

CITY COUNCIL STUDY SESSION MINUTES

December 6, 2016

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 Conference Room on the 6th day of December, 2016, 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 Allison, Chappel, Clark, Heiple, Holman, Karjala, Mayor Miller

ABSENT: Councilmembers Castleberry and Hickman

Item 1, being:

DISCUSSION REGARDING PUBLIC/PRIVATE PARTNERSHIPS TO ADDRESS STORM WATER ISSUES IN NEIGHBORHOODS.

Mayor Miller said in the spring of 2015, she attended a number of meetings regarding flooding issues and problems with detention ponds in various neighborhoods. During the Storm Water Master Plan (SWMP) process, City Staff spoke with many Homeowner Associations (HOAs) whose neighborhoods were faced with serious drainage issues. Many of these neighborhoods were built more than 20 years ago and have privately owned detention ponds that require a lot of maintenance; however, maintenance has not always been performed or is inadequate. Some of the drainage issues have been due to development of new neighborhoods nearby causing additional drainage issues in the older neighborhoods. There are a number of neighborhoods trying to figure out how to deal with detention ponds that are not sufficient for what they were created to do to protect the neighborhood homes from flooding. The Vineyard Addition has serious flooding problems that have caused significant property damage to some of the homes. Tonight, Staff will present information on three neighborhoods who have reached out to the City for help and Council will need to decide if they are willing to help these neighborhoods through public/private partnerships and, if so, how that will be accomplished.

Mr. Jeff Bryant, City Attorney, said the SWMP has a provision that recommends the City take over inspection and maintenance of dams, on a case-by-case basis, because of the significant safety concerns those dams may pose in neighborhoods. The idea is to bring the dams to a particular City standard assuming the City will have an appropriate revenue stream to maintain those dams long-term. Staff was directed by former Councilmembers to work on agreements with these neighborhoods to see if there are ways the City can assist them in dealing with their particular issues through public/private partnerships. According to Freese and Nichols who prepared the SWMP, public/private partnerships are a common solution to funding certain stormwater improvements and are formalized by cooperative participation agreements that include potential cost optimization, City cost-sharing, and City contract administration.

Cedar Lake Addition

Mr. Bryant said Cedar Lake Addition is located near Cedar Lane and 24th Avenue S.E. and consists of 19 platted lots with a five acre lake that includes a dam on the east side of the lake. The dam is experiencing some seepage and the solution is expected to cost an estimated \$70,000. The remediation plan has been reviewed by the Oklahoma Water Resources Board (OWRB) and the Cedar Lake Homeowners Association (CLHOA) is looking at how to implement the solution with the help of the City. The CLHOA hopes to schedule a vote of the property owners on whether or not they are willing to create a Special Assessment District to fund repairs. The CLHOA has taken on the primary responsibility for

Item 1, continued:

Cedar Lake Addition, continued:

making the needed repairs and has asked the City to consider an agreement where the City will collect assessments in the property owners' utility bills. He said such an agreement will enhance the CLHOAs ability to secure private financing to make improvements to the dam.

Mr. Bryant said the Cedar Lake Addition Dam Repair Project is close to a resolution, requires no City funding source, and proposed City participation will be through assistance in the collection of assessments. The CLHOA plans to enhance collection tools by empowering the City to shut off water to a parcel if an assessment is not paid. If Council is willing to enter into a public/private partnership, Staff will bring an agreement forward contingent upon approval of the special assessment by property owners within the Cedar Lake Addition.

Councilmember Allison said if a parcel has a well or septic tank and no City utility service, does the City still have a way to enforce collection and Mr. Bryant said there is always District Court and this particular format may not work as well with parcels that do not have City water/sewer service.

Mayor Miller said each neighborhood will have a very unique situation and none of the repairs or assessments will take place until the City has an agreement with the HOA.

