

## CITY COUNCIL STUDY SESSION MINUTES

April 16, 2013

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a study session at 5:30 p.m. in the Municipal Building Conference Room on the 16th day of April, 2013, and notice and agenda of the meeting were posted at 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 Castleberry, Gallagher, Griffith, Jungman, Kovach, Lockett, Williams, and Mayor Rosenthal

ABSENT:

Councilmember Spaulding

Item 1, being:

**DISCUSSION REGARDING A RECOMMENDATION FROM THE TAX INCREMENT FINANCE (TIF) OVERSIGHT COMMITTEE REGARDING THE LOCATION OF THE RESTROOMS AT LEGACY PARK AND POSSIBLE MODIFICATIONS TO THE FOUNTAIN FEATURES IN LEGACY PARK AS PREVIOUSLY DISCUSSED BY CITY COUNCIL.**

### **Location of the Restroom Facilities and Dressing Rooms.**

Mr. Jud Foster, Director of Parks and Recreation, said during the February 19, 2013, meeting of the Tax Increment Finance (TIF) Oversight Committee #2, Staff provided an update on the construction of Legacy Park. During the discussion, the Oversight Committee expressed a desire to provide some accommodations closer to the amphitheater area and expressed concern that performers would not have dressing rooms in close proximity to the stage, stating the proposed bathroom facilities would be too far for performers to use.

The TIF Committee recommended the City Council/Norman Tax Increment Finance Authority (NTIFA) reconsider the design of Legacy Park to accommodate some form of facilities serving the stage area. The recommended facility is in addition to the bathroom facilities located in the park area and the Committee firmly believed a complete lack of facilities serving the stage area will be a severe impediment to the usefulness of the stage area and amphitheater.

Mr. Scott Howard, Howard Fairbairn Site Design, provided schematics reflecting the overhead view of Legacy Park stage area and amphitheater to include the new storage/dressing rooms and relocated restrooms. He said the location of the existing sanitary sewer main serving Legacy Park dictates that any toilet facilities be located along the north side of the amphitheater to allow for gravity flow. Any other location to the south or near the lowered back stage would necessitate a costly lift station. Mr. Rick McKinney, The McKinney Partnership, said the Legacy Park restroom estimate will reduce the size of the base bid restroom, install two new buildings, and provide water, sewer, and electrical services. The additions/deletions to the Legacy Park Project include:

- Relocation of the Restroom Facilities from the original building located on the north central portion of the park to a new 700 square foot building shown in the upper north planter area above the amphitheater seating – increasing the project \$289,559;
- Addition of a symmetrical 700 square foot Dressing Room and Storage Building to the upper south planter area – increasing the project \$234,092; and
- Deletion of the Restroom Facilities from the original building northwest of the pond; however, the maintenance component of this building will remain as originally planned – deducting \$75,300 from the original plan.

The preliminary estimate for the construction of the additional facilities is \$400,000 to \$450,000 and the estimated cost for the additions to the project including design, engineering, and construction is \$450,000 to \$550,000.

Mr. Foster said if Council desires to move forward with this addition to the project, Staff will bring forward change orders to cover the additional costs of design and construction and account for any delays in the anticipated completion date of the park.

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Item 1, continued:

Councilmember Kovach felt the estimates are inflated and the additions for relocating a bathroom and adding a dressing room can be done for less money and Councilmember Castleberry, Jungman, and Williams agreed. Mr. McKinney said the estimates were provided by CGC Construction, contractor for the park, and he felt there may be ways to do it cheaper but additional review would be needed. Councilmember Jungman asked whether or not the City can negotiate with potential restaurant site owners regarding placement of a public restroom facility and Mr. Jeff Bryant, City Attorney, said if Council desires, Staff can certainly present the option to the developers. Mr. Bryant felt Council still needed to weigh the cost of relocating the bathroom facility versus the benefit of having a closer walking distance to a public bathroom.

Mayor Rosenthal said she does not like the location of the re-located bathroom facility and new dressing rooms because they are in the portals that go into the park and will not be aesthetically pleasing. She said she appreciates the thoughts and input of the TIF Oversight Committee, but she is not persuaded the \$500,000 cost will be worth the benefit. Mayor Rosenthal said other festivals such as the Norman Music Festival, outdoor concerts, etc., are not inconvenienced because there are not dressing room(s) and/or bathrooms in the immediate area. She said she is not sure how many theatrical events requiring dressing rooms will be scheduled at the amphitheater. Councilmember Williams agreed with the TIF Oversight Committee and loved the idea of bringing the restrooms closer, but felt less expensive options would need to be explored. Councilmember Castleberry agreed stating the costs outweighed the benefit and felt if the TIF Oversight Committee were aware of the estimated cost(s) they might agree as well. He suggested some type of temporary tents and/or buildings to serve as a dressing area for the amphitheater and staging areas and Mr. McKinney said portable dressing rooms could certainly be an option. Councilmember Griffith agreed with the option of offering temporary dressing buildings/rooms rather than a permanent one and said he does not like the aesthetics of the proposed dressing and restroom facilities within the gateway, stating the cost outweighs the benefit. Mr. McKinney said with more clarity and direction from Council the contractor can bring back more accurate cost estimate figures. Councilmember Griffith felt the costs could be cut if Council desires to forego the dressing room on the south end of the park, as well as consider the possibility of moving the bathroom facility east of the gateway, adjacent to the future/potential restaurant site(s). Mr. Howard said those options may also help with the symmetry of the gateway and the placement of the bathroom facility east of the gateway would blend with the park without being part of the park design.

