

## CITY COUNCIL SPECIAL SESSION MINUTES

February 10, 2015

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in Special Session at 5:30 p.m. in the Municipal Building Conference Room on the 10th day of February, 2015, and notice and agenda of the meeting were posted in 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, Heiple, Holman, Lang, Miller, and Mayor Pro Tem Jungman
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TARDY:	Councilmember Allison
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ABSENT:	Councilmember Williams and Mayor Rosenthal
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Item 1, being:

### DISCUSSION REGARDING ALTERNATIVE PROTEST CROWD MANAGEMENT IN LIEU OF BUFFER ZONES AROUND SCHOOLS.

Mr. Jeff Bryant, City Attorney, said in March 2014, Council discussed the possibility of establishing a picketing buffer zone around public schools. He said there had been some protests in front of and across the street from Norman High School regarding abortions. The City received numerous calls from concerned parents and citizens about the appropriateness of the materials being displayed and aggressiveness of the protestors. Mr. Bryant said Council hesitated to move forward with an ordinance because of a pending U.S. Supreme Court case in Massachusetts. That case was decided last summer giving the Legal Department some guidance about how municipalities should deal with these types of issues. The Legal Department sent a memo to Council in August 2014, regarding the Supreme Court decision with additional advice on how Council might want to proceed.

Mr. Bryant said the Supreme Court primarily focused on the First Amendment Free Speech Rights and looked for ways that particular constitutional right could be balanced against other competing governmental interests such as having quiet or safe schools. He said the Supreme Court encouraged municipalities to use the least restrictive manner they could possibly use so as not to impinge on those potential free speech rights. The Supreme Court encouraged cities to not use buffer zones until they had looked at other alternatives that might be used for crowd control or crowd management.

Mr. Bryant said Council requested Staff bring the subject back to Council in a Conference or Study Session in order to bring some type of closure to the discussion.

Mr. Keith Humphrey, Police Chief, said the City of Norman is very fortunate to have a community in which the City has been able to have partnerships. The main focus for any type of protest event is to find out what the magnitude of the incident will be. The City has been able to communicate with the organizers of the various gatherings to listen to each other's concerns. The Police Department is able to inform them of the rules and regulations that include not going onto the property, no blocking major roadways, no blocking sidewalks, no assaulting people, and no threatening people. He said Norman has not had a major incident during any event held in Norman because the City is able to talk directly to the organizers. He said the Police Department tries to be proactive with groups to prevent issues. The Police Department works closely with Norman Public Schools during the events if they are to happen near the schools. Chief Humphrey said the City has mechanisms in place if someone is not obeying the laws to address concerns.

Mr. Bryant said the Supreme Court seemed to have pretty strong feelings about defending the basic, fundamental constitutional right of free speech so it would not be the Legal Department's recommendation to move forward with a buffer zone type approach. He suggested the Police Department continue their process to see if the City can continue to achieve what needs to be achieved in that manner.

Councilmember Miller asked if the Dr. Joseph Siano, Norman Public School Systems Administrator, has been notified of the City's plan of action and does Dr. Siano think the City has sufficient plans in

Item 1, continued:

place if a group does show up to protest especially if the City has not had contact with the organizers. Chief Humphrey said the City cannot plan for everything, but if the City has guidelines and a plan of action then the City can address the issues based on the magnitude of the event. He said Dr. Siano is very comfortable with the Police Department's practices and protocols that are in place. He said the Police Department works with the schools so everyone is on the same page. He is confident the Police Department has the ability to address and handle any situation that arises.

Councilmember Miller said it is important that parents understand the process and Chief Humphrey said during the protests at the school last year there had been meetings with the City, school system, parents, etc. The City and school system wanted to ensure that students were not attacked or pulled into any type of altercation with protestors. He said there was and will be some type of police presence at these events to prevent any possible type of altercation that may arise. He said the organization protesting at the school made it clear the protest would be non-violent and that the protestors were just trying to send a message and exercise their right to assemble, which has to be respected.

Councilmember Lang asked the Chief's definition of a large group and Chief Humphrey said 1,000 or more. Chief Humphrey said the protest that took place at the school had about 300 to 500 people that came and went throughout the day.

Councilmember Lang asked if there is information on the City's website about who to contact if someone wants to "assemble" and Chief Humphrey said usually, people end up calling the City Clerk's Office to find out if a permit is needed. Ms. Brenda Hall, City Clerk, said most people believe a permit is needed to protest and since most permits are issued through the City Clerk's Office, her office gets calls all the time about this. She said her Staff walks them through the rules mentioned earlier by Chief Humphrey and if it appears it will be a large group, the Police Department is always contacted with the information and given a contact person.

Councilmember Lang has heard of incidents where information is placed on social media and all of a sudden there is a flash mob at the event with no leader. Chief Humphrey said the Police Department has ways of monitoring those types of situations.