Councilmember Allison asked when Staff would need feedback from Council and Mr. Bryant said tonight, if possible, because Staff and the HOA are close to an agreement. He said the main issue is whether or not Council is willing to utilize the City's utility billing infrastructure as a method to assist the HOA with collecting what is essentially private assessments. Councilmember Allison said if no City money is needed and administrative costs for utility billing will be collected, he has no problem approving this agreement.

Councilmember Clark asked if Council will be given information on the billing costs and Staff time and Mr. Bryant said yes, the Finance Department is working on that.

Councilmember Karjala asked about the impact to other neighborhoods who have fixed their own problems without coming to the City for help. When did this become a policy of the City? She wonders how other POAs and HOAs will feel about this. Mayor Miller said the City has helped other neighborhoods. Mr. Bryant said no neighborhoods have been helped in this format as it relates to the utility billing process. He said that is the only policy change being made and Councilmember Karjala said she has learned that policy change tends to be a big deal so she is not ready to say the City should definitely move forward with this.

Councilmember Heiple said the City has 200 lakes and detention ponds and 80 of them are critical with four being OWRB critical. The costs are in the millions of dollars and if the City does not begin conversation about changing the policy, the problem will not go away and the City should not ignore the situation.

The Vineyard Addition

The Vineyard Addition is located along Porter Avenue south of Tecumseh Road and contains 167 lots. There have been several instances of flooding in homes during rain storms over the past ten years. In 2015, the City hired Meshek and Associates to perform a preliminary analysis of the flooding problems

Item 1, continued:

The Vineyard Addition, continued:

along with additional modeling to determine if structural changes would reduce the risk of flooding. Recommended solutions include 1) re-grading the Vineyard detention pond to a maximum potential extent within existing easement and replace 18-inch pipe with a double 30-inch pipe or open concrete lined channel or 2) in addition to regrading and re-piping the Vineyard detention pond, excavate the Highland Village pond to get more storage and replace the 18 inch pipe with a single 36-inch pipe or open concrete lined channel. Mr. Bryant said this project is more complex since the City would be dealing with two separate subdivisions as potential solutions. The recommended solutions will cost an estimated \$250,000 to \$500,000. He said the current storm water infrastructure is owned by the Property Owners Association (POA) and several meetings have been held with impacted property owners; however, no consensus has been reached regarding the desired solution. Once a solution is identified, a public/private partnership will likely be necessary given the potential costs and the City might be asked to consider assisting with a loan, collections, or both. There could be a request for additional City funding for this problem so Council would have to decide if that funding would come from capital projects or a storm water utility. This situation is in the early stages of resolution so no decision has been made regarding whether improvements would be proposed to remain privately owned or transferred to the City or a combination of both. Property owners and the City are still looking at options and Staff will continue to update Council as the situation progresses.

Councilmember Clark said there are three phases to the Vineyard Addition and Phase One is the only phase that has flooding issues so if the City agrees to an assessment then that assessment would have to encompass the entire neighborhood including Phase Two and Phase Three that are not flooding. She said the engineering costs of \$30,000 should be funded in the FYE 2018 Capital Budget.

Mr. Bryant said of the three neighborhoods being discussed tonight, the Vineyard Addition is the farthest in the spectrum from being ready to negotiate an agreement.

Summit Lakes Addition

The Summit Lakes Addition and Summit Villas Addition are platted residential subdivisions located near the intersection of Alameda Street and 24th Avenue S.E. Both are governed by covenants that have created Property Owner Associations (POAs) responsible for maintenance, repair, and improvements to the common areas. There are seven lakes within Summit Lakes Addition, i.e., Misty Lake, Heron Lake, Drake Lake, Hidden Lake, Willow Lake, StarCrest Lake, and Secret Lake. The property line between the two additions extends north and south through Summit Lake that is contained by a dam along the northern edge of the lake. In March 2011, the OWRB notified the POA that the dam was being classified as a high-hazard dam due to potential downstream impacts on Alameda Street as well as nearby homes if the dam fails. In March 2015, the OWRB issued an Emergency Order to lower the lake level three feet below the emergency spillway and maintain that level until the dam is repaired. The Order also required the Summit Lakes POA to prepare and submit engineering plans to make repairs as specified in the engineering plans. The engineering plans have been completed and the cost of repairs is estimated to be \$700,000, which the POA is unable to fund so they have reached out to the City for assistance.

