

## CITY COUNCIL STUDY SESSION MINUTES

July 19, 2018

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a study session at 5:37 p.m. in the Municipal Building Conference Room on the 19th day of July, 2018, 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, Clark,  
Hickman, Holman, Scott, Wilson,  
Mayor Miller

ABSENT: Councilmembers Bierman and Carter

Item 1, being:

### DISCUSSION REGARDING CITY STORMWATER POLICIES AND PROCEDURES.

Mayor Miller said the unsuccessful election to create a Storm Water Utility (SWU) held on August 23, 2016, was partly due to the City not having all the policies in place. She said that was a problem particularly when talking about calculations based on a parcel's impervious surface area.

Many meetings were held with neighborhoods that have detention ponds and discussing whether or not a stormwater utility would be helpful to them. She said Staff has been working on draft stormwater policies and procedures so when Council is ready to move forward with another election, a policy will be in place to help answer the public's questions. She said Council will be reviewing those draft policies tonight.

Mr. Shawn O'Leary, Director of Public Works, said in April 2017, Council provided clear direction to Staff regarding stormwater funding. He said there are three parts to the creation of the policies and procedures that included the creation of the Stormwater Citizen Committee, holding public meetings, placing information on the City's website, Facebook, newspaper outlets, and contracting with Hahn Public to prepare a potential communication strategy and research initiative for a possible stormwater election. He said another public meeting is scheduled for July 25, 2018, at 3:30 p.m. at the East Branch Library.

Mr. O'Leary said the City has a lot of operational policies, such as street sweeping, that Staff would like to combine into one document along with a stormwater policy and Staff would like feedback from Council.

Ms. Carrie Evenson, Stormwater Program Manager, said Staff started with a basic list using information learned from the last election as well as reviewing the Stormwater Master Plan's (SWMP) key issues that still need consideration, discussion, and action. She said the appeals process will be part of the policy, if applicable, and Staff prepared a draft appeal process as well as an application form that could be modified when a final rate structure has been prepared for ballot language. She said there will also be a credit application process for low income individuals proposing a 30% credit already being used by the City for other utility fees. Staff also reviewed potential stream planning corridors and water quality protection zones, which have already been adopted in Chapter 19 of the City Code. She said structural and non-structural controls is a policy Staff is still working on and are measures the City would take to address stormwater pollution. She said the City is required to have an educational program, which is a non-structural control to reduce the amount of pollution being discharged into the stormwater system. She said damn safety is something that will be incorporated into the policy as a maintenance measure as well as the acquisition of

easements and rights-of-way that are important for maintenance purposes. She said enhanced maintenance of creeks and detention ponds are being addressed through the draft Neighborhood Assistance Program.

Ms. Evenson said Staff is proposing one source for all City stormwater policies/procedures that may include major stormwater maintenance policies; stormwater quality policies; floodplain management policies; stormwater utility policies; easements and rights-of-way acquisition; and emergency preparedness and response (spill response). She said existing policies include several maintenance and operation policies and procedures such as the Street Sweeping Manual; infrastructure inspection and maintenance procedures, and an Earth Change Permit Issuance Policy.

Mayor Miller asked for an example of a spill incident and Mr. O'Leary said about a year ago a major truck had a hydraulic leak and there were large quantities of hydraulic fluid on a street with a stormwater drain nearby. The City was notified and immediately went out to suspend the hydraulic fluids from entering the stormwater system. He said there was also a major fuel leak from a semi-truck on Flood Street a few years ago and Staff was dispatched to clear the fuel from the street so these things happen and they are all unique. He said there are generally two to five incidents per year on average.

Councilmember Wilson asked if the trucking companies reimburse the City for spill clean-up expenses and Mr. O'Leary said yes, most trucking companies do not have a problem reimbursing the City because it would take them a day or two to clean the spill and the City wants it cleaned up immediately. He said the City has prepositioned spill contractors they call for emergency spill cleanup.

Councilmember Holman asked how the City is notified about a spill and Mr. O'Leary said the Police Department is usually the first agency that receives calls regarding a spill and once they ascertain the specifics of the spill they notify the department or division that can help. He said the City has a policy for environmental spills so the Police Department and Public Works Department employees are trained on the policy. He said the first order of business, other than safety, is to try to keep spills out of the stormwater system.

