

## CITY COUNCIL CONFERENCE MINUTES

March 26, 2013

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a conference at 5:30 p.m. in the Municipal Building Conference Room on the 26th day of March, 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, Spaulding, Williams, and Mayor Rosenthal

ABSENT:

None

Item 1, being:

### DISCUSSION REGARDING THE CREATION OF THE NORMAN ECONOMIC DEVELOPMENT ADVISORY BOARD AND SUBSEQUENT ECONOMIC DEVELOPMENT POLICY.

The Business and Community Affairs Committee (BACA) began discussions of an Economic Development Advisory Board (EDAB) in July 2012. In subsequent meetings an Economic Development Incentives Policy was discussed. BACA spent a considerable amount of time examining economic development policies from other cities and working towards the creation of a policy appropriate for Norman. Staff is now bringing the EDAB and Incentive Policy to the entire Council for discussion.

Ms. Kathryn Walker, Assistant City Attorney, said Ordinance No. O-1213-42 creating the Norman Economic Development Authority (NEDA) was reviewed by Council at its Conference on July 10, 2012. At that time, Councilmembers directed Staff to move forward in collaboration with BACA to finalize the ordinance and develop a policy that would serve as a guide to the proposed EDAB prior to moving forward.

Ms. Walker said the purpose of EDAB will be to make recommendations to Council regarding proposed economic development policies and programs; aid Council in developing strategies and plans for promoting economic development in the City of Norman; investigate and report on economic development issues as assigned by Council; serve as a forum for economic development policy discussion and education; and assist in identifying assets, resources, and incentives appropriate for furthering economic development within the City of Norman.

Ms. Walker said EDAB will consist of seven members nominated or appointed by Council. At least four members must have "suitable and appropriate knowledge and/or experience" in economics, business, finance, law, policy analysis, and/or community development. The Executive Director of the Norman Economic Development Coalition (NEDC) will serve in a non-voting, ex-officio capacity. Members will serve a staggered three year term.

Ms. Walker said EDAB will make recommendations for action by Council, but ultimately, decisions will be made by Council. EDAB will follow the Open Meetings Act, must have four members present before taking any action, will be forbidden from authorizing or incurring any expenditure of City funds unless authorized and appropriated by Council and members may be removed by a majority vote of Council.

Councilmember Castleberry asked when BACA had discussed EDAB serving as a forum for economic development policy discussion and education. Ms. Walker said that language was in the Norman Economic Development Authority (NEDA) Trust Indenture and Staff copied that language into the ordinance.

Item 1, continued:

Ms. Walker highlighted the development policy components as follows:

#### GOALS AND OBJECTIVES

- Support retention and expansion of existing businesses that contribute to local economy
- Attract businesses in targeted industries that will make significant capital investment in Norman and hire a significant portion of its workforce from Norman
- Promote and provide support for additional business incubators and microenterprises (small businesses)
- Promote and support public/private partnerships (P3's) that contribute to expansion of economic development opportunities in Norman

#### ECONOMIC DEVELOPMENT TOOLS

(Keys: Flexibility and individually tailored)

- Streamlined permitting process
- Waiver of fees (paid by City)
- Facilitation of development of partnerships for training and testing
- Abatement of property taxes (paid by City)
- Infrastructure investment
- Support services for start-up business
- Revolving loan funds
- Technical innovation supports
- Sales tax rebates
- Tax Increment Finance (TIF) districts
- Favorable loan structuring
- Leasing publicly owned facilities to private companies

#### MANDATORY ELIGIBILITY CRITERIA

- Proposal is compatible with adopted plans of the City
- Suitable infrastructure and essential public services exist or can be feasibly added to support the proposal
- Long term environmental impacts of proposal are consistent with City policy insuring long term availability and City's natural resources
- Policy does not apply retroactively to previously approved projects

#### ADVISORY ELIGIBILITY CRITERIA

(Keys: All criteria do not need to be met: proposals evaluated on individual merit and overall contribution to City's economy)

