided however, that a court may refuse to make a determination where the judgment, if rendered, would not terminate the controversy, or some part thereof, giving rise to the proceeding.

The Declaratory Judgments Act must be liberally construed to obtain its objective, which is to expedite and simplify the ascertainment of uncertain rights.² A declaratory judgment suit may be either legal or equitable, depending on the essential nature of the case.³ The

² Board of Examiners v. Lawton, 1974 OK 69, ¶8, 523 P.2d 1064, 1066.

³ Carpenter v. Carpenter, 1982 OK 38, ¶17, 645 P.2d 476, 481.

statute requires the existence of a case of actual controversy as a jurisdictional prerequisite to the availability of declaratory relief.⁴

9. One aspect of justiciability is standing, and the Oklahoma Supreme Court has held that standing to raise issues in a declaratory judgment action must be predicated upon a direct, immediate, and substantial interest, as in other cases.⁵ Declaratory relief is especially useful in a case where a justiciable controversy exists and the plaintiff would be required to do or refrain from doing some action at his or her legal peril.⁶

10. The case at bar is ripe for declaratory judgment. The Chamber's rights are uncertain with respect to Contract. The case at bar presents a legal issue in the form of the construction of Resolution 5848. As to the element of justiciability, the case at bar clearly involves an existing controversy between the Chamber and the City. The controversy at bar is of the nature best suited to declaratory judgment.

11. Resolution 5848 expressly provides that the City must provide funds to the Chamber for the operation of the CVB and TAC. Thus, this Court should declare that the action taken at the August 13, 2012 meeting of the Commission is invalid as violative of Resolution 5848.

B. WRIT OF MANDAMUS

12. Title 12 O.S. § 1451 provides:

The writ of mandamus may be issued by the Supreme Court or the district court, or any justice or judge thereof, during term, or at chambers, to any inferior tribunal, corporation, board or person, to compel the performance of any act which the law specially enjoins as a duty, resulting from an office, trust or station; but though it may require an inferior tribunal to exercise its

⁴ Title 12 O.S. 2001 § 1651.

⁵ See Democratic Party v. Estep, 1982 OK 106, ¶7, 652 P.2d 271.

⁶ Conoco, Inc. v. State Dept. of Health, 1982 OK 94, ¶14, 651 P.2d 125, 132.

judgment or proceed to the discharge of any of its functions, it cannot control judicial discretion.

Mandamus may be issued by a district court to a municipal officer or commission: 1) where the act sought to be mandated is purely ministerial in that the officer or commission has a non-discretionary duty, imposed by law, to act when properly requested to do so; and 2) where the act sought to be mandated requires the exercise of judgment or discretion, but the commission or officer exercising such discretion has acted arbitrarily or fraudulently.⁷ An order in mandamus commanding the performance of a valid duty is the functional equivalent and the analogue of a judgment.⁸

13. Here, the Commission had a duty to conform to the requirements of Resolution 5848, which was non-discretionary, and failed to do so, and such a failure to act was arbitrary, capricious, and fraudulent in nature. As such, the Court should issue a writ of mandamus to Shawnee ordering the Commission to conform to Resolution 5848.

C. INJUNCTIVE RELIEF

14. Under Oklahoma law, temporary restraining orders preserve the *status quo* to prevent irreparable injury until the Court may hear and decide a motion for temporary injunction.⁹ Emergency temporary relief is clearly warranted in this case, as the Chamber has demonstrated that it has existing contractual obligations to third parties which may only be satisfied by the City's tender of revenue pursuant to the Contract and has demonstrated that the City is required do so by its own resolution. Any interference with the City's rights by granting a temporary restraining order will be minimal, given that if the

⁷ See McConnell v. Town Clerk of Tipton, 1985 OK 61, 704 P.2d 479; Nixon v. Roberts, 1966 OK 216, 420 P.2d 898; Adair Cty. Excise Bd. v. Board of Cty. Comm'rs of Adair Cty., 1968 OK 32, 438 P.2d 484; Jones v. Hanger, 1953 OK 178, 258 P.2d 176;

⁸ Board of Cty. Comm'rs of Muskogee Cty. v. City of Muskogee, see note 7, supra.

⁹ Title 12 O.S. §§ 1381 *et seq.* See, e.g., Morse v. Earnest, Inc., 1976 OK 31, ¶12, 547 P.2d 955.

Court were find in favor of the City the only adverse result would be delay and a preservation of the *status quo*. However, if the Court were to ultimately find in favor of the Chamber, the Chamber could incur substantial losses during the pendency and a failure to impose a temporary restraining order will expose the Chamber to irreparable injury and loss.

