

THE BOARD OF COUNTY COMMISSIONERS OF TULSA COUNTY, OKLAHOMA, MET IN REGULAR SESSION AT THE TULSA COUNTY ADMINISTRATION BUILDING, 500 SOUTH DENVER AVENUE, TULSA, OKLAHOMA, ON THE 13TH DAY OF AUGUST, 2012, AT 9:30 O'CLOCK A.M.

PRESENT:

ABSENT:

Notice of the schedule of regular meetings of the Board of County Commissioners for calendar year 2012 having been filed with the County Clerk of Tulsa County, Oklahoma, prior to December 15, 2011, and public notice and agenda having been posted in prominent public view at the Tulsa County Administration Building, 500 South Denver Avenue, Tulsa, Oklahoma, twenty-four (24) hours prior to this meeting, excluding Saturdays, Sundays and legal holidays, all in compliance with the Oklahoma Open Meeting Act.

(OTHER PROCEEDINGS)

_____ introduced a Resolution which was read in full by the County Clerk and upon motion by _____, seconded by _____, was adopted by the following vote:

AYE:

NAY:

Said Resolution was thereupon signed by the Chairman, attested by the County Clerk, sealed with the seal of said County and is as follows:

RESOLUTION

A RESOLUTION AUTHORIZING AND DIRECTING THE CALLING AND HOLDING OF A SPECIAL ELECTION IN TULSA COUNTY, OKLAHOMA, FOR THE PURPOSE OF SUBMITTING TO THE REGISTERED, QUALIFIED VOTERS OF SAID COUNTY THE QUESTION OF LEVYING AND COLLECTING A TWENTY NINE PERCENT OF ONE PERCENT (.290%) SALES TAX FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING, FURNISHING AND EQUIPPING CAPITAL IMPROVEMENTS TO BE OWNED BY TULSA COUNTY, OKLAHOMA, INCORPORATED MUNICIPALITIES LOCATED IN WHOLE OR IN PART WITHIN TULSA COUNTY, OKLAHOMA, OR THE STATE OF OKLAHOMA OR ANY INSTRUMENTALITY THEREOF, AND/OR TO BE APPLIED OR PLEDGED TOWARD THE PAYMENT OF PRINCIPAL AND INTEREST ON ANY INDEBTEDNESS, INCLUDING REFUNDING INDEBTEDNESS, INCURRED BY OR ON BEHALF OF TULSA COUNTY OR INCORPORATED MUNICIPALITIES LOCATED IN WHOLE OR IN PART WITHIN TULSA COUNTY, OKLAHOMA FOR SUCH PURPOSE; PROVIDING BALLOT TITLE; PROVIDING FOR NOTICE TO TULSA COUNTY ELECTION BOARD, POLLING PLACES AND CONDUCT OF SUCH ELECTION; AND PROVIDING FOR COMMENCEMENT AND DURATION OF SUCH SALES TAX.

WHEREAS, it is deemed necessary and advisable by the Board of County Commissioners of Tulsa County, Oklahoma, to improve the public safety, infrastructure, quality of life and general economic conditions of the people of Tulsa County, Oklahoma, by funding capital improvement projects to be owned by Tulsa County, Oklahoma, incorporated municipalities located in whole or in part in Tulsa County, Oklahoma or the State of Oklahoma or any instrumentality thereof; and

WHEREAS, there are no funds in the treasury for such purpose and power is granted said County by Title 68, Oklahoma Statutes 2011, Section 1370, as amended, to levy and collect a sales tax to provide funds for such purpose providing the same be authorized by a majority of the registered voters thereof voting at an election duly held for such purpose.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF TULSA COUNTY, OKLAHOMA:

Section 1. There is hereby called a special election in Tulsa County to be held on the 6th day of November, 2012, for the purpose of submitting to the registered voters thereof the following proposition:

Proposition No. 2

"Shall the County of Tulsa, Oklahoma, by its Board of County Commissioners, levy and collect a twenty nine percent of one percent (.290%) sales tax for the purpose of acquiring, constructing, furnishing and equipping capital improvements to be owned by Tulsa County, Oklahoma, incorporated municipalities located in whole or in part within Tulsa County, Oklahoma, or the State of Oklahoma or any instrumentality thereof and /or to be applied or pledged toward the payment of principal and interest on any indebtedness, including refunding indebtedness, incurred by or on behalf of Tulsa County, Oklahoma or incorporated municipalities located in whole or in part within Tulsa, County, Oklahoma for such purpose, such sales tax to commence on the first day of January, 2017, and continuing thereafter for thirteen (13) years from the date of commencement of such tax?"

