

## CITY COUNCIL STUDY SESSION MINUTES

July 17, 2018

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a study session at 5:37 p.m. in the Municipal Building Conference Room on the 17th day of July, 2018, 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 Bierman, Carter, Castleberry, Clark, Hickman, Holman, Scott, Wilson, Mayor Miller

ABSENT: None

Item 1, being:

### DISCUSSION REGARDING OBLIGATIONS AND PROCESS FOR ENDING THE UNIVERSITY NORTH PARK TAX INCREMENT FINANCE (TIF) DISTRICT NO. 2.

Mr. Anthony Francisco, Director of Finance, said Council requested information on the process for ending the University North Park Tax Increment Finance (UNPTIF) District No. 2. He said in 2006, the UNPTIF Project Plan was approved with the principle objectives of creating a Lifestyle Center to foster quality development and create a regional retail draw to Norman; creating Legacy Park; constructing a Conference Center; attracting quality jobs and recruiting businesses not currently located in Norman; stimulating private investment; and preserving and enhancing the tax base and promoting economic growth that would otherwise be difficult without the Project Plan and the apportionment of tax revenues. He said in looking over the plan the City has accomplished many of the objectives.

Mr. Francisco said the City has expended approximately \$28 million plus on UNPTIF projects that include:

- 24th Avenue N.W./Conference Drive intersection improvements - \$153,354
- 24th Avenue N.W./I-35 frontage intersection improvements - \$1,021,948
- 24th Avenue N.W./Robinson Street intersection improvements - \$1,530,300
- 24th Avenue N.W./Rock Creek Road intersection improvements - \$742,059
- 24th Avenue N.W./Legacy Park Drive intersection improvements - \$720,498
- Rock Creek Overpass - \$5,142,323; Robinson Street/I-35 Interchange improvements - \$1,932,603
- Economic development - \$4,174,066
- Interstate Drive Eastside Extension - \$3,681,022
- UNP Master Lighting Plan - \$38,000;
- Robinson Street/Crossroads Boulevard/Interstate Drive N.W. improvements - \$310,772
- 24th Avenue N.W./Radius Way intersection improvements - \$881,021
- UNP entryway signage - \$384,139
- Tecumseh Road/24th Avenue N.W./Flood Avenue intersection improvements - \$147,271
- UNP Master Land Use Plan - \$10,054; Legacy Park - \$7,021,710
- Transportation improvements - \$12,250

Mr. Francisco said the City has collected over approximately \$42 million from the UNPTIF tax apportionments and 76.1% of that came from sales tax apportionments and 23.9% came from property tax apportionments. He said sales tax from apportionments go into the City's General Fund (GF) and Capital Improvement Project (CIP) Funds; however, property taxes are received for Norman Public Schools (NPS) - \$656,737; Pioneer Library System - \$62,250; Moore-Norman Technical - \$191,540; and Cleveland County - \$172,793. He said Council asked where this money would go if there were no UNPTIF and he explained

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that \$4.2 million would go to the City and property tax apportionment would go back to the taxing jurisdictions. He said funds to the City and NPS are not dollar for dollar matches because property taxes can only be used for General Obligation (GO) Bond repayments or claims/judgements against the City. He said NPS receives money from the State's Equalization formula that is not dollar for dollar as NPS actually receives more money than they pay into the UNPTIF.

Mr. Francisco highlighted outstanding debt for projects in the amount of \$9,947,604. He said the original debt of \$14,215,000 was provided through taxable bonds at a rate of 3.41% with final maturity on September 1, 2023. He said that debt has been paid down with a remaining principal of \$10,815,000 and another principal payment is due September 1, 2018. He said there is a call provision on the note, which means the City can pay off the outstanding principal on September 1, 2018, but in order to do that, the Trustee, Bank of Oklahoma, has to be given notice by August 1, 2018. One of the principle points of the City's debt policy is to try not to issue debt when the City has money on-hand to pay for projects and in this case there is more than enough money on-hand to pay the debt. He said the City has approximately \$20.7 million to repay the \$10,815,000 note leaving a balance of \$9,947,604 after payoff. He said the City continues to accrue approximately \$400,000 per month so Staff just needs to know what action Council wants to take in repaying the notes.

Ms. Kathryn Walker, Assistant City Attorney, provided background information on the UNPTIF. She said the Project Plan objective was to construct a conference center and accompanying museums and other cultural facilities in order to secure a first class hotel with an original allocation of \$16 million. She said Council approved four development agreements that impact that component of the Project Plan. In Development Agreement No. 1 approved in 2007, the City agreed to purchase the hotel and conference center (Embassy Suites) to be constructed by John Q. Hammons (JQH). In Development Agreement No. 4, the City agreed to a waiver of that obligation to purchase the conference center with JQH and shifted some of the funding to Rock Creek Overpass Project approved and allowed by the Oklahoma Department of Transportation (ODOT). In Development Agreement No. 5 approved in 2012, University Town Center L.L.C. (UTC), agreed to sell two acres of land for a Cultural Center with the option to purchase additional abutting land at \$5 per square foot. The land identified at that time was southeast of Embassy Suites. The City held multiple public meetings regarding what a Cultural Center would look like, but that never moved forward and the obligation expired in 2015. In 2016, the City executed Amendment No. One to Development Agreement No. 5 and UTC continued with their donation obligation of two acres for a Cultural Center, but at that point everyone wanted the Cultural Center to be located north of Embassy Suites to better serve the area. She said land was identified north of Embassy Suites that UTC agreed to donate with the same option to purchase additional land at \$5 per square foot, which expires June 30, 2026.

