

CITY COUNCIL STUDY SESSION MINUTES

April 4, 2017

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 4th day of April, 2017, 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 Allison, Castleberry, Chappel, Clark, Heiple, Hickman, Holman, Karjala, Mayor Miller

ABSENT: None

Item 1, being:

DISCUSSION REGARDING THE NEXT STEPS FOR THE CREATION OF A STORMWATER UTILITY.

Mayor Miller said the City has discussed stormwater issues for years and adopted a Stormwater Master Plan (SWMP) in 2011. State mandates are being put into place regarding stormwater requirements and the City needs approximately \$7 million per year for stormwater maintenance and improvements. A recommendation from the SWMP was to create a funding option for dedicated stormwater management. She said the City did not begin serious discussion regarding stormwater funding until 2015 and that discussion was pushed back because of Norman Forward.

On August 23, 2016, an election to create a Stormwater Utility (SWU) was held and failed. She said the City was not really prepared for the election and learned the stormwater issue is more complex than originally thought as the approximately 190 square miles in Norman are impacted in different ways by stormwater runoff and stormwater problems.

Mayor Miller said what Council heard in the public meetings was that more citizen input, more information, more time to understand the needs, more fairness, etc., was needed. She said there was a lot of negative campaigning against the vote, not from one group of people, but from a number of different groups of people. She said in her opinion "fairness" is really being mindful of the different needs throughout Norman and Council needs a plan that reflects that better. She said in August, she created a Planning Committee to review the next steps. After several meetings, the Committee decided the City needed help with creating a SWU because Staff was being pulled in too many directions with Norman Forward projects, bond projects, Lindsey Street bridge replacement, Lindsey Street Widening Project, etc. Staff asked Freese and Nichols for help and they suggested the City form a Steering Committee to help guide the process for solutions to stormwater issues.

Mr. Shawn O'Leary, Director of Public Works, said the public wanted more involvement in the process and were confused about what projects would be funded with a SWU, how someone could appeal the SWU calculation if they felt it was unfair, and if there could be a credit or deduction for stormwater improvements made by property owners. He said these questions contributed to the negative outcome of the election. He said Staff incorporated these concerns into what is being presented tonight.

Mr. O'Leary said the Citizens Steering Committee to review the SWU is proposed to be composed of 10 to 15 citizens with key qualifications for stormwater. Members will include representatives from the Chamber of Commerce; development community; environmental organizations; homeowner associations; Councilmembers; previous members of SWMP Committee; and stakeholder groups.

Ms. Carrie Evenson, Stormwater Engineer, said Freese and Nichols has been involved in more than 25 stormwater utility funding studies since 2003 consisting of cities with populations of 5,000 to 250,000. They have developed an adaptable stormwater financial model to conduct “what-if” analyses of funding and structure options; developed a fee credit system approach to recognize low impact development and activities that protect stormwater quality; and have experienced public engagement with steering committees, town halls, community surveys, print media, and social media. She said Freese and Nichols is proposing a two-phased approach with Phase I in the amount of \$25,000 and Phase II in the amount of \$175,000 to \$200,000. She said the final cost will depend on the needs and direction from the Steering Committee and Council.

Ms. Evenson highlighted Phase I and Phase II as follows:

PHASE I

- Data collection and review
 - What information do we have and is there additional information that needs to be gathered?
- Initial Steering Committee Meeting
 - Establish goals and objectives
 - Will help focus what is needed for Phase II
 - Freese and Nichols will facilitate meeting
- Comprehensive Funding Study framework
 - Options and recommendations for Phase II