Mayor Rosenthal said there are too many questions/issues to move forward with the proposal for the new dressing room and relocation of the bathroom facility such as: cost, location, actual need for a dressing area due to staging companies providing dressing rooms and/or alternatives for dressing, etc. She understood the dilemma for making a swift decision regarding the proposal in order to keep the construction timeline; however, she felt a decision cannot be made tonight because of the issues. She asked for Council input whether or not they are comfortable with a particular cost figure/number to spend on the proposal so Staff can proceed.

Ms. Joy Hampton, The Norman Transcript, asked if the restrooms at Andrews Park are an issue, specifically the number of children using the facility versus walking distance to the restrooms and Mr. Foster said Andrews Park restroom facility is approximately 200 feet from the stage and to his knowledge there have not been any issues.

Mayor Rosenthal asked Ms. Erinn Ganavan, Norman Arts Council, whether she felt the restroom/dressing room facilities would be a problem and Ms. Ganavan asked whether the City talked to any theatrical performance groups that may use the park. She felt they would assist with providing a solution. Mr. Howard said he spoke with Jennifer Baker at the Sooner Theatre but the focus of the discussion was about the function and operation of the stage facility to include the size, lighting, and utilizing the "pipe and rail" around the backside of the stage to create "draped" areas for changing. He said their conversation did not include location of the bathroom facilities.

Mr. Harold Haralson, TIF Oversight Committee Chair, said the primary concern was that a restroom facility needed to be placed closer to the Legacy Park stage/amphitheater to accommodate younger patrons because the initial placement of the restroom facility did not.

Councilmember Castleberry felt money could be raised privately and is not comfortable with spending additional money for dressing rooms. He said special events will have temporary facilities and the day-to-day passive activity is adequate as proposed and Councilmember Jungman agreed.

Item 1, continued:

Councilmember Lockett said she would rather wait to make a decision and Mr. Bryant said Staff will continue working to partner with developers regarding the restaurant pads and possible location of bathroom facilities. Mayor Rosenthal said Council consensus is to not move forward with the proposed relocation of the restroom facility and dressing rooms and requested Staff bring back research and information as to whether the “need” is crucial to have both closer to the stage/amphitheater.

**Possible Modifications to the Fountain Features.**

Mr. Foster said originally there was a rather expensive option for cascading fountains on the back side of the stage and Council requested Staff bring back alternate options to enhance the base bid of the fountain package in lieu of the cascading fountains. Mr. Howard said the \$18,500 base bid includes 16 scupper fountains that are pouring out along the back wall of the pad, seven (7) water cannons located on each side for a total of 14 cannons, a floating fountain in the center having seven (7) jets; and incandescent white lighting on the floating fountain with scuppers, which are illuminated at night. He said the water cannons shoot a blast of water 25 to 40 feet in the air, having eight (8) to 10 second intervals, and can be sequenced. Councilmember Jungman asked how long the water cannons will last and Mr. Les McGuire, Delta Fountains, said the cannons have a one year warranty, require regular maintenance, and may need parts replaced/repaired within two to three years, but it is difficult to say with certainty exactly how long they will last. Mr. Howard highlighted the alternate fountain features as follow:

Alternate #2 will add seven (7) cannons for a total of 21 to the base bid and will replace the center fountain feature; add 21 Red Green Blue (RGB) Light Emitting Diode (LED) color lights and controls; increase vault size to accommodate extra equipment; increase compressor and air tank capacity; and add additional programming time to animate lights and cannons in sequence (no music integration) and power supply for an estimated cost at \$294,400.

Alternate #2A: Add/program varying height to the 21 cannons including additional animation programming time for estimated cost of \$33,600.

Alternate #2B: Add 21 separate nozzles including a new vault, pump, and controls with variable frequency drive for simple up and down ramping capabilities; nozzles would run independent of the cannons when more tranquil display is desired or in between cannon shows; no additional lighting would be required; and the colored lights used for the cannons would also light up the new nozzles for an estimated cost of \$122,200.

Alternate #3: Alternate #2 must be taken in conjunction with any #3 alternate. 14 additional cannons would be added and RGB (color) lighting, including additional animation programming time for an estimated cost of \$217,289.40.

Alternate #3A: Add varying height capabilities to the 14 additional cannons including additional animations programming time for an estimated cost of \$21,600.

Alternate #3B: Add 14 nozzles including a new vault, pump, and controls with variable frequency drive for simple up and down ramping capabilities; nozzles would run independent of the cannons when more tranquil display is desired or in between cannon shows; no additional lighting would be required, the RGB lights used for the cannons would also light up the new nozzles for an estimated cost of \$110,400. This option would have an additional “wow” factor because it would have a double arc with a total of 35 cannons, 35 jets, and 35 LED lights giving a three dimensional aspect.

Alternate #4: Add 16 RGB (color) lights for the scuppers on the back wall replacing the base bid incandescent lights, including additional controls, programming and power supply vault for an estimated cost of \$44,500.

Mayor Rosenthal asked whether Alternate #2A can be added to the base bid (original plan) without adding other alternates. Mr. McGuire said yes and the most increased cost and “wow” factor is the RGB color changing lighting. He said to address the height and interplay of the various cannons without adding the RGB color changing lights is like cereal without milk because the RGB lighting will make this area a very impressive feature of the park.

