

CITY COUNCIL  
BUSINESS AND COMMUNITY AFFAIRS COMMITTEE MINUTES

February 2, 2012

The City Council Business and Community Affairs Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 9:00 a.m. in the Conference Room on the 2nd day of February 2012, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray and the Norman Public Library at 225 North Webster 48 hours prior to the beginning of the meeting.

PRESENT: Councilmembers Lockett, Quinn, Spaulding, and Chairman Ezzell

ABSENT: None

OTHERS PRESENT: Councilmember Carol Dillingham, Ward Four  
Councilmember Roger Gallagher, Ward One  
Councilmember Tom Kovach, Ward Two  
Mayor Cindy Rosenthal  
Mr. Roger Brown, Norman Public Schools  
Mr. Frank Gophold, Architect for University North Park  
Tax Increment District Developer  
Mr. Brad Goodman, University North Park Tax Increment  
District Developer  
Mr. Bob Goins, Architectural Review Board Member  
Ms. Joy Hampton, The Norman Transcript  
Mr. Dale Hickman, Attorney  
Mr. Rick McKinney, Architectural Review Board Member  
Mr. Mike Mormon, Architectural Review Board Member  
Mr. Sean Rieger, Norman Builders Association  
Mr. Tony Tyler, Tyler Outdoor Signs  
Mr. Don Wood, Norman Economic Development  
Coalition Executive Director  
Mr. John Woods, Chamber of Commerce Director

STAFF PRESENT: Mr. Jeff Bryant, City Attorney  
Ms. Susan Connors, Director of Planning and Community  
Development  
Mr. Ken Danner, Subdivision Manager  
Mr. Anthony Francisco, Director of Finance  
Mr. Steve Lewis, City Manager  
Mr. Ken Komiske, Director of Utilities  
Mr. Doug Koscinski, Current Planning Manager  
Mr. Shawn O'Leary, Director of Public Works  
Mr. Wayne Stenis, Planner II  
Ms. Kathryn Walker, Assistant City Attorney  
Ms. Syndi Runyon, Administrative Technician IV

Chairman Ezzell stated with the Committee's concurrence, Item 3 would be discussed first.

Item 3, being:

DISCUSSION REGARDING POSSIBLE AMENDMENTS TO THE SIGN CODE FOR OFF-PREMISE SIGNS  
(ELECTRONIC SIGNS ON I-35)

Ms. Susan Connors, Director of Planning and Community Development, said staff prepared an amendment to Section 18-601 of the Sign Code to allow off-premise digital signs. She said staff had also met with members of the sign industry, Mr. Bill Hickman, Attorney, and Mr. Tony Tyler, Tyler Outdoor Signs, who suggested additional changes. She said Mr. Hickman proposed that owners of non-conforming billboards located anywhere in the community be allowed to convert those signs to digital. She said there are 15 billboards along the interstate and all of them are non-conforming because of distance separation. She said off-premise signs are required to be 1,000 feet apart and many of them are 600 feet apart. She said the Sign Code has certain conditions that need to be met in order to update non-conforming signs. She said changes would have to be made to the non-conforming section of the Sign Code to allow the existing non-conforming signs to be changed to digital.

Chairman Ezzell asked if off-premise sign discussion was related to variance only and Mr. Jeff Bryant, City Attorney, said proposed Sign Code criteria focuses more on color and copy of digital signs, not structure or size. He said if billboards were replaced with digital signs, the structure of the sign would have to be changed, which is not consistent with the current code. He said that section of the Sign Code would have to be amended or Council could decide if they want non-conforming signs to be upgraded to digital. He said the whole idea of non-conforming signs is to allow the sign company to recoup their investment until it gets to the point that the sign is deteriorated or the company has recouped their investment then remove the non-conforming sign. He said the City would need to amend the section so it is not focused on color and copy only, but structural changes as well that would still allow the sign to be non-conforming.