Another important component to the Project Plan was traffic and roadway improvements to stimulate private commitments to invest in the Project Area with an allocation of \$11,550,000. Ms. Walker said \$429,152 remains in allocation with remaining projects estimated to cost \$2.5 million. In Development Agreement No. One in 2006, Council approved an agreement that identified and set a preliminary budget for planned traffic improvements that also set the developer's obligation to pay for any required traffic improvements over that allocation. In 2012, Development Agreement No. 5 looked at remaining improvements, updated the budget, and set forth sequencing of the projects.

Ms. Walker said the objective of economic development was to attract quality jobs through economic development activities in order to recruit businesses not currently located in Norman and provide quality employment opportunities in Norman as well as reverse a long standing condition of arrested economic development, to serve as a catalyst for expanding employment, and to attract major investment in the area. The allocation in the Project Plan was \$8,250,000 with \$4,075,934 remaining that is funded from 10% of the

Item 1, continued:

sales tax generated, 50% of ad valorem taxes on economic development tract (60 acres), and economic development sales tax increment generated by new quality jobs payroll. The implementing entity, Norman Economic Development Coalition (NEDC), is a local group that consists of representatives from the City of Norman, Chamber of Commerce, University of Oklahoma (OU), and Moore-Norman Technology Center.

Ms. Walker said Council action to date in moving the economic development piece forward includes a Master Operating Agreement in August 2006 that stated the economic development fund would be used to provide and foster new quality employment opportunities meeting State Quality Jobs criteria and set forth terms for the transfer of economic development property (up to 100 acres) to the City or its designee. An economic development agreement in 2010, designated NEDC as the entity to administer economic development components of the Project Plan, designated University North Park, L.L.C., (UNP, LLC), a subsidiary of the University of Oklahoma Foundation (OU Foundation), to sell the land to NEDC, and the Norman Tax Increment Finance Authority (NTIFA) was authorized the issuance of notes up to \$16.5 million to finance economic development projects costs supported by the UNPTIF revenues. An economic development agreement in January 2014, committed economic revenues up to \$770,000 for new quality jobs created by IMMY, a local company, over the next ten years. Other actions the City was not a party to, but impacted the property, was the purchase and sale agreement between NEDC and UNP, LLC to sell 60 acres at \$1.25 per square foot (25% of market value), 40 acres available for NEDC at market value, and allowing UNP, LLC to repurchase rights for lots not developed by December 31, 2023. The NTIFA approved the pledge of \$1.3 million in economic development revenues as security for the land purchase and infrastructure loans funded by Republic Bank and later, a consortium of eleven (11) banks. She said up to \$770,000 was pledged to IMMY for quality jobs incentive and NTIFA appropriated \$3 million in UNPTIF economic development revenues to pay off the infrastructure loan in April 2017.

Ms. Walker said the Legacy Park objective was to create a park with appropriate materials, add a substantial lake/water feature, and destination restaurants and boutique shops as well as an extension of the Legacy Trail system, quality public art, trees, and extensive landscaping throughout the UNP. The project allocation was \$8.25 million. In October 2007, a development agreement donated the park land to UNP, LLC and set a preliminary budget for Legacy Park, public art, enhanced landscaping and development assistance for park maintenance. UNP, LLC agreed to serve as lender for park construction. In May 2012, a development agreement allocated remaining Rock Creek Overpass funds in the amount of \$1.49 million to Legacy Park construction and UTC and UNP, LLC committed to the creation of a Business Improvement District (BID) for park maintenance in lieu of "development assistance" as outlined in the previous development agreement. In July 2014, the UNP BID was created and resolutions/ordinances were adopted setting forth annual assessments to UNP property owners.

Ms. Walker said the UNP BID Advisory Board was created to assist in administering all aspects of the BID that consisted of two representatives from the Hospitality Industry; two representatives from the Retail Industry; one representative appointed by UNP, LLC, and four representatives appointed by the Mayor and Council. Board actions, to date, include annual restroom facility and park maintenance contracts in the amount of \$120,000; holiday lighting, seasonal plantings, and park enhancements; and reviewing usage and utilization policies.

Councilmember Bierman asked how many boutique shops are currently located near Legacy Park or what are the plans to obtain them in the future? Ms. Walker said Red Rock Canyon Grill is currently constructed and there are more restaurants in the planning stages for the north side. She said some restaurants have not been approved by the developer because they would not be appropriate for the location. She does not know what the plans are for boutique shops since that will be under the developer's purview.

Item 1, continued:

Ms. Walker said the Lifestyle Center objective was to create the Lifestyle Center designed to foster the quality of development at UNP and facilitate the creation of a retail environment that will become a regional draw of retail customers to Norman. Ms. Walker said the project allocation was \$8,250,000. In 2006, the first development agreement for the Lifestyle Center committed to constructing 250,000 square feet of the Lifestyle Center by January 2016 or frontage road costs of \$2.4 million would be reimbursed. That same standard was brought into a development agreement in 2007, to reimburse Legacy Park construction in the amount of \$5.9 million. A development agreement in 2012, gave the developer credit towards the square footage for Crest Food Store (Crest) leaving approximately 145,000 to 150,000 square feet remaining for the Lifestyle Center that must begin construction by January 1, 2018, or the City will be reimbursed for those costs. In 2016, Amendment No. One to Development Agreement No. 5 was approved by Council, which affirmed the commitment to explore urban design, walkability, and mixed use for the Lifestyle Center with the developer. She said 250,000 square feet of Lifestyle Center shell must be constructed by June 30, 2023, but that deadline can be extended to 2026, if a mutually agreeable design is utilized. She said new retail square foot minimums were set for incentive consideration and UTC agreed to sell the land for the regional draw entertainment venue south of Rock Creek Road and north of Embassy Suites at a cost of \$5.50 per square foot. This agreement expires in October 2018, but can be extended to 2026, if progress is shown.

