

CITY COUNCIL OVERSIGHT COMMITTEE MINUTES

November 14, 2012

The City Council Oversight Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 5:30 p.m. in the City Council Conference Room on the 14th day of November, 2012, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray 48 hours prior to the beginning of the meeting.

PRESENT:	Councilmembers Castleberry, Jungman, Lockett, and Chairman Kovach
ABSENT:	Councilmember Spaulding
OTHERS PRESENT:	Councilmember Jim Griffith, Ward Six
STAFF PRESENT:	Mr. Jeff Bryant, City Attorney Mr. Jud Foster, Director of Parks and Recreation Ms. Brenda Hall, City Clerk Mr. Steve Lewis, City Manager Ms. Kathryn Walker, Assistant City Attorney Mr. Scott Sturtz, City Engineer Ms. Syndi Runyon, Administrative Assistant IV

Item 1, being:

DISCUSSION REGARDING SERVING CONCURRENTLY ON CERTAIN BOARDS, COMMISSIONS, AND COMMITTEES AND POTENTIAL TERM LIMITS FOR SUCH BOARDS, COMMISSIONS, AND COMMITTEES.

Ms. Kathryn Walker, Assistant City Attorney, said there had been discussion regarding whether or not sitting members of appointive boards and commissions were eligible to serve concurrently on ad hoc committees and other boards and commissions. She said the City of Norman Code is not clear on that issue and some Councilmembers have expressed a desire to amend the ordinance to explicitly allow concurrent service on ad hoc committees and other standing boards and commissions. She said the draft ordinance for the Norman Economic Development Advisory Board (NEDAB) addresses this issue.

Ms. Walker said Chapter 4, Section 4-105(a)(5) of the Code states, "Except as otherwise provided in this chapter, members of appointive boards and commissions shall, at the time of their appointment: Not be a member of another appointive board or commission." She said the NEDAB draft ordinance language states, "Except as otherwise provided in this Chapter, member of appointive boards and commission shall, at the time of their appointment not be a member of any other appointive board or commission referenced in this Chapter except that potential members of the Economic Development Advisory Board shall not be disqualified from service on that Board due to service on other Boards or Commissions of the City of Norman." Ms. Walker felt the NEDAB language would clarify that a citizen can only serve on one of the boards and commissions referenced in Chapter 4 with the exception of NEDAB, but would not be similarly limited in their service on other committees.

Council also discussed placing term limits on some or all of the boards, commissions, and committees. Ms. Walker said terms on boards and commissions vary with most being three year terms. She said some ad hoc committees have no term lengths and the Historic District Commission, Children's Rights Commission, Board of Appeals, and Norman Convention and Visitors Bureau have specific requirements regarding board members. She said Historic District Commission requirements are codified and have term limits in the ordinance, but they are the only committee, board, or commission that has explicit term limits.

Item 1, continued:

Chairman Kovach asked what those term limits are and Ms. Brenda Hall, City Clerk, said three terms of three years for a total of nine, but members may serve again after a one year break.

Concurrent Service

Chairman Kovach felt Council should allow concurrent service on other boards, commissions, and committees, but limit the number a person can serve on and suggested no more than three. Councilmember Lockett was concerned about citizens serving on three boards closely tied to the same issue because she would not want two or three people monopolizing the discussions. Chairman Kovach said he did not fully agree and explained that a citizen may be serving on two water related boards, then apply to serve on the Wastewater Oversight Committee and due to their technical expertise, the Council may want them on all three boards. He felt this issue could be addressed at the time of the appointment and Councilmember Castleberry agreed. Councilmember Lockett said the "volunteer" field is getting pretty slim and urged Councilmembers to actively seek people to serve on boards. Chairman Kovach said one way to do that is for Council to receive earlier notification of upcoming vacancies.

Councilmember Jungman asked how many boards a citizen can currently serve on and Ms. Walker said there is not an explicit limit. She said language in Chapter 4 seems to indicate a person cannot serve on an appointive board or commission and be a member of any other appointive board or commission, but "appointive" is not clearly defined. Mr. Jeff Bryant, City Attorney, said the language does not state "ad hoc committee," it just states board or commission. He said if someone serves on an ad hoc committee this language would prevent them from serving on another board or commission. Chairman Kovach asked if Council agreed on a number they could state that a person could only serve on "x" number of boards or commissions and Mr. Bryant said yes. Councilmember Griffith suggested a person could serve on one appointive board or commission and no more than two ad hoc committees and Councilmembers felt that was fair. Councilmember Lockett said she would like Councilmembers to have more involvement in appointments. Councilmember Griffith said finding applicants is the hard part.