Item 1, continued:

Mayor Rosenthal asked if Alternate #4 can be added to base bid and done irrespective of all the other alternates. Mr. Howard said yes that is pretty standard and the scuppers are a part of the base bid; therefore, the only change would be the white incandescent light to a RGB LED light. Councilmember Griffith asked whether any of the RGB lighting options can be retrofitted with the base bid alternative and Mr. McGuire said no, because the RGB LED lighting requires extra equipment that is not included in the base bid, i.e., a vault to accommodate controls for LED lighting, etc. Councilmember Lockett asked if there is a difference in the life expectancy and estimated repair cost between the two systems and Mr. McGuire said the LED lighting is very cost effective, environmentally effective, and will last a very long time.

Councilmember Kovach felt the City needed to deliver something spectacular and have the opportunity to do so with the RGB LED lights and varying heights. Councilmember Williams felt some level of upgraded fountain features needed to be added. Mayor Rosenthal asked for Council input regarding choosing Alternate #2, #2A, and #4, which will include the RGB LED lighting and varying heights for the water feature and have an approximate cost of \$372,500. Mr. McGuire said basically if Council chose Alternate #2, #2A and #4, the feature would have one row of water cannons/jets with RGB lighting. Council discussed and consensus was that Alternate #2, #2A, and #4 would be the best options for the water feature.

Mayor Rosenthal asked if the fountain(s) will continue to run during Stage 3 Water Conservation and Staff may need to address this issue in the Water Conservation Plan.

Items submitted for the record

1. Memorandum dated April 11, 2013, from Mr. Jud Foster, Director of Parks and Recreation, to Honorable Mayor and Councilmembers
2. Letter dated February 21, 2013, from Mr. Harold Haralson, Chair, University North Park Tax Increment Finance (UNPTIF) Oversight Committee, to Honorable Trustees of the Norman Tax Increment Finance Authority (NTIFA)
3. TIF #2 Oversight Committee minutes (University North Park TIF) dated February 19, 2013
4. Memorandum dated April 11, 2013, from Mr. Rick McKinney, The McKinney Partnership, to Mr. Jud Foster, Director of Parks and Recreation, with attached map and site plan
5. Powerpoint presentation created by Howard Fairbairn Site Design for the Design of Legacy Park Proposed Restroom Locations and Fountain Alternates dated April 16, 2013

Item 2, being:

**DISCUSSION REGARDING IRRIGATION DISTRIBUTION SYSTEMS IN PUBLIC RIGHTS-OF-WAY.**

Mr. Shawn O'Leary, Director of Public Works, said in its meeting of March 6, 2013, the City Council Oversight Committee discussed domestic water wells for non-potable use and related permit requirements. That discussion was held due to a request from the Cascade Addition Homeowner's Association (HOA) to install a water well for irrigation purposes. The Committee directed Staff to move forward with a proposed ordinance to modernize the City's regulations regarding domestic water wells to be consistent with State laws. Mr. O'Leary said the City Council Oversight Committee further discussed irrigation distribution systems in public rights-of-way (ROW) at the April 10, 2013, meeting and the Committee requested Staff move forward with the permit and schedule as an agenda item on April 16, 2013, Study Session, to share with full Council.

Mr. O'Leary said Mr. Vince DiCastro, President of the Cascade Addition HOA, contacted the Public Works Department requesting permission for the HOA to install underground water lines in the public ROW for a private irrigation system to be used by the HOA to irrigate several common areas within the residential subdivision. Cascade Addition is located south of Tecumseh Road and west of 36th Avenue N.W. The HOA would like to place the irrigation lines in areas currently served by water service lines connected to the City water system. The proposed irrigation lines will be served by a private water well. The HOA wants to bore three inch irrigation pipelines under five existing public streets.

Mr. O'Leary said private water lines in the public ROW has never been authorized by the City in the past. He acknowledged there are probably hundreds of private irrigation systems in the ROW illegally and said the Public Works

Item 2, continued:

Department deals with that every day when irrigation systems are damaged by the City or franchise utility working in the ROW. Councilmember Williams asked if private water lines or private utilities, in general, have ever been authorized and Mr. O'Leary said private utilities, in general.

Mr. O'Leary said the Public Works Department manages the ROW for the City of Norman although many City departments operate within the ROW. He said franchise utility agreements with the City may be the greatest driver in this discussion as franchises are the only entities outside of the City that are allowed in the ROW. He said a public street ROW is different than an easement. A public street ROW, generally from sidewalk to sidewalk, is City owned and managed; while an easement is owned and maintained by the property owner and the property owner has granted the right for someone else to be in that space. He said the City of Norman has four or five employees in various departments that locate utility lines on a daily basis. He said a tremendous amount of City resources go into ROW management, ROW coordination, and utility relocation.

Mr. O'Leary said the ten primary users of the public ROW are Oklahoma Gas & Electric Company; Oklahoma Natural Gas Company; Cox Communications; AT&T; Oklahoma Electric Cooperative; City water; City wastewater; City stormwater; City traffic; and City fiber network. Non-Franchise users are Western Farmer's Electric Co-Op, multiple oil/gas pipeline companies, and the University of Oklahoma (OU). He said franchises bring in annual revenue of approximately \$7,210,000 or one-tenth of the General Fund, and have the right to enter the ROW at any time. He said the City collects franchise fees and in return, promises to protect the ROW.

