

CITY COUNCIL CONFERENCE MINUTES
April 11, 2017

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a conference at 5:35 p.m. in the Municipal Building Conference Room on the 11th day of April, 2017, 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 Allison, Castleberry, Chappel, Clark, Heiple, Hickman, Holman, Karjala, Mayor Miller

ABSENT: None

Item 1, being:

DISCUSSION REGARDING PROPOSED AMENDMENTS TO THE FLOODPLAIN ORDINANCE.

Mayor Miller said Staff has been working on amendments to the Floodplain Ordinance with the Council Oversight Committee, but discussions were put on hold due to stormwater discussions and the need for a Stormwater Utility. She said Staff is preparing changes to the City's floodplain maps so this is a good time to bring floodplain discussions back.

Ms. Kathryn Walker, Assistant City Attorney, said a floodplain is any land susceptible to being inundated by water from any natural resources (also called flood prone areas) and a regulatory floodplain is land that is subject to a one percent (1%) or greater chance of flooding in any given year (often called the 100 year flood and/or 1% Chance Flood).

Ms. Walker said the City regulates development in the floodplain to reduce future flood risks to new construction in certain flood prone areas. The City has to have a Floodplain Ordinance to participate in the National Flood Insurance Program (NFIP) created by Congress in 1968 and administered by the Federal Emergency Management Agency (FEMA). The NFIP mitigates future flood losses through sound community enforced building and zoning ordinances as well as provides access to affordable federally backed flood insurance protection for property owners.

Ms. Walker said FEMA provides maps of the flood prone areas (Special Flood Hazard Areas) and designates areas as floodplain or has potential for flooding in the 100 year storm. The maps also designate floodway areas (channel of a watercourse and the adjacent land that must be reserved to discharge the base flood without increasing the water surface elevation more than a designated height) and the Base Flood Elevation (BFE) which is the elevation above sea level of the 1% chance flood. The local floodplain management regulations are designed to reduce flooding risks for property owners and insurers.

Ms. Walker said participating in the NFIP is important for Norman because Norman has 539 active flood insurance policies and 113 claims have been paid since 1979. The value for flood insurance in Norman is over \$137,153,200 and insurance has paid over \$2.3 million for flood related losses. She said Norman receives federal disaster assistance for flood related damages as well.

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Ms. Walker highlighted the history of the NFIP participation in Norman as follows:

- July 8, 1975: First Floodplain Ordinance/City joins the program;
- November 1, 1979: First Flood Insurance Rate Map (FIRM/Flood Insurance Study (FIS));
- August, 1987: Revised FIRM/FIS issued;
- January, 1999: Revised FIRM/FIS issued;
- September, 2008: Digital Flood Insurance Map (DFIRM)/FIS issued; and
- February, 2013: Revised DFIRM issued.

Council approved revisions to the Floodplain ordinance in 1978, 1981, 1986, 1987, 1989, 1997, 2003, 2004, 2007, and 2013.

Ms. Walker said Norman was accepted into the NFIP Community Rating System (CRS) on October 1, 2011, as a Class Five (5) community and only 52 communities in the U.S. (0.25%) have received a class rating of five (5) or better on a scale of one (1) to ten (10) with one being the highest rating. She said 21,180 U.S. communities participate in the NFIP; 1,090 (5.1%) of those communities participate in the CRS program; and 12 of the communities are in Oklahoma.

Ms. Walker said the Flood Hazard District (FHD) is in the Zoning Ordinance and functions as an overlay district whereas the underlying zoning designation still applies with floodplain restrictions. She said a Floodplain Permit Committee reviews applications for development in the Flood Hazard District. The Committee is comprised of a Floodplain Administrator (Public Works Director); Director of Planning; City Engineer; Subdivision Development Manager; Principal Planner; and two (2) citizen members with Oklahoma Water Resource Board's (OWRB) floodplain training.

