



City of Norman, OK

Municipal Building
Council Chambers
201 West Gray
Norman, OK 73069

Master

File Number: R-1819-43

File ID: R-1819-43

Type: Resolution

Status: Consent Item

Version: 1

Reference: Item 32

In Control: City Council

Department: Legal Department

Cost:

File Created: 11/06/2018

File Name: Title Transfer

Final Action:

Title: RESOLUTION R-1819-43: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, EXPRESSING SUPPORT FOR THE TRANSFER OF TITLE OF THE NORMAN PROJECT (LAKE THUNDERBIRD) TO THE CENTRAL OKLAHOMA MASTER CONSERVANCY DISTRICT ("COMCD"); REQUESTING COMCD UNDERTAKE A LONG TERM OPERATIONAL ANALYSIS AND COST OF SERVICE STUDY TO ASSIST THE BOARD AND THE MEMBER CITIES IN DETERMINING LONG TERM IMPACTS; AND URGING COMCD TO PRESERVE THE RECREATIONAL ASPECTS OF THE LAKE SHOULD TITLE TRANSFER BE ACHIEVED.

Notes: ACTION NEEDED: Motion to adopt or reject Resolution R-1819-43.

ACTION TAKEN: _____

Agenda Date: 11/13/2018

Agenda Number: 32

Attachments: text file, R-1819-43, USD BOR license

Project Manager: Kathryn Walker, Assistant City Attorney

Entered by: kathryn.walker@normanok.gov

Effective Date:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
---------------	--------------	-------	---------	----------	-----------	-----------------	---------

Text of Legislative File R-1819-43

Body

BACKGROUND: After water supply issues for nearby communities arose in the 1940's, the Bureau of Reclamation ("BOR") identified the Little River Basin as a possible reservoir site in the late 1940's and early 1950's. A plan was introduced in 1954 to construct one large reservoir and dam on the Little River, which would provide flood control and address water supply problems in nearby cities, including Norman, Midwest City, and Del City. The Central Oklahoma Master Conservancy District ("COMCD") was formed in 1959 and the plan to construct the "Norman Project" was authorized by the United States Congress in 1960, with federal funding for the project being authorized in 1961 and 1962 appropriation bills. In 1961, COMCD entered into a contract with the United States for the construction, operation and maintenance of the Norman Project, now Lake Thunderbird, and for the repayment of certain costs of construction, operation, and maintenance. Each beneficiary city, Midwest City, Del City and Norman, also entered into agreements with COMCD to provide for each cities proportionate share of costs and water supply. Since 1961, the three cities have paid over \$58,000,000 in construction costs, interest, operation and maintenance of the Norman Project. The federal government maintains title to the Project

and contracts with the Oklahoma Tourism and Recreation Department for the management of the recreational benefits while the Oklahoma Department of Wildlife Conservation manages the fish and wildlife benefits of the Project.

The BOR has had a policy for a number of years to transfer the operation and maintenance of projects to local entities, and when appropriate, transfer the actual title to the project facilities. COMCD has discussed over the last several years, especially since paying off the debt service to the Lake, whether it may be appropriate for COMCD to seek transfer of title to either the single purpose assets owned by BOR (those assets utilized only by COMCD) or the entire Norman Project.

The BOR will only consider title transfer if certain criteria are met. The criteria are set forth below. A threshold issue, however, is whether all project beneficiaries agree to the transfer. Project beneficiaries identified by the BOR include Norman, Midwest City, Del City, Oklahoma Department of Wildlife Conservation, Oklahoma Tourism and Recreation Department, the Absentee Shawnee Tribe, Muscogee (Creek) Nation, Citizen Potawatomi Nation, and the Seminole Nation of Oklahoma. The following criteria are applied when considering title transfer:

1. The Federal Treasury, and thereby the taxpayer's financial interest, must be protected.
2. There must be compliance with all applicable State and Federal laws.
3. Interstate compacts and agreements must be protected.
4. The Secretary of the Interior's Native American trust responsibilities must be met.
5. Treaty obligations and international agreements must be fulfilled.
6. The public aspects of the project must be protected.

Key to ensuring compliance with all applicable laws and the Secretary of the Interior's Native American trust responsibilities is compliance with the National Environmental Policy Act ("NEPA") and the National Historic Preservation Act of 1966 ("NHPA"). NEPA requires that BOR assess the environmental impact of the possible title transfer, including, among others, impacts on social, cultural, and economic resources, as well as natural resources. This is done by providing public notice to potentially affected State, local, and tribal governments, and the general public and holding public meetings. The BOR must consult with Native American Tribes affiliated with the project area to comply with NHPA. Once all six criteria are met, the BOR will negotiate an agreement setting forth the terms of the title transfer and will seek Congressional legislation that authorizes the negotiated terms of the transfer of all or part of the project.

Several months ago, COMCD requested that the BOR transfer the single purpose assets of the Project to COMCD. After receiving notice of the request, the Oklahoma Tourism and Recreation Department requested that BOR transfer title to all remaining Project property to the State of Oklahoma. The request from the Tourism and Recreation Department was ultimately denied due to lack of agreement among project beneficiaries. COMCD requested that the three member cities, Norman, Midwest City and Del City, adopt resolutions addressing their support for title transfer. The three cities have worked together to develop a resolution that addresses the additional information the cities need related to long term operational and budgetary impacts of title transfer. In the meantime, the City received a letter from the BOR on November 6, 2018 formally advising the City of COMCD's request to pursue transfer of title to the single purpose municipal water supply assets associated with the Norman Project and requesting that the City provide a letter of concurrence supporting the title transfer or provide written objections if the City does not support such a transfer. Resolution R-1819-43 is the culmination of a joint effort with Midwest City and Del City to address title transfer.

DISCUSSION: Resolution R-1819-43 describes the history of the Norman Project and each member cities vested interest in protecting the Project for water supply purposes. It expresses the cities' belief that COMCD is the most appropriate party to protect the Project for its primary purpose of water supply. It also expresses support of the pursuit of title transfer, but acknowledges that COMCD should undertake a long term operational analysis and cost of service study so that each city can be better informed of the potential impacts of title transfer. The Resolution also urges COMCD to ensure preservation of the recreational aspects of the Project should it obtain full title transfer. If COMCD opts to pursue full title transfer at some point, the Oklahoma Tourism and Recreation Department will need some assurance of COMCD's intent to preserve the recreational aspects of the Project in order to gain their consent.

RECOMMENDATION: Staff recommends approval of Resolution R-1819-43.