Summit Lake serves as a major component of the storm water drainage system and if the dam fails there would be significant risk to Alameda Street, motorists on Alameda Street, and residents of the Royal Oaks Addition so it is in the best interest of the City to assist the POA.

Item 1, continued:

Summit Lakes Addition, continued:

Mr. Bryant said a framework for repairs has been developed as follows:

- The Norman Utilities Authority (NUA) will provide up-front funding for the project once appropriate private revenue streams are solidified to serve the project “loan”;
- The POAs may make a contribution outside of the assessment process toward the project (this amount has not been finalized, but discussions are ongoing);
- The developer may also make a contribution (this amount has not been finalized, but discussions are ongoing);
- The balance of the revenue stream needed for the project will require the POA to achieve property owner approval for an assessment of that portion of the cost of the repairs to spread over a ten-year term borne by properties assessed with the subdivision;
- The NUA will administer a public construction contract to effectuate the necessary repairs;
- The City will collect POA assessments on a monthly basis through the City’s utility billing system. The City shall be allowed to collect interest on the project “loan” and charge a monthly fee per parcel to offset the City’s cost for collecting assessments;
- The Summit Lakes and Summit Lakes Villas POAs will transfer ownership of the dam to the City/NUA once the structure is repaired and brought up to an acceptable standard. The City/NUA will be responsible for future maintenance and repair of the dam structure; and
- Though the City may gain ownership of the dam, the POAs will retain responsibility for mowing, grounds maintenance, and sidewalk maintenance.

Mr. Bryant said the issues with the dam are complex due to the large number of property owners, significant cost of repairs, role of the developer, and the greater scope of City involvement; however, benefits of the repairs extend to neighboring subdivisions, the traveling public, and City infrastructure.

The following funding issues have dominated discussion between parties:

- Level of developer participation in the cost of repairs;
- Portion of undeveloped land contained in the preliminary plat, if any, subject to assessment;
- Mix of cash and financed funding;
- City level of funding participation in the cost of repairs required to bring the dam up to an acceptable standard;
- The City’s willingness to provide billing and collection services to the POA for assessments through monthly utility bills; and
- The source to be utilized to provide City “up-front” funding – Capital Fund – Storm Water Utility

Mr. Bryant said Staff believes some type of public/private partnership may be appropriate in each addition and some common issues that would allow for that consists of the extent the POAs are willing to self-fund (assessments) for required infrastructure; ability of POAs to achieve private financing; availability of City/NUA to provide up-front funding/financing options (identify public purpose, financing terms, source of funding); and willingness of City/NUA to assist in collection of POA assessments through established utility billing cycle.

Councilmember Heiple asked if Staff had an estimated cost of damages if the dam were to fail and Mr. Bryant said no, but it would be significant. Councilmember Heiple asked if it were fair to say it is a public safety issue and Mr. Bryant said yes.

Item 1, continued:

Summit Lakes Addition, continued:

Councilmember Allison asked if City funding will be needed and Mr. Bryant said he believes the final agreement is going to ask for some City participation in costs. Councilmember Heiple felt there should be an even split between the property owners, developer, and City because they all share some responsibility for the problems with the detention lake and dam. Mayor Miller said until the City has a storm water utility, the City would be hard pressed in using Capital Fund money to match a third of the estimated cost of \$700,000. Councilmember Heiple said the City will be setting precedence on how these types of issues are handled.

Mr. Bryant said each neighborhood will be unique so Staff will need flexibility to work through each issue, but ultimately it will be Council's decision on what action is taken. He said there has been some heated discussion on who is responsible for Summit Lakes Addition and feedback from POA representatives is that they do not want to litigate this, they want to look for a cooperative partnership solution. He said the SWMP recommends working with neighborhoods on public/private partnerships on a case by case basis. Some of the key points is using the City's utility billing infrastructure to assist POAs with collecting assessments, whether or not the City will be willing to contribute to the costs of repairs if they are insurmountable for the POAs to handle on their own which is the situation with Summit Lakes, and obtaining developer participation to correct some of the problems.