The general rules for floodplain regulations include allowing property owners to build in the portion of the floodplain that is not in the floodway (flood fringe), if the structure is elevated at least two (2) feet above the BFE. No structures can be built and/or no fill can be applied in the floodway. Fill can be applied in the flood fringe in limited circumstances, i.e., no rise in BFE downstream, compensatory storage provided, etc.

Ms. Walker highlighted the process for development in the floodplain as follows:

- Applicants submit application to Floodplain Permit Committee for consideration: lots of detailed information is required for consideration but the Committee has the option to request even more information if needed to make the decision;
- Floodplain Permit Committee holds open meetings to consider floodplain permit applications; and
- Floodplain Permit Committee is charged with determining specific flood hazard at the site, evaluating the suitability of the proposed use in relation to the flood hazard and issues or denies the floodplain permit.

Changes to the FEMA floodplain maps include:

- Correcting mistakes in the map: Letter of Map Amendment (LOMA) – corrects an error in the maps and the City is not involved in the application process unless the City is requesting the correction; and
- Changing the designated floodplain on the map due to proposed or actual manmade alterations within the floodplain: placement of fill; modification of a channel; construction or modification of a bridge; construction of single or multiple residential or commercial structures on single or multiple lots. The application is made through the local community and applicant pays for the FEMA review.

Ms. Walker said applicants can also request FEMA change maps due to development. She said before development begins the applicant can submit a Conditional Letter Map of Amendment (CLOMA) to request FEMA's comments on the proposed structure(s) that would, upon construction, be located on existing natural ground above the BFE in the floodplain; submit a Conditional Letter of Map Revision (CLOMR) to request FEMA's comments on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and result in modification of floodplain; or submit Conditional Letter of Map Revision (LOMR) to request FEMA's comment on a proposed project that would, upon construction, result in modification of the Special Flood Hazard Area (SFHA) through the placement of fill outside the existing regulatory floodway. A LOMR officially revises the map and a Letter of Map Revision Based on Fill (LOMR-F) changes the map's SFHA based on the placement of fill outside the existing regulatory floodway.

Proposed Ordinance Amendments

Ms. Walker said in 2014, a developer approached the City about the Bishops Landing Project, which entailed razing an existing apartment structure and constructing new apartments. She said the property had a stream going through the property and a number of buildings that predated the Floodplain Ordinance were constructed in the floodplain and floodway. The developer removed the structures from the floodplain; added 1.3 acre feet of floodplain storage by excavating the side of a creek channel with no change to the depth or flow line of the stream; and constructed new apartments outside of the floodway. During the review and approval process, some areas of "clean-up" in the Floodplain Ordinance were identified.

The Council Oversight Committee discussed possible ordinance amendments at multiple meetings during 2015, and full Council discussed the proposed amendments at a study session in February, 2016.

Ms. Walker highlighted the City's current process as outlined in the ordinance stating the owner of land requests a review of flood boundaries on his property and presents the information to the Planning Commission for review; the Planning Commission obtains technical analysis and recommends to Council whether boundaries should be changed as well as whether the City should request a LOMR. She said the City's current floodplain process directs the land owner to have corrections made on the floodplain map via the LOMA and reminded Council that the City is not involved in the LOMA process. Ms. Walker said the proposed amendment(s) would modify the language to clarify the process for incorporating LOMRs approved by FEMA into the Floodplain Ordinance and remove language related to LOMAs.

Ms. Walker said in current ordinance language, fill is limited to elevation of individual residential and non-residential structures; construction or repair of public roads and bridges; and river or stream bank stabilization or reinforcement projects and, where authorized, fill must be the minimum necessary to accomplish the permitted development. The proposed language refers to the LOMR process to ensure clarity and also references modification of the floodplain, including fill, excavation, dredging, channelizing and paving limited to elevation of single-family residential structures (and associated structures) and non-residential structures if there is no other reasonable location outside of the floodplain. Council must approve modification that would change the width of the floodplain by 10% or more, construction of ponds less than five (5) acres for farm/ranch activity, and modification of stream banks or flow line within the regulatory floodway unless work is done by the City.