15. In deciding whether to grant a temporary restraining order and a temporary injunction, Oklahoma courts consider the following four factors, which are not dispositive:

1. The likelihood of the plaintiff's ultimate success on the merits;
2. The irreparable injury to the plaintiff in the event that temporary injunctive relief is denied;
3. The irreparable injury to other parties in the event that temporary injunctive relief is granted, and a balancing of the hardships between the parties; and
4. The public interest.¹⁰

16. In this case, each of the four factors is applicable, and the facts as presented merit the granting a temporary restraining order and a temporary injunction. First, it is highly likely that the Chamber will prevail in its quest to determine that action taken at the August 13, 2012 was unlawful. Second, the Chamber will clearly be irreparably harmed if injunctive relief is not granted. Under Oklahoma law, "[i]njury is irreparable when it is incapable of being fully compensated by money damages, or where the measure of damages is so speculative that arriving at an amount of damages would be difficult or impossible."¹¹ Here, the CVB's and TAC's monetary losses for services rendered in July and August of 2012, and for amounts owed to third parties under separate agreements,

¹⁰ See Smith v. Soil Conservation Serv., 563 F. Supp. 843, 844 (W.D. Okla. 1982) (applying Oklahoma law).

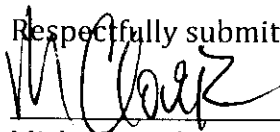
¹¹ Angier v. Mathews Exploration Corp., 1995 OK CIV APP 109, ¶8, 905 P.2d 826, 830.

potential damages asserted by those third parties, along with the loss of operational validity and public confidence may not be easily valued at this time.¹²

17. Third, the City will not suffer any irreparable harm because if the Court ultimately finds in favor of the City, it will have suffered nothing but a brief delay, in which the *status quo* would persist. Finally, the public interest favors the issuance of injunctive relief, as public policy encourages municipalities to conform to legal duties. For these reasons, the Court should enter a temporary restraining order and, after doing the same, enter a temporary injunction.

WHEREFORE, the Chamber respectfully requests that the Court: 1) set for hearing as expeditiously as the Court's calendar will permit for its Application for Temporary Restraining Order and Temporary Injunction; 2) grant a Temporary Restraining Order enjoining the City; 3) grant a temporary injunction at such further hearing, of the same substance as the restraining order; 4) grant declaratory relief to the Chamber; 5) issue a writ of mandamus to the City and the City Commission; 6) award the Chamber its attorney fees and costs expended; and 7) grant the Chamber any and all other relief which the Court deems just and proper.

Respectfully submitted,



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ATTORNEYS FOR PLAINTIFF

¹² Further, the ability of the Chamber to recover monetary damages might present a difficult question under the Governmental Tort Claims Act, 51 O.S. §§ 151 *et seq.*

RESOLUTION NO. 5848
Resolution

A RESOLUTION CREATING THE GREATER SHAWNEE AREA CONVENTION VISITOR BUREAU; FURTHER CREATING THE TOURISM ADVISORY COMMITTEE; BOTH TO ASSIST IN THE ENCOURAGING AND FOSTERING OF TOURISM IN THE CITY OF SHAWNEE.

WHEREAS, the promotion and fostering of tourism development in the City of Shawnee is a valuable project to assist the City's economy, and,

WHEREAS, the City of Shawnee desires to create a specific committee to facilitate tourism and provide guidance and direction to the City in encouraging conventions and conferences.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND BOARD OF COMMISSIONERS OF THE CITY OF SHAWNEE, OKLAHOMA:

SECTION I. Creation.

A. There is hereby established the greater Shawnee Area Convention and Visitor Bureau under the auspices of the Greater Shawnee Area Chamber of Commerce.

B. The Greater Shawnee Area Chamber of Commerce shall contract with the City of Shawnee for tourism and visitor development services to assist the Bureau.

C. There is further established a tourism advisory committee to provide guidance and direction to the Greater Shawnee Area Convention Visitor Bureau and Chamber of Commerce.

SECTION II. Membership.