Chairman Ezzell asked about the status of discussions of on-premise signs and Ms. Connors said the Business and Community Affairs Committee had asked staff to focus solely on off-premise signs for this meeting. She said there has been no discussion with the industry regarding on-premise signs.

Chairman Ezzell said it seemed that, along I-35, the principle non-conformity issue is distance and Ms. Connors agreed. She said there is one sign that is located in an agricultural zoned area and new billboards are only allowed in industrial or commercial zoned areas, but that sign was grandfathered in. She said there are four very old existing signs that were grandfathered in.

Chairman Ezzell asked if staff had concerns regarding the proposed changes to allow conversion and Ms. Connors said no, but there would need to be additional Sign Code amendments. Chairman Ezzell asked what the next step should be and Ms. Connors said the proposed amendments would be forwarded to the Planning Commission then to City Council for approval. Chairman Ezzell instructed staff to move forward.

Mr. Tony Tyler, Tyler Outdoor Sign Company, asked if the Sign Ordinance could be placed on the next Committee agenda as the public had not seen the language moving forward to the Planning Commission. Mr. Roger Brown, Norman Public Schools, said he is interested in discussing digital signs being allowed on school property. Chairman Ezzell said that would be an on-premise sign issue and the Sign Ordinance going to the Planning Commission is for proposed amendments to off-premise signs. He asked that discussion regarding on-premise signs be placed on the next agenda. He said off-premise signs on I-35 should continue to move forward. He said the proposed amendments for off-premise signs will be reviewed by the Planning Commission in March then move onto a Council Study Session prior to being placed on the Council agenda for approval. He said there is still opportunity for continued input while keeping the proposed amendments on track to be approved.

Item 3, continued:

Items submitted for record

1. Memorandum dated January 26, 2012, from Doug Kosciński, AICP, Manager, Current Planning Division, via Susan Connors, AICP, Director of Planning and Community Development, to Business and Community Affairs Committee
2. Memorandum dated January 30, 2012, from Susan Connors, AICP, Director of Planning and Community Development, to Business and Community Affairs Committee

Item 2, being:

PRESENTATION FROM THE UNIVERSITY NORTH PARK ARCHITECTURAL REVIEW BOARD REGARDING IMPLEMENTATION OF THE DESIGN STANDARDS.

Ms. Kathryn Walker, Assistant City Attorney, introduced members of the University North Park Architectural Review Board (UNPARB) and provided a brief background of the board creation. She said the UNP area was approved by City Council as a Planned Unit Development (PUD) in 2002. The PUD narrative called for an Architectural Review Committee (ARB) to be created and was amended in August and December 2006. Criteria recognized the creation of the ARB was to review for development in the University North Park Tax Increment Finance District (UNPTIF). In the PUD ordinance, the ARB was given control over design and materials and final authority regarding exterior colors. She said the ARB meets regularly to review plans, which is a detailed review.

Mr. Rick McKinney, ARB Member, highlighted the ARB's background and history. He said board members were appointed in 2003 and were involved in the initial selection of the developer and have been intimately involved in the process for the past nine years. He distributed pictures of existing structures in the UNPTIF as well as pending projects including Alliance Bank and North Park Shops II, which will include Chipotle Restaurant and Starbucks.

Mr. McKinney said development has accelerated in the last 18 months and the ARB has begun to meet every two weeks. He said everything goes through Mr. Frank Gophold, Architect for the Developer, who then distributes the plans to the architects. He said the architects have a set of guidelines on what is to be distributed to the ARB for review. He said once in a while the ARB will get initial preliminary concepts that may be rejected multiple times before a final plan is accepted. He said when Embassy Suite's plans were reviewed, the board rejected the plans four times and encouraged the architect to rotate the site plan 90 degrees to place the conference center nearer to the bulk of the parking and the hotel entrance to the front, closer to the interstate. Mr. McKinney said every plan is reviewed a minimum of three times and those reviews include lighting; landscaping; graphics; pedestrian circulation; American with Disabilities Act (ADA) access; signage on the buildings; exposure of vertical elements to the interstate; materials; heights within the parapet; vehicular circulation; and parking.

