

(Published in the Phillips County Review, October 3, 2018)1t

ORDINANCE NO. 1417

AN ORDINANCE CREATING ARTICLE 9 OF CHAPTER I TO THE CODE OF THE CITY OF PHILLIPSBURG, KANSAS, FOR THE PURPOSE OF CREATING THE PHILLIPSBURG LAND BANK, AND DETERMINING THE MEMBERSHIP, DUTIES AND FUNCTIONS OF THE BOARD OF TRUSTEES OF THE PHILLIPSBURG LAND BANK.

WHEREAS, the City of Phillipsburg, Kansas, recognizes that dilapidated, vacant, and unused properties can create a disincentive for new construction and infill;

WHEREAS, the Comprehensive Plan identified the improvement of the community's aesthetic appearance by addressing dilapidated and condemned structures as a specific area of focus;

WHEREAS, the City is developing a property management strategy;

WHEREAS, land banking provides the City a viable tool to address abandoned and tax delinquent properties; and

WHEREAS, the City desires to establish a Land Bank as a proactive measure to return such properties to productive use.

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF PHILLIPSBURG, KANSAS: The establishment of the Phillipsburg Land Bank, herein referred to "PLB". The Phillipsburg Land Bank shall take effect upon its passage and publication in the official City newspaper.

SECTION I. Article 9 in Chapter I of the Code of the City of Phillipsburg, Kansas, is hereby created as follows:

ARTICLE 9. PHILLIPSBURG LAND BANK

9-101. Creation; Purpose. The Phillipsburg Land Bank is hereby established pursuant to K.S.A. 12-5901, et.seq. The Phillipsburg Land Bank is an independent agency and instrumentality of the City with the primary responsibility and authority to efficiently acquire, hold, manage, transform, and convey surplus City properties and other abandoned, tax foreclosed, or otherwise underutilized or distressed properties in order to convert these properties for productive use.

9-102. Definitions. For the purpose of this Article, the words set out in this section shall have the following meanings.

- (1) "City" means the City of Phillipsburg, Kansas;
- (2) "Board" means the Board of Trustees of the Phillipsburg Land Bank;
- (3) "Bank" means the Phillipsburg Land Bank established pursuant to this Ordinance;
- (4) "Governing Body" means the Governing Body of the City of Phillipsburg, Kansas.

9-103. Land Bank Board of Trustees; Appointment; Terms; Dissolution.

- a) There is hereby established a Land Bank Board of Trustees. The Board shall be composed of seven (7) members. The six City Council Members and Mayor will serve on the Land Bank Board of Trustees. The term of these seven members will run consecutively with their term of office. After this initial term, any changes to the membership of the Land Bank Board of Trustees must be approved by the Phillipsburg Council.
- b) Primary City staff support to the Board will come from the City Clerk, or her or his designee. City staff will provide technical and professional support for Bank operations; additional support may be contracted as deemed necessary.
- c) The Bank may be dissolved by Ordinance of the Governing Body, without cause. In such case, all property of the Bank shall be transferred to and held by the City and may be disposed of as otherwise provided by law.

9-104. Officers; Organization.

- a) The Board shall select, annually, from its membership, a chairperson, a vice chairperson, a secretary and a treasurer. The treasurer shall be bonded in such amounts as the Governing Body may require.
- b) The Board may appoint such officers, agents and employees as it may require for the performance of its duties, and shall determine the qualifications and duties and fix the compensation of such officers, agents and employees.
- c) The Board shall fix the time and place at which its meetings shall be held. Meetings shall be held within the City and shall be subject to the Kansas Open Meeting Act, K.S.A. 75- 4317, et seq., and amendments thereto.
- d) A majority of the Board shall constitute a quorum for the transaction of business. No action of the Board shall be binding unless taken at a meeting at which at least a quorum is present.

- e) The members of the Board shall be subject to the provisions of the laws of the State of Kansas which relate to conflicts of interest of City officers and employees, including, but not limited to, K.S.A. 75-4301, et seq., and amendments thereto.
- f) Subject to the provisions of the Kansas Tort Claims Act, K.S.A. 75-6101, et. seq., and amendments thereto, if any action at law or equity, or other legal proceeding, shall be brought against any member of the Board for any act or omission arising out of the performance of duties as a member of the Board, such member shall be indemnified in whole and held harmless by the Board for any judgment or decree entered against such member and, further, shall be defended at the cost and expense of the Bank in any such proceeding.

9-105. The Land Bank Board of Trustees shall have the following powers and duties:

- (1) To sue and be sued;
- (2) To enter into contracts;
- (3) To appoint and remove staff and provide for the compensation thereof;
- (4) To acquire, by purchase, gift or devise, and convey any real property, including easements and reversionary interest, and personal property, subject to the provisions of this Ordinance and state law. Any property acquired by the City, Phillips County, KS, or any other city or taxing subdivision within Phillips County, KS, may be transferred to the Bank. The Board may accept or refuse to accept any property authorized to be transferred pursuant to this Ordinance or state law. The transfer of any property pursuant to this subsection shall not be subject to any bidding requirements and shall be exempt from any provisions of law requiring a public sale;
- (5) The fee simple title to any real estate which is sold to Phillips County, KS, in accordance with the provisions of K.S.A. 79-2803 and 79-2804, and amendments thereto, and upon acceptance by the Board may be transferred to the Bank by a good and sufficient deed by the Phillips County, KS, Clerk upon a written order from the Phillips County, KS, Board of County Commissioners;
- (6) To rebate all or any portion thereof, the taxes on any property sold or conveyed by the Bank;
- (7) To exercise any other power which may be delegated to the Bank by the Governing Body; and,
- (8) To exercise any other incidental power which is necessary to carry out the purposes of the Land Bank and state law.