Councilmember Carter asked for some background information on allowing Crest the credit towards the 250,000 square feet for the Lifestyle Center. Ms. Walker said the developer asked for credit for Crest and nothing in the Project Plan defined the Lifestyle Center although there was an understanding of where the Lifestyle Center should be located. She said the City gave credit for Crest, but at the same time the City defined where the Lifestyle Center would be located so it would not be an issue in the future. Councilmember Carter said if the developer cannot meet the 250,000 square foot requirement by the deadline, what would their penalty be in total dollars? Ms. Walker said \$2.4 million for frontage road costs and \$5.9 million for Legacy Park construction for a total of \$8.3 million would need to be paid. Councilmember Carter said by giving the developer the Crest exclusion, how much did that save the developer in penalties and Ms. Walker said they do not save anything if they do not reach the 250,000 square foot goal, but if they meet the goal there will be no penalties.

Councilmember Hickman said UTC was to sell land for a regional draw entertainment venue south of Rock Creek Road and there has been a lot of discussion regarding a regional draw. He assumes this is not the same land discussed for an arena and asked Ms. Walker for some history on the entertainment venue south of Rock Creek Road and the land location contemplated for that venue. Ms. Walker said that discussion took place before the CallisonRTKL Master Plan was considered, but ideas had been thrown around because of the changing face of retail so everyone was beginning to recognize that some type of entertainment component was needed to improve the entire district and make the area a regional draw.

Councilmember Hickman asked what ideas were being thrown around and Ms. Walker said a theatre was one idea. Mr. Jeff Bryant, City Attorney, said the original idea was to build an arena and in 2015, Cleveland County commissioned a study with Convention Sports and Leisure (CS&L) to review an arena south of Rock Creek Road and north of Embassy Suites. He said during negotiations for the development agreement, it made sense to move the two acres donated to the north of Embassy Suites and secure additional acreage for the Cultural Facility element. He said the developer also agreed to sell the City additional land at a cost of \$5.50 per square foot that was originally the conceptual location for the arena. As time went by, a new proposal to move the arena north of Rock Creek Road took shape and that is what Staff has been focusing on ever since; however, Staff has not done that without discussing issues with Council first.

Item 1, continued:

Councilmember Bierman said she understands the 250,000 square footage requirement was to avoid paying expenditures for Legacy Park and infrastructure whereas the retail sales minimums are set to achieve incentive payments, correct? Ms. Walker said the original UNPTIF structure was set up that way, but with Amendment No. One to Development Agreement No. 5 that changed, so in order to qualify for credit towards the 250,000 square foot minimum requirement, retail sales per square foot must be met. Councilmember Bierman asked if minimum retail sales are still required to qualify for incentives and Ms. Walker said yes.

Councilmember Hickman said during his time on Council, a resolution was unanimously approved to use the Cultural Facility funds for a Senior Center, but that was soundly rejected by the UNPTIF Statutory Review Committee so the City is back to square one. What discussions have taken place regarding what the Cultural Facility money could be spent on and is there any reason to accumulate these funds for a Cultural Facility considering there does not appear to be any community consensus on what the money could be used for? Ms. Walker said in 2012, a public meeting was held to discuss specific ideas for the Cultural Facility and the project that came up the most was the Pisces Project, which was part of the NORMAN FORWARD initiative. Other ideas included a weather museum and a gymnastics hall of fame, but no decision has been made on what a Cultural Facility would be. She said that decision will be up to Council and the Statutory Review Committee. Councilmember Hickman said based on what has occurred to date, it is not up to Council because Council passed a unanimous resolution that was rejected. Ms. Walker said the Project Plan does not give a lot of definition to what a Cultural Facility could be and the Statutory Review Committee did not believe the proposed resolution tied in with a regional draw. She said the decision is up to Council, but it has to be consistent with the Project Plan or would require a possible amendment by the Statutory Review Committee.

Mayor Miller said the resolution only requested the Statutory Review Committee review allowing Cultural Facility funds to be used for construction of a Senior Center and the Statutory Review Committee did make a recommendation to Council that has not been acted upon so it is still up to Council.

Councilmember Castleberry said the Cultural Facility funds were meant to be spent inside the UNPTIF area and the Statutory Review Committee was concerned about the Senior Center being constructed outside of the increment district correct? Ms. Walker said the increment district and project area are two different issues. She said the project area encompasses Flood Avenue so the land proposed for the Senior Center would be within the project area and project costs can be spent there; however, the concern was that whatever is spent outside of the tax increment district would not generate money to help pay tax increment project costs. She said the increment district where tax revenues are generated is smaller with boundaries from I-35 to Westheimer Airport and Tecumseh Road to Robinson Street and that is where the tax increment revenues are generated.