Chairman Ezzell said the ARB seems to be the backstop and everything is reviewed by the board. He said he understands and appreciates the competing pressures the ARB is under for maximum design aesthetics and appearance versus the developer wanting the most cost efficient savings for their project. He said one question commonly asked of Council is why the Academy Sports building does not have the same architectural standards as the Target building. Mr. McKinney said the ARB is unified in feeling the development should have some variety with similar materials, but not all buildings be red brick. He said the ARB reviewed four elevation markups when Academy showed interest in building in the UNPTIF. He said Academy's first renderings had red and blue racing stripes all around their building and the ARB rejected the plan. He said Academy settled for a red and blue accent on the front of their building. He said the ARB made Academy add brick to the sides of the building and screen walls on the back delivery areas. He said, at that time, Academy was sending everything electronically and the ARB approved the electronic images; however, the materials approved did not look as white as the color actually turned out to be. He said Academy is noticeable because it is isolated from the other buildings so there is not context around it, no buffers, no smaller shops, etc., so it makes the building seem larger and whiter.

Item 2, continued:

Chairman Ezzell said 99% of the community is never going to understand and appreciate the amount of work the ARB puts into the project. He said the concerns and criticisms received by Council is the development does not look like it should. He said most people would say the development is being built significantly under the promised expectations when it first came to Council. He said the project does not look anything like the renderings at that time as far as design aesthetics and components. He said every new development seems to have less in design standards and appearance than the one that came before it. He said everyone believes that each building should look like the Target building and operate under the assumption that the only reason it is not is because of cost. He said Council is receiving pressure to take over responsibilities of the ARB or to create a Zoning Overlay District (ZOD) that will in essence, force the standards that meet the expectations that have been created. He said, personally, he did not think the Academy development is up to par from a design standpoint of the promised expectations that were built and created surrounding it. He asked the ARB what assistance the Council could give them. He asked if it would be helpful or hurtful to create a ZOD where the ARB could tell developers that the ARB's hands are tied on design standards.

Mr. McKinney said he has heard, "We are not getting what we were promised," so many times. He asked what that meant because the buildings that are there comply with materials, shapes, forms, canopies, etc. Councilmember Gallagher said variety is great, but the idea of uniformity means upgrade or above the normal and asked how to marry variety with an upgraded style. He said people complain the development on the east side looks like any other shopping center, very normal, and was expected to be something superior. Mr. McKinney said beauty is in the eye of the beholder and everyone in the room would have a different opinion of what is attractive or cohesive. He said the ARB has worked hard to use guidelines to direct their decisions and the guidelines allow the ARB latitude to blend different shapes and materials. He said he did not see a problem or conflict with variety. He said Embassy Suites is a very contemporary building and the ARB encouraged the developer to add brick stair towers on the sides and Target is contemporary with traditional materials of diamond brick pattern. He said the North Park Shops II will have contemporary design and add brick with diamond patterns. He said a bank is coming on board that will have granite veneer and the ARB supports those designs. He said the Life Style Center has morphed into a Village Center and will be extremely scrutinized as it is developed because the ARB is looking to entice national tenants of a higher quality.

Councilmember Kovach said he did not believe beauty is in the eye of the beholder. He said there are measurable, quantifiable elements to aesthetics. He said Council was shown renderings before the project was approved that look very different than what is taking shape. He said there are no arches and there had been more brick work in the drawings. He said the University of Oklahoma (OU) has a style to their buildings that is varying, but have a certain level of aesthetic quality. He said OU has achieved a blending of styles that is not seen in the UNPTIF. He said business owners have contacted him and said, "Please do not let them degrade the east side of the development anymore." He said they feel there is a diminishing level of architectural quality going into the very area where the highest end development will eventually go. He said the ARB is paid by the developer and one of the developer's architects is on the board and asked how the ARB balances the pressure when the public is expecting something they are not getting. Mr. McKinney said the board members were appointed by the OU Foundation and, to date, have been funded by the OU Foundation, but the developer on the board has never caused any conflict or made a difference in the board's opinion. He feels there has not been a conflict of interest. He said having a developer on the board is one of the Foundation's prerogatives, but the ARB treats every project the same no matter who the developer may be. Mr. McKinney said for two years there was no activity in the UNPTIF and the developer was anxious to get something started and brought projects to the ARB that were lesser quality than what council feels is in the development now and the ARB rejected them.