Mr. O'Leary said Staff has concerns regarding mixing City water with raw water known as cross connection; however, the HOA is proposing to remove the City's water service lines and replace them with raw water well lines and will not connect the systems in any way. The water meter must be removed as well as water service lines removed back to the water main. He said the Oklahoma Department of Environmental Quality (ODEQ) sets standards for separation of raw water and public water systems. The lines must be two (2) feet vertically apart and ten feet horizontally apart. He said the vertical difference may translate into a six (6) foot depth for some of the bore under the roadway. Mr. DiCastro told Staff the HOA would be taking the private pool off City water as well and connecting it to the water well, but by doing that the City can no longer measure the HOA's sewer rate, which is based on the amount of water used. Mr. DiCastro suggested putting a meter on the raw water connection so the City can measure the amount of water used to calculate the sewer fee.

Mr. O'Leary said if Council would like to move forward with the request, Legal Staff has suggested this be done by using a Revocable Utility Installation Permit. The revocable permit was created in 2009 to allow Chickasaw Telecommunications to install fiber optic conduit in the ROW to connect two Norman Regional Hospital campuses. They needed a permit because they did not have a franchise agreement with the City. The revocable permit contained special conditions to protect the City's interest that included submittal of half size plans and digital as-builts; traffic controls where necessary during work in the ROW; permittee was required to leave property in solid and safe conditions and restore all sodded areas to original conditions; and permittee was required to indemnify, protect, and save harmless the City against any and all damages, claims, suits, actions, and causes of action.

Mr. O'Leary said the following items would be required with the application of the revocable permit:

- Signed and sealed construction plans
- Proof of insurance policy (original) with standard comprehensive public liability coverage, including contractual liability insurance covering bodily injuries and property damage naming the applicant/permittee and the City of Norman as co-insured, issued by an insurance company authorized to do business within the State of Oklahoma
- Payment of permit fee
- Letters of no objections from other franchised utilities in the ROW

Mr. O'Leary said the revocable permit can be a viable option to protect the City's interests and Council may want to consider requiring the permittee to participate in the One Call System to ensure work done within the ROW will not interfere with the irrigation lines.

The Association of Central Oklahoma Governments (ACOG) has been conducting a study over the last year regarding the "Pre 1980 Underground Salt Water Ponds and Oil Wells," and just recently discovered an abandoned salt water pond/oil

Item 2, continued:

well site that is located very close to the Cascade Addition. If that information is verified to be correct, the ground would contain very high levels of chloride which would make drilling a water well for irrigation purposes unsuitable.

Councilmember Kovach asked Staff's recommendation and Mr. O'Leary said managing ROWs is getting more difficult, expensive, and litigious every day and allowing an HOA into a ROW may open the door for other HOAs to make the same request, which is probably not good policy. Councilmember Kovach asked if the City Code included a provision that if someone has already tied onto City services, the rights would be transferred to the City and Ms. Kathryn Walker, Assistant City Attorney, said yes there is a provision; however, State laws state domestic water rights are still entitled. She said the Oklahoma Water Resource Board (OWRB) has created requirements to expand domestic use to include issues such as not going over five (5) acre limit. Councilmember Kovach said he is concerned whether a letter of objection from a franchisee would prohibit Council from approving a permit.

Councilmember Griffith asked if there is a restriction on the depth of the proposed irrigation well for Cascade Addition and Mr. DiCastro said if approved, the irrigation well would be 640 feet. He said he recently spoke to ACOG regarding the possible chloride contamination due to the salt water pond issue, and even if no contamination is found, ACOG recommended installing a 30 foot casing/seal around the irrigation well; however, if there is contamination the Cascade Addition HOA will not drill the well. Mr. DiCastro said the Cascade Addition HOA also has a \$1 million insurance policy that includes a rider. Mayor Rosenthal requested Staff think about what level of insurance would be appropriate, especially since they would be boring under a collector street. Ms. Walker said Staff will present a draft ordinance at the April 30, 2013, Study Session, for Council consideration and discuss making it a requirement to install a 30 inch casing/seal around all irrigation wells.

Councilmember Jungman asked if the policy requirements prepared for the revocable utility installation permit issued to Chickasaw Telecommunications in 2009 were set by ordinance and/or resolution and Ms. Walker said the policy was created by Staff. She said the policy was done similar to the City's policy for easement closures or other actions involving easements and/or ROWs. She said the letters of no objection from franchise utilities are included in the policy because the franchise utilities are entitled to the easements/ROWs first due to risk of their infrastructure.

Councilmember Williams asked Staff whether the streets and/or ROWs in established neighborhoods change very much and Mr. O'Leary said arterial streets change quite frequently, whereas local (internal neighborhood) streets do not change a great deal in terms of utilities. However, Cascade Drive and Astor Drive are collector streets (streets that carry traffic in and out of the neighborhood) and collector streets change fairly frequently in terms of adding and/or deleting utilities. Utility additions and/or deletions include replacement, upgrade, and/or repair to include new(er) fiber-optic technology as well as new(er) materials, conduit, and dangers/risks. Mr. O'Leary said if a fiber-optic line is severed it can cost several tens of thousands of dollars to repair.

Councilmember Lockett asked if Council approves the Cascade Addition HOA irrigation well; what precedent will this set for other HOAs wanting domestic irrigation wells. Ms. Walker said the City can permit water wells, but the State does not allow the City to regulate the depth of the well or deny a domestic water well permit if it meets State requirements. Ms. Walker said what the City can do, and is doing, is draft an ordinance for Council consideration that requires any new domestic water wells install a 30 inch casing/seal around the well to protect the water supplies from the salt water ponds/old oil well sites, as well as making certain the water wells *use* does not change and is being maintained as a domestic water well. Councilmember Lockett asked if applicants can pull from the aquifer and Ms. Walker said the City is not allowed to regulate that issue. Councilmember Lockett said Norman gets approximately 30% of its water from the aquifer and felt if a lot of applicants could dig into the aquifer when installing domestic water wells it will cause problems, especially if the drought continues. She said she stands for individual property rights, but did not want to jeopardize Norman's water for the future. Mr. DiCastro said Cascade Addition HOA will follow the City's Water Conservation Plan.