PHASE II

- Bi-weekly meetings between Staff and Freese and Nichols
- Up to five additional Steering Committee meetings
- Community meetings to provide updates and obtain feedback
 - Includes use of social media and website
 - Freese and Nichols provides summary report to Staff and Steering Committee
- Stormwater Funding Model
 - Key component of Phase II
 - Allows evaluation of what-if scenarios by Steering Committee
 - Stormwater services, funding source, and funding structure can be altered on-the-fly
 - Freese and Nichols will maintain and modify as required based on funding
- Initial fee billing evaluation
- Preparation of documentation for up to two City Council briefings
- Final funding summary report
 - Documents basis and approach for development of SWU
- Special/Additional Services (optional)
 - Includes things like community surveys, assistance with public vote preparation or billing integration, and go-live support services

Mr. O’Leary said Staff is suggesting an enhanced citizen involvement through a Steering Committee with assistance from a third party expert (Freese and Nichols). Staff will be in the background working on a concurrent policy development that includes an appeals process if based on impervious surfaces; credit application process (if applicable); stream planning corridors/water quality protection zones; structural/non-structural controls; dam safety; acquisition of easements and rights-of-ways (ROWs); and enhanced maintenance of creeks and detention ponds.

Mr. O'Leary said the process will take approximately four to five months to complete depending on feedback from the community and Steering Committee. The Steering Committee will recommend preferred funding methods and fee structures that will be packaged in a ballot to result in a positive election. He highlighted the proposed timeline and said if Council desires a contract with Freese and Nichols could be considered by City Council on April 11th as well as Steering Committee appointments. Phase I will begin on April 17th; Steering Committee meetings will be held every two to three weeks; Phase II would begin in June; the results could be reviewed by Council on August 7th; the First Reading could be scheduled on August 22nd; Second Reading September 12th; notice to Election Board would be scheduled on September 14th; and an election could be held on November 14th.

Mayor Miller asked how Council will be updated throughout the process and Mr. Trae Shanks, Freese and Nichols, said the goal is to provide objective information to the Steering Committee and find a community solution. He said it is important for Council to stay informed during the entire process, but the community is the ultimate decision maker and they should be as informed as soon as possible because communication between the public and Steering Committee is critical. He said Council will have a role in helping with that communication. Mr. O'Leary said several Councilmembers were involved in the SWMP process and were kept informed by attending those meetings, but the entire Council had access to the information provided to the SWMP Committee.

Councilmember Karjala said the Councilmembers are busy people and represent thousands of people so it is hard for Council to actively seek public input. She said that is what Freese and Nichols is being asked to do so how exactly will public input be garnered? Mr. Shanks said there is a component for public input through community meetings, social media, surveys, etc., to keep information flowing so there will be progress along the way. Mayor Miller said public meetings were held prior to the failed election, but thousands of people had no idea that SWU discussions were taking place or why the City needed the SWU prior to the election. She said the public input and education process will be the most important aspect of the process.

Councilmember Hickman said a communication component between Freese and Nichols; City Staff; Council; the Steering Committee; and the public needs to start immediately. He said there will be inundation of information available from educational video clips to summaries of every meeting held by the Steering Committee. The most important duty of the Steering Committee is making sure they get feedback from the constituent group they represent whether that is the Chamber of Commerce, homeowners association, developers, etc. He said most citizens want to know how much it is going to cost them and how that money will be spent. He felt that before a final recommendation is made Ward meetings should be held to give Council a chance to educate their constituents before an election is held.

Councilmember Clark said the only downside to Ward meetings is that everyone is going to have their favorite plan so what happens when there is an even split in the Wards? The City needs to get everyone onboard if this is going to be successful. She asked if there could be a dedicated Facebook group created for stormwater discussion and for those who do not use Facebook perhaps a City webpage could be created for comments. She said the discussion will be different in every Ward because stormwater needs and problems differ in every Ward.

Councilmember Castleberry said a talking forum on Facebook would be a violation of the Open Meetings Act (OMA) so he prefers to provide a website with information posted as opposed to a discussion forum. Mayor Miller said that is a valid concern and providing standardized information instead of on-the-fly information through talk forums is a good idea. Councilmember Castleberry asked what information the Steering Committee is expected to gather from these groups that the City does not already know. He said the City knows why the SWU did not pass and has received plenty of feedback on why it did not pass so Council just needs to decide what it will do with that feedback. He would like the Steering Committee to focus on that feedback to find those answers and come up with a plan without a third party involvement.