The tourism advisory committee shall consist of seven members. These members shall include: the Heart of Oklahoma Exposition Center manager, the president of the Shawnee Chamber of Commerce, and the president of the Shawnee Economic Development Foundation. The remaining four members shall be representatives of the tourism or related industry, two of which will be appointed by the Mayor of the City of Shawnee, with Commission approval, and two appointed by the Executive Board of the Greater Shawnee Area Chamber of Commerce. The director of the Greater Shawnee Area Convention and Visitor Bureau and the Shawnee City Manager shall serve as ex-officio members of the Committee. Members of the Committee shall select a chairperson who shall serve a one-year term ending June 30 of each year. When a vacancy occurs among the four appointed members, the replacement shall be appointed by either the City Commission or the Chamber of Commerce depending on which group's appointment became vacant. The new member so appointed shall fulfill the unexpired term.

EXHIBIT

1

SECTION III. Term of Office.

The term of office for the four appointed members of the Tourism Advisory Board Committee initially shall be:

- A. Two members shall be appointed for three-year terms, one by the Mayor and one by the Chamber Executive Board;
- B. One member shall be appointed for a two-year term by the Mayor;
- C. One member shall be appointed for a one-year term by the Chamber Executive Board.

Thereafter, each member shall serve for a term of three years, or until a successor is appointed. The terms of all members shall expire on June 30 in the year in which the term would ordinarily expire, regardless of the date of appointment. Members may be removed for cause.

SECTION IV. Quorum.

Four members of the Tourism Advisory Committee shall constitute a quorum. Business may be transacted by a majority of the quorum present.

SECTION V. Meetings.

The Tourism Advisory Committee shall meet on a monthly basis to provide direction and conduct business activities pertaining to the tourism for the Shawnee area. Emergency meetings may be called by four members of the Committee.

SECTION VI. Powers and duties.

The Tourism Advisory Committee shall:

- A. Gather information and ideas; conduct research; assist the Shawnee Area Convention and Visitors Bureau in advertising and promotional programs; travel to solicit conventions, trade shows, agricultural, educational and special events; assist in advising the City Commission and Visitors Bureau in the promotion of the City's image so that Shawnee will be developed and maintained as a visitor's destination.
- B. Advise the Greater Shawnee Area Convention and Visitors Bureau of the promotional, recreational, commercial, industrial and economic events in, around and for the benefit of the City of Shawnee and its residents.
- C. Encourage, promote and foster visitor and tourism conventions, conferences and tourism development in the City of Shawnee and assist the Greater Shawnee Convention and Visitors Bureau in the solicitation of visitor attractions, events, tourism, conferences, conventions and meetings in the City of Shawnee.

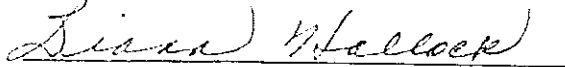
D. Submit to the City of Shawnee annually a recommended budget of operations for the forthcoming fiscal year.

ADOPTED this 6 day of September, 1994.



PIERRE F. TARON, MAYOR

(SEAL)
ATTEST:



DIANA HALLOCK, CITY CLERK

RESOLUTION NO. 5950

A RESOLUTION AMENDING THE MEMBERSHIP OF THE TOURISM
ADVISORY COMMITTEE OF THE CITY OF SHAWNEE

WHEREAS, the City of Shawnee created the Greater Shawnee Area Convention and Visitor Bureau in 1994 to promote, foster and encourage tourism development in the City of Shawnee, and

WHEREAS, the City of Shawnee created the Tourism Advisory Committee in 1994 to assist the Convention and Visitor Bureau with these goals, and,

WHEREAS, it has become apparent that additional members should be added to the Tourism Advisory Committee to assist that committee in its purpose.

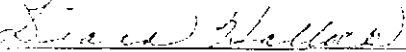
NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND BOARD OF COMMISSIONERS OF THE CITY OF SHAWNEE, OKLAHOMA:

The Tourism Advisory Committee shall consist of seven (7) members. These members shall include: the Heart of Oklahoma Exposition Center manager, the Executive Vice-President of the Shawnee Chamber of Commerce, and the Executive Vice-President of the Shawnee Economic Development Foundation. The remaining four members shall be representatives of the tourism or related industry, two of which will be appointed by the Mayor of the City of Shawnee, with Commission approval, and two appointed by the Executive Board of the Greater Shawnee Area Chamber of Commerce. The director of the Greater Shawnee Area Convention and Visitor Bureau, the Shawnee City Manager, the President and Chief Executive Officer of the Shawnee Economic Development Foundation, and President of the Shawnee Chamber of Commerce shall serve as ex-officio members of the Committee. Members of the Committee shall select a chairperson who shall serve a one-year term ending June 30 of each year. When a vacancy occurs among the four appointed members, the replacement shall be appointed by either the City Commission or the Chamber of Commerce depending on which group's appointment becomes vacant. The new member so appointed shall fulfill the unexpired term.