Chairman Kovach asked how many ad hoc committees the City has and Ms. Hall said there are five oversight committees and approximately eight committees not listed in Chapter 4. She said there are boards set by ordinance or Charter that are not referenced in Chapter 4 such as the Reapportionment Commission. They are not listed in Chapter 4, but are ongoing boards or commissions that are not ad hoc in nature. Councilmember Castleberry asked how committees created by Charter will be dealt with and Mr. Bryant said since the restrictive language is only in Chapter 4, then someone could serve on a committee created by Charter and also serve on a committee in Chapter 4. Ms. Hall said the only committee created by Charter that is not also in Chapter 4 is the Reapportionment Commission.

Mr. Bryant said if language is changed to limit concurrent service restrictions to boards created by Chapter 4, that would take care of the problem. He asked if Councilmembers wanted to restrict service on no more than two ad hoc committees and Chairman Kovach said yes, but suggested a total of three and not stipulate ad hoc. and Councilmember Lockett said she did not believe someone serving on three committees is a big problem since that has not happened to date. Councilmember Jungman said he would rather have no restrictions.

After further discussion, Chairman Kovach said consensus seems to be to delete language in Section 4-105(a)(5) and have no restrictions on the number of boards a person can serve on.

Item 1, continued:

Term Limits

Chairman Kovach said some committees have applicants waiting in line to serve while others have no one waiting to serve. He said there are certain committees created as oversight of public safety sales tax or Tax Increment Finance Districts (TIF) and having someone on the committee that has served from the beginning is extremely beneficial to the committee. He asked Councilmembers to be mindful of those things. He said Councilmember Griffith served on the Parks Board for years and asked his thoughts on the subject. Councilmember Griffith felt institutional memory is very important. He said the Parks Board dealt with many controversial issues over the 18 years he served. He could see the value of term limits, but at the same time he could see the value of retaining quality people who are passionate about a board or commission. He said when there is a board or commission with a lot of interest, turnover is probably valuable, but in some instances where oversight is important he was unclear why Council would want to rotate people through that may have interest, but do not have a historical memory to contribute to that board or commission.

Councilmember Lockett said constituents complain more about the number of years served rather than the number of boards served on. Chairman Kovach felt that was a broader conversation that could include a flexible, informal policy. Councilmember Castleberry said, currently, if the Mayor does not appoint someone new then the existing person serving continues to serve so that person is basically serving on that board for as long as the Mayor wants. He said that takes Council out of the appointment process when the process is supposed to be the Mayor appointing with approval of Council. He said this situation creates an impasse and term limits could take care of that. Councilmember Jungman was concerned that the more Councilmembers are involved in appointments, the less agreement there will be and felt the current process is more efficient.

Chairman Kovach suggested a limit of two complete terms with a provision that if there is no one waiting to be appointed to a board, there is the option to reappoint. Councilmember Griffith suggested citizens on every board or commission be reappointed with approval of Council so the Mayor cannot just let a person continue to serve without Council approval. Councilmember Castleberry said if someone is not appointed or reappointed, the vacancy could cause problems with the process of the board. Mr. Steve Lewis, City Manager, said there is a provision that allows a person to continue to serve so the board or committee can continue to meet and have a quorum. He said this is a type of safety net to keep the committee going, which benefits the committee in staying active. Mr. Bryant said most of the committees are advisory committees so the quorum could be a majority of the positions filled, then the committee would not be affected by a vacancy.

Councilmember Lockett said some of these problems could be alleviated if Council had a 60 day notice of vacancies and Ms. Hall said she recently began doing that by sending Council a list of board members and when their term expires in the City Manager's Weekly Report. Chairman Kovach suggested language be added to allow Council to appoint someone if no one is appointed 60 days after a vacancy. Councilmember Lockett said Council gets sufficient notification, but does not act on that until an appointment is placed on the agenda. She said Councilmembers need to take responsibility to start looking for people to serve on committees. Chairman Kovach said there is a difference in being notified of a vacancy and seeing the Mayor's nominations. He said there should be sufficient time between the Mayor's nomination and when it is placed on the agenda to allow Council more time. Ms. Hall said she is working with the Mayor to provide Council more notice and that could be accomplished.

Item 1, continued;

Councilmember Castleberry asked if language could be added in the ordinance that an appointment must be made within 30 days of an expiring term and Chairman Kovach suggested, "The Mayor shall nominate or reappoint within 30 days, etc." Chairman Kovach said "nomination" could be a new appointment or reappointment. Councilmember Lockett encouraged Council to speak to the Mayor if they have someone in mind for a committee. She said the Mayor has always been accommodating to her suggestions. Ms. Hall cautioned Council about codifying such language because getting a nomination is not always easy and in some circumstances there may not be anyone to appoint. She said language could be placed in the unofficial policy. Councilmember Griffith suggested language specifying if there are no applicants, the seated person is nominated by default.