Councilmember Wilson said an Expo Center located at the Cleveland County Fairgrounds is also within the project area, but would not generate revenue correct? Mr. Bryant said Cleveland County expressed interest in constructing a multi-purpose facility at the fairgrounds that would be owned by the County and would not generate ad valorem revenues. He said Cleveland County shared a draft study from CS&L that did have a projection of sales tax revenue that would be generated in the amount of \$2,000 per year. He said if Council decided to amend the Project Plan to include that project as a component, that would also be subject to a development agreement process and it would be Staff's recommendation to ask the County to finalize their economic development study and prove up their project before increments are allocated. Councilmember Wilson asked if it would be appropriate to request a fee in lieu of the increment and Mr. Bryant said that could be part of the discussion.

Item 1, continued:

Mr. Francisco said it is important to distinguish between authorizations and obligations. He highlighted UNPTIF authorizations and expenditures that include traffic and roadway improvements in the amount of \$11,550,000 with \$11,120,848 expended and \$429,152 remaining; Rock Creek Overpass in the amount of \$5,212,000 with \$5,142,323 expended and \$69,677 in remaining allocations; Legacy Park/Art/Landscape in the amount of \$10,963,000 with \$8,155,849 expended to date and \$2,807,151 remaining; Initial Project Activities in the amount of \$1,750,000 with \$1,050,287 expended and \$699,713 remaining; Cultural Facility in the amount of \$8,750,000 with no expenditures; Lifestyle Center incentives in the amount of \$8,250,000 with no expenditures; and economic development incentives in the amount of \$8,250,000 with \$4,174,066 expended and \$4,075,934 remaining.

Mr. Francisco highlighted UNPTIF Oversight Committee recommended expenditures from remaining authorizations that include UNP BID through FYE 2021 - \$150,000; I-35/Robinson Street/Crossroads Boulevard improvements - \$1,327,295; 15-space parking lot for Legacy Park; UNP Public Art - \$1.5 million; additional Senior Center Project; and Legacy Park, Cultural Center, Lifestyle Center, and Economic Development incentives.

Councilmember Hickman asked how much money is available for remaining project costs if the \$8,750,000 for the Cultural Facility was no longer an authorized project cost. Would the City simply subtract that amount from the \$25 million in authorized project costs? Mr. Francisco said yes, the target would then be roughly \$17.

Ms. Walker highlighted existing NTIFA contractual agreements that include Development Agreement No. 1 for roadway improvements; Development Agreement No. 3 for public art and enhanced landscaping; Development Agreement No. 5 for regional draw/Lifestyle Center; Development Agreement No. 6 for IMMY Quality Jobs; and an Economic Development Agreement with NEDC.

Ms. Emily Pomeroy, Center for Economic Development Law (CEDL), talked about the statutory requirements for terminating the existing UNPTIF. She said the State of Oklahoma is governed by the Local Development Act (LAD), which states that a city ordinance that approves a Project Plan may be repealed, modified, or amended by subsequent action of the city. She said it may not be repealed, modified, or amended if there are outstanding bonds unless there is approval from the bond holders. If the UNPTIF is terminated, then the Cleveland County Assessor ceases the apportionment of ad valorem taxes and the City ceases the apportionment of the sales tax. She said one option of ending the UNPTIF would be to collect all of the funding to pay all authorized project costs by ordinance and all current project costs are approximately \$54,725,000. She said \$25,081,627 in project costs remain, which will likely be collected in 2021. Another option would be to terminate prior to the collection of the full amount to pay off all authorized project costs that would require an amendment to the Project Plan to decrease or remove remaining authorized project costs. She said a major amendment to the Project Plan requires consideration by the Statutory Review Committee as well as consideration by Council in two public hearings. One reason Council may choose not pursue this method is because it would require the termination or renegotiation or some combination of outstanding contractual obligations that Ms. Walker spoke about earlier. She said after paying off the bonds there would be approximately \$10 million available to pay \$25 million remaining in authorized project costs so Council would need to address a development agreement appropriate for renegotiation and/or termination where some of those costs could be reduced. If Council waits until 2021 when enough increment is collected to pay authorized project costs, then it will be in Council's purview to terminate without going back to the Statutory Review Committee for a major amendment. She said there would need to be a negotiated development agreement to provide authorized project costs for the Cultural Facility. She said Development Agreement No. 5 provides for donation of the land; however, a development agreement would need to be entered into if someone were to come to the City with a proposal to build a museum or other facility.

Item 1, continued:

Ms. Sally Hasenfrazt, attorney representing UTC, said she is here tonight to talk about UTC's support for the existing UNPTIF, an arena, entertainment district, and completing the RTKL Master Plan.

Councilmember Carter said a big concern of the community is cannibalization of businesses from other parts of Norman and asked if that is a concern for UTC. He asked if that concern is why UTC restricted retail development north of Rock Creek Road and Ms. Hasenfrazt said that covenant has been in effect for many years and she is not sure of the exact nature of the covenant and why that language is in there, but she believes the south portion was always envisioned as retail and the north portion as the business development area so there could be some truth to that concern. Councilmember Carter asked if Ms. Hasenfrazt was aware of any major retailers or developers with existing tenants that have cancelled meetings and ceased consideration of proposals with respect to the UTC property since the arena idea was made public and Ms. Hasenfrazt said those dealings are private in nature and she is not willing to say anything about that. Councilmember Carter feels cannibalization is a big concern of the overall community and moving forward with the project would continue to cannibalize the businesses that exist in Norman and it seems that UTC shares these same concerns about this area, would this be fair to say? Ms. Hasenfrazt said she could not speak to that for UTC, but she thinks UTC would say they are very supportive of the University's efforts in the Master Plan and are looking forward to continuing with the UNPTIF.