Mayor Miller said the City is being asked if it is willing to agree to develop a procedure whereby Staff can assess individual situations, then bring a range of options for Council to review. She asked Councilmembers what information they needed in order to make those decisions.

Councilmember Allison said if Council is not willing to help these neighborhoods, they should not waste Staff's time in negotiating an agreement.

Mayor Miller said Staff and some Councilmembers have been approached by neighborhoods for help and asked if Council wanted to set up some kind of procedure that Staff can follow. What information does Council want Staff to bring to them? Does Council even want to get involved with helping neighborhoods? Councilmember Allison asked what these neighborhoods need from the City, do they simply need the City to collect the assessment for them, do they need the City to finance the repairs, or do they need the City to participate in other ways?

Councilmember Heiple suggested creating a form as a template for all neighborhoods requesting help.

Mr. Bryant said in the case of Summit Lakes prior Council was not willing to invest in initial repair costs to bring the dam up to standards. If Council is now willing to entertain that, Staff can finish negotiations and bring an agreement to Council for consideration.

Councilmember Karjala would like to think about this more before making any type of commitment to a change of policy. She said there are still so many unknown variables such as what would the developer be willing to contribute?

Councilmember Chappel said Cedar Lane Addition has pretty much worked out all the details and have come to the City with a definite option and that should pretty much be the template for neighborhoods going forward. The more work a neighborhood can do to help themselves before coming to the City, the better.

Item 1, continued:

Mayor Miller would like to see a description of the procedure for repairs, options for Council review, and a cost range. It would also be nice to have sufficient Staff to work with POAs/HOAs on training sessions and monitoring detention ponds as preventative measures.

Councilmember Clark left the meeting at 6:12 p.m.

Ms. Joy Hampton, The Norman Transcript, asked if the City required Cedar Lake Addition to build the dam as part of a detention solution and Mr. Scott Sturtz, City Engineer, said a development cannot have more water runoff at post-development than it had at pre-development and one way of achieving that is construction of a detention pond. He said the developer makes that choice, not the City. Ms. Hampton asked if additional development around the neighborhood, which was approved by the City, caused problems in Cedar Lake Addition. Mr. Bryant said that certainly has caused hearty debates on both sides, but Cedar Lake Addition's HOA is not looking to assign blame, they are looking for a solution to correct their problem and that is the direction being addressed.

Mr. Bryant said Staff is simply looking to Council for guidance on whether or not to even negotiate an agreement by helping collect an assessment through the City's utility billing system and Council seems to be agreeable to that.

Mayor Miller said Cedar Lakes Addition wants to keep their detention pond private while Summit Lakes Addition wants the City to take responsibility for the detention pond after it has been brought up to standard with help from the City to do that. Ms. Hampton said based on what is being discussed, that means the City would be liable for future maintenance costs. Mayor Miller said that particular detention pond is part of a system of detention ponds so from the City's standpoint this may have the most public impact.

Ms. Hampton said she is trying to understand the fairness in how much help is given to each neighborhood. Mayor Miller said there are different variables to each situation and Council will look at all the variables when making decisions, such as the number of properties involved, impact to neighborhood, costs, etc.

Councilmember Chappel invited citizens to become more engaged in discussions to create a storm water utility that everyone can support.

Items submitted for the record

1. Memorandum dated December 2, 2016, from Kathryn Walker and Leah Messner, Assistant City Attorneys, thru Jeff Bryant, City Attorney, to Honorable Mayor and City Councilmembers
2. PowerPoint entitled, "Stormwater: Public/Private Partnership," City Council Study Session dated December 6, 2016

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Item 2, being:

CONTINUED DISCUSSION REGARDING THE IMPLEMENTATION OF A ROAD DIET FOR DOWNTOWN MAIN STREET.