Ms. Evenson said proposed draft policies include a Neighborhood Assistance Program and appeal process. She said the Stormwater Citizens Committee recommended an annual program budget of \$1.25 million be set aside for that program as well as a 50/50 Cost Share Program for neighborhoods with dams similar to projects that have taken place in Summit Lakes and Cambridge Additions.

Councilmember Clark asked about the Cost Share Program and an appeals process for that because there are some older neighborhoods with serious stormwater issues who may not have Home Owner Associations (HOAs) and are comprised of low income residents. How does the City set the scale of when the 50/50 Cost Share Program is appropriate and making sure it is not abused? Mr. O'Leary said that is the type of feedback Staff is looking for from Council.

Councilmember Wilson said her Ward has a lot of older homes with inferior infrastructure where there are no HOAs, but they do have many culverts or drains where silting can be dumped into the stormwater system. She supports the proposals, but does not see how roads can be addressed. Could someone receive cost share if a road is washed out? Mr. O'Leary said that is a good question because the City does not want this policy to become a road program so there is a fine line there. Councilmember Wilson asked if the City has a road cost share program and Mr. O'Leary said no, the only program for private roads is to bring the road to current standards and the City would then inherit and maintain that road. He said many neighborhoods in rural areas were allowed to develop with very substandard roads so it becomes an equity question when cost sharing. He said if it were a stormwater issue versus a road issue, the City could find a way to work it into the program, but there is a fine line between stormwater and road maintenance.

Councilmember Hickman said he appreciates Staff's efforts and believes the City is headed in the right direction; however, he is concerned that the average person may find the application process challenging especially having to provide documentation. He envisions a more simple application process where City Staff ranks the projects and works on the top ten projects; placing the other projects on a waiting list. Mr. O'Leary said Staff envisions sitting down with each applicant and helping them fill out the application and working with them throughout the process. He said the City will self-generate most projects because citizens do not know what to ask for or what to do so a big part of the stormwater program and funding proposals is to have a better assessment and inventory of the stormwater system. He said Norman has approximately 300 detention basins with most being privately owned and the City has no idea what their conditions are because the City really has no right to enter the property. He said an elaborate inventory of all detention basins will give property owners some idea of what they need to be doing as far as damn maintenance, outlet pipe maintenance, flume repairs, etc. He said by doing that, the City will be creating its own set of projects and working through the 50/50 program with the property owner(s).

Councilmember Wilson said she has one constituent with a farm pond damn and development downhill from that property has created a situation where their pond damn is now a high hazard damn. She asked if there is a program for reviewing damns in the area of development to determine the impact to the damn and if impact fees are collected. Mr. O'Leary said yes that impact review is imbedded in the stormwater regulations, but it has not always been that way. He said the most recent example is the Destin Landing Project where the City required the developer to do an impact assessment to an upstream damn and determine if the development would create a higher hazard condition. Councilmember Wilson asked if the farm pond damn would need to be in the assistance program if they started having problems and Mr. O'Leary said this is where it becomes a gray area because this is private, rural property so does the City treat them the same as it treats developed subdivisions? Councilmember Wilson said she would argue that the farm owners did not create the situation, development created the situation and the City approved the development. Mr. O'Leary said regulations of damns in Oklahoma were created by the State and they have Staff assisting property owners statewide so the City could be the liaison between the State and property owner.

Mayor Miller said she has a farm pond with a damn that has a leak in it, but it has never occurred to her that the City would have any responsibility for that damn even though a development across the street did make a difference in amount of water flowing into the pond. She said there could be thousands of these ponds in Norman. Mr. O'Leary said it comes down to public interest and whether the public believes the City should be involved these issues.