Councilmember Carter asked what a 20% shared interest in the north half of the UNPTIF would represent to someone and would that be similar to owning 20% of the UNP? Ms. Hasenfrazt said she did not know what Councilmember Carter is referring to and Councilmember Carter said he is referring to the "Grand Bargain" document where a 20% shared interest with UTC in the UNP is proposed. Ms. Hasenfrazt said sometimes in the scheme of things, if the project were to move forward there might be certain arrangements that would be made. She said what UTC is seeing today is that there is serious composition to going forward. Councilmember Carter said there have been a lot of negotiations on the UNPTIF and UTC is excited about the UNPTIF because they have been offered a 20% shared interest, is that true or not? Ms. Hasenfrazt said she cannot speak to that. Councilmember Carter said if someone offered to relieve the developer of \$8 million in penalties as well as the obligation to build an \$8 million Cultural Facility and the obligation to build an \$8 million Lifestyle Facility, plus give them a 20% shared interest, there might be a fairly strong opinion that the developer might think that is a good idea. Ms. Hasenfrazt said she was frankly not sure anyone should be speaking in hypotheticals. Ms. Hasenfrazt said the reason UTC sent a representative tonight was to let Council know UTC stands with the University. She said the development has been a success and the developer and University have spent a lot of time, effort, and energy in those development activities and are very proud of what has been developed. She said UTC believes the continuation of that success relies on moving forward with the proposal of an entertainment district that includes an arena. She said when there is uncertainty in the public process and things are changed significantly, that uncertainty and change can undermine a developer's opportunities. She said development is about timing and momentum and UTC believes ending the UNPTIF would have a serious detrimental effect on future development embraced by the Master Plan. She said many people believe the development would occur without the UNPTIF and UTC wants to clarify that they would not be the developer without the UNPTIF because it has provided substantial infrastructure that would not be funded by UTC.

Councilmember Carter said he is not speaking in hypotheticals because he has the grand bargain document in hand and even though Mr. Bryant has stated he has never heard of the grand bargain, Councilmember Carter has Mr. Bryant's email describing the parameters of the grand bargain. He believes he has asked a fair question that UTC cannot answer.

Item 1, continued:

Councilmember Castleberry understands City Staff negotiates projects for Council and many times, proposals are thrown out and shot down and would not normally come to Council. He would like to get back to the topic of the Study Session as he did not realize this meeting was a deposition and asked Councilmember Carter to provide the documents to the entire Council since he presented it in a public meeting and Councilmember Carter said he would rather not. Councilmember Castleberry asked Mr. Bryant if the document is now considered to be a public document since it was introduced in a public meeting and Mr. Bryant said if Councilmember Carter would indicate where he obtained the document he is sure the originators of the document would be glad to share it. Councilmember Carter said that could be discussed at a later time and Councilmember Castleberry said that is not transparency.

Councilmember Castleberry would like to know the effect on the County and Norman Public Schools (NPS) if the UNPTIF is terminated. Mayor Miller said she would like to proceed with Staff's presentation then allow the affected taxing jurisdictions to speak to that. Councilmember Castleberry again asked Councilmember Carter to share his documents with Council and the public instead of withholding information. Mayor Miller asked Council to proceed with the meeting and discuss the documents later.

Councilmember Hickman said he wants to move forward with discussion and give notice on the bond as Mr. Francisco has recommended. He is deeply concerned and troubled by the things he has heard tonight about the lack of transparency and the role the City has played in the process. He does not understand how a document in draft form was created and circulated since that would certainly be putting the cart before the horse. He said transparency and process are issues that need to be addressed.

Councilmember Bierman would like to hear from taxing jurisdictions as well as part of Council's due diligence. She said it has been stated the development has been a huge success and asked Mr. Francisco if, in his professional opinion, the development has been a huge success for the City as a whole and whether the UNPTIF is something that should be continued. What has the impact been on the City's budget? Mr. Francisco said the UNP has been a huge success in the standpoint that it has generated the sales and property taxes it was programmed to do, so if that is the standard by which Council judges success then, yes, it has been successful. He said at the beginning of the presentation, Staff stated the UNPTIF objectives and some of them have been met, but some have not. He said the majority of the objectives have been met so from that standpoint the development has been a success; however, from the standpoint of the impact on the City's GF and Capital Fund operations, it is his opinion ending the UNPTIF would benefit the City's budget.

Mayor Miller said Dr. Nick Migliorino, Director of NPS, could not attend the meeting, but wanted to convey to Council how passionate he feels about this project and the good it has done for NPS, particularly when state funding has been so unpredictable. Ms. Brenda Burkett, Chief Financial Officer (CEO) for NPS, read from a letter written by Mr. Migliorino that expressed support for the continuation of the UNPTIF to include an entertainment district and arena due to the benefits the project would bring to NPS. He respectfully asked Council to keep in mind that the initial phase of the UNP was funded through a TIF that has directly benefited NPS and because of the specific structure of the TIF, the school district has received payments on increased valuation that otherwise would not have been received. As the development has grown, the increment payments have steadily increased and if the TIF ends, the ad valorem taxes paid become part of the state aid funding formula which means the local revenue to the school district becomes a reduction in the state aid funding and the amount of revenue received by the district would significantly decrease. The funds the school district receives are significant and represent far more than a "rounding error" as some have ascertained. Norman is a community with extremely high academic expectations. The funds received from the TIF allow the school district to go above and beyond for students, raising the bar of academic expectations in Norman. The next phase of the UNPTIF, if approved, is projected to help stabilize and eventually increase funding for public schools in Norman. The project could also increase the community's bonding capacity, which helps purchase books and equipment.