Mayor Miller said the City is discussing a road diet because Council is not ready to make a decision on converting Main and Gray Streets from one-way to two-way. She said converting from one-way to two-way would be a huge expense, have a dramatic impact in Downtown Norman, and impact traveling from east to west. The road diet is a possible interim step that can calm traffic and has been used in a number of communities to subtly change one-way streets to two-way streets. The City has had a number of meetings on the subject and a public meeting was held on November 28, 2016. She said the City was awarded grant money for the Main Street Streetscape Project and that work will begin soon so this would be an opportune time to restripe Main and Gray Streets and narrow the streets from three lanes to two lanes if Council so desired.

Mr. Sturtz said the Main Street Streetscape Project will include repaving Main Street from University Boulevard to Porter Avenue and as the Mayor stated, this would be the perfect time to consider changes to striping of the street for a minimal cost. Mayor Miller said the Public Works Department needs Council's decision by the first week in January, 2017, to be included in the plans for the Streetscape Project.

Councilmember Holman thought Main and Gray Streets were scheduled to be repaved and asked if Main Street would be the only street repaved and Mr. Sturtz said yes. Councilmember Holman said the main reason he entertained the idea of a road diet was because he was under the impression that both streets would be repaved and restriped. Councilmember Allison asked if Gray Street would be restriped as part of the project and Mr. Sturtz said no. Councilmember Allison asked the cost to restripe Gray Street and Mr. Angelo Lombardo, Transportation Engineer, said approximately \$30,000 to mill the old striping and apply new striping. Councilmember Allison said Mr. Shawn O'Leary, Director of Public Works, had stated at the public meeting that what happened on one street would happen on the other and that was why Council was under the impression that both streets would be restriped. Mr. Sturtz said the intent was to treat the streets as a couple and what is done to one should be done to the other and if it was Council's choice, Staff would like to reduce three lanes to two lanes on both streets. Funding for Gray Street is not currently budgeted.

Councilmember Holman said there are a lot of complaints about the difficulty of backing out of parking spaces into oncoming traffic on Main Street as well as speeding issues. He said during a recent Second Friday Art Walk event, police ran radar and cars were clocked at speeds of up to 47 miles per hour, which is a serious safety issue for pedestrians. He said police officers have issued citations to speeders, but that cannot be done 24 hours per day, seven days a week. He said the Second Friday Art Walk event has grown to the point that Main Street might need to be closed for the event. He appreciates a road diet being presented as a possible solution, but based on public feedback and his own review he would not recommend a road diet at this time. He would rather continue to work towards two-way conversion.

Mayor Miller said the Center City Visioning Charrette recommended converting Main and Gray Streets from one-way to two-way and thinks this would be a positive thing for the community. She sees the road diet as an interim step that would not cost a lot of money, would slow down traffic, and give the City a better sense of problems that may occur with the railroad or at different intersections. She feels very positive about the road diet and if Council wants to move forward with this idea, Staff needs to know soon. She is concerned about Gray Street not being part of the project and would also like to hear more from downtown business owners regarding this issue.

Item 2, continued:

Councilmember Holman said if the road diet is done, a six foot buffer zone would be part of the project and that would be taken away if the roads were converted from one-way to two-way. He said people would get used to having the buffer zone only to have it taken away, which he believes could cause additional issues.

Councilmember Heiple said Council needs more data on whether or not a one-way to two-way conversion would work and a road diet could give Council that information. The Urban Land Institute states that if you are going to create space, it starts with the roads and this is an opportunity to get the roads right for a more walkable downtown. Councilmember Holman felt a road diet could hinder efforts of a two-way conversion.

Councilmember Karjala said a road diet would affect everyone because Main Street is one of the busiest streets in Norman and she has not heard anything positive from her constituents about a road diet. If she had heard overwhelming support for a road diet she would be on board, but she has only heard negative comments. She wonders why Council keeps spending so much time on this subject when Council has other things to discuss. She understands the striping and repaving needs to be done on Main Street, but she does not want to spend any more money on fixing that part of Norman right now. Her constituents are telling her they do not want this to be at the top of Council's agenda.