ADOPTED this 6th day of January, 1997.


CHRIS HARDEN, MAYOR

(SEAL)
ATTEST:


DIANA HALLOCK, CMC, CITY CLERK

EXHIBIT

A RESOLUTION AMENDING RESOLUTION NO. 5950 OF THE CITY OF SHAWNEE; CHANGING THE NUMBER OF MEMBERS OF THE TOURISM ADVISORY COMMITTEE FROM SEVEN (7) TO NINE (9); ESTABLISHING ONE OF THE ADDITIONAL APPOINTMENTS BE MADE BY THE MAYOR WITH CITY COMMISSION APPROVAL AND THE SECOND APPOINTMENT MADE BY THE SHAWNEE CHAMBER OF COMMERCE EXECUTIVE BOARD; SETTING A THREE (3) YEAR TERM OF OFFICE FOR EACH NEW MEMBER.

WHEREAS, the Greater Shawnee Area Convention Visitors Bureau facilitates tourism and provides a valuable economic service to the City of Shawnee by providing guidance and direction for the encouragement of conventions and conferences in the City; and

WHEREAS, the Greater Shawnee Area Convention and Visitors Bureau relies for support and guidance from the Tourism Advisory Committee created by Resolution No. 5848 of the City of Shawnee, Oklahoma; and

WHEREAS, the Greater Shawnee Area Convention and Visitors Bureau and the Tourism Advisory Committee have determined that the Tourism Advisory Committee's service can be improved by increasing the Committee's membership from seven (7) to nine (9) members.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND BOARD OF COMMISSIONERS OF THE CITY OF SHAWNEE:

SECTION I. MEMBERSHIP

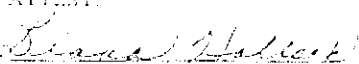
Resolution No. 5950 of the City of Shawnee, Oklahoma, is hereby amended as to membership as follows: The Tourism Advisory Committee shall consist of Nine (9) members. These members shall include The Heart of Oklahoma Exposition Center Manager, the Executive Vice-President of the Shawnee Chamber of Commerce, and the Executive Vice-President of the Shawnee Economic Development Foundation. The remaining six members shall be representative of the Tourism or related industry, three of whom will be appointed by the mayor of the City of Shawnee, with City Commission approval, and three appointed by the Executive Board of the Greater Shawnee Area Chamber of Commerce. The director of the Greater Shawnee Convention and Visitors Bureau, the Shawnee City Manager, the President and Chief Executive Officer of the Shawnee Economic Development Foundation, and President of the Shawnee Chamber of Commerce shall serve as ex-officio members of the Committee. Members of the Committee shall select a chairperson who shall serve a one-year term ending June 30th of each year. When a vacancy occurs among the six appointed members, replacement shall be appointed by either the City Commission or the Chamber of Commerce depending on which Group's appointment became vacant. The new member so appointed shall fulfill the unexpired term.

SECTION II. TERM OF OFFICE

Resolution No. 5950 of the City of Shawnee, shall be amended to add the following terms of office: Each of the two (2) new members of the Tourism Advisory Committee shall be appointed for three (3) year terms to commence at the direction of the Greater Shawnee Area Convention Visitors Bureau

This Resolution adopted this 22 day of June, 1998.


CHRIS HARDEN, MAYOR

ATTEST:

Diana Halbeck, C.M.C., City Clerk
(SEAL)

EXHIBIT

RESOLUTION NO. 5233

A RESOLUTION AMENDING RESOLUTION NO. 5848 OF THE CITY OF SHAWNEE, OKLAHOMA; CHANGING THE MEMBERSHIP OF THE TOURISM ADVISORY COMMITTEE FROM EXECUTIVE VICE-PRESIDENT OF SHAWNEE'S CHAMBER OF COMMERCE TO THE PRESIDENT/CEO OF SHAWNEE'S CHAMBER OF COMMERCE; REQUIRING FIVE (5) MEMBERS OF THE COMMITTEE FOR A QUORUM; AND HAVING EACH MEMBER'S TERM EXPIRE ON DECEMBER 31ST IN THEIR YEAR OF EXPIRATION.