Councilmember Castleberry said if a citizen lives in Cambridge Addition and pays annual Home Owner Association (HOA) fees to maintain the common area stormwater detention pond and has to pay a stormwater utility, he is basically paying twice to maintain that common area. Mayor Miller said the stormwater utility is based on individual houses not common areas. Mr. O'Leary said most HOA's collect enough in fees to mow the common areas, but never have enough to maintain the stormwater system and this is what this program is intended to help with. He said the program will help property owners do a better job of maintenance they currently are not doing, but to also have a funding source to get the maintenance needed. Councilmember Castleberry said if the program is going to be 50/50 then it needs to be 50/50 so there needs to be guidelines. He said a lot of older neighborhood's problems are created by new development, but it is also because the property owners did not maintain their structure; however, newer neighborhoods who are complying with stormwater system maintenance should not be penalized for those who are not complying. Mr. O'Leary said the City would enter into an agreement with each of the neighborhoods or HOA's so there will be clear language in each agreement as to what the City is going to be doing and what the cost will be. He said in-kind donations could be considered if someone wanted to donate equipment or something else as their contribution to the 50% share. He said there could be different combinations and Council would have to approve each agreement.

Councilmember Castleberry said he would like to see a cap on the City's share of a project in order to be able to do more projects per year.

Councilmember Clark asked how the Stormwater Citizens Committee arrived at the \$1.25 million figure and Ms. Evenson said the Committee wanted a large enough number to perform several projects per year. Ms. Amanda Nairn, Stormwater Citizen Committee Co-Chair, said the Committee felt that would be an appropriate amount to meet maintenance needs for private infrastructure and keep the stormwater utility fee low. She said after the assessment and inventory, the City will have a better idea of the needs and that figure can be adjusted. She said at most of the public meetings, people were excited about the idea of a Neighborhood Assistance Program.

Councilmember Castleberry felt the City should not cost share at all, but should take care of all of it and maintain the stormwater infrastructure system just like they maintain the road system. He asked if the \$1.25 million is an annual figure and Mr. O'Leary said yes. Councilmember Castleberry would like to see funds carried over each year if possible. He said the City does not expect HOA's to fix their roads so why should they have to fix the stormwater system because someone else messed up the system for everyone? Mayor Miller said in a perfect world, the City would take care of everything. She said the City would love to have \$3 to \$7 million per year for stormwater maintenance, but right now the City is trying to take baby steps in getting a program started and she appreciates the \$1.25 million because it helps get this program off the ground. She said the stormwater utility rate must be very reasonable or the public will not buy-in.

Councilmember Clark said she supports a 50/50 program because there are other cost share programs the City is involved in.

Councilmember Castleberry believes citizens will pay a higher fee if the City gives projects value and the City needs to move forward with a \$7 million stormwater utility with no subsidy from the General Fund (GF). He said with policies and procedures in place the City is addressing a lot of the problems people were unwilling to pay for last time. If the City demonstrates the need for a stormwater utility, citizens will be receptive. Mayor Miller said most citizens who have attended the public meeting have agreed there is a problem, but that does not mean they are ready to vote yes. Councilmember Castleberry said if citizens are happy and comfortable with a fair equitable program the utility rate will not be a big deal.

Councilmember Holman said he has some apprehension based on the last election experience, but agrees about the desire to have a fully funded, or as close to it, stormwater program. His concern with trying to attain the minimum is that the utility will never catch up because it requires a vote to increase every five years or more. He said that utility cost would continue to grow each year and that utility rate would never catch up with the costs if the City starts off too low. He said Oklahoma City has a stormwater utility, but it is vastly underfunded. He said there will be issues in the future the City is unaware of today and new neighborhoods will only grow older and problems will arise even though today those neighborhoods may be in compliance. This is a cost the City will always have as long as the City exists so he would like to try for a \$7 million utility.

Mayor Miller said the Committee would also have loved to start with \$7 million and asked Ms. Nairn to explain how the Committee decided on the \$1.25 million. Ms. Nairn said the Committee asked the Stormwater Division what would be better than what they have now and what would be the best and that ranged from \$5 million \$7.4 million as better with the best being \$11 plus million. She said the Committee felt very strongly that there was no way the community would support an \$11 plus million utility right out of the gate. They also felt that \$5 million was not enough so they settled on \$7.4 million, which is ideal for now to continue to meet State mandates. It would also allow the City to "catch up" on maintenance the City has not been able to do and add Staff to do that. The Committee also felt strongly about the Bond Program because they did not want to pay to maintain something with a utility that is broken, but the Committee did not believe a \$120 million bond would pass either. In the end they decided on 33 projects with three projects

in each Ward as a good compromise. As far as the \$7 million fully funded program, there was a lot of argument that the \$3.1 million already going towards stormwater maintenance would be a double tax and the City did not really do a good job of explaining what that money would be used for if taken from stormwater maintenance. She said the Committee was adamant that the \$3.1 million should continue to come out of the GF, at least initially, to keep fees as low as possible. She said there are three more public meetings scheduled and if there is enough information to evaluate, the Committee will prepare a report and bring that to Council in mid-September or early October and Council can determine how they want to move forward. She said Council may want the Committee to meet again to address the equity issue or they may decide to address it themselves.

