

CITY COUNCIL STUDY SESSION MINUTES

October 2, 2012

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a study session at 5:30 p.m. in the Municipal Building Council Chambers on the 2nd day of October, 2012, 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 24 hours prior to the beginning of the meeting.

PRESENT: Councilmembers Castleberry, Gallagher, Griffith, Jungman, Lockett, Williams, Mayor Rosenthal

ABSENT: Councilmembers Kovach and Spaulding

Item 1, being:

DISCUSSION REGARDING THE DRAFT ORDINANCE AND RESOLUTION OUTLINING COUNCIL MEETING PROCEDURES.

Mayor Rosenthal said Council will be reviewing the draft ordinance and resolution outlining City Council meeting procedures. She said the meeting is a work session and the public will be allowed to ask questions at the end of the meeting; however, this is not a public meeting so statements or comments will not be taken. She said discussion will begin with the draft ordinance, which is fairly straightforward and Ms. Brenda Hall, City Clerk, will highlight changes or additions to each section of the resolution.

Section 2-104. Council Meetings: Classification, place, time, continuances

Ms. Brenda Hall, City Clerk, said the meeting time for regular City Council meetings is the only item that is codified relative to meeting procedures. She said the meeting time for regular Council meetings is proposed to change from 6:30 p.m. to 6:00 p.m. and if the ordinance is adopted, it will go into effect in thirty days. Councilmember Castleberry asked if there is a way the ordinance could become effective immediately and Ms. Hall said Council can adopt an ordinance with an emergency clause; however, the emergency clause is typically used if it affects the public safety and the welfare of the citizenry. Mayor Rosenthal said with Council's concurrence, the ordinance will go to First Reading on October 9, 2012. The consensus of Council was to move forward with the ordinance.

Sections 6 and 7

Ms. Hall highlighted the draft resolution and said Section 2 reinforces the current House Rules-Code of Conduct. Section 6 will require all citizens wishing to address City Council to sign in prior to the beginning of the meeting including their name, home address, and the agenda item number in which they wish to speak on. She said the sign up sheet would be available at the back of the room and given to the Mayor at the beginning of the meeting. The Mayor will then call upon each person respectively when the item is being discussed. Councilmember Gallagher said he did not see how Council could stop a citizen from speaking if they came to a meeting and wanted to speak, but had not signed up or was late to the meeting and the sign up sheet was no longer available. He felt this would be a major problem and the City should have a way to accommodate those citizens or not have the sign up sheet. Ms. Hall said, in previous discussions, Council had expressed a desire for flexibility to allow those who did not pre-register to speak. She said language could be added to Section 6 to indicate the flexibility, but Section 13 has a provision for Council to temporarily suspend any of the rules outlined in the resolution. Councilmember Gallagher suggested deleting Section 13 and adding that language to Section 6. He suggested that if someone comes in late and did not sign in they could raise their hand to speak on an item or write the question down to give to a staff person. He said Council meetings function to hear the public speak. Mayor Rosenthal suggested adding the language to Section 7, which would allow the Mayor to call upon speakers who have not signed in, but wish to speak to an item.

Ms. Hall said most cities have a provision to allow citizens to address Council whether or not they sign up. She said the sign up sheet will assist Staff in getting the correct spelling of names and addresses of those speaking, which is sometimes difficult. She said it would also allow the Mayor to determine if an item is going to generate a lot of discussion. Mayor Rosenthal said the Planning Commission has a sign up sheet and asked what happens when someone has not signed up and wishes to speak and Ms. Hall said the Planning Commission has a Staff person sitting in the back of the room who takes names of persons wanting to speak during the meeting and submits them to the Chair of the Commission prior to the item they wish to speak on. Councilmember Jungman said he did not know what the resolution is trying to accomplish. He said it has been suggested to Council that meetings be more efficient, but felt the resolution was silly and unnecessary. He supported using time more wisely, but felt that not listening to people speak when it is their First Amendment right is unwise and he is not going to step on the people's right to address their government. He asked who would enforce the ordinance as he did not want to and did not think the Mayor wanted to either so if no one is going to enforce it then why have the rule.