- Targeted industry (identified by Association of Central Oklahoma Governments (ACOG) report
- Significant capital investment
- New jobs paying above average wage and benefits
- Enhancement of the City's image
- Relationship with the University of Oklahoma (OU)
- No serious detrimental effect on an existing business/industry

Item 1, continued:

### EVALUATION PROCESS

- Company submits proposal demonstrating how it meets criteria and will benefit Norman
- Economic Impact Analysis done by City Staff, EDAB, or independent firm whose goal is to evaluate the direct or indirect economic impacts and what the realistic return on an investment would be

### PERFORMANCE STANDARDS

- Performance agreement required to receive monetary incentive
- Agreement must set specific performance goals
- Clawbacks required

### MONITORING AND EVALUATING COMPLIANCE

- Quarterly reports demonstrating progress toward identified performance goals
- Annual compliance evaluation by EDAB
- Compliance report from EDAB to NEDA (Councilmembers)

Councilmember Jungman asked if EDAB will have the authority to convene an Executive Session and Ms. Walker said there is an allowance for that in the Open Meetings Act for certain purposes that would be applicable to economic development projects. Councilmember Jungman said it seems there would be a lot of businesses that could fall under that category and Ms. Walker said allowing an Executive Session was designed to make sure the business is not put in a position where sensitive information could be divulged to competitors. Councilmember Jungman asked if Council would be privy to that information and Ms. Walker said Council can hold a joint Executive Session with EDAB or with Council alone. Councilmember Jungman said the public will eventually want to know what is being proposed and what incentives are being offered. He asked what the public can expect in terms of understanding what incentives are on the table. Ms. Walker said details will be included in a performance agreement that has to be approved by Council. Councilmember Jungman asked if all negotiations will be completed before the public would see that information and Ms. Walker said it would depend on the project. She said in some cases the information could be discussed by EDAB before a performance agreement is drafted.

Councilmember Jungman thought there was language in the policy that stated the City would not pursue retail incentives and Ms. Walker said explicit language is not in the policy. Councilmember Jungman asked if it was a fair statement to say the City is not biasing this policy against retail incentives and Ms. Walker said yes. Ms. Walker said the economic development criteria would make it difficult for a retail business to obtain incentives or sway Council. Councilmember Gallagher felt retail businesses are critical because the City cannot widen their tax base in the community without good, sufficient retail. Councilmember Gallagher said most retail businesses do not meet the wage and benefit criteria and Ms. Walker said the criteria is worded to allow flexibility to consider all types of proposals.

Councilmember Kovach said if a project came forward, could Council direct EDAB to give their opinion on the project even if it did not meet the criteria and Ms. Walker said yes, one of EDAB's duties includes serving as a forum for economic development policy discussions and investing and reporting on issues as assigned by Council so there is some latitude for that.

Item 1, continued:

Councilmember Kovach asked Ms. Walker to explain how conflicts of interests would be handled by the ordinance and Ms. Walker said EDAB would fall under the City's Ethics Policy so if a member had a personal interest in a project, they would have to recuse themselves and not participate or be present during the discussion. Councilmember Gallagher said the qualifications for EDAB members cover the entire pinnacle of businesses so the concept of a member having a close relationship with a project could easily arise. Mayor Rosenthal said the easiest fix for that is to increase the board from seven members to nine members then five becomes the minimum to act.

Councilmember Gallagher said the evaluation process mentions an economic development analysis being done by Staff, EDAB, or an independent firm, but felt an independent firm would not be necessary if EDAB has the proper board makeup. Ms. Walker said that language was included because BACA desired some flexibility to allow for that, but EDAB has no money to spend so they would have to come to Council to get an appropriation to allow hiring an independent firm. Mayor Rosenthal said there will be occasions where certain expertise is not necessarily embedded in the membership of EDAB and an independent assessment would be needed from a firm familiar with that type of business.

Councilmember Castleberry asked if there will be clawbacks and if incentives will be given up front or at the end of a project. Ms. Walker said incentives will be structured so money will not be given up front, but given as the business performs.