Section 2. The ballot setting forth the above proposition shall also contain in connection with the said proposition the following words:

FOR

The Above Proposition

AGAINST

The Above Proposition

Only the registered, qualified voters of Tulsa County, Oklahoma, may vote upon the proposition as above set forth.

The polls shall be opened at 7:00 o'clock A.M. and shall remain open continuously until and be closed at 7:00 o'clock P.M.

The number and location of the polling places for said election shall be the same as the regular precinct polling places as designated for statewide and county elections by the Tulsa County Election Board. Such election shall be conducted by those officers designated by the Tulsa County Election Board, which officers shall also act as counters and certify the election results as required by law.

Section 3. The County Clerk of Tulsa County is hereby directed to transmit a copy of this Resolution to the Secretary of the Tulsa County Election Board immediately upon approval hereof by the Board of County Commissioners of Tulsa County, Oklahoma.

Section 4. Subject to approval of a majority of the registered voters of Tulsa County voting thereon as herein provided, there is hereby levied in addition to all other taxes in effect in Tulsa County, Oklahoma, a sales tax of Twenty Nine percent of one percent (.290%) upon the gross proceeds or gross receipts derived from all sales or services in Tulsa County upon which a consumers sales tax is levied by the State of Oklahoma for the purpose set forth in Section 8 hereof.

Section 5. The tax herein levied shall be and remain in effect for a period commencing on the first day January, 2017 and continuing thereafter for thirteen (13) years from the date of commencement of such tax.

Section 6. (a) For the purpose of this Section only, providing for a rebate for senior citizens, the following words and terms shall be defined as follows:

“County” shall mean Tulsa County, Oklahoma.

“County Treasurer” shall mean the Treasurer of Tulsa County, Oklahoma.

“Dependent” shall mean every person who is a member of the household of the applicant and for whom applicant is entitled to claim a personal exemption under and pursuant to the Federal income tax laws.

“Family” shall mean one or more persons living in the same household who pool their various sources of income into one budget to achieve the effect of sharing the cost of providing for support of the group.

“Household” includes all persons who occupy a group of rooms or single room which is regarded as a housing unit when it is occupied as separate living quarters, and when there is either:

- i. Direct access from the outside of the building or through a common hall; or
- ii. Complete kitchen facilities for the exclusive use of the occupants.

“Income” includes all money received during the year and available to be used to provide support for the family or household.

“Person” shall mean an individual, but shall not include a company, partnership, joint venture, joint agreement, association (mutual or otherwise), corporation, estate, trust, business trust, receiver, or trustee appointed by state or federal court or otherwise, syndicate, the State of Oklahoma, any court, city, municipality, school district, or any other political subdivision of the State of Oklahoma or group or combination acting as a unit, in the plural or singular number.

“Resident” shall mean any person who has resided in the corporate limits of the County for the entire calendar year for which the refund is applied.

(b) Every person desiring to make a claim for a tax rebate must submit to the County a written application therefore, on forms to be provided by the County, between January 1 and March 31 of the year following the year for which the rebate is being sought, beginning with the year 2017.

(i) The qualifications for rebate include the following:

(ii) The person must be a resident of the County.

(iii) The person must be sixty-five (65) years of age or older during a portion of the year for which the rebate is being sought.

(iv) The person can claim a rebate only as a family member who contributed the greatest share of the family income and for members of the household who are residents of the County and who are dependent upon the said applicant.