Councilmember Castleberry said if exception language is in Section 13 only, would that apply to all sections of the resolutions. Mr. Jeff Bryant, City Attorney, said yes, Section 13 language is broader to apply to all sections so if an exception needs to be made Council has authority to do that. Councilmember Castleberry suggested language in Section 13 be changed to allow the Mayor or three votes of City Council, to allow an exception opposed to current language requiring a majority of Council to temporarily suspend the rules. He said he would like applicants as well as the public to be able to say what they want to say. He said he wants to make sure everyone has an opportunity to address Council, but he can see the standpoint of trying to eliminate multiple people repeating things. Ms. Hall said, by Charter, any action taken requires an affirmative vote of five Councilmembers. She said the Mayor could ask for Council concurrence with the agreement of three Councilmembers and majority vote of the Council. She said language was placed in the resolution to mirror Charter language. She said the Mayor could always make a statement with Council's concurrence she would allow additional speakers and unless there was an objection, the speakers would be allowed to speak. Mayor Rosenthal said it would be similar to changing the order of the agenda where she announces the change and asks if Council has any objections. Councilmember Castleberry said he would be fine with that as long as it is written because the next Mayor may not so courteous.

Councilmember Williams said he would rather limit people to a timeframe than not allow them to speak. He said the only reason he would agree to a sign up sheet is to call people forward in the order they signed up to be more organized. He said he does not know anyone that can have all their questions or comments predetermined. He said if there were a way to have a sign up sheet and allow people to speak if they did not sign up, he would be supportive of that. He said he agrees with limiting speakers to an allotted amount of time as he felt they would be better prepared with questions or comments knowing they had a limited amount of time to speak. Councilmember Gallagher said instead of the putting the decision solely on the Mayor's shoulders, the Council should be involved in some way.

Councilmember Griffith said some presentations made to Council are for the public's benefit as well as Council's and while Council has seen the information before, the public has not. He said he likes the idea of a sign up sheet as he feels it will improve order and efficiency. He suggested adding language in Section 7 giving the Mayor the authority to recognize citizens that have not signed up.

Section 8

Ms. Hall said Section 8 sets time limits of three minutes for any item on the consent docket and five minutes for non-consent items. She said applicants and City Staff would be limited to fifteen minutes and individuals would be able to speak only one time per Council action. She said there is language in the resolution to prevent individuals from repeating comments of previous speakers and would not be allowed to transfer unused time to other speakers. She said time used to respond to questions would not be part of their allotted time. She said there is a provision allowing time limits to be increased by a majority vote of the Council, which would help address more controversial or complex items where applicants may need more time for their presentation. Councilmember Jungman said giving applicants

Section 8, continued

fifteen minutes to speak and members of the public five minutes, seems unfair since Council is not affording the public the same opportunity to address issues. He feels that, currently, everyone gets a reasonable amount of time to say what they want to say without time limits and on average meetings are three and one-half hours long, which is not that long. He said if time limits are enacted, he would be in favor of everyone getting the same amount of time, whatever that may be.

Councilmember Lockett said each project is different and some projects are very complicated so the applicants need more than fifteen minutes to make their presentation and answer Council's questions. She said applicants should tell Council at the beginning of their presentation that they need more than fifteen minutes and allow Council to vote to extend the time. Councilmember Griffith asked if Councilmembers could request applicants or speakers be given additional time and Ms. Hall said the Councilmember could present that request to the Mayor and she could then ask for Council's concurrence or additional time could be given by a majority vote of Council. Councilmember Griffith felt that would solve the problems regarding applicants needing more time.