9-106. The Board shall assume possession and control of an acquired property by it under this Ordinance or state law and

shall hold and administer such property. In the administration of property, the Board shall:

- (1) Manage, maintain and protect or temporarily use for a public purpose such property in the manner the Board deems appropriate;
- (2) Compile and maintain a written inventory of all such property. The inventory shall be available for public inspection and distribution at all times;
- (3) Study, analyze and evaluate potential, present and future uses for such property which would provide for the effective reutilization of such property;
- (4) Plan for and use the Board's best efforts to consummate the sale or other disposition of such property at such times and upon such terms and conditions deemed appropriate;
- (5) Establish and maintain records and accounts reflecting all transactions, expenditures and revenues in relation to the Bank's activities, including separate itemizations of all transactions, expenditures and revenues concerning each individual parcel of property acquired; and
- (6) No less than thirty (30) days prior to the sale of any property owned by the Bank, publish a notice in the official City newspaper announcing such sale.

9-107. Budget; Records; Report.

- a) The Bank shall be subject to the provisions of the Cash Basis Law, K. S.A. 10-1101, et. seq., and amendments thereto.
- b) The budget of the Bank shall be prepared, adopted and published as provided by law for other political subdivisions of the State of Kansas. No budget shall be adopted by the Board until it has been reviewed and approved by the Governing Body. If the Governing Body elects not to ratify the budget, it must reject the plan in its entirety and remand it back to the Board with specific recommendations for reconsideration.
- c) The Board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Board shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Board.
- d) All records and accounts shall be subject to public inspection pursuant to K.S.A. 45-216, et seq., and amendments thereto.
- e) Any moneys of the Bank which are not immediately required for the purposes of the Bank shall be invested in the manner prescribed by K.S.A. 12-1675, and amendments thereto.

- f) The Bank shall make an annual report to the Governing Body on or before January 31 of each year, showing receipts and disbursements from all funds under its control and showing all property transactions occurring in each year. Such report shall include an inventory of all property held by the Bank. A copy of such inventory shall also be published in the official City newspaper on or before January 31 of each year.
- g) The Bank shall be subject to the statutory requirements for the deposit of public money as provided in K.S.A. 9-1401, et.seq., and amendments thereto.
- h) The Board, without competitive bidding, may sell any property acquired by the Board at such times, to such persons, and upon such terms and conditions, and subject to such restrictions and covenants deemed necessary or appropriate to assure the property's effective reutilization.
- i) The sale of any real property by the Board, under the provisions of this Ordinance or state law, on which there are delinquent special assessments to finance public improvements shall be conditioned upon the approval of the Governing Body.
- j) The Board, for the purpose of land disposition, may consolidate, assemble or subdivide individual parcels of property acquired by the Bank.
- k) Until sold or otherwise disposed of by the Bank, and except for special assessments levied by the City to finance public improvements, any property acquired by the Bank shall be exempt from the payment of ad valorem taxes levied by the State of Kansas and any other political or taxing subdivision of the State.
- l) Except for special assessments levied by the City to finance public improvements, when the Board acquires property pursuant to this Ordinance and State Law, the Phillips County Treasurer shall remove from the tax rolls all taxes, assessments, charges, penalties and interest that are due and payable on the property at the time of acquisition by the Board.
- m) Property held by the Bank shall remain liable for special assessments levied by the City for public improvements, but no payment thereof shall be required until such property is sold or otherwise conveyed by the Bank.
- n) The Governing Body may abate part or all of any special assessments which it has levied on property acquired by the Bank, and the Bank and the Governing Body may enter into agreements related thereto. Any special assessments that are abated shall be removed from the tax rolls by the County Treasurer as of the effective date of the abatement.

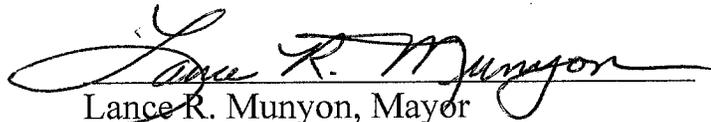
- o) Any moneys derived from the sale of property by the Bank shall be retained by the Bank for the purposes and operations thereof; provided, however, that the Board may use all or part of the proceeds from such sale to reimburse the City for delinquent special assessments due on such property.
- p) The Board may establish separate neighborhood or City Advisory Committees consisting of persons living or owning property within the city or neighborhood. In the case of Neighborhood Advisory Committees, the Board shall determine the boundaries of each neighborhood. In the absence of a resolution by the Board providing otherwise, each Advisory Committee shall consist of not less than five (5) nor more than nine (9) persons, to be appointed by the Board for two (2) years, overlapping terms. The Board shall consult with each Advisory Committee as needed to review the operations and activities of the Bank and to receive the advice of the members of the Advisory Committee concerning any matter which comes before the Committees.

SECTION II: Effective Date: This Ordinance shall become effective upon passage and publication of the Ordinance summary in the official City newspaper as provided by State law.

PASSED by the Governing Body this 1st day of October, 2018.

APPROVED by the Mayor this 1st day of October, 2018.

CITY OF PHILLIPSBURG, KANSAS


Lance R. Munyon, Mayor

ATTEST:


Brenda L. Chance, City Clerk