(v) No person who may be claimed as a member of the household on another resident’s application shall be entitled to a rebate. If a rebate is claimed on more than one application for the same person, the County Treasurer shall determine the person entitled to claim the rebate provided in this section.

(c) If the applicant meets the requirements to qualify for a rebate, the County shall rebate the sum of \$11.00.

(d) The County Treasurer is to administer the rebate program established in this Section. He is authorized to prepare a form for application for rebate and adopt rules and regulations as long as the same are not inconsistent with the provisions of this Section, and shall audit and check the applications. The amount of rebate above set forth shall apply to each year of the thirteen-year program.

(e) The burden is on the applicant to establish that he is entitled to a rebate. The County Treasurer is authorized to require reasonable supporting information which shall be uniformly required of all applicants. Upon an audit of the application, the County Treasurer can require all reasonable written and other information necessary to satisfy him that the application is valid.

Should any application be denied, the County Treasurer shall state the reasons therefore in writing to the applicant and indicate all or the portion of the application being denied. Such determination shall be final unless the applicant, within thirty (30) days after such notice of determination, shall apply in writing to the Board of County Commissioners of the County for a hearing. After such hearing the Board of County Commissioners of the County shall give written notice of the determination to the applicant.

An applicant shall not be entitled to a rebate when he has been denied by the Board of County Commissioners of the County or when he has had an opportunity for a hearing as provided in this Section and has failed to avail himself of the remedies herein provided.

Section 7. All valid and subsisting permits to do business issued by the Oklahoma Tax Commission pursuant to the Oklahoma Sales Tax Code are, for the purpose of this Resolution, hereby ratified, confirmed and adopted in lieu of any requirement for an additional County permit for the same purpose.

Section 8. It is hereby declared to be the purpose of this Resolution to provide revenue for the purpose of, acquiring, constructing, furnishing and equipping capital improvements to be owned by Tulsa County, Oklahoma, incorporated municipalities located in whole or in part within Tulsa County, Oklahoma, or the State of Oklahoma or any instrumentality thereof, and/or to be applied or pledged toward the payment of principal and interest on any indebtedness, including refunding indebtedness, incurred by or on behalf of Tulsa County or incorporated municipalities located in whole or in part within Tulsa County, Oklahoma for such purpose. All sales tax revenues received shall be used for such purpose, as determined by the following provisions:

“Capital Improvements” as used herein shall mean all items and articles, either new or replacements, not consumed with use but only diminished in value with prolonged use, including but not limited to, the purchase, lease or rental of machinery, equipment, traffic control devices and street lighting systems, furniture and fixtures; the acquisition of all real properties; the construction, reconstruction and repair of buildings, appurtenances and improvements to real property; the construction, reconstruction and repair of roads, highways, streets, alleys, overpasses, underpasses, bridges, trails, sidewalks, and other public ways, including the acquisition of rights-of-way and other real property necessary for such construction; the construction, reconstruction and repair of water systems and facilities, sanitary and storm sewer systems and facilities, drainage improvements, data transmission or processing systems and facilities, and communications systems and facilities, including the acquisition of rights-of-way and other real property necessary for such construction; the costs and expenses related to the aforesaid including, design, engineering, architectural, real property or legal fees.

Sales taxes actually collected shall be used for projects for Tulsa County, Oklahoma, the City of Tulsa, Oklahoma, the City of Bixby, Oklahoma, the City of Broken Arrow, Oklahoma, the City of Collinsville, Oklahoma, the City of Glenpool, Oklahoma, the City of Jenks, Oklahoma, the City of Owasso, Oklahoma, the City of Sand Springs, Oklahoma, the Town of Skiatook, Oklahoma and the Town

of Sperry, Oklahoma (collectively the “Political Subdivisions”) based upon the following percentages of sales tax actually collected:

Political Subdivision	Percentage of Sales Tax Allocated to Projects of Political Subdivision
Tulsa County	28.74%
City of Tulsa	43.63%
City of Bixby	3.13%
City of Broken Arrow	12.19%
City of Collinsville	.85%
City of Glenpool	1.63%
City of Jenks	2.56%
City of Owasso	3.98%
City of Sand Springs	2.79%
Town of Skiatook	.32%
Town of Sperry	<u>.18%</u>
Total	100.00%