Councilmember Castleberry said his main concern is addressed in the resolution and that is everyone has equal time. He wanted Council to keep in mind the applicant has a right to due process more than the person opposing it. He said anyone opposing the project will have the opportunity to speak so there is balance. Councilmember Jungman said if the resolution is saying applicants have more rights than those that oppose them, that is insanity. He said opponents have different, but equal rights. Councilmember Castleberry clarified his previous comment to say the applicant has different rights, being the right to due process, not more rights. Ms. Hall said that is certainly not the intent of the language. She said several years ago, Staff presented projects for applicants, but Council changed that to require applicants to present their own projects, but that does not mean they have more rights. Mayor Rosenthal said part of the desire to have Staff not make presentations was to get Staff out of the middle of seeming to be advocates for a project. Council felt advocacy should come from the applicant.

Section 9

Mayor Rosenthal said Section 9 is amended to address matters presented to Council during miscellaneous discussion that may require information or further investigation. She said questions will be referred to Staff for follow-up with the individual outside of the formal meeting or after the meeting has adjourned. Ms. Hall said this section will allow follow up without Council having to debate an issue without proper notice on the agenda.

Section 10

Ms. Hall said Section 10 will require individuals wanting to share audio or video materials to submit those items 24 hours in advance. She said all presentations are entered into the computer and merged into one PowerPoint so material will flow from one item to the next without disruption. She said having material in advance helps Staff prepare the presentation.

Section 11

Ms. Hall said Section 11 sets aside a portion of the pre-meeting Conference to allow Staff to respond to questions and/or provide supplemental information on items on the Consent Docket. She said this will help address questions and routine items in a more efficient manner, but would not apply to non-consent items. Councilmember Gallagher said a lot of consent items deal with projects that are expensive and the public benefits from hearing about the projects and how the City spends taxpayers' money. Ms. Hall said this rule would not preclude Council or the public from asking questions on consent items during the Council meeting, it is simply to answer technical questions from Staff prior to the meeting. Mayor Rosenthal felt Section 11 would take care of routine matters in pre-conference that would otherwise lengthen the main meeting.

Wrap Up

Councilmember Jungman said it is not reasonable to do the people's business in the middle of the night and it may violate the Open Meetings Act because it makes the meeting inaccessible. He said Council could declare a four hour maximum meeting time where after four hours nothing new is discussed and the meeting continues with miscellaneous discussion. He said another problem he sees is that the Mayor is basically on an island by herself when it comes to running the meetings and that is not fair. He said Councilmembers can solve that by simply paying attention and raising a Point of Order if someone is repetitive, off topic, or violates the House Rules. He said time limits are silly and he cannot support the resolution as written.

Councilmember Williams said an overall meeting time limit puts some applicants at a disadvantage because they may not get to present their project further delaying the project and many times applicants have deadlines to meet. He said the resolution is good even though he does not like limiting people to speak, but felt that can be solved by the exception provision. Councilmember Lockett said delays are an added expense to the applicant and it is not fair to them that the Council meeting has a time limit and time ran out before they could make their presentation. She suggested having a once a month Town Hall meeting where people could ask questions and express concerns.

Councilmember Gallagher said to shorten meetings, Council should consider weekly Council meetings. He said he did like the concept of making rules mandatory. He said he liked the meeting time change to 6:00 p.m., but felt Council needed to take a more analytical look at the resolution and have further discussions. He suggested reminding applicants as they come forward to hold their presentation to fifteen minutes as a courtesy and see how that worked for a couple of meetings. He said Council and Staff are just as guilty as anyone of speaking too long on an item. He said he cannot support the resolution at this time.