Councilmember Castleberry said people are going to ask why the City needs more money if they are currently paying for stormwater projects out of the General Fund. He said there is no way he will vote to spend \$200,000 on Phase II when the Animal Welfare Facility could use that money. Where is this money going to come from and what projects are not going to be done to obtain this money? Mr. O'Leary said the money would come out of the FYE 2017-FYE 2018 budget so some projects would have to be delayed or removed. Councilmember Castleberry said he wants to know what projects will be delayed or removed. He said the budget reflects Council's priorities so Council needs to know what projects they are losing.

Councilmember Karjala agrees the budget represents Council's priorities and Council does lose citizen's faith when studies are done and the information is not used. One of the pluses to spending the money on this venture is this investment will result in a SWU that will take care of stormwater issues and ongoing maintenance. This is an investment that citizens will see results from and will not be a study that is put on a shelf and never used due to lack of funding.

Councilmember Holman said a majority of Council voted to hold the election last year because of concerns about budgetary and regulatory deadlines and pressure. Where is the City at on the regulatory requirements? Mr. O'Leary said a month or two ago Council approved the Total Maximum Daily Load (TMDL) Permit and on April 11th the Council will be asked to accept receipt of the City's stormwater permit, which has been authorized by the Oklahoma Department of Environmental Quality (ODEQ). He said the regulatory mandates are now official and the clock has started for compliance. Councilmember Holman said the City is getting farther behind in meeting mandates so he supports trying for a November election; however, he is concerned about the regulatory consequences of waiting. Mr. O'Leary said Staff is requesting additional funding for stormwater issues from the General and Capital Funds in order to accomplish all of the mandated requirements. He said this additional funding will only address mandatory requirements, not ongoing maintenance issues.

Councilmember Heiple asked Mr. Shanks how many communities they have worked with had a successful SWU vote and Mr. Shanks said none of the communities Freese and Nichols has worked with require a public utility vote. Because Norman must have a public vote, the ultimate decision maker is the public so the City has to make sure the general community is connected. Councilmember Heiple asked if Freese and Nichols is willing to have "clawback" or "skin in the game" for a successful election and Mr. Shanks said Freese and Nichols cannot guarantee a successful election. Freese and Nichols will put together a plan they feel is the best approach to get the City where it needs to be and Phase I is an important step to make sure Freese and Nichols truly understands the questions that need to be addressed.

Councilmember Hickman asked if Phase I will consist of only one meeting with the Steering Committee and Mr. Shanks said yes, but there will be a lot of other work going on, such as evaluation and identifying an approach. He said there is a feeling among Council that everyone knows the "lay of the land", but there is a disconnect when it comes to the needs, desires, and resolution to an equitable product. He said if that takes more than one meeting then Freese and Nichols will hold more meetings. The idea is to get everyone on the same page and it is very common for those who have worked on something day to day to get ahead of others. Because the ultimate decision maker is the public due to a public vote being required, the City needs to make sure the community is up to speed. Councilmember Castleberry did not feel there was a disconnect because a disconnect is not knowing what people think about an issue and Council knows what people think about the SWU.

Mayor Miller said she has heard a lot of negative comments about the SWU and although Council may know all the concerns, a lot of people do not know anything about stormwater issues. How is the City going to get that information out to those people and how is the City going to arrive at a broader answer than what it currently has?

Councilmember Allison said his biggest concern is whether or not the City is ready to move forward with a SWU. He knows the City needs it, but there is so much going on and Staff is already overextended. Everyone is talking about citizen input, but 15 people attended the Plan Norman meeting last week and to him that was a disappointing turnout. He does not like the financial structure or high cost of the study and if Council approves Phase I they know they have to approve Phase II. He said this process involves a lot of work and he is concerned with the timeline being presented. He said a lot of the engagement is proposed to happen over the summer when people are vacationing and in the fall with holidays and school, which makes this timeline difficult.