Councilmember Jungman asked who is authorized to make an incentive offer and Ms. Walker said EDAB can offer their opinion of what they believe Council might approve and Council will be kept up-to-date so Council can give EDAB an idea of what their latitude might be. Mr. Jeff Bryant, City Attorney, said City Staff will be working closely with EDAB and EDAB or Staff would make an offer subject to Council approval. Mayor Rosenthal said each step of the way will have a detailed negotiation process with lots of Council input.

Ms. Joy Hampton, The Norman Transcript, said it seems like things have shifted. She said sometimes a deal has to be made very, very quickly; therefore it needs to go to the decision makers, which would be Council. Another concern is Executive Session, which is an issue with public knowledge and she thought there would be no separate Executive Sessions and EDAB would meet concurrently with Council acting as NEDA. She said if EDAB brokers a deal and Council rejects it, credibility will be lost. She said the process seems to have become long and ungainly. Mr. Bryant said the process needs to be fluid so if there is a short timeframe, the business may want Council and EDAB to meet together in Executive Session because of time constraints and that would be a possibility under the Open Meetings Act. He said if there is more time to negotiate, Staff will try to take the lead in negotiations and those negotiations could go through the City Manager's Office, Planning Department, or Legal Department. Mayor Rosenthal said, for clarification, the request for an Executive Session would come from the applicant because of proprietary information as opposed to the choice of EDAB just because they want to talk and Mr. Bryant said that is correct. Councilmember Lockett said these types of negotiations often involve some proprietary information and businesses do not want to give out information that could be useful to their competitors and the City has to respect that. Councilmember Gallagher said there is no reason Council cannot sit in the Executive Session since Council makes the final decision, which would simplify the process. Councilmember Castleberry envisioned Council holding an Executive Session and inviting EDAB as Council's advisors.

Councilmember Williams asked the negatives of holding a joint Executive Session and Mr. Bryant said there is no negative. He said each proposal will be different, but if there is a project with a short timeframe and it would be easier to hold a joint Executive Session, that would be allowable.

Item 1, continued:

Councilmember Gallagher asked Mr. Don Wood, Executive Director, NEDC, if prospective businesses come in with such a short timeframe that NEDC has to rush to get information together. Mr. Wood said he signed a nondisclosure ten days ago and the company was in town yesterday and will make a decision the first of the week so businesses can move very quickly. He said there is another business NEDC has been working with for three years so there is also a big variance.

Ms. Cindy Rogers, 633 Reed Avenue, asked how EDAB will do an economic analysis in a short timeframe when they are volunteers with full time jobs. Mayor Rosenthal said once the ordinance is established, Council may wish to ask specifically for recommendations on economic analysis tools and that could be EDAB's first order of business.

Councilmember Kovach said the ordinance and policy are a step in the right direction in getting started.

Mayor Rosenthal asked Staff to move the ordinance and policy forward to a Council meeting. Ms. Walker said the ordinance can go to First Reading and the policy can be scheduled at the same time as Second Reading of the ordinance.

Councilmember Williams said selection of board members will be done by appointment just like other boards and commissions; however, there are Commissions that have a different process and asked how the EDAB selection process will occur. Mayor Rosenthal said applications will be submitted and a slate of nominees that fit the criteria will be forwarded to Council for review. Councilmember Williams felt the selection process should be discussed in public prior to an appointment being placed on the Council agenda. He said he did not want to be put on the spot of arguing over whether or not to appoint a person in front of them and the public in a regular Council meeting. Councilmember Williams asked what would happen if Council did not like one person out of the seven, but the vote was five to four approving the appointments. Ms. Hall said the vote must be unanimous if the item is on the Consent Docket; however, the item can be pulled off consent, discussed, and voted on. Councilmember Kovach suggested individually nominating appointees instead of as a group. Mayor Rosenthal said applications are welcome and encouraged and the goal is to put together a balanced group.