Chairman Ezzell said everyone has the upmost respect for the individual members of the ARB and their qualifications, but he has heard speculation that they may be too nice. He asked again if a ZOD would be beneficial and what the pros and cons would be that clearly define Council's expectations from a design standpoint. Mr. McKinney said the set of guidelines drafted by Mr. Frank Gophold, Architect for the Developer, and the development team are very comprehensive, but there are some small details that could be tightened. He said if a standard is not written in the guidelines it is hard to push developers in that direction. He said the guideline compares to any guideline he has ever worked with and felt it is not deficient, is not biased to the developer, and establishes a quality that incoming architects and designers feel to be a benchmark, and developers challenge those standards. He said Chuy's Restaurant came in with a design, but refused to acknowledge design standards required near the future park site so they were rejected. He said he did not believe a ZOD is necessary. He said he would like to hear a mandate from the Business and Community Affairs Committee on what the ARB should be doing. He said the ARB will listen and incorporate that into what they do, but felt that nothing could be better than the guidelines already in use. He said, in his opinion, a ZOD would be another layer of protection and control that he does not believe is necessary.

Chairman Ezzell felt that everything should look like Target or close to it. He asked how much trouble it would be for the ARB to bring forth a couple ideas on what needs to be tightened in the guidelines. Mr. McKinney said the design elements for canopies is not covered in detail and the ARB is working with Mr. Gophold to draft a tighter standard to become part of the guidelines. He said the ARB has also added tighter criteria for signage on the back of the buildings, but by and large the guidelines cover the allowable materials, expectations of the parapet heights, variations in the walls.

Mr. McKinney said retail is a challenge and most retailers want to lease a rectangular box. He said if it has an L shape, it creates problems for the retailer in merchandising. He said the ARB challenges retailers to not send a box design. He said the ARB asks for variation, higher walls, projections for shadow lines, material changes, landscaping, etc. He said there are diagrams in the guidelines that give the ARB fuel to comment on those designs.

Chairman Ezzell asked if there is anything the ARB feels they need to do differently as they move forward in the process. Mr. McKinney said the public could be better informed about what the ARB does, how they go about doing it, what the guidelines are, etc. He said he thinks everyone in town has an opinion or an impression of what they were promised, what they expected, and what the guidelines are. He said he takes issue with all buildings looking like Target as he does not think that is the right approach.

Councilmember Dillingham said there is a public expectation that the development should resemble Target more, that it should have a university vibe, and use more brick. She said she tries to educate constituents that trees only grow as fast as they grow because one of the things constituents constantly comment on is the level of landscaping. She said Council was shown diagrams with enhanced pockets of landscaping that included public seating areas or those types of amenities that are not yet created largely because the project has not reached the Life Style Center area stage of development. She said the Life Style Center was to be the spectacular piece and for the most part the ARB is trying to maintain a cohesive feel, but may be scaling down on some of the added architectural features. She said height dimensions are missing, which is a huge architectural element and the development needs more of that. She said it does cost more money and some developers will say no, but that is the risk taken if a ZOD is created as well. She said she would be leery of Council being the arbiters, but Council does need to be conscious of public expectations that buildings should more resemble Target, have enhanced landscaping with public amenities like seating areas, a water feature, and differentiation in architectural features.