Projects shall be identified by the governing body of each Political Subdivision following public hearing and input of public comment, in such form and process as determined by such governing body, and shall be submitted to the Board of County Commissioners of Tulsa County, Oklahoma to determine whether the sales tax collected pursuant to this Resolution may be properly expended for such Project. Any advance funding costs associated with funding a Project prior to the date a sufficient amount of sales taxes is collected for such Project shall be paid by the Political Subdivision from other funds, or shall be paid from such Political Subdivision’s allocation of sales tax in such amounts and proportions as determined by the Board of County Commissioners of Tulsa County, Oklahoma.

Section 9. There is hereby specifically exempted from the sales tax levied by this Resolution all items that are exempt from the State sales tax under the Oklahoma Sales Tax Code.

Section 10. The tax levied hereunder shall be due and payable at the time and in the manner and form prescribed for payment of the State sales tax under the Oklahoma Sales Tax Code.

Section 11. Such sales taxes due hereunder shall at all times constitute a prior, superior and paramount claim as against the claims of unsecured creditors, and may be collected by suit as any other debt.

Section 12. The definitions of words, terms and phrases contained in the Oklahoma Sales Tax Code, Title 68, Oklahoma Statutes 2011, Section 1352, as amended, are hereby adopted by reference and made a part of this Resolution.

Section 13. The term "Tax Collector" as used herein means the department of the County government or the official agency of the State duly designated according to law or contract authorized by law to administer the collection of the tax herein levied.

Section 14. For the purpose of this Resolution the classification of taxpayers hereunder shall be as prescribed by state law for purposes of the Oklahoma Sales Tax Code.

Section 15. (a) The tax herein levied shall be paid to the Tax Collector at the time in form and manner provided for payment of State sales tax under the Oklahoma Sales Tax Code. (b) The bracket system for the collection of the sales tax provided for herein by the Tax Collector shall be as the same is hereafter adopted by the agreement of the Board of County Commissioners of Tulsa County, Oklahoma, and the Tax Collector, in the collection of both the sales tax provided for herein and the State sales tax.

Section 16. (a) The tax levied hereunder shall be paid by the consumer or user to the vendor, and it shall be the duty of each and every vendor in this County to collect from the consumer or user, the full amount of the tax levied by this Resolution, or any amount equal as nearly as possible or practicable to the average equivalent thereof.

(b) Vendors shall add the tax imposed hereunder, or the average equivalent thereof, to the sales price, charge, consideration, gross receipts or gross proceeds of the sale of tangible personal property or services taxed by this Resolution, and when added such tax shall constitute a part of such price or charges, shall be debt from the consumer or user to vendor until paid, and shall be recoverable at law in the same manner as other debts.

(c) A vendor who willfully or intentionally fails, neglects or refuses to collect the full amount of the tax levied by this Resolution, or willfully or intentionally fails, neglects or refuses to comply with the provisions hereof or remits or rebates to a consumer or user, either directly or indirectly, and by whatsoever means, all or any part of the tax herein levied, or makes in any form of advertising, verbally or otherwise, any statement which infers that he is absorbing the tax, or paying the tax for the consumer or user by an adjustment of prices or at a price including the tax, or in any manner whatsoever, shall be deemed guilty of an offense, and upon conviction thereof shall be fined not more than One Hundred Dollars (\$100.00), plus costs, and upon conviction for a second or other subsequent offense shall be fined not more than Five Hundred Dollars (\$500.00), plus costs, or incarcerated for not more than sixty (60) days, or both. Provided, sales by vending machines may be made at a stated price which includes state and any municipal sales tax.