Councilmember Holman said this is a public safety issue and public safety is important to him. Councilmember Karjala said she understands that, but a lot of citizens do not want to be slowed down in getting from one side of Norman to another.

Mayor Miller said Council has to take care of issues as they are brought forward by Staff and this has come forward so Council needs to make a decision on whether or not they want to move forward with a road diet.

Councilmember Heiple said there was enormous public input from the Urban Land Institute meetings and people overwhelmingly wanted a more walkable downtown. He said road diets, if done correctly, do not slow traffic down on getting from Point A to Point B.

Councilmember Allison said his vote will rest on what the downtown business owners think of a road diet, which needs to be a unified voice to Council. If Staff can obtain a significant amount of signatures from business owners for support or if a significant number of business owners contact him in support, then he will support it and Councilmember Chappel agreed. Councilmember Chappel said not everyone equally values a walkable community downtown.

Councilmember Heiple left the meeting at 7:00 p.m.

Ms. Beverly Clark, owner of Sandalwood and Sage, said road diets are usually done on four lane roadways that are turned into three lanes with one lane as a center turn lane and reclaims the excess to be used as a bus lane, multiple bike lanes, etc. She said the City does not have data to support this, but everything she has studied regarding two lanes shows conflict. She is sorry that people speed through downtown, but it is efficient and suggested more enforcement to help. She said case study after case study through the Federal Highway Administration reflect that most road diets only work for a maximum of four miles and limiting the speed to 20 miles per hour would probably help with speeding issues.

Mr. Jim Adair, Adair Properties, said the Board of Directors for the Downtowners Association voted unanimously to support the road diet and his support for the road diet is softening. He agrees with Staff that there is excess capacity and reducing to two lanes could probably be done. He said it is hard to back

Item 2, continued:

out of parking spaces on Main Street due to visibility issues and a buffer area would help, but if the streets are converted to two-lanes in a couple of years, that buffer area will be gone. He is trying to figure out how to keep the two-way conversion discussion alive. He said the conversion is what downtown really wants, but understands the price tag of \$5.8 million is a stumbling block and suggested Council put that on a bond issue in two years and the Downtowners Association will help get that passed. He said all of the placemaking discussions have recommended converting one-way to two-way.

Ms. Cindy Rogers, 633 Reed Avenue, suggested Council consider reverse angle parking where vehicles back into parking spaces facing the street.

Ms. Ann Gallagher, 2513 Woodsong Drive, said one of the issues discussed at the public meeting was that no one knows what the traffic impact of extending James Garner Boulevard will have on Main or Gray Streets. Anything Council does on those streets at this time will be ignoring that impact, which should not be ignored.

Ms. Hampton said she understands the Main Street Streetscape Project is due to begin, but if striping is the same on both streets why does a decision need to be made now, why not add it later? Mayor Miller said because the contract is scheduled to be reviewed by Council in January and Staff needs to know if the striping will be changed so that can be included in the contract to get it right the first time. Mr. Sturtz said the project is an Oklahoma Department of Transportation (ODOT) sponsored program and will not be bid by the City so completed plans must include everything the City wants to do in the project, including striping plans.

Mayor Miller said she has not heard enough support for a road diet and Council is not ready to approve that. She said there are still many questions to be answered, there have been requests for more information, and requests for more time. She is saddened that data will not be collected for two-way conversion if a road diet is not done; however, that does not kill discussion regarding conversion of one-way to two-way.

Councilmember Holman would like the City to address speeding on Main Street, especially during Second Friday Art Walk events.

Items submitted for the record

1. PowerPoint entitled, "Road Diet on Main and Gray Streets Public Meeting," presented by Shawn O'Leary, Director of Public Works, and Angelo Lombardo, P.E., Transportation Engineer, dated November 28, 2016

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The meeting adjourned at 7:15 p.m.

City Clerk

Mayor