Councilmember Jungman said the process needs to be as nominee friendly as possible and trying to give Council more authority in the process makes it less nominee friendly because it becomes much more political. He said if Council is flexible on the number of boards a person can serve on then they need to be flexible on term limits as well.

Mr. Bryant asked if consensus is for the Mayor to nominate someone for an appointment 30 days prior to the expiration of their term and Chairman Kovach said yes. Councilmember Lockett said if Council does not contest the nomination within 60 days, the Mayor has every right to expect that nomination to be approved once placed on the agenda. Ms. Hall asked if Council wanted a 60 day notice prior to term expiration with the Mayor nominating someone 30 days prior to a vacancy and Councilmembers said yes.

Councilmember Jungman said if Council comes to an impasse on an appointment there are not enough rules to work that out. He said if Council makes a rule that a reappointment must be voted on then that means Council could vote no on a volunteer and he is not willing to make a policy that would require him to vote no on an appointment. He said if Councilmembers feel the need for a rule about when things are being placed on the agenda so they know what to expect, he can respect that. Councilmember Castleberry said he is wanting a tie breaker rule to move past an impasse and Councilmember Jungman said the only tie breaker would be that if Council does not protest an appointment, that nominee is automatically seated. Councilmember Griffith said he agreed with Councilmember Jungman and if an appointment makes it to the agenda stage, it should be approved.

Councilmember Castleberry asked what Council can do if they are against an appointment, but the Mayor moves forward anyway. Councilmember Jungman said he has never been aware of that happening. He said a good Mayor would never put a nomination on the agenda that the majority of Council has expressed disapproval of and Council seems to be making rules for problems that have never occurred and Councilmember Lockett agreed. Chairman Kovach said the Mayor has previously placed a nomination on the agenda that five Councilmembers explicitly said they did not want. He said Council pulled the nomination, but after consideration reversed their decision and approved the appointment. He said it is not an impossible scenario where a majority of Council has asked for something to happen and the Mayor passively overrides them. He said the entire Council should have a broader policy discussion on how to avoid these types of situations.

Councilmember Jungman asked if a Councilmember could pull a nominee off the consent docket if they had a problem with the nomination and Ms. Hall said yes, the entire item would have to be pulled off consent. Councilmember Jungman said, currently, five Councilmembers that oppose a nomination have authority to kill it and if a Councilmember is willing to take on the responsibility of pulling a nominee off the docket at an open meeting that is their choice.

Item 1, continued:

Chairman Kovach said there seems to be consensus to move forward with a 60 day notification of a vacancy with the Mayor's nomination being 30 days prior to term expiration, but he would like broader discussion scheduled in a Council Conference as soon as possible. Councilmember Castleberry asked if language would be codified and Ms. Hall said the downside to codifying the language is the scenario where there is no applicant other than the current seated person. Mr. Bryant suggested the Mayor give Council a 60 day notice of a vacancy, give Council 30 days to make their own nomination and if there are none, the Mayor makes a nomination, which could be a reappointment. He encouraged Council to let the Mayor know of any objections, which would start discussion to reach consensus. Ms. Hall said she would incorporate language into the general guidelines for board, commission, and committee appointments and circulate that to Council.

Items submitted for the record

1. Memorandum dated November 6, 2012, from Kathryn L. Walker, Assistant City Attorney, through Jeff H. Bryant, City Attorney, to Members of the Council Oversight Committee
2. City Council Conference minutes of July 10, 2012
3. Draft Ordinance
4. Boards, Committees, Commissions List
5. Boards, Committees, and Commissions Additional Information summary
6. Members Serving on Multiple Boards/Commissions/Committees

Item 2, being:

DISCUSSION REGARDING RECREATIONAL SPORTS PROGRAM CONTRACTS.

Mr. Jud Foster, Director of Parks and Recreation, said there are five groups and six programs that contract with the City for use of sports fields. He said the Optimist Club has two programs and the other groups include Norman Youth Soccer Association, Norman Amateur Softball Foundation, Norman Football Academy, and Little Axe Youth Sports Association. He highlighted the contract similarities and differences. He said all groups provide workers compensation and liability insurance; trash removal; field marking; annual reports; and 100% electric use reimbursement, which is phased in beginning with 20% reimbursement for new programs. He said the City of Norman provides all major repairs to all locations and minor repairs at Griffin Park. He said the City mows all fields with the exception of Griffin Park, which is taken care of by the Norman Youth Soccer Association (NYSA). He said the NYSA has contracted the mowing services for 20 to 25 years because it provides better manicured service than the City. He said all programs with the exception of the Norman Football Academy have constructed and operate concession stands. The contract terms vary from one year with a three year option, three years, or five years. He said these organizations have invested a great deal of money into improvements to the fields and anything constructed becomes the property of the City, but is maintained by the organization.