Mayor Rosenthal agreed with Councilmember Dillingham that part of the problem is public expectation. She said she is not qualified to substitute her judgment or the contents of the design guidelines implemented by professional architects and designers who have the ability that Council does not. She said she would encourage the ARB to come forward with any of the tweaks that Council can help by adding their

Item 2, continued:

support. She said, unfortunately, the City remains with the expectation that the UNPTIF will suddenly resemble Utica Square and Utica Square is a mature project that has been in existence for 35 years, which is not the case here. She said the UNPTIF is a build-out over time project and part of the problem with Academy is that it is by itself and is an unfinished work. She said it is important for the Committee to affirm what the ARB is doing and it is unfortunate that it has been suggested that the ARB is not independent. She said she had the opportunity to walk through one of the projects with the ARB and get an appreciation of what the process is like. She said they are operating in the best interests of the community in the work they are doing. She did not think a ZOD was the way to go and the City has been working on other parts of the planning and zoning process to make sure things move smoothly and to add another layer of regulation over a book that is already comprehensive is not in the community's best interest. She did feel the City could do more to educate the public about the development, but said developers should be encouraged to add gates, amenities, and place making elements now rather than at the end because those types of things will go a long way toward completing the picture.

Mr. Bob Goins, ARB member, said he could not agree more and asked how that should take place. He asked if the Council sees that as the ARB's responsibility to work with the developer or should these directions come from Council. Chairman Ezzell said he agrees with much of what the Mayor said and although, he was not concerned about the ARB's independence, he was concerned about the pressure the ARB is under to balance the economics versus the aesthetics. He said if the project does not get some of the elements discussed within a reasonable time span, meaning as soon as possible, Council will have no choice but to look at creating a ZOD. He said it is not the Council's preference, but Council is trying to illustrate where this will lead if the project does not get the improvements. He agreed it is not the ARB's responsibility to do that specifically. He said Council is trying to make suggestions about what Council thinks needs to be done a little bit better and what needs to be accelerated in the process. He said the reality is that Council is the one ultimately responsible for everything related to that project.

Mr. Goins said the word "expectations" has come up quite a bit in the conversation and most of those expectations seem to be largely in reference to the design. He said he gets a lot of questions about the quality of the stores. He said design is critical, but there are issues other than design. He said the ARB has been very sensitive to the expectations for the level of stores. He said he also has questions about where the park and a more efficient interstate are that were promised. He said those things would greatly enhance the development if they could be moved along. Chairman Ezzell agreed and said that is where Council is heading. He said Council knows they cannot impact the issue of retail stores as that is dictated by the mark of economics, population per capita, disposable income, etc. He said Council is not focused on who the tenants are. He said Council is focused on things they can control such as what the project looks like and the public benefits located in the project. He said that is where Council has opportunities to make a spectacular effect and hopes that is the message delivered today.

Mr. Brad Goodman, representing the developer, assured the Committee the developer has not forgotten any of the amenities, but were put on hold because of the economy. He said the ARB has worked through issues with the tenants in spite of the economy. He said when a tenant comes to the ARB to discuss building in Norman then discovers how much it will cost to design and build, they say they can build in Moore for half of what Norman is charging. He said the developer has put some things on hold, but plans to move forward when the economy gets better. Chairman Ezzell said now is time to reopen that dialogue.

Councilmember Quinn felt that Mr. Goins brought up a good point about the park and he believes that needs to get going and said that is something the Council will focus attention on for the positive side of the development rather than looking for the negative. He said the fact that Academy came in when the economy was bottomed out, shows the positive things going on in the development. He said he would like to see a list of the things the ARB would like Council to support.