WHEREAS, the Tourism Advisory Committee of the City of Shawnee has determined that the President/CEO of the Chamber of Commerce should replace the Vice-President of the Chamber as a member of the Committee; and

WHEREAS, the number of members of the Committee constituting a quorum should be increased to five (5) members; and

WHEREAS, the Tourism Advisory Committee has determined to conduct its business on a calendar year rather than a fiscal year and, therefore, the member's terms should correspond to this change.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND BOARD OF COMMISSIONERS OF THE CITY OF SHAWNEE, OKLAHOMA:

SECTION I. Membership.

Resolution No. 5848 of the City of Shawnee, as amended by Resolution 5950 is hereby amended to replace the Executive Vice-President of the Shawnee Chamber of Commerce with the President/CEO of the Shawnee Chamber of Commerce as a member of the Committee.

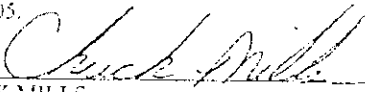
SECTION II. Quorum.

Resolution No. 5848 of the City of Shawnee is hereby amended to increase the number of members of the Tourism Advisory Committee that is required to constitute a quorum from four (4) to five (5).

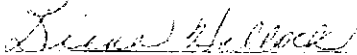
SECTION III. Term of Office.

That Resolution No. 5848 of the City of Shawnee is hereby amended to reflect that the terms of office for each member of the Tourism Advisory Committee shall expire on December 31st of the year in which the term would ordinarily expire, regardless of the date of appointment.

ADOPTED this 16th day of May, 2005.


CHUCK MILLS

ATTEST:


Diana Hallock, C.M.C., City Clerk

(SEAL)

City AMEND Resolution 5848, 052705

EXHIBIT

4

RESOLUTION NO 6209

A RESOLUTION AMENDING RESOLUTIONS NO. 5996 AND 6233 OF THE CITY OF SHAWNEE, OKLAHOMA; INCREASING THE NUMBER OF MEMBERS OF THE TOURISM ADVISORY COMMITTEE FROM NINE TO ELEVEN; MAKING THE PRESIDENT/CEO OF THE SHAWNEE ECONOMIC DEVELOPMENT FOUNDATION A VOTING MEMBER OF THE COMMITTEE AND THE EXECUTIVE VICE-PRESIDENT OF THE SHAWNEE ECONOMIC DEVELOPMENT FOUNDATION AN EX-OFFICIO MEMBER; INCREASING THE NUMBER OF MEMBERS OF THE COMMITTEE REQUIRED TO CONSTITUTE A QUORUM FROM FIVE TO SIX.

WHEREAS, the members of the Tourism Advisory Committee of the City of Shawnee have determined to increase their numbers to facilitate membership and input from the business community; and

WHEREAS, the Tourism Advisory Committee of the City of Shawnee has determined that the President/CEO of the Shawnee Economic Development Foundation should be a voting member of the Committee; and

WHEREAS, the increase in number of the membership of the Tourism Advisory Committee of Shawnee requires that a quorum of the committee be increased to six (6) members.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND BOARD OF COMMISSIONERS OF THE CITY OF SHAWNEE, OKLAHOMA:

SECTION I. Membership.

(a) Resolution No. 5996 is hereby amended to replace the Executive Vice-President of the Shawnee Economic Development Foundation with the President/CEO of the Shawnee Economic Development Foundation as a voting member of the Tourism Advisory Committee and that the Executive Vice-President of the Shawnee Economic Development Foundation is to become an ex officio member of the Committee.

(b) Resolution No. 5996 of the City of Shawnee is hereby amended to increase the number of members of the tourism Advisory Committee of the City of Shawnee from nine (9) to eleven (11) with the two new members to be selected from the business community without the requirement that they be involved in the tourism or related industry. One new member is to be appointed by the mayor of the City of Shawnee, with City Commission approval, and the other new member is to be appointed by the Executive Board of the Greater Shawnee Area Chamber of Commerce.

SECTION II. Quorum.

Resolution No. 6233 is hereby amended to increase the number of members of the Tourism Advisory Committee that is required to constitute a quorum from five (5) to six (6).

ADOPTED this 4th day of December, 2006.

Chuck Mills
CHUCK MILLS, MAYOR

ATTEST:

Diana Hallock
Diana Hallock, C.M.C., City Clerk

(SEAL)

EXHIBIT

5

RESOLUTION NO. 5799

A RESOLUTION AMENDING RESOLUTION NO. 5996 OF THE CITY OF SHAWNEE; CHANGING THE MEMBERSHIP OF THE TOURISM ADVISORY COMMITTEE BY REPLACING THE HEART OF OKLAHOMA EXPOSITION CENTER MANAGER WITH A REPRESENTATIVE OF THE HEART OF OKLAHOMA EXPOSITION CENTER AS APPOINTED BY THE TRUST AUTHORITY.