Mr. Foster said the Optimist Club has a one year term with a three year renewal option, which was a decision made by Council when their contract came up for renewal recently. He believes Council made that decision because they wanted the Optimist Club to produce a better annual report than previously submitted.

Item 2, continued:

Mr. Foster said the annual report consists of the following:

- ✓ Narrative of all league and tournament activity;
- ✓ Organization mission statement and goals;
- ✓ All league and tournament fee structures;
- ✓ Number of games, teams, players, tournaments, and scholarships;
- ✓ Age of participants;
- ✓ Breakdown of expenditures by category (equipment, labor, supplies, capital, etc.);
- ✓ Disclosure of all commissions, refunds, and rebates to the organization;
- ✓ Program beginning and ending fund balance;
- ✓ Annual program budget including revenue, maintenance/operation, and capital costs;
- ✓ Current record of officers including who can authorize expenditures;
- ✓ Names of those responsible for maintaining books and records; and
- ✓ A copy of incorporation documents and non-profit certification.

Mr. Foster said all the organizations consist of volunteers and the content or quality of the annual report varies from year to year. The bigger organizations tend to be more consistent and if there are any questions by Staff or the Parks Board they are usually answered to everyone's satisfaction. He said there have been occasions where the information is incomplete and Staff has struggled to get it, but those are exceptions and not the rule.

Councilmember Griffith asked how long the Optimist Club has had their baseball program and Mr. Foster said since 1994.

Councilmember Castleberry asked what the City's recourse would be if an organization did not provide an annual report and Mr. Bryant said there is a termination clause in each contract or the contract may not be renewed. Mr. Foster said Staff contacts the person in charge of the organization and they are told if the City does not receive the information, their contract will be terminated.

Councilmember Lockett asked what the annual revenue was for the organizations and Mr. Foster said those numbers vary. He said the NYSA has over 2,000 participants and revenue could be up to six figures while the Norman Football Academy has 250 participants with smaller revenues. He said he would provide those numbers to Council. Councilmember Lockett said the organizations are providing a great service to the community, but when they are dealing with six figures, maybe they should provide a simplified monthly report. Councilmember Castleberry said most of the organizations have enough trouble providing an annual report so a monthly report might be burdensome. Councilmember Jungman said the organizations are accountable to their own boards so he did not believe a monthly report was necessary.

Councilmember Castleberry said the City basically leases their facilities so the question is whether or not the City continues to outsource or run the programs themselves. He said the annual report gives the City an idea if that is feasible. Mr. Foster felt there is no way the City could provide the services at the same cost since the organizations are made up of volunteers and City Staff are paid workers.

Councilmember Castleberry asked if the programs are under or over served as far as participants and Mr. Foster felt the City is underserved. Councilmember Castleberry asked if the City has enough fields based upon usage and Mr. Foster said the City does not. He said the biggest shortage is practice fields and competition fields are growing more scarce.

Item 2, continued:

Chairman Kovach asked if Councilmembers had any direction for Staff or were they comfortable with the current process and it was the consensus of Council to stay with the current process for now.

Items submitted for the record

1. Contractual Requirements and Responsibilities
2. Contract No. K-1213-62 with Norman Youth Soccer Association, Inc.
3. Contract No. K-1213-61 with Norman Optimist Club with Exhibit A, Responsibilities of Norman Optimist Club at Reaves Park and Exhibit B, Responsibilities of the City of Norman at Reaves Park and Griffin Park
4. Contract No. K-0910-140 with Norman Amateur Softball Foundation, Inc., with Exhibit A, Responsibilities of Norman Amateur Softball Foundation and Exhibit B, Responsibilities of the City of Norman
5. Contract No. K-1213-63 with Football Academy, Inc., with Exhibit A, Responsibilities of Football Academy, Inc., and Exhibit B, Responsibilities of the City of Norman
6. Contract No. K-1112-127 with Little Axe Youth Sports Association with Exhibit A, Responsibilities of Little Axe Youth Sports Association and Exhibit B, Responsibilities of the City of Norman

Item 3, being:

MISCELLANEOUS DISCUSSION.

None

ADJOURNMENT.

The meeting adjourned at 6:55 p.m.

ATTEST:

City Clerk

Mayor