Items submitted for the record

1. Memorandum dated March 21, 2013, from Kathryn L. Walker, Assistant City Attorney to Honorable Mayor and Councilmembers
2. Draft Ordinance No. O-1213-42
3. Draft Economic Development Incentive Policy
4. Business and Community Affairs Committee minutes of July 5, 2012; August 2, 2012; September 6, 2012; October 4, 2012; November 1, 2012; and December 6, 2012
5. City Council Oversight Committee minutes of November 14, 2012
6. PowerPoint presentation entitled "Economic Development," Council Conference, March 26, 2013

Item 2, being:

**DISCUSSION REGARDING A PROPOSED CONTRACT WITH REPUBLIC TO PROVIDE A CURBSIDE RECYCLING PROGRAM.**

Mr. Ken Komiske, Director of Utilities, said a Study Session was held on February 5, 2013, regarding the curbside recycling bids and services offered. At that time it was the consensus of Council that the City purchase the 95-gallon polycarts that will be used for the recycling service. He said the 95-gallon polycarts are similar to the polycarts used for solid waste disposal except the recycling polycarts will be blue with the recycling logo and City information on each one.

Mr. Komiske said Allied Waste/Republic was the lowest bidder and the bid adds cardboard, chipboard, and plastic bags to the already accepted materials of plastics, paper, newspaper, phone books, and glass. He said the City can make the transition without adjusting rates charged to citizens. He said the recycling trucks will be single streaming trucks so there is no sorting of materials at the pickup point. Allied Waste will begin this service on August 5, 2013.

Ms. Walker said Council had given Staff specific provisions for the contract regarding customer service. She said the contractor will provide initial customer education as well as on an ongoing basis; polycarts will be delivered with an initial welcome packet attached; and education tags will be provided to customers who recycle the wrong materials, place them in the wrong location, or place materials outside of the polycart. The contractor will clean up any recyclable materials spilled or blown around during the course of collection and/or hauling operations.

Ms. Walker said the contractor will have an office in the metro area staffed to receive phone calls during collection hours. All complaints must be logged to include the nature of the complaint, name, address, contact number, date received, contractor response time, date and time of response. If the contractor received a complaint about a missed stop before noon, they will complete collection the same day and if the complaint is received after noon, the collection will be done by noon the next day. The City must be notified if the contractor is unable to complete service during collection hours on a given day, the reason for non-completion, and expected time of completion.

Ms. Walker said monthly reports of performance measures will be submitted to the City to include participation rate; average weight of recyclables per container; total quantities of recyclables collected by material type; net quantities of recyclable marketed by material type; quantities of process residuals (non-recyclables) disposed; recycling service fee; log of all complaints and associated details; and log of all resident addresses where education tags were left due to contaminated materials. Annual meetings with Staff to review performance and discuss recommendations for programmatic improvements are mandatory.

Ms. Walker highlighted contract penalty provisions associated with failure to meet performance criteria.

Mayor Rosenthal said she appreciated the details on performance and customer service provisions.

Councilmember Kovach said one subject of previous discussions was a recycling program for multi-family housing. He said if Council decides to move forward with a multi-family housing program, would a new Request for Proposal (RFP) have to be issued? Ms. Walker said Allied Waste has agreed to hold their bid on multi-family so that if the Council decides to implement the service in the next five years, there will be a bid on file for that service. Councilmember Kovach said the bid is to allow for multi-family, but it would cover *all* multi-family units so if Council wanted to know what price would be charged for individual complexes, would a new RFP need to be issued? Ms. Walker said that could be considered as a potential amendment to the contract.

City Council Conference Minutes

March 26, 2013

Page 7

Item 2, continued:

Items submitted for the record

1. File No. K-1213-180 dated March 20, 2013, by Kathryn Walker, Assistant City Attorney
2. Contract No. K-1213-180
3. PowerPoint presentation entitled "Recycling," Council Conference, March 26, 2013

Participants in discussion

1. Mr. Ken Komiske, Director of Utilities
2. Ms. Kathryn Walker, Assistant City Attorney

The meeting adjourned at 6:26 p.m.

ATTEST:

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City Clerk

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Mayor