Councilmember Clark said the Committee has worked really hard, but once the information is compiled and Council is ready to roll when does this have to be decided on for a November election? Ms. Nairn said First Reading would need to be placed on the July 24, 2018, agenda for a November election. Councilmember Clark said Council has learned from the last process that they have to take their time on this issue and that is what they are doing so if a November election is out, would Council be looking at a February election? She said the February election will be a citywide Mayoral election as well so there could be a higher voter turnout.

Ms. Nairn said there are a lot of deliverables yet to be garnered from Hahn Public once Council has finalized a plan so there are still a lot of unknowns at this time. She said Hahn Public's expertise will help Norman improve perceptions, change behavior, and win approvals through transparency, inclusion, and trust.

Councilmember Clark asked if Ward meetings will be held and Mayor Miller said that will be up to individual Councilmembers. Councilmember Castleberry said Ward meetings should only take place once a plan is in place. Ms. Nairn said Council is invited to come to as many of the public meetings as possible to hear from citizens all over Norman about their stormwater issues. She said Councilmembers represent a Ward and know about their Ward's needs, but these meetings encompass citywide issues. She said very fruitful group discussions take place and there has been a different message at every meeting.

Mr. O'Leary suggested the City perform a scientific citywide survey once a plan has been finalized to make sure the City has the yes votes needed and Mayor Miller agreed.

Councilmember Clark said constituents have told her that street sweepers are confusing to the public because it does not seem like a big deal. Is there a way to reframe that and call it something else? Mayor Miller suggested "street vacuums" and Councilmember Clark suggested "litter control."

Ms. Evenson said next steps include incorporating adopted policies into the Stormwater Funding Program or adopt policies as part of the Stormwater Policy Manual prior to finalizing the Stormwater Funding Program. She said in August or September, Council will be presented information regarding damn safety, non-structural controls, and acquisition of easements and rights-of-way.

Councilmember Hickman asked if the City will have policies related to the bond package piece of the capital improvements and Mr. O'Leary said he is thinking more about the design criteria and standards. Mayor Miller said most citizens she has spoken to prefer a bond package because they know exactly what projects will be done in every Ward. Chairman Hickman said feedback from his constituents is that the bond package is too big. Councilmember Wilson said she has had pushback on the combination of the bond package and stormwater utility.

Councilmember Wilson said there are not a lot of projects east of 48th Avenue, which is a large area and she has asked the City Manager to explore a way to exempt A-1, General Agriculture District, and A-2, Rural Agriculture District, properties. She said if there is livestock impact then the City could create a livestock

impact fee at a specific threshold. She said that way there will not be a monthly maintenance fee for stormwater improvements that probably will not be performed east of 48th Avenue.

Councilmember Castleberry said if someone does not participate in the Stormwater Utility then they should not receive a benefit. Mayor Miller said the City could be spending more money east of 48th Avenue because there are many bridges over creeks and culverts and those bridges require maintenance. She said when a bridge is washed out due to flooding it costs a lot of money to repair so the City really does a lot of stormwater maintenance east of 48th Avenue. She did not know if she could really make the argument that the City does not provide prevention and maintenance east of 48th Avenue.

Councilmember Holman said the Stormwater Utility and bond package should be voted on together. As far as Ward 5, when you look at the map there is a huge bright red spot where pollution runs into Lake Thunderbird and that pollution has to come from agricultural land.

Mayor Miller said she is looking forward to further discussion in August or September.

Items submitted for the record

1. PowerPoint presentation entitled, "City Stormwater Policies and Procedures," City of Norman Study Session dated July 19, 2018
2. Draft City of Norman Public Works Department Stormwater Utility Administrative Appeals Process and Application
3. Draft City of Norman Public Works Department Neighborhood Assistance Program and Application

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The meeting adjourned at 6:48 p.m.

ATTEST:

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City Clerk

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Mayor