WHEREAS, the membership of the Tourism Advisory Committee has previously been established by Resolution No. 5996 of the City of Shawnee to include the Heart of Oklahoma Exposition Center manager; and

WHEREAS, the manager is not able to routinely attend the meetings of the Tourism Advisory Committee but designates the marketing director or another representative on behalf of the Expo Center to attend; and

WHEREAS, this has made it more difficult for the Tourism Advisory Committee to have a quorum and has removed a voting member for the Heart of Oklahoma Exposition Center from Committee meetings; and

WHEREAS, as a result of this, the Heart of Oklahoma Exposition Center has requested that the manager be replaced by a Trust designee on the Committee.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND BOARD OF COMMISSIONERS OF THE CITY OF SHAWNEE:

That Resolution No. 5996 of the City of Shawnee, Oklahoma is hereby amended as to its listing of members of the Tourism Advisory Committee by replacing the manager of the Heart of Oklahoma Exposition Center with a representative of the Heart of Oklahoma Exposition Center as appointed by the Trust Authority.

ADOPTED this 21st day of May, 2007.


CHUCK MILLS, MAYOR

ATTEST:


Diana Hallock, C.M.C., City Clerk

(S:AL)

EXHIBIT

6

CONTRACT FOR SERVICES

This contract is entered into this 6 day of September, 1994, by and between the City of Shawnee, Oklahoma, a municipal corporation, hereinafter the "City," and the Shawnee Chamber of Commerce, Shawnee, Oklahoma, hereinafter the "Chamber."

WHEREAS, the City is in need of certain services relating to the encouraging, promotion and fostering of visitor and tourism conventions, conferences and general tourism development in the City; and

WHEREAS, the City has, by resolution, created the Tourism Advisory Committee to make recommendations in these areas to the Greater Shawnee Area Convention and Visitor Bureau under the auspices of the Chamber; and

WHEREAS, the Chamber has represented to the City and does hereby represent to the City that it possesses the resources and abilities to provide such services; and

WHEREAS, it is more financially feasible for the City to contract with the Chamber for tourism development services than it would be for the City to engage in these services directly.

W I T N E S S E T H

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereby agree as follows:

1. The Chamber agrees to provide services to the City for the planning, encouraging, fostering, and development of programs to increase arrivals and visitation to the City as well as to attract

EXHIBIT

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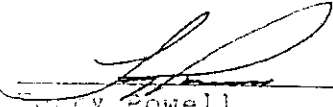
conferences, shows and conventions to the Greater Shawnee Area for the City and its residents. The services to be provided by the Chamber shall include, but not be limited to, the following:

- a. The supplying and analyzing of information, research and ideas to develop advertising and promotional programs and materials;
- b. Travel to solicit conventions, trade shows, agricultural, educational and special events to the City;
- c. Work in promoting the City's image so the City will be developed into a visitor destination;
- d. Promotion of cultural, recreational, commercial, industrial and economic events in, around and for the benefit of the City and its residents.
- e. Review and act on the recommendations of the Tourism Advisory Committee and report all such recommendations to the City;
- f. Submit to the City annually a recommended budget of operations for the forthcoming fiscal year.
2. The Chamber agrees to prepare and submit to the City for approval quarterly reports on the recommendations of the Tourism Advisory Committee and the anticipated plans to implement those recommendations.
3. The Chamber agrees to provide and furnish services in a proper, diligent and workmanlike manner to commence upon the execution of this agreement.
4. In exchange for the Chamber's services hereunder, the City shall pay the Chamber monthly all of the amount collected

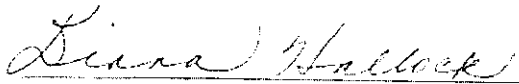
during the preceding month. These monthly payments shall commence on December 25, 1994. Funds for these payments will come entirely from the revenue raised from the City of Shawnee Hotel Occupancy Surcharge Ordinance of 1994. In addition, the payments made to the Chamber shall encompass all the expenses and salaries of the Tourism Advisory Committee.

IN WITNESS WHEREOF, the parties hereto have executed this contract the date first above written.