Mr. James Chappel, Oklahoma Gas and Electric (OG&E) Company, said OG&E did not send an objection letter, but did send an email of concern regarding allowing the Cascade Addition HOA to place irrigation in the ROW. He said ROWs are crowded and allowing a non-utility in the ROW is a great concern when spotting lines, repairing lines, etc.

Item 2, continued:

Mr. Harold Heiple, Attorney representing Oklahoma Electric Cooperative (OEC), said while wanting to use raw water instead of treated water for irrigation is a noble idea, allowing a utility in the ROW without a franchise is not a good idea. He felt the City would be risking litigation if they approve a permit without discussing this with franchisees that pay fees to be in the ROW. Mr. Heiple said an HOA installing a water line under the ground and across a Norman street would be an "excavator" as identified in 63 O.S. 142.2(7), and subject to the provisions of the Oklahoma Underground Facilities Damage Prevention Act, 63 O.S. 142.1, which states all operators of underground facilities shall participate in the statewide one-call notification center. He said the provisions of the Oklahoma Underground Facilities Damage Prevention Act impose obligations including: notice, fees, demolition, locating lines, and damages and liability, etc. Mr. Heiple said authorizing any one entity or person to install underground lines in the public ROW would set a precedent for applications to invade the public ROWs all over Norman and requested Council not pursue any procedure that would purport to allow parties without a franchise to install underground utility lines in the public ROW. He understood all irrigation wells within the City are potable water and pay the City to use the water supply; however, the Cascade Addition HOA would be an organization that would not be paying the City for the water supply and using potable water as opposed to drilling a non-potable well.

Mr. DiCastro said other HOAs have installed irrigation lines under City streets without permission and said Cascade Addition HOA has come to the City requesting permission, abide by the law, and try to conserve water in a better way for the City. Mr. Heiple said the difference is the irrigation lines on private property are not in the ditch where the City mandates that the franchise utilities must have their lines.

Councilmember Kovach asked Staff if the language requiring franchisees approval on the application would protect the City from litigation and Ms. Walker said yes, stating the voters have approved the franchisees in the ROWs therefore, the City should protect the franchisees from being damaged. She said the City could certainly be sued if franchisees lines are damaged by an HOA, which is one reason the City would require the HOA to have insurance to cover damages. Councilmember Kovach said he would support Cascade Addition HOA if the HOA could get support of the franchisees. Ms. Walker said if the City allows the HOA and/or additional parties into the ROW and damage occurs to an electric and/or cable line, there is a possibility the electric and/or cable provider could pursue a claim against the City for allowing the irrigation line in the ROW.

Councilmember Jungman said he felt good and bad reasons have been identified regarding allowing the HOA to construct an irrigation line within the ROW and felt if Cascade Addition HOA received approval from OEC they should be granted a permit to do so.

Mayor Rosenthal said she appreciates the HOA coming to the City and felt Councilmember Kovach made a good point that the issue is between the HOA and the utility franchisees to work through. She said she does not object to the revocable permit, but felt the City should not be making exceptions in the ROWs for letters of no objection because that has many implications for many other things the City does such as vacations, encroachments, etc.

Mayor Rosenthal suggested to move the policy forward as drafted to include the provision that letters of no objections from the utility franchisees will need to be obtained and Council agreed. She stated again she felt the issue should be resolved between the HOA and the utility companies/franchisees.

Items submitted for the record

1. Memorandum dated April 4, 2013, from Mr. Shawn O'Leary, Director of Public Works, to Members of the Council Oversight Committee
2. Sample Application for Revocable Utility Installation
3. Permit in Public Rights of Way and Easements
4. Map of Proposed Cascade Home Owners Association (HOA) Project
5. Email dated April 10, 2013, from Mr. Harold Heiple, Attorney, to Steve Lewis, Shawn O'Leary, | Brenda Hall, Ken Komiske, Scott Sturtz, Kathryn Walker, Councilmembers Tom Kovach, Roger Gallagher, Chad Williams, Robert Castleberry, Dave Spaulding, Greg Jungman, and Joy Hampton, The Norman Transcript
6. Powerpoint Presentation entitled "Cascade Addition Irrigation Distribution System in Public Rights-of-Way," dated April 16, 2013
7. Letter dated April 16, 2013 from Mr. Harold Heiple, Attorney, Heiple Law Offices, Inc., to Norman City Clerk

Item 3, being:

**DISCUSSION REGARDING THE FYE 2014 CITY OF NORMAN BUDGET – GENERAL FUND AND SPECIAL REVENUE FUNDS.**

Mr. Anthony Francisco, Finance Director, said budget discussions began on September 26, 2012, with the Council Finance Committee. He said Council had a Capital Budget work session on December 4, 2012, and a mid year Budget review on January 16, 2013. Mr. Francisco said tonight's study session will be Budget review on the General and Special Revenue Funds; a study session on Enterprise Funds is scheduled for April 23, 2013; a study session on Capital Funds is scheduled for May 7, 2013; and a Budget Public Hearing is scheduled on May 28, 2013. He said Council will consider adopting the FYE 2013-2014 Budget on June 11, 2013.