Councilmember Allison said although he enjoyed the presentation on the funding model machine, the challenge with that is the City already knows how much money is needed and it is a huge amount. He said voters have already said they did not like the fee structure and the money that would have been raised under that fee structure would not be enough for what is needed for stormwater issues. He knows the City needs professional help, but at what level? There are a lot of people against a SWU so the City has to pick the right time and right fee structure. He said between the cost for the consultant and the cost of the election, the City will have spent nearly one-half million dollars before the SWU goes to a vote of the people and that is challenging to him.

Councilmember Karjala said stormwater was the number one priority when Council set their priorities during the Budget Retreat. She said there will never be a perfect time and this will be a tough subject no matter what time of year it is taken up. She does not believe the SWU failed because of the total amount needed, it failed because of the public's confusion on the subject even after public meetings were held. She said Council decided as a group that the SWU was the number one priority and a Senior Center was second and neither has been accomplished. If Council is not going to make substantive movement towards these items then what are we doing? She agreed this is a lot of money, but there is critical infrastructure needed and it is time to do something about it or stop talking about it. Councilmember Clark agreed and said Council has told the public this is a critical need and now was Council going to kick that can down the road? If this is not the plan Council wants, then she is more than willing to hear another plan.

Mr. O'Leary reminded Council the recommendations of the SWMP was a combination SWU and Capital Bond package and Council chose not to do that package in the last election. He believes this is something the Steering Committee will discuss in great length to decide whether or not they want to make that recommendation. He said voters tend to be much more supportive of programs when you can show them what capital improvements are going to be made. Mr. Shanks agreed that seeing tangible benefits is the key to a successful plan.

Councilmember Chappel said education for a positive vote is the goal and because it requires a vote it will cost more to sell or market the plan. This is not something people are passionate about so it will take time and money to make a positive vote happen. He said in terms of east Norman, the City needs consistent application of cost and benefit because that will be a major issue in Ward 5. In the last election, citizens in east Norman felt the proposed fee structure was disproportionate for them so the City needs to try to balance that before moving forward with education and an election.

Councilmember Holman said Council debated a dozen different proposals over a three month period last year and changed those proposals at every meeting based on feedback from the public. Council did not get it right, but they spent a lot of time coming up with the proposal that went to a vote. As it turned out, thousands of people did not pay attention until it actually went to a vote, but the vote got their attention. He is concerned about the cost of the consultant due to the budget issues the City is facing; however, Council and Staff could use outside help because they cannot do this by themselves.

Councilmember Hickman said he has mixed feelings about this. He agrees with Councilmember Allison about not being ready, but if the City is going to do this then it needs to go to a November election and if the City

cannot get this done for a November election his comfort level of spending \$200,000 wanes. If the election is successful, stormwater fees can be collected sooner than they would be if an election is held in June and that is the benefiting trade-off of investing the money now with a consultant. He said public education should not begin until Council knows what the fee structure will be because until that time he does not believe the City will get much citizen involvement. He also believes Council and Staff have the talent and capability to do this and while that may not be the ideal scenario, it is plausible. He said Council needs to allow enough time to make adjustments based on feedback before the plan is finalized for an election. Mayor Miller said the City does not have enough momentum or ideas for a vote and it is not a matter of ability, it is a matter of experience and new ideas on communication with the public.

Mr. Shanks said the idea is to incrementally provide information early on so the plan is adopted as it moves forward. Councilmember Castleberry asked if this happens in Phase I or Phase II and Mr. Shanks said the best part of having a Steering Committee in Phase I is to start the dialogue immediately by putting out and assimilating as much information to and from the public as possible. This communication will take place throughout the entire process. Councilmember Castleberