

(Published in *The Times Sentinel* on _____, 2017)

ORDINANCE NO. 904

**A HOME RULE ORDINANCE OF THE CITY OF CHENEY, KANSAS,
AUTHORIZING THE ASSESSMENT OF SPECIAL ASSESSMENTS FOR
PUBLIC WATER MAIN AND STREET IMPROVEMENTS APPLICABLE TO
PROPERTY LOCATED IN THE CITY.**

WHEREAS, a Petition was filed, pursuant to K.S.A. 12-6a01 et seq. (the "Act"), with the City of Cheney, Kansas (the "City") on or about December 1, 2016 (the "Water Main Petition") requesting the engineering and construction of a water main along 2nd Avenue adjacent to the property included within the improvement district proposed and petitioned for in said Water Main Petition, including certain related improvements, benefitting said proposed improvement district property; and

WHEREAS, an additional Petition was filed, pursuant to the Act, with the City on or about December 1, 2016 (the "Street Petition") requesting the engineering and construction of improvements to 2nd Avenue benefitting and adjacent to the property included within the improvement district proposed and petitioned for in said Street Petition, to include grading, re-grading, curb, gutter, drainage and storm sewer improvements, application of an asphalt surface and related improvements; and

WHEREAS, both the Water Main Petition and Street Petition were executed by the owners of 100% of the property or properties to be included in the improvement districts proposed and petitioned for in said petitions; and

WHEREAS, both the Water Main Petition and Street Petition acknowledged the improvement districts proposed and petitioned for in said petitions do not include all properties which may be deemed to benefit from the proposed improvements and further stated:

"The proposed method of assessment is on an equal share per square foot basis. It is further proposed that the cost of the proposed improvement be apportioned equally between the improvement district and the city at large. This apportionment of costs is proposed with the understanding that the Property is and shall remain responsible for 50 Percent (50%) of the costs of the proposed improvement. While the City at large is currently responsible for the remaining 50 Percent (50%) of the costs of the proposed improvement, it is envisioned that the property legally described as follows may be benefitted by the proposed improvement as part of its future development and then may be separately assessed for the remaining 50 Percent (50%) of the costs upon its development. Said land is legally described as:

All that part of the Northeast Quarter (NE/4) of Section Eight (8), Township Twenty-Eight South (28S), Range Four West (4W), lying East of the extended center line of Taylor Street, and between the extended North line of Second Avenue and the extended South line of Third Avenue, all in the City of Cheney, Sedgwick County, Kansas. This property's assigned Property Identification Number (PIN) is 00282902 and its Geocode is MO-CH-00029 according to the Sedgwick County Geographic Information Services website."

and;

WHEREAS, on December 8, 2016 the governing body of the City, pursuant to the Act and the Water Main Petition, adopted City Resolution No. 280-2016 which authorized the engineering and construction of the improvements proposed and petitioned for in said Water Main Petition; and

WHEREAS, on December 8, 2016 the governing body of the City, pursuant to the Act and the Street Petition, adopted City Resolution No. 281-2016 which authorized the engineering and construction of the improvements proposed and petitioned for in said Street Petition; and

WHEREAS, in accordance with the provisions of both the Street Petition and Water Main Petition, City Resolutions Nos. 280-2016 and 281-2016 apportioned the costs of the improvements with fifty percent (50%) payable by the improvement district and fifty percent (50%) payable by the City-At-Large, subject to the following statement:

“BE IT FURTHER RESOLVED, that while the City at large is currently responsible for the remaining 50 Percent (50%) of the costs of the proposed improvement, it is envisioned that the property legally described as follows may be benefitted by the proposed improvement as part of its future development and then may be separately assessed for the remaining 50 Percent (50%) of the costs upon its development. Said land is legally described as:

All that part of the Northeast Quarter (NE/4) of Section Eight (8), Township Twenty-Eight South (28S), Range Four West (4W), lying East of the extended center line of Taylor Street, and between the extended North line of Second Avenue and the extended South line of Third Avenue, all in the City of Cheney, Sedgwick County, Kansas. This property's assigned Property Identification Number (PIN) is 00282902 and its Geocode is MO-CH-00029 according to the Sedgwick County Geographic Information Services website.”

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CHENEY, KANSAS:

SECTION 1. Findings. The governing body of the City hereby makes the following findings:

1. The governing body of the City hereby finds and determines that all portions of the properties included within the improvement district set forth in City Resolution No. 280-2016 and City Resolution No. 281-2016 benefitted when and because the City Resolution No. 280-2016 improvements and City Resolution 281-2016 improvements were made.
2. The governing body of the City hereby finds and determines that the levy and assessment of special assessments accomplished by this Home Rule Ordinance is a reasonable assessment plan which will result in imposing substantially equal burdens or shares of the costs of the City Resolution No. 280-2016 improvements and City Resolution 281-2016 improvements upon similarly benefitted property within all portions of the properties included within the improvement districts set forth in City Resolution No. 280-2016 and City Resolution No. 281-2016.
3. The governing body of the City hereby finds and determines that it is necessary and advisable to authorize by this Home Rule Ordinance the levy and assessment of special assessments levied to pay the costs of the City Resolution No. 280-2016 improvements and City Resolution 281-2016 improvements.

SECTION 2. That pursuant to Resolution No. 280-2016 adopted on the 8th day of December 2016, the City of Cheney, Kansas has constructed water main improvements along

2nd Avenue in the City of Cheney, Sedgwick County, Kansas to serve adjacent and nearby property. The total cost of such improvements is \$9,000.00, of which \$4,500.00 is chargeable to specific real estate ("the Benefit District") and \$4,500.00 is chargeable to the City-at-Large. The cost of said improvements are hereby apportioned, assessed and levied to the Benefit District, excluding public right-of-way, as follows:

BENEFIT DISTRICT PROPERTY DESCRIPTION:

All that part of the Northeast Quarter of Section 8, Township 28 South, Range 4 West of the 6th P.M., in the Town of Cheney, Sedgwick County, Kansas, lying between the North line of the right of way of the Atchison, Topeka and Santa Fe Railroad and the extended South line of Second A venue, and East of the East line of Taylor Avenue, EXCEPT the Westerly 397.68 feet thereof; AND EXCEPT Commencing at the Southeast corner of said Northeast Quarter; thence N 00°00' 11" E along the East line of said Northeast Quarter 802.96 feet for a place of beginning, said place of beginning being on the North right of way line of the Atchison, Topeka and Santa Fe Railroad; thence S 82°17'48" W along said North right of way line 166.62 feet; thence N 07°38'06" W 757.96 feet to a point on the South line of Second Avenue; thence N 89°21 '39" E along the South line of said Second Avenue 268.24 feet to the East line of said Northeast Quarter; thence S 00°00' 11" W along the East line of said Northeast Quarter 764.56 feet to the place of beginning.

BENEFIT DISTRICT ASSESSMENT:

\$4,500

SECTION 3. That pursuant to Resolution No. 281-2016 adopted on the 8th day of December 2016, the City of Cheney, Kansas has constructed street improvements along 2nd Avenue in the City of Cheney, Sedgwick County, Kansas to serve adjacent and nearby property. The total cost of such improvements is \$47,616.36, of which \$23,808.18 is chargeable to specific real estate ("the Benefit District") and \$23,808.18 is chargeable to the City-at-Large. The cost of said improvements are hereby apportioned, assessed and levied to the Benefit District, excluding public right-of-way, as follows:

BENEFIT DISTRICT PROPERTY DESCRIPTION:

All that part of the Northeast Quarter of Section 8, Township 28 South, Range 4 West of the 6th P.M., in the Town of Cheney, Sedgwick County, Kansas, lying between the North line of the right of way of the Atchison, Topeka and Santa Fe Railroad and the extended South line of Second A venue, and East of the East line of Taylor Avenue, EXCEPT the Westerly 397.68 feet thereof; AND EXCEPT Commencing at the Southeast corner of said Northeast Quarter; thence N 00°00' 11" E along the East line of said Northeast Quarter 802.96 feet for a place of beginning, said place of beginning being on the North right of way line of the Atchison, Topeka and Santa Fe Railroad; thence S 82°17'48" W along said North right of way line 166.62 feet; thence N 07°38'06" W 757.96 feet to a point on the South line of Second Avenue; thence N 89°21 '39" E along the South line of said Second Avenue 268.24 feet to the East line of said Northeast Quarter; thence S 00°00' 11" W along the East line of said Northeast Quarter 764.56 feet to the

place of beginning.

BENEFIT DISTRICT ASSESSMENT:

\$23,808.18

SECTION 4. The owner of any property so assessed may at any time prior to 5:00 P.M. on Tuesday, January 16, 2018 pay the whole of the assessment against any lot or parcel with interest accrued to the date of payment to the City Treasurer. The City Clerk is hereby empowered to accept payment on behalf of the City Treasurer for this purpose and subsequently deposit the funds received pursuant to the instructions of the City Treasurer.

SECTION 5. That to provide for the payment of said improvements, the property within the benefit districts described above shall be subject to special assessments. Said special assessments shall be assessed equally per square foot against all lots and pieces of land within the improvement districts created by this ordinance, and shall be payable in installments of approximate equal amounts each year for 15 years, bearing interest at the rate of three percent (3%) per annum. The City Clerk shall certify annually to the Sedgwick County Clerk the payments due for special assessments, together with the interest accrued or to accrue thereon, pursuant to K.S.A. 12-6a10.

SECTION 5. Effective Date. This Home Rule Ordinance shall be effective from and after its final passage by the governing body and its publication once in the official City newspaper.

PASSED AND ADOPTED by the governing body of the City of Cheney, Kansas on December 14th, 2017 and **SIGNED** by the Mayor.

(SEAL)



ATTEST:


Linda Ball, Mayor


Danielle Young, City Clerk