(d) Any sum or sums collected or required to be collected hereunder shall be deemed to be held in trust for Tulsa County, Oklahoma, and, as trustee, the collecting vendor shall have a fiduciary duty to Tulsa County, Oklahoma in regards to such sums and shall be subject to the trust laws of this state. Any vendor who willfully or intentionally fails to remit the tax, after the tax levied by this article was collected from the consumer or user, and appropriates the tax held in trust to his own use, or to the use of any person not entitled thereto, without authority of law, shall be guilty of embezzlement.

Section 17. Returns and remittances of the tax herein levied and collected shall be made to the Tax Collector at the time and in the manner, form and amount as prescribed for returns and remittances required by the Oklahoma Sales Tax Code; and remittances of tax collected hereunder shall be subject to the same discount as may be allowed by the Oklahoma Sales Tax Code for collection of State sales tax.

Section 18. The provisions of Title 68, Oklahoma Statutes 2011, Section 217, as amended, and of Title 68, Oklahoma Statutes 2011, Sections 1350 et seq., as amended, are hereby adopted by reference and made a part of this Resolution, and interest and penalties at the rates and in amounts as therein

specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this Resolution. Provided, that the failure or refusal of any taxpayer to make and transmit the reports and remittances of tax in the time and manner required by this Resolution shall cause such tax to be delinquent. In addition, if such delinquency continues for a period of five (5) days the taxpayer shall forfeit his claim to any discount allowed under this Resolution.

Section 19. The interest or penalty or any portion thereof accruing by reason of a taxpayer's failure to pay the sales tax herein levied may be waived or remitted in the same manner as provided for such waiver or remittance as applied in administration of the State sales tax provided in Title 68, Oklahoma Statutes 2011, Section 220, as amended; and to accomplish the purposes of this section the applicable provisions of such Section 220 are hereby adopted by reference and made a part of this Resolution.

Section 20. Refund of erroneous payment of the sales tax herein levied may be made to any taxpayer making such erroneous payment in the same manner and procedure, and under the same limitations of time, as provided for administration of the State sales tax as set forth in Title 68, Oklahoma Statutes 2011, Section 227, as amended, and to accomplish the purposes of this Section, the applicable provisions of such Section 227 are hereby adopted by reference and made a part of this Resolution.

Section 21. In addition to all civil penalties provided by this Resolution, the willful failure or refusal of any taxpayer to make reports and remittances herein required, or the making of any false and fraudulent report for the purpose for avoiding or escaping payment for any tax or portion thereof rightfully due under this Resolution shall be an offense, and upon conviction thereof the offending taxpayer shall be subject to such fines as set out under Title 68, Oklahoma Statutes 2011, Section 241, as amended.

Section 22. The confidential and privileged nature of the records and files concerning the administration of this sales tax is legislatively recognized and declared, and to protect the same the provisions of Title 68, Oklahoma Statutes 2011, Section 205, as amended, of the Oklahoma Sales Tax Code, and each subsection thereof is hereby adopted by reference and made fully effective and applicable to administration of this sales tax as if here set forth in full.

Section 23. The people of Tulsa County, Oklahoma, by their approval of the proposition set forth in Section 1 of this Resolution at the election hereinabove provided, hereby authorize the Board of County Commissioners of Tulsa County, Oklahoma, by Resolutions duly enacted to make such administrative and technical changes or additions in the method and manner of administration and enforcing this Resolution as may be necessary or proper for efficiency and fairness except that neither the rate of the tax herein provided, nor the term, nor the purpose of the tax herein provided, shall be changed without approval of the qualified electors of the County as provided by law.

Section 24. The provisions hereof shall be cumulative, and in addition to any and all other taxing provisions of County Resolutions.

Section 25. The provisions hereof are hereby declared to be severable, and if any section, subsection, paragraph, sentence or clause of this Resolution is for any reason held invalid or inoperative by any Court of competent jurisdiction such decision shall not affect any other section, subsection, paragraph, sentence or clause hereof.

PASSED AND APPROVED this 13th day of August, 2012.

**BOARD OF COUNTY COMMISSIONERS OF
TULSA COUNTY, OKLAHOMA**

John Smaligo Chairman
Board of County Commissioners

ATTEST:

Earlene Wilson, County Clerk
(SEAL)