Councilmember Castleberry was concerned about protests using graphic images or protestors wearing masks and Chief Humphrey said in every mass gathering there is always a leader and the Police Department tries to identify that person or focus on those individuals to remove them from the area. He said cities recently in the news for violent protests are cities that did not have the relationship with their community that Norman has so Norman has a better chance of someone contacting the Police Department to give them a head's up. Councilmember Castleberry said Ferguson, Missouri's, violence was caused by people that did not even live in the community and Chief Humphrey agreed, but said the key is looking at what started that in the first place. He said there was a long history of issues in that community that was not addressed. He felt that if the City allows people to assemble (their legal right) and the police keep a presence of observation then that will be a deterrent to altercations or violence.

Councilmember Heiple asked if the City can tell people they cannot use certain pictures or video images and Mr. Bryant said it is very difficult to regulate content. Mr. Bryant said pictures are a form of speech so it would be difficult for cities to regulate pictures; however, there are rules on obscenity, but that can be difficult to define. He said there might be some cases, such as elementary students, where these types of images could be regulated, but the real message from the Supreme Court this summer was that free speech rights are going to be paramount. The Supreme Court made it clear they want cities to use existing tools.

Councilmember Heiple asked when the City could say to protestors, "You have crossed the line" and Mr. Bryant said Staff can research laws on obscenity if that is Council's with, but as far as buffer zones, it is not recommended the City proceed. He suggested the City use existing tools such as no blocking sidewalks, no disturbing the peace, no name calling, no gang type language, etc., which are things the City can regulate under existing ordinances.

Councilmember Lang said the world is full of things that offend someone and he has some real concerns about the City having rules about what kinds of signs someone can hold up because then the City will be empowering the constantly offended. He does not want to cross that line of catering

to the constantly offended. Ms. Hall said there have been instances in the past during large gatherings such as the Norman Music Festival, where an organization wanted to hold protests with graphic pictures and the City Clerk, Police Department, and Legal Department were able to work together to allow that by setting up an area where the protesting was allowed so they were not mingling in the crowd. She said as long as the City is not saying a group cannot have certain images and the City sets guidelines for displaying those images then organizations seem to have no problem abiding by that.

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Item 2, being:

CONSIDERATION OF ADJOURNING INTO AN EXECUTIVE SESSION AS AUTHORIZED BY OKLAHOMA STATUTES, TITLE 25, §207(B)(4) IN ORDER TO DISCUSS POSSIBLE SETTLEMENT OF A LAWSUIT IN THE CASE OF PERRY VS. THE CITY OF NORMAN, CLEVELAND COUNTY, CASE NO. CJ-14-1328 TS.

Councilmember Allison arrived at 6:07 p.m.

Councilmember Heiple moved that the Special Session be adjourned out of and an Executive Session be convened into in order to discuss possible settlement of a lawsuit in the case of Perry vs. the City of Norman, Cleveland County Court Case No. CJ-14-1328 TS, which motion was duly seconded by Councilmember Holman; and the question being upon adjourning out of the Special Session and convening into an Executive Session in order to discuss possible settlement of a lawsuit in the case of Perry vs. the City of Norman, Cleveland County Court Case No. CJ-14-1328 TS, a vote was taken with the following result:

YEAS:	Councilmembers Castleberry, Heiple, Holman, Lang, Miller, and Mayor Pro Tem Jungman
NAYES:	None

The Mayor Pro Tem declared the motion carried and the Special Session adjourned out of; and an Executive Session was convened into in order to discuss possible settlement of a lawsuit in the case of Perry vs. the City of Norman, Cleveland County Court Case No. CJ-14-1328 TS.

The City Council adjourned into Executive Session at 5:56 p.m. Mr. Steve Lewis, City Manager; Mr. Jeff Bryant, City Attorney; and Mr. Rick Knighton, Assistant City Attorney, were in attendance at the Executive Session.

Mayor Pro Tem Jungman acknowledged return to Open Session.

Thereupon, Councilmember Heiple moved that the Special Session be reconvened, which motion was duly seconded by Councilmember Holman; and the question being upon reconvening the Special Session, a vote was taken with the following result:

YEAS:	Councilmembers Allison, Castleberry, Heiple, Holman, Lang, Miller, and Mayor Pro Tem Jungman
NAYES:	None

The Mayor Pro Tem declared the motion carried and the Special Session was reconvened at 6:21 p.m.

The Mayor Pro Tem said a possible settlement of a lawsuit in the case of Perry vs. the City of Norman, Cleveland County Court Case No. CJ-14-1328 TS was discussed in Executive Session. No action was taken and no votes were cast.

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ADJOURNMENT

There being no further business, Councilmember Heiple moved that the meeting be adjourned, which motion was duly seconded by Councilmember Holman; and the question being upon adjournment of the meeting, a vote was taken with the following result:

YEAS:	Councilmembers Allison, Castleberry, Heiple, Holman, Lang, Miller, and Mayor Pro Tem Jungman
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NAYES:	None
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The Mayor Pro Tem declared the motion carried and the meeting was adjourned at 6:22 p.m.

ATTEST:

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City Clerk

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Mayor