Item 1, continued:

Ms. Burkett said bonds are also used to construct new schools, repair outdated buildings, and implement student technology as well as add freshman academies and college career centers at the high schools. The funds received from the UNPTIF add a much needed boost for the school district allowing the schools to do more for their students. The funds also allow schools to address vital safety and security measures that insure a safe learning environment for every student. She said proposed housing is also a benefit because attractive areas to live, work, and play benefit and increase opportunities for young families to acquire affordable housing. When families move to Norman, local schools garner additional state funding to serve these students while keeping overhead costs flat. While surrounding cities have seen significant increases in student enrollment in their schools, Norman's enrollments has remained virtually flat that past few years. While enrollment has remained flat, the costs surrounding education continue to rise. Everything from the price of electricity to the cost of supplies grow each year and when schools experience flat enrollment, the state aid package remains the same meaning the amount available per student actually decreases. Vibrant, growing communities are critical to the long term success of any school district. A new arena could also add value to the community since last year alone NPS paid nearly \$70,000 to rent the Lloyd Noble Center for four events. That facility has been the districts only option to host graduation ceremonies for both high schools as well as all school concerts that bring students from across the country to participate in exceptional fine arts opportunities that are not available in other school districts. The arena could create additional opportunities for Norman to host these and other regional youth academic and athletic events which could result in additional revenue for the City. The proposed development and associated TIF is expected to directly and positively impact the students of NPS and has the potential to boost local schools, increase bonding capacity, improve student enrollment, and create a facility that would benefit Norman students while allowing the school district to reduce expenditures.

Councilmember Wilson asked Ms. Pomeroy about the impact of TIFs throughout the State of Oklahoma and how decreasing state aid affects the smaller school districts such as Noble and Little Axe. Ms. Pomeroy said if the TIF area had developed in the same way and timeline without the TIF, in 2017 the tax collections from countywide school levy for distribution to Cleveland County school districts could have increased by approximately \$11,900 with \$760 distributed to Little Axe and \$1,700 to Noble Public Schools. If one third of the development would have occurred, then those amounts would decrease respectively to \$250 for Little Axe and \$570 for Noble so the impact is very negligible. She said assuming all the development occurred without the TIF then state aid funding for all other school districts across the state could increase by approximately \$990,000, which is a fraction of the \$1.8 billion in state appropriations for state aid in the 2017 fiscal year.

Councilmember Wilson asked how many TIFs are taking place throughout the state and Ms. Pomeroy said she did not have an exact number, but there are limitations on how many TIF districts can be approved within a school district ad valorem taxing area, which is no more than 25% of the assessed value of the school district boundaries.

Councilmember Castleberry said if the City ended the UNPTIF, NPS would receive \$800,000 less annual funding correct? Ms. Burkett said yes, because NPS is currently receiving \$800,000 that is not deducted from the state aid formula. Councilmember Castleberry said there has been discussion about using GF funds to make up the \$800,000 to NPS, can the City do that? Mr. Francisco said no, the City cannot provide direct funds to another jurisdiction. Councilmember Castleberry asked if the City could provide School Resource Officers (SROs) in lieu of payment and Mr. Francisco said possibly, but SROs are funded through Public Safety Sales Tax (PSST) and that fund is currently not healthy either. Councilmember Castleberry said if the PSST Fund does not have enough money to meet its obligations what happens? Mr. Francisco said if obligations in the PSST ordinance for personnel and safety equipment cannot be met, the funding would have to be provided from the GF.

Item 1, continued:

Councilmember Hickman said he fully supports NPS; however, the reality of the situation is that the UNPTIF is going to end when it is fully funded in three years (2021) and NPS will need to make budgetary changes at that time. He asked if NPS has been planning for that potential ending of the UNPTIF and Ms. Burkett said NPS is aware the existing UNPTIF can end and NPS needs to plan for that. She said Dr. Migliorino has stated that if Council decides to end the UNPTIF early, NPS needs to know as soon as possible so they can begin planning accordingly.

Councilmember Hickman asked if the School Board is planning to pass a resolution in support or non-support of the arena proposal and Ms. Burkett said she did not know.

Councilmember Bierman asked about the school system's annual budget and if they operate on a budget surplus or deficit and Ms. Burkett said NPS has maintained a slight decrease in its existing fund balance. She said the last few years NPS has struggled with the fact that expenditures are exceeding revenues due to reliance on state funding. She said the total funded budget is just over \$100 million and \$36 million of that comes from the state aid formula, but there are local funds, county funds, and federal funds as well. Councilmember Bierman asked about the impact of state budget cuts over the last few years on NPS and Ms. Burkett said the impact has been very negative, but NPS is fortunate to have had bond issues and been able to leverage those bond dollars to help the budget. She said without the bonds, Staff would have to be let go and class sizes would be much larger, so the big picture is that state reductions have been very detrimental. She said NPS has been able to offset that by cinching up their belts and making discretionary expenditure decisions. Councilmember Bierman asked if Ms. Burkett has any idea what the increase or decrease has been for online Charter School enrollment over the last few years and Ms. Burkett said enrollment is increasing and there is a difference between virtual and brick and mortar Charters. Councilmember Bierman asked if municipal governments should be in the business or habit of trying to replace state funding to plug the gap and Ms. Burkett said all she can say about that is when the \$800,000 NPS receives from the increment district ends, it will benefit districts across the state, but at this time it is not taking anything away from other school districts across the state. Councilmember Bierman asked if anyone has entertained other ways to support the NPS budget other than a TIF and Ms. Burkett said NPS has a partnership with the City for the SRO Program and Norman Regional Hospital (NRH) for health assistance (registered nurses) at schools. She said these have been huge assistances for services needed at schools. There are also local businesses providing assistance as well as Partners in Education that contributes mentorship to students.

