



City of Broken Arrow

Request for Action

File #: 17-2392, **Version:** 1

Broken Arrow City Council
Meeting of: 07-18-2017

To: Mayor and City Council
From: Office of the City Attorney
Title: Presentation and discussion regarding the Broken Arrow Industrial Trust

Background:

The Broken Arrow Industrial Trust (the “Trust”) was created pursuant to a Trust Indenture dated November 1, 1962. The Broken Arrow City Council accepted sole and exclusive beneficial interest in the Trust on the same date. According to the indenture, the Trust was formed for the purpose of permitting the City of Broken Arrow to own, acquire, construct, reconstruct, extend, equip, improve, maintain, sell, lease, contract concerning or otherwise deal in or dispose of any lands, buildings or facilities of any and every nature that can be used in acquiring or developing industry within or near the city of Broken Arrow in accordance with the Local Industrial Development Act.

The Trust Indenture provides for three Trustees. One Trustee is the person who occupies the Office of the City Manager. The other two are appointed by the Board of Directors of the Broken Arrow Chamber of Commerce and must be residents of the City. The two resident Trustees as of the date of the Trust Indenture were Charles Fisher and Joe Foster. These individuals have either passed away or relocated outside the City limits.

As of today, this particular Trust has not functioned as a body corporate in many years. It was brought to staff’s attention as a result of the 9th Street Roadway expansion. The space currently occupied by PACCAR is owned by the Trust. The property involving PACCAR is the subject of a Lease dated January 31, 1963, and an Amendment dated March 24, 1964. The leased property is not located along 9th Street, but is comprised of the building behind it.

The Terms of the Trust Indenture require that the Board of Directors of the Broken Arrow Chamber of Commerce appoint successors for those Trustees who are unable to serve. The President of the Chamber of Commerce will recommend to the Board that he and Mr. Ted Cundiff serve as Trustees. Appointment will be accomplished within the next month.

The City Manager has expressed his desire for the members of the City Council to serve as the Trustees for the Broken Arrow Industrial Trust. In order to accomplish this, the Indenture needs to be amended. Other amendments should also be made to update the language of the Indenture and also to expand the duties and functions of the Trustees.

Staff will make a short presentation on the Trust to include a background and the steps required for amendment of the Indenture. Staff will also provide a summary on the assets of the Trust, to include all real property.

Cost: \$0

Prepared By: Beth Anne Childs, City Attorney

Reviewed By: Assistant City Manager-Operations

Approved By: Michael L. Spurgeon, City Manager

Attachments: None

Recommendation:

No action required