THE CITY OF SHAWNEE, OKLAHOMA,
A Municipal Corporation

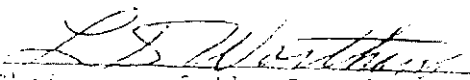
By: 
Terry Powell
City Manager

ATTEST:

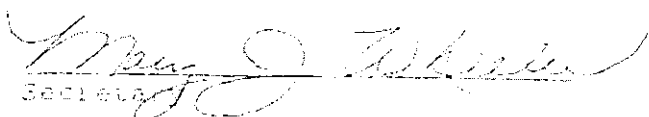

Diana Hallock, City Clerk

(Seal)

SHAWNEE CHAMBER OF COMMERCE,
Shawnee, Oklahoma

By: 
Chairman of the Board

ATTEST:


Secretary

Seal:

Date: 8/13/2012	Board: City Commission	DocumentType: Agenda	Web Posted: 8/8/2012 11:41:19 AM
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NOTICE OF A CALLED SPECIAL SESSION OF THE BOARD OF CITY COMMISSIONERS OF THE CITY OF SHAWNEE, OKLAHOMA

TO THE BOARD OF COMMISSIONERS OF THE CITY OF SHAWNEE, OKLAHOMA:

You and each of you are hereby notified that by virtue of a call issued by me on this 8TH day of August, 2012, a Special Called Session will be held of the Board of Commissioners of the City of Shawnee, Oklahoma in the Shawnee Commission Chambers, 16 W. 9th, Shawnee, Oklahoma at 6:30 p.m. on August 13, 2012, and you are hereby notified to be present at said meeting.

The purpose of said meeting will be for discussion, consideration and possible action to determine whether to renew contract with Shawnee Area Chamber of Commerce for operation of a Convention and Visitor's Bureau, and, if so, discussion, consideration and possible action on amendments to the Contract, discussion, consideration and possible action to create a new entity for operation of a Convention and Visitor's Bureau and administration of the Proceeds of the Hotel Occupancy Surcharge. Items to be considered will be whether the entity should be an Oklahoma Statutory Trust or a tax-exempt corporation pursuant to Oklahoma law and Section 501(c)(6) of the Internal Revenue Code. Items to be considered include the approval of either a Trust Indenture or Articles of Incorporation, powers and duties of the entity, name of entity, selection of initial Board of Trustees/Directors and any other administrative items needed for creation of the entity. (This item will be considered only if the Commission determines it will not continue the Contract with the Chamber of Commerce), and discussion, consideration and possible action to set a special meeting to meet with Board of Trustees or Board of Trustees for newly created entity for purposes of contracting for the operation of a Convention and Visitor's Bureau and arranging for transition of operations. (This item will be considered only if the Commission determines it will not continue the Contract with the Chamber of Commerce and also creates a new entity.)

Witness my hand this 8th day of August, 2012.

(SEAL)

ATTEST:

PHYLLIS LOFTIS, CMC, JUSTIN ERICKSON
CITY CLERK ACTING CITY MANAGER

EXHIBIT

8

CALL FOR SPECIAL SESSION OF THE SHAWNEE BOARD OF CITY COMMISSIONERS OF THE CITY OF SHAWNEE, OKLAHOMA TO BE HELD ON THE 13TH DAY OF AUGUST 2012 AT 6:30 O'CLOCK P.M. AT THE SHAWNEE COMMISSION CHAMBERS, 16 W. NINTH, SHAWNEE, OKLAHOMA. THE PURPOSE OF SAID MEETING WILL BE FOR DISCUSSION, CONSIDERATION AND POSSIBLE ACTION TO DETERMINE WHETHER TO RENEW CONTRACT WITH SHAWNEE AREA CHAMBER OF COMMERCE FOR OPERATION OF A CONVENTION AND VISITOR'S BUREAU, AND, IF SO, DISCUSSION, CONSIDERATION AND POSSIBLE ACTION ON AMENDMENTS TO THE CONTRACT, DISCUSSION, CONSIDERATION AND POSSIBLE ACTION TO CREATE A NEW ENTITY FOR OPERATION OF A CONVENTION AND VISITOR'S BUREAU AND ADMINISTRATION OF THE PROCEEDS OF THE HOTEL OCCUPANCY SURCHARGE. ITEMS TO BE CONSIDERED WILL BE WHETHER THE ENTITY SHOULD BE AN OKLAHOMA STATUTORY TRUST OR A TAX-EXEMPT CORPORATION PURSUANT TO OKLAHOMA LAW AND SECTION 501(C)(6) OF THE INTERNAL REVENUE CODE. ITEMS TO BE CONSIDERED INCLUDE THE APPROVAL OF EITHER A TRUST INDENTURE OR ARTICLES OF INCORPORATION, POWERS AND DUTIES OF THE ENTITY, NAME OF ENTITY, SELECTION OF INITIAL BOARD OF TRUSTEES/DIRECTORS AND ANY OTHER ADMINISTRATIVE ITEMS NEEDED FOR CREATION OF THE ENTITY. (THIS ITEM WILL BE CONSIDERED ONLY IF THE COMMISSION DETERMINES IT WILL NOT CONTINUE THE CONTRACT WITH THE CHAMBER OF COMMERCE), AND DISCUSSION, CONSIDERATION AND POSSIBLE ACTION TO SET A SPECIAL MEETING TO MEET WITH BOARD OF TRUSTEES OR BOARD OF TRUSTEES FOR NEWLY CREATED ENTITY FOR PURPOSES OF CONTRACTING FOR THE OPERATION OF A CONVENTION AND VISITOR'S BUREAU AND ARRANGING FOR TRANSITION OF OPERATIONS. (THIS ITEM WILL BE CONSIDERED ONLY IF THE COMMISSION DETERMINES IT WILL NOT CONTINUE THE CONTRACT WITH THE CHAMBER OF COMMERCE AND ALSO CREATES A NEW ENTITY.)