Mr. Francisco said the economy is very volatile; there is slow growth, but much uncertainty is due to fiscal policies such as sequestration, payroll tax restoration, etc., that begin at the federal level, move to the state level, and finally trickle down to the municipal level. The Oklahoma City Metropolitan Area's economy, which Norman is a part of, is among the nation's strongest, but also has uncertainties. Mr. Francisco said Norman's economy seems poised for growth in many sectors and provided charts of Norman's sales tax from the previous fiscal years and Norman's homebuilding industry from 2003 to 2012.

The All Funds Projected Total Revenues for the FYE 2014 are \$216,466,151 and pointed out that approximately \$45 million for Other Revenue is the one time General Obligation (GO) proceeds for the one time source of revenue for street projects and will not come back once it is spent. Councilmember Williams asked the percentage amount collected for Franchise Fees and Mr. Francisco said the Franchise Fees are approximately 7.5% of the General Fund. The All Funds Projected Total Expenditures for FYE 2014 are \$225,173,779. Mr. Francisco said there is an imbalance between what the City is projecting to take in versus what the City is projecting to pay out and by law the City has to produce a balanced budget. He said the City will balance the budget on funds that the City already has on hand, i.e., the Fund Balance. Mr. Francisco said there are some anomalies in the FYE 2014 expenditure budget, particularly as it relates to the Water Reclamation Fund and recalled a projected expenditure of about \$35 million for the construction and expansion of the Water Reclamation Facility.

The largest fund for the City is the General Fund and the FYE 2014 General Fund Revenues by Source are \$68,710,202. Mr. Francisco said 60% of the General Fund is coming from sales and use tax and said it can be a very unpredictable source of revenue. Councilmember Kovach asked Staff to highlight the 6% Transfers and Mr. Francisco said those are the inter fund transfers coming from the City utilities such as water and wastewater; therefore, the City utilities pay the General Fund a 5% fee in lieu of the franchise fee that the private utilities pay. He said the FYE 2014 General Fund Expenditures by Department are \$72,420,148.

The major General Fund Revenue Assumptions include:

- Sales tax projection of 4.2% growth from projected fiscal year 2012-2013 levels – based on historic growth patterns and deterministic methods;
- Sales tax projections account for estimated apportionments to the University North Park Tax Increment Finance (TIF);
- Use Tax, Franchise Fee, and Other Tax revenue projected to grow by 3% from FYE 2013 levels;
- Fine and Forfeiture revenue projected to grow by 1% from FYE 2013 estimates;
- Transfers from Water and Wastewater Utilities of 5% of their revenue (based on what private utilities pay for the use of public rights-of-way and property taxes);
- Transfers from Capital Fund for costs of capital outlay items budgeted in General Fund but paid from Capital Sales Tax, and for Street Maintenance, and Engineering Division labor used for capital projects; and
- Cost allocation charges based on costs of central services, i.e., legal, financial, etc., provided to utilities.



Item 3, continued:

The major General Fund Budget Expenditure Assumptions include:

- Salary and benefit category expenses budgeted for each position in FYE 2014 based on negotiated costs, assuming merit and longevity costs increases and related costs;
- No cost-of-living adjustment budgeted in FYE 2014;
- Salary and benefit category costs assumed to grow overall by 5% in FYE 15-FYE 18;
- Expenditures in Services and Maintenance and Supply and Materials categories reduced by 1.5% in FYE 2014 levels, and assumed to grow by 1% in FYE 15 – FYE 18;
- Expenditures in Internal Services category based on budgeted costs in Internal Services functions and assumed to grow 2% per year in FYE 15 – FYE 18;
- 2% Emergency Reserve Expenditures Assumed at \$250,000 in FYE 2013, and included at mandated level in FYE 2014 Budget; and
- \$1,000,000 Employee Turnover Savings Estimate Built into FYE 2013 Salary and Benefit Category and \$800,000 Assumed in FYE 2014 Budget.

Proposed position additions to the General Fund include:

- Retail Recruiter
- Crime Intelligence Analyst (this position was grant-funded in the past)
- Recreation Leaders (3) (Part-Time)
- Juvenile Services Coordinator (Part-Time)

The following positions have been vacant for one to three years and the Finance Committee proposed the position deletions for a savings of \$694,000 to the General Fund as follows:

- Deputy Court Clerk
- Legal Administrative Technician
- Employment Specialist
- Geographical Information Systems (GIS) Analyst
- Plans Examiner I
- Chief Building Official
- Heavy Equipment Operator
- Maintenance Worker II (2)
- Maintenance Worker I (1)
- Administrative Technician (Part-Time)

Mayor Rosenthal said recent discussions identified Park Maintenance as a priority and thought that it had been agreed to fund the vacant Park Maintenance Division positions. Councilmembers Kovach and Castleberry agreed that Council determined the funding be increased for Park Maintenance. Mr. Francisco said the funding increase for the Parks and Recreation Department/Park Maintenance Division is not included in the Preliminary Budget. Councilmember Castleberry asked if the hotel/motel tax increase is included in the budget and Mr. Francisco said yes, the increase of the room tax is in the budget; however, not in the General Fund. Mr. Francisco said the Parks and Recreation portion of the room tax is to be used for capital projects and not for employee salaries, i.e., by ordinance the room tax is to be used for park development such as park improvement projects.