Ms. Walker said the next proposed change will define "redevelopment or reclamation projects." This definition will address projects that disturb the floodplain more than a typical project, but actually improve its function. It will allow projects, with Floodplain Permit Committee's approval, that propose to reduce flood hazards through the removal of existing non-compliant development and which provide beneficial improvements to the function of the floodplain.

Ms. Walker said current ordinance language states Council must approve floodplain modifications that would change the width of the floodplain 10% or more; change construction of a pond with a water surface area of five (5) acres or more; and modify stream banks or flow line within the regulatory floodway unless work is done by the City. She said reports regarding floodplain modifications will be given to Council when plats are scheduled as agenda items for Council consideration. If no platting is involved, the reports will be given to Council prior to the issuance of the Floodplain Permit.

Ms. Walker said the language “including manufactured home parks and subdivision” is proposed to be deleted from the current ordinance and changed to “standards for subdivision proposals” because it is redundant. She said the FEMA’s zone designations will be updated as well.

The proposed ordinance is scheduled to be reviewed by the Planning Commission on April 13, 2017, reviewed by City Council for First Reading on April 25, 2017, and Second Reading on May 9, 2017. She said the process is tracking with the University House LOMR that has been approved by FEMA with an effective date of May 31, 2017, and will be considered by the Planning Commission and City Council in June.

Council Comments/Questions

Mayor Miller said she is concerned about the elevation of residential and non-residential structures and the term “individual residential structure” only tells people that this is a residential structure. She said the residential structure can be as big as the University House (previously Bishops Landing) and when the Floodplain Committee originally worked on this project there was the idea that if you wanted to build in the floodplain you could raise the elevation and build the structure. If the City is not more specific with that language the City will not have a lot of control.

Councilmember Allison felt it would be discriminatory to allow a multi-family unit, but not allow a single-family unit in the floodplain.

Councilmember Castleberry said part of City Hall is in the floodplain as well as parts of Downtown Norman. He agrees with Councilmember Allison that if a project meets the requirement “to cause no harm” and fixes the problem in the floodplain then that project should be able to move forward. He said Council has to trust the professional engineers if they put their stamp of approval on a project and the type of structure is irrelevant.

Councilmember Hickman said the size of the structure is the issue, not the type of structure. He said University House has less impervious service and less stormwater runoff due to the design than Bishops Landing had. He said there is flooding downstream from this project and there are flooding issues associated with Bishop and Imhoff Creeks so he will not support any changes to the Floodplain Ordinance that will allow more development in core Norman. If the City is going to allow development that impacts these creeks then the structure being built should not be bigger than the structure previously located on the property. He said more impervious surface on a property equals more flooding. He said if redevelopment improves floodplain function, who decides if it improves the function, how is that determined? Ms. Walker said projects come forward to the Floodplain Committee for review so that would be part of what they review to determine if fill would be allowed.

Councilmember Hickman said he would like to Floodplain Committee to consider the impact on creeks, streams, and stormwater infrastructure when reviewing redevelopment/reclamation projects. He said the current ordinance does not address the impact of additional water, if any, because that will have a negative impact on the existing stormwater infrastructure as well as the creeks causing an accumulative effect. Shawn O’Leary, Director of Public Works, said in 2007, a Council Committee completely rewrote the Floodplain Ordinance adopted by Council and one of the things that Committee required is “no rise in the base flood elevation” so engineers on

these types of developments are doing elaborate hydraulic and hydrologic analysis to determine stormwater impact. He said this is really extraordinary and there will not be many developers willing to go to this level.

Councilmember Castleberry wanted to be clear that the current ordinance addresses flow rate and volume so that even if more water is being added to the stream or creek, it is engineered to not raise the water levels and Mr. O'Leary said that is correct. He said the University House actually reduced the impermeable area from Bishops Landing so they are effectively discharging less stormwater runoff.