Councilmember Scott asked what percentage of the funds go towards random drug testing at schools and Ms. Burkett said school policy states the school will randomly select 15% of the student body for annual drug testing at a cost of \$30 per student so NPS has budgeted \$19,000 for that program.

Councilmember Castleberry asked if the \$800,000 comes from the City of Norman or state allocation and Ms. Burkett said that money is received from the County Treasurer's Office.

Ms. Carol Dillingham, Cleveland County Legal Counsel, said Cleveland County is one vote on the Statutory Review Committee and welcomes the opportunity to review this very complex proposal if and when Council decides to move forward. She said this process is in the beginning stages and each stage has more questions and more answers and it is not until all negotiations have been completed that the information is finally garnered. She said her process is at the front end to help Council move through this very complicated project and Cleveland County welcomes an opportunity to review the project and give their opinions at the appropriate time. Councilmember Castleberry said if Council decides to change the ad valorem allocation of the UNPTIF, would Cleveland County be receptive of a 60/40 split. Ms. Dillingham said Cleveland County is open to changing the allocation to allow the project to be funded as long as it does not impair the County's ability to serve its citizens.

Item 1, continued:

Councilmember Clark said Councilmember Bierman's comment about whether the City should be in the business of supporting public schools in the absence of state funding is a good point because the State of Oklahoma is inadequately funding education. She said if the City can help, then it should and this is an opportunity do to that, not to mention Norman has more state property than any other community and those massive amounts of state properties do not pay property tax, which negatively impacts public schools. She thinks NPS is doing the best they can in a very poor situation they have no control over, but the City does have control over this. She is also concerned about how changes to the UNPTIF agreement with affect the City's relationships with its TIF partners. She said to please keep in mind that an ad valorem only TIF that is benefiting the community at the expense of the TIF partners is also repairing massively needed infrastructure problems in core Norman. She believes some people would be happy to wash their hands of the whole TIF arrangement and the relationships that come from that arrangement, but TIFs can benefit communities and the City needs to be careful how it addresses this in the future because of the unique position Oklahoma municipalities have been placed in by state government. She is proud of the effort Council has put into these discussions, but Council needs to be mindful of how this impacts the City in the long run.

Councilmember Carter said he is troubled by the lack of transparency during this process and OU Foundation's insistence they are somehow separate from the University and do not have to comply with the Freedom of Information requests. He is concerned as well by the culture of City Staff who feel they do not have to comply with the Open Records Act as well so in the spirit of transparency, he will provide copies of the Grand Bargain and relevant emails to the City Clerk's Office.

Councilmember Wilson said she appreciates tonight's discussion as well as the taxing jurisdiction partners who have attended tonight. She is concerned about the impact to NPS, but is also concerned about the City's GF, which would get an injection of \$4 to \$5 million if the UNPTIF ended. She would like to hear more options for making the schools whole on funding; however, would recommend calling in the notes.

Councilmember Castleberry said the TIF Oversight Committee recommended paying off the bonds in 2018 and he believes there is no reason to not do that because it will save about \$1 million in interest over the next five years. He said if this is the path the City going to take, he would like to review changing the allocations to place more money into the GF.

Mayor Miller said the UNPTIF was created to encourage development so everyone would receive more money as time went along. She said this is an investment and she has a problem with cutting off investments before they have appreciated to the greatest extent possible. She does not want to pull the rug out from under NPS. She agreed the City should pay off the bonds and would like to review information on changing the reallocation to help the City's GF.

Items submitted for the record

1. PowerPoint presentation entitled, "City of Norman Remaining Obligations and Process for Ending the University North Park Tax Increment Finance District," City Council Study Session dated July 17, 2018, presented by Anthony Francisco, Finance Director
2. PowerPoint presentation entitled, "Council Questions on Economic Development, Cultural Facility Authorization, Lifestyle Center Authorization, and UNP Business Improvement District (Legacy Park Maintenance)

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Item 2, being:

**DISCUSSION REGARDING THE RELATIONSHIP BETWEEN THE DEVELOPMENT AND RECOUPMENT PROCESSES.**

Ms. Beth Muckala, Assistant City Attorney, said tonight she will explain the origin, scope, and application of the current ordinances' origin, which requires a description of its relationship to the City's development process set forth in the City Code. She will also address particular questions that arose during the City Council meeting on June 12, 2018, in relation to the Rock Creek Road Recoupment Project.

Ms. Muckala said the City's Recoupment Ordinance was adopted on February 11, 1997, consisting of Sections 16-601 through 16-603 of the City Code and has been amended three times since its passage. She said Section 16-601 is modeled in conformance with Oklahoma Statute, Title 11 § 104(C), which states that preconditions can be placed upon developers before the filing of a final plat. She said this is a valid exercise of police power for the State as well as municipalities and Section 16-601 states, "a property owner is responsible for all costs of improvement to all arterial streets abutting its property in compliance with the City of Norman's Street Standards and Subdivision Regulations, as amended." She said it is the subdivision regulations that are being discussed tonight.

Ms. Muckala said the purpose of the Recoupment Ordinance was to avoid gaps in street improvements, which result in necessitating the City's completion of "gap" paving projects to correct the inconsistencies. From the public policy standpoint it addresses public safety and welfare. She said Sections 16-602 and 16-603 set forth the active process of the recoupment. In 2005, the Oklahoma District Court of Cleveland County evaluated the recoupment ordinance, particularly these three sections, and found the ordinance was a valid exercise of police power and not inconsistent with the State Statute.