Mr. Francisco said in FYE 2008, the General Fund balance was \$12,624,952 and noted that is where the General Fund balance should be. He said the projected General Fund balance for the end of FYE 2013 is projected to be \$3,680,881 and \$849,197 for FYE 2014.

Councilmember Kovach understood the amounts are projected and requested Staff to prepare the same projected graph with additional information reflecting the actual budget amount the City ended up with for the beginning of FYE 2008 through FYE 2013. Mr. Francisco said in some instances Staff will purposefully prepare the budget to be “a little off” for example, Staff will budget a \$1.4 million expenditure in the 2% emergency reserve, fully expecting that the City will not use the full \$1.4 million; however, should a tornado, ice storm, etc., occur in the City the funds will be available and Staff will be able to

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manage the catastrophe within the budget. Mr. Francisco said if the catastrophe does not happen then the City is \$1.4 million ahead in the budget which is a good thing. He said Staff's assumption is that budgets will be spent and where they are not the budget is off from actual. Mr. Francisco said Staff always wants to error on the side that the fund balance will come out better versus the projected fund balance.

Councilmember Castleberry asked if FYE 2014 Budget draws down the fund balance and Mr. Francisco said yes, stating that is a negative trend that needs to be addressed.

The Net Revenue Stabilization Fund Policies/Assumptions include:

- "Rainy Day" Fund Balance at \$1,503,429 at FYE 2012;
- Only \$250,000 of 2% Emergency Reserve assumed to be spent in FYE 2013 (saving of +/- \$1MM);
- 2% Emergency Reserve (\$1,342,869) budgeted in FYE 2013, as mandated;
- No Rainy Day Fund deposit assumed in FYE 2013; and
- Total (combined) Reserve requirement = 8% - 11.5% of General Fund Expenditures.

The "Rainy Day" Fund is not budgeted in FYE 2014.

The projected ending FYE 2014 Public Safety Sales Tax (PSST) Fund balance is \$8,076,923 and approximately \$3.4 million is required to meet six month salaries in FYE 2016. Highlights of the PSST Fund include:

- Actual beginning FYE 2013 Fund Balance was \$9,428,148;
- Personnel Staffing Plan on adopted schedule; 69 of 71 planned positions will have been added to the budget with adoption of FYE 2014 Budget;
- Additional Personnel in FYE 2014 – Two (2) Police Officers;
- Fire Station No. 8 completed and Fire Station No. 9 nearing completion; and
- FYE 2013 PSST Budget funded one-time expenditures:

❖ Replace CAD and Records Systems	\$2,330,000
❖ Renovate Smalley Operations Center	\$1,127,450
❖ Replace 1995 Fire Boom Truck	\$ 591,275
❖ Replace 1993 Fire Pumper	\$ 451,275
<b>TOTAL</b>	<b>\$4,500,000</b>
- FYE 2014 PSST Budget funds one-time expenditures:

❖ Police In-Car Video Systems	\$ 750,000
❖ Fire Brush Pumper Truck Replacements (3)	\$ 260,460
❖ Add Fire Tanker Trucks	\$ 660,000
❖ Fire Engine with Ladder Replacement	\$ 814,510
❖ Fire Command Vehicle Replacement	\$ 66,900
<b>TOTAL</b>	<b>\$2,551,870</b>
- FYE 2015 PSST plans to fund one-time expenditures:

❖ Fire Brush Pumper Truck Replacements (2)	\$ 173,640
❖ Fire Engine Replacement	\$ 434,510
❖ Fire Transport Van Replacement	\$ 48,000
❖ Self-Contained Breathing Apparatus (SCBA) Replacement	\$ 500,000
<b>TOTAL</b>	<b>\$1,156,150</b>

Mayor Rosenthal asked the percentage for the public safety expenditures (Police and Fire) from the General Fund and Mr. Francisco said approximately 48%. Councilmember Kovach asked the completion date for Fire Station No. 9 and Mr. James Fullingim, Fire Chief, said the approximate completion date is May, 2013.

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Mr. Francisco highlighted Other Special Revenue Funds as follows:

- Special Grant Funds (various grants the City received throughout the year)
- Room Tax Fund – rate increased from 4% to 5% effective May 1, 2013
  - ❖ Arts and Humanities
  - ❖ Convention and Tourism Attraction
  - ❖ Park Capital Projects
- Seizures and Restitution Fund
- Council on Law Enforcement Education Training (CLEET) Fund
- Art in Public Places Fund
- Westwood Fund

The major budget issues for FYE 2014 and beyond are the projected ongoing shortfall in General Fund Net Revenue; Health Insurance Program Changes; Retirement and Pension Costs; Implementation of Governmental Accounting Standards Board (GASB) Post Employment Standards; University North Park Tax Increment Finance (TIF) Apportionment; Social Service Agency Support; Public Safety Sales Tax Fund “Surplus”; Implementation of Stormwater/Drainage Utility; Utility Enterprise Capital Improvement Project (CIP) and Operations Funding; and Long-term realignment of resource and program priorities.

Mr. Francisco said implementing the Stormwater Utility and paying off obligations to University North Park TIF are two (2) resources and program priorities that will need to be realigned within the General Fund. He said the stormwater utility will be a positive on-going impact to the General Fund in the amount of \$3 million. Staff researched and compared several cities that have stormwater utility fees to include:

<u>CITY</u>	<u>RATE</u>
• Broken Arrow	\$4.00 per equivalent surface unit (2,650 square feet)
• Edmond	\$3.00 per equivalent surface unit (4,860 square feet)
• Lawton	\$2.75 per month
• Oklahoma City	\$5.06 to \$5.85 per month
• Stillwater	\$5.00 per equivalent surface unit (5,000 square feet)
• Tulsa	\$5.43 per equivalent surface unit (2,650 square feet)

Councilmember Kovach said he supports moving forward on the stormwater utility and Mayor Rosenthal and Councilmembers Williams, Griffith, and Jungman agreed. Mr. Shawn O’Leary, Director of Public Works, agreed a stormwater utility would be a positive impact to the General Fund, as well as assist with capital projects.