Mayor Rosenthal said the original House Rules were adopted in 2005 and although there were cell phones and pagers at that time there was no major form of communication like text messaging. She said the members of the public have asked about Councilmembers receiving texts at the dais and asked Mr. Bryant if that is a violation of the Open Meetings Act in terms of communication which is not available to the general public. Mr. Bryant said he has not seen any cases defining that specifically, but it would be guided by the general goal of the Open Meetings Act which is to make sure the public's business is done in the light of day and in the public. He said if Council is text messaging or e-mailing about a particular item on the agenda that would create a problem where the discussion is not being held in public. It would be his advice not to text message or e-mail about any item on the agenda being discussed in a public meeting. Mayor Rosenthal suggested adding language to the resolution to silence cell phones and pagers and refrain from taking messages other than those that might constitute a personal emergency while conducting public business. Councilmember Lockett said many businesses are restricting employees from using cell phones during meetings so it is a growing concern.

Councilmember Gallagher asked Mr. Bryant if he were to text another Councilmember the day before the Council meeting, would that be the same thing as texting during the meeting and Mr. Bryant said texting the day before is different. The idea is not to text or e-mail other Councilmembers during a meeting where the Council is together. Mayor Rosenthal said it would be interesting to know if there were any cases specific to this issue. Councilmember Williams said Councilmembers get e-mails prior to the meeting from the public or Staff and asked how that differs from receiving those e-mails during a meeting. Mr. Bryant said that depends on whether Council is in a meeting conducting City business. He said if Council receives an e-mail from the public before the meeting that would not be considered as an electronic meeting. Councilmember Williams asked if he received an e-mail during the meeting and asked the question posed in that e-mail would that be a violation and Mr. Bryant said probably not, but Staff will do additional research for Council's review. He said it is best for Council not to text each other during meetings with comments about items they are deliberating.

Wrap Up, continued

Ms. Joy Hampton, The Norman Transcript, felt if there is a sign up sheet, the public would be more apt to speak since the Mayor would call upon them. She said if a person is shy or older and not as agile getting to the dais as others, it would seem more likely that they would not speak even if they wanted to.

Ms. Jeannette Coker, 620 East Main Street, asked if Council is trying to intimidate people or encourage participation. She said every hurdle intimidates people not to speak. If they have to sign up that is a decision they have to make and they may decide not to sign up because they do not know if they will want to speak. She said the more formal the procedure, the more intimidated the public feels. She asked if there is a long list of people signed up, will Council change the amount of time allotted and what about the order of the meeting as far as having audio or video material? She said she does not understand the repetition issue, because someone may agree with other person's comments so will they be allowed to stand up and say they agree or will Council not be interested to hear that person because they are being repetitious?

Mr. Steve Ellis, 633 Reed Avenue, asked how various Councilmembers see the point of the City Council meetings as the rules seem to be predicated on that. Is the point to dispose of business or the transfer of information and how does that transfer of information flow? Between Staff and Council or Council and public or public and Staff, etc? He asked what role public comments play in the Open Meetings Act, why time limits are different for consent items versus non-consent items, and why the public is limited to five minutes in miscellaneous discussion, but Council has no limit. Ms. Hall said consent items have to be unanimous to remain on consent so they tend to be routine items that do not generate much discussion. She said the additional time on non-consent is because those items may be a public hearing zoning type item or more complex items that may involve more questions from the public and Council. Mayor Rosenthal said a single Councilmember can request an item be removed from the Consent Docket if they feel more discussion is necessary.

Items submitted for the record

1. Memorandum dated September 20, 2012, from Brenda Hall, City Clerk, to Mayor and City Councilmembers
2. Draft Resolution No. R-1213-58
3. Draft Ordinance No. O-1213-16
4. List of Norman City Council Meetings, Duration, and Possible Time Restraints prepared by Councilmember Jungman

Participants in discussion

1. Ms. Brenda Hall, City Clerk
2. Mr. Jeff Bryant, City Attorney
3. Ms. Joy Hampton, The Norman Transcript
4. Ms. Jeannette Coker, 620 East Main Street
5. Mr. Steve Ellis, 633 Reed Avenue

The meeting adjourned at 6:50 p.m.

ATTEST:

City Clerk

Mayor