By virtue of the authority vested in me by Section 4, Article IV of the Charter of the City of Shawnee, Oklahoma, a Special Session of the Board of City Commissioners of the City of Shawnee, Oklahoma is hereby called to meet at the City Commission Chambers, 16 W. 9th, Shawnee, Oklahoma at 6:30 p.m. on August 13, 2012 for discussion, consideration and possible action to determine whether to renew contract with Shawnee Area Chamber of Commerce for operation of a Convention and Visitor's Bureau, and, if so, discussion, consideration and possible action on amendments to the Contract, discussion, consideration and possible action to create a new entity for operation of a Convention and Visitor's Bureau and administration of the Proceeds of the Hotel Occupancy Surcharge. Items to be considered will be whether the entity should be an Oklahoma Statutory Trust or a tax-exempt corporation pursuant to Oklahoma law and Section 501(c)(6) of the Internal Revenue Code. Items to be considered include the approval of either a Trust Indenture or Articles of Incorporation, powers and duties of the entity, name of entity, selection of initial Board of Trustees/Directors and any other administrative items needed for creation of the entity. (This item will be considered only if the Commission determines it will not continue the Contract with the Chamber of Commerce), and discussion, consideration and possible action to set a special meeting to meet with Board of Trustees or Board of Trustees for newly created entity for purposes of contracting for the operation of a Convention and Visitor's Bureau and arranging for transition of operations. (This item will be considered only if the Commission determines it will not continue the Contract with the Chamber of Commerce and also creates a new entity.)

Witness my hand this 8th day of August, 2012

JUSTIN ERICKSON
ACTING CITY MANAGER
(SEAL)
ATTEST:

PHYLLIS LOFTIS, CMC, CITY CLERK

A G E N D A

SPECIAL CALLED MEETING

BOARD OF CITY COMMISSIONERS
AUGUST 13, 2012 AT 6:30 O'CLOCK P.M.
CITY COMMISSION CHAMBERS
16 W. 9TH
SHAWNEE, OKLAHOMA

CALL TO ORDER

DECLARATION OF A QUORUM

1. Discussion, consideration and possible action to determine whether to renew contract with Shawnee Area Chamber of Commerce for operation of a Convention and Visitor's Bureau, and, if so, discussion, consideration and possible action on amendments to the Contract.
2. Discussion, consideration and possible action to create a new entity for operation of a Convention and Visitor's Bureau and administration of the Proceeds of the Hotel Occupancy Surcharge. Items to be considered will be whether the entity should be an Oklahoma Statutory Trust or a tax-exempt corporation pursuant to Oklahoma law and Section 501(c)(6) of the Internal Revenue Code. Items to be considered include the approval of either a Trust Indenture or Articles of Incorporation, powers and duties of the entity, name of entity, selection of initial Board of Trustees/Directors and any other administrative items needed for creation of the entity. (This item will be considered only if the Commission determines it will not continue the Contract with the Chamber of Commerce)
3. Discussion, consideration and possible action to set a special meeting to meet with Board of Trustees or Board of Trustees for newly created entity for purposes of contracting for the operation of a Convention and Visitor's Bureau and arranging for transition of operations. (This item will be considered only if the Commission

determines it will not continue the Contract with the Chamber of Commerce and also creates a new entity.)

4. Adjournment

Respectfully submitted,

Phyllis Loftis
CMC, City Clerk

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