The TIF impact on the General Fund consists of the University North Park (UNP) TIF apportionment projected sales tax to FYE 2013 is \$3,268,591 and the TIF percentage of projected total G.P. sales tax for FYE 2013 is 6.30%.

Councilmember Jungman asked where the cannibalization number is in the FYE 2014 Budget and Mr. Francisco said that figure is not in the budget, stating the transfer adjustment is not a line item in the budget but explained it is subtracted from the apportionment that is made and where it would otherwise be a higher apportionment made if there were no transfer adjustments. Councilmember Jungman asked how much of the sales tax from the TIF actually are deposited into the General Fund and Staff said approximately 40%. Councilmember Kovach asked if one possibility to realign program priorities in order to address the General Fund situation is to pay off the TIF note as soon as possible and Staff said yes. He said another possibility would be to do a cost allocation to TIF for Staff services and he did not understand why the City does not do so already. He felt such an allocation would be an immediate positive impact on the General Fund and requested Staff include such an allocation in the amended budget. Councilmember Castleberry asked if there was any legal reason the City cannot do a cost allocation to TIF and Mr. Jeff Bryant, City Attorney, said no. Mr. Francisco said this issue has been brought up in the past stating the TIF is not an enterprise, but rather a capital project of the City (if you will). He said the way that capital project is being paid for is out of a portion property and sales tax in the past Council has not directed that cost allocation be made, but Council could certainly do so. Mayor Rosenthal requested Staff include cost allocation for capital projects in the TIF because in the past City has done cost allocations from capital projects to the

Item 3, continued:

General Fund so precedence has been established. Councilmember Castleberry requested Staff provide a cost allocation estimate of Staff services to the TIF. Councilmember Kovach said there is \$11 million in debt in the UNPTIF.

Mayor Rosenthal said there is an expectation for a Retail Recruiter and requested Mr. Steve Lewis, City Manager, highlight details for the position. Mr. Lewis said the Retail Market Coordinator will be responsible for recruiting, developing, coordinating, and implementing programs and activities designed to directly recruit new retail development; retaining current retail business; and encourage expansion and re-development of existing retail business. He said retail development spurs other community growth as well as takes care of the long-term quality of life needs. Councilmembers Kovach said there is a program that helps retail recruiters match available parcels to potential customers and asked whether Staff was looking into the program to help make this position more effective. Mr. Lewis said Staff has been looking at firms and interviewed a firm that could assist the City. He said it is a two-phase approach: the first phase would cost approximately \$20,000 and would look at the community, i.e., talk with the community, business leaders, retail businesses, and brokers, to figure out where the "gap" is, in terms of local retail. The second phase would cost approximately \$20,000 and be the match-making phase, i.e., retail recruiters match available parcels to potential customers. Mr. Lewis said Staff has discussed whether to do a City-wide study versus concentrating on particular/specific areas of town to determine if re-development opportunities exists, such as West Main Street, Ed Noble Parkway, etc. Councilmember Kovach and Castleberry said they applaud retail recruitment efforts.

Councilmember Gallagher asked how the position will dovetail with Norman Economic Development Coalition (NEDC). Mr. Lewis said NEDC focuses on industrial and heavy commercial economic development and his staff does not have the time to focus on the retail economic effort. He felt the retail recruiter position will supplement what NEDC is already doing for the City. Councilmember Gallagher asked who would help support the position and Mr. Lewis said if the position is approved; the person hired would work for the City and supplement the work NEDC does. Councilmember Castleberry said NEDC creates high paying jobs, not retail and Mayor Rosenthal agreed. She said the City had NEDC do an analysis using three different market locals in 2005-2006 and there were many commercial real estate industries in Norman who felt that was their business and job. She said she is not opposed to the retail recruiter position but merely wanted to point out that there may be many people who feel this position will be in competition with their businesses and Councilmember Lockett said the City will need to consider those feelings, stating that details will need to be worked out with the public before it rolls out.

Councilmember Jungman asked how the retail recruiter position will dovetail with Norman Economic Development Authority (NEDA) and Mr. Lewis said the retail recruiter would be working within the NEDA policy parameters set by Council.

Councilmember Kovach said the Preliminary Budget includes many things that Council has asked for and thanked the City Manager for his efforts. Councilmember Castleberry said if Council did not want to budget loss, what would Staff's recommendation be to take out. Councilmembers Gallagher and Castleberry asked where 3% across the board would be. Councilmember Kovach suggested early retirement programs and said he would like some analysis.

Mayor Rosenthal said there is \$8 million in the PSST Fund and asked if a contribution to the Rainy Day Fund in proportion to Public Safety be made. Councilmember Kovach said subsidizing \$1.5 million to 911 Fund would definitely be a Public Safety function.

Items submitted for the record

1. Powerpoint Presentation entitled "City Council Fiscal Year 2013-2014 Budget Study Session," dated April 16, 2013
2. Position Description Details for Retail Marketing Coordinator

The meeting adjourned at 9:50 p.m.

ATTEST:

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City Clerk

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Mayor