Councilmember Castleberry said he has the same concern every time Council discusses this ordinance and that is the proposed language that states, "Redevelopment or Reclamation Projects – Projects that propose to reduce flood hazards through the removal of existing non-compliant development and which provide beneficial improvements to the function of the floodplain, including increased storage capacity, reduced velocities and erosion, restored natural functions of the floodplain, and improved discharge efficiency, through appropriate modifications to the existing character and topography of the floodplain." He said language is important so all of those "ands" means a person has to do every single thing one of those things. Mayor Miller said that is correct and Councilmember Castleberry felt that was unreasonable and Council can review projects as they come forward and decide what needs to be done. Councilmember Castleberry said Council wants to encourage those types of things, but to say someone has to do all six of these things is a little much. What if they can do five out of the six or four out of the six? He said this language basically says someone cannot do the project because the City is making it unfeasible. Mayor Miller asked Councilmember Castleberry if he thought these are all good things and Councilmember Castleberry said each one of them is a good thing, but someone should not have to do *all* of them because there could be unintended consequences.

Mayor Miller asked Staff if developers are doing what they need to be doing, would all of these things happen or not and Mr. O'Leary said generally yes all of those would happen with a good project. Councilmember Hickman felt this language gives Council options to consider, but should not be mandatory because some of them may not apply depending on the type of redevelopment.

Mayor Miller said there could be unintended consequence if the City is not careful about how many things they say it is okay for someone not to do in the floodplain. She said Norman has major flooding issues already so if someone is going to redevelop in the floodplain, it needs to be absolutely engineered to the max to make this work. Mr. Bryant said Staff can provide amended language to Council if that is their desire and Mayor Miller and Councilmember Karjala said they are fine with the language.

Councilmember Holman said the downtown shopping center is a primary example of what is being discussed. He said the shopping center is older and the owner has expressed some desire to eventually redevelop and the shopping center is in the boundaries of Center City that suggests it be redeveloped into a more urban design. It is currently entirely concrete so anything built there would not increase the impervious surface, but with this language could a mixed use building be built with commercial on the bottom and residential on top? Mayor Miller said yes, redevelopment could be mixed use with this language and this is a situation where the City would want to make sure the project was highly engineered.

Councilmember Chappel felt the language should be clear because if he was a developer, he would want to know the rules before moving through the long process between applying for a permit to Council's acceptance of the project. He would like to give developers a solid footing early on because they may decide the project is not worth the effort if they have to meet all the floodplain requirements. Mayor Miller would like to know in what type of project it would be okay for the developer to meet four or five of the requirements instead of all. Councilmember Hickman said the developer would have to show they have improved the floodplain system, such

as increasing storage, reducing velocity, reducing erosion, etc., before Council approves the project. He assumes the floodplain function can be improved without having to do all requirements.

Councilmember Heiple said this is good language and asked Council not to tweak it. He agreed with Councilmember Chappel that there needs to be clarity for the developers from the beginning.

Mr. Bryant said when drafting the language, the concept was that there would be beneficial improvement to the function of the floodplain so it may help to clarify language to that effect by adding language that states, "through certified engineering studies" as well as "such beneficial improvements may include, but not be limited to" then listing the requirements as options.

Mayor Miller did not understand why it would be so difficult to ask someone to meet all of the requirements if they are building in the floodplain.

Mayor Miller said there did not seem to be consensus on the language and asked Staff to provide examples of how a developer could use three or four of the requirements versus all.

Items submitted for the record

1. PowerPoint Presentation entitled "Floodplain Ordinance," City Council Conference, dated April 11, 2017
2. Memorandum dated April 6, 2017, from Kathryn L. Walker, Assistant City Attorney, through Jeff H. Bryant, City Attorney, to Honorable Mayor and Councilmembers
3. Legislatively notated copy of draft Ordinance O-1617-34
4. City Council Conference minutes of August 9, 2016
5. City Council Study Session minutes of February 16, 2016
6. City Council Oversight Committee minutes of November 29, 2015, June 18, 2015, February 19, 2015, and January 22, 2015

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The meeting adjourned at 6:28 p.m.

ATTEST:

City Clerk

Mayor