Principals of practicality and equity have been considered in the ordinance and all amendments that have occurred that address public safety and welfare as a way to correct costly and inefficient implementation of street improvements where development does not occur all at once. From a public perspective, the City has more control over street development by allowing improvements to both sides of the street as well as the length of road affected by the development, not just the portion abutting the development parcel. The private perspective enforces equitable considerations and is designed to "level the playing field" and prevent one parcel from taking advantage of road improvements financed by another or paid for by the City.

Ms. Muckala said a property owner is responsible for all costs of improvements to all arterial streets abutting his property which is applicable to all parcels and contains no exceptions, whether for type of use, or whether the parcel is already constructed upon. She said construction costs are set out specifically in Section 16-603 which applies pro-rata based on linear foot of abutting parcels and if right-of-way or easements are donated, the cost is directly recovered against a parcel which is removed from the pro-rata calculation so that no donating parcel owner pays when another does not donate. She said the process is permissive, not mandatory.

Section 16-602 identifies and declares boundaries of recoupment projects and Section 16-603 sets forth the calculation to determine each tract's total arterial street improvement cost participation expense. Unless paid earlier, each defined tract's share of the participation cost shall continue as an obligation of the property for its determined share of the total street improvement cost plus an appropriate inflation/deflation increase that is provided for by the Recoupment Ordinance. Ms. Muckala said 100% of the participation cost may be recovered if the parcel is developed within 15 years following completion of the road improvements. The pro-rata share is reduced by 20% every year thereafter and those costs are entirely waived after 20 years.

Item 2, continued:

Ms. Muckala said the City's subdivision regulations are codified in Chapter 19, which were specifically incorporated into the Recoupment Ordinance. She said Chapter 19 defines "development" as the erection, construction, or change of use of buildings; or the erection or construction of any addition to existing buildings where outer walls are added or altered as to location, but not including alterations or remodeling of buildings where said out walls are not added or altered as to location. Chapter 19 also intends to require that all land located in the City of Norman be platted in conformance with these provisions prior to the actual accomplishment of development and before a final plat is accepted, public easements and rights-of-way must be dedicated and street improvements completed. She said platting's connection to recoupment is directly referenced in Section 16-603 coordinating the two processes where they overlap. Platting acts to identify parcels not subject to recoupment and vesting the City's interest in the recoupment obligations of a parcel within a declared project.

Ms. Muckala said the latest amendment occurred in 2010 which addressed the idea of not having to pay for the same utility location twice and in the same amendment, the City recognized that bond and federal funds obtained for the project should be removed from recoupment fees that allows parcel owners to take advantage of the City's efforts. One of the triggers built into the Recoupment Ordinance from the beginning is the fact that it does have a reduction at 20 years total with reduction beginning in year 15. Another important limitation is that the activity of the parcel owner actually controls whether or not the vesting occurs. She said recent recoupment projects include Cedar Lane Road - three unplatted residential parcels; 12th Avenue S.E. - one unplatted residential parcel; 24th Avenue East - eight unplatted residential parcels; and 36th Avenue N.W. - three unplatted residential parcels (future recoupment project).

Ms. Muckala said there had been questions regarding the recent Rock Creek Road Recoupment Project. She said one property owner, Mr. Marr, was represented at the meeting and raised two issues that consisted of applicability of the ordinance in general and the particular history of his parcel and whether it should fall into the project. She highlighted the questions as follows:

- Should the recoupment ordinance apply to residential parcel or parcels that are not vacant? Yes, to avoid a "free ride" for later development. Large residential estates are prime candidates to sell to a later developer and accommodate a more intense use as the City develops.
- Why subject to recoupment when certificate of survey filed and rights-of-way/easements are already dedicated? A certificate of survey was not actually filed, there was a process where this parcel was purchased and the home demolished and in order to obtain a building permit, the owner had to follow the development process of rezoning and filed a short form plat, which did require dedication; however, these dedications were never received and due to passage of time and lack of record, the City's consultant understandably identified it as a recoupment parcel. The situation has been corrected and resolved with the owner and the parcel will be removed from the project. Removing this parcel does not impact the three remaining unplatted parcels in the project.

Staff is recommending Council resume consideration of the recoupment project for West Rock Creek Road with the removal of the Marr property barring any unforeseen circumstances. She said Council will also consider the 36th Avenue N.W. Recoupment Project on August 14, 2018.

Councilmember Wilson said if Council had approved the resolution for the West Rock Creek Road Recoupment Project in June, would the Marr property still have been removed under the circumstances discussed and Ms. Muckala said yes the issues still could have been addressed and corrected.

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Item 2, continued:

Councilmember Clark said she has been concerned about the lack of sidewalks along 12th Avenue and Rock Creek Road and asked if that could be addressed through the recoupment process and Mr. Shawn O’Leary, Director of Public Works, said recoupments have never used for sidewalks, but it could be a possibility that he will check into.

Items submitted for the record

1. Memorandum dated July 17, 2018, from Beth Muckala, Assistant City Attorney, through Jeff Bryant, City Attorney, to Norman City Council
2. PowerPoint presentation entitled, "Recoupment: Historical Basis and Application," dated July 17, 2018, Council Study Session

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The meeting adjourned at 8:50 p.m.

ATTEST:

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City Clerk

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Mayor