Item 2, continued:

Mr. McKinney said the ARB uses a Life Style Center guideline, which is different than a Convenience Center guideline. He said everything in the development today, other than the hotels, is a Convenience Center and that is why there are discount shops, Target, etc., but within the Convenience Center there are sidewalks with inlaid pavers in a grid pattern, cast iron powder coated benches, and waste receptacles. There are seating areas along these patterned concrete sidewalks with historic lamp posts. He said the ARB has required that of every developer. He said when the ARB ramps up to the increased design guideline for the Village Center, these amenities will be enhanced and increased. He agreed the park will be the generator of spectacular because the park will be spectacular and when the park is built, he believes it will generate the entire corridor to be the spectacular that everyone has been promised.

Mr. John Woods, Norman Executive Director of the Norman Chamber of Commerce, said he was happy the ARB held Chuy's Restaurant to the standards of their guidelines. He said if the ARB continues to do that with every development, that is not a bad thing in the sense that Chuy's is still coming to the community in another location. He said everything new in Norman is not going to go into just one area so it is good to have high standards and the Chamber encourages that. Mr. McKinney said Chuy's Restaurant in Texas looks like an added on hacienda with Christmas lights strung and the ARB liked that retail festivity near the park, but Chuy's refused to recognize and respect a \$5 million park. He said everyone's vision is that there would be restaurants with outdoor patios and wrought iron fences and people could walk around the lake, but instead Chuy's wanted the backdoor to their kitchen and dumpster right next to the park. He said the ARB asked them to flip their floor plan, but they refused. Mr. Goodman said they would not change their floor plan because they wanted interstate visibility, not a park relationship, and the ARB is not particularly interested in interstate visibility. The ARB wants the project to look good from the interstate but is not interested in pulling people in from the interstate. Mr. McKinney said Chuy's is a regional chain and as the project brings in the higher quality tenants, the pressure that will come against the ARB, the developer, and the City trying to stretch the rules will increase and the ARB is prepared for that.

Item 1, being:

**CONTINUED DISCUSSION REGARDING THE CREATION OF A PUBLIC TRUST AUTHORITY TO FACILITATE ECONOMIC DEVELOPMENT AND OTHER ECONOMIC DEVELOPMENT TOOLS.**

Ms. Walker said on December 1, 2011, Mr. Mark Nuttle, Economic Development Legal Counsel, spoke to the Committee about what he thought were important issues for a successful Economic Development Trust and staff was told to incorporate those changes into the trust document. She said the main change was made to the makeup of the Public Trust Authority (PTA) Board of Trustees. She said there would be five trustees all appointed by a majority vote of City Council. Three of them would be nominated by the Mayor, one representative would be nominated by the Norman Economic Development Coalition (NEDC), and one representative would be nominated by the Norman Chamber of Commerce and all would need to be approved by Council. She said the three that would be nominated by Council would be required to have expertise in finance, accounting, legal issues, or banking.

Councilmember Gallagher said he has concerns about the qualifications for the trustees. He said there needs to be more discussion on the makeup of the Trust and feels not having a Councilmember appointed is a big mistake. He said Council will be responsible to the public for the Trust and for Council not to have any control over the board is a mistake. He said Council would be giving a private entity the ability to use public funds with little or no control. Chairman Ezzell agreed there needs to be more discussion and with the concept of Council having board representation. He said it is important for someone with Council's perspective to be involved in the discussions as long as it does not dominate or control the board. He said there could be two Councilmembers to a seven member board. He said further discussion of this item will be tabled to the next meeting.

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Item 1, continued:

Chairman Ezzell said as the process moves forward and a trust agreement is finalized and submitted for Council's approval, it is only the first step in creating the tools in the tool box. The second step will be determining how the group is going to become a meaningful participant in discussions and activities. He said an unfunded trust authority does not have much ability to do anything, but getting the trust authority created and in place is an important step.

Items submitted for record

1. Memorandum dated December 28, 2011, from Kathryn L. Walker, Assistant City Attorney, through Jeff H. Bryant, City Attorney, to Members of the Business and Community Affairs Committee

Item 4, being:

MISCELLANEOUS DISCUSSION.

None

The meeting adjourned at 10:07 a.m.

ATTEST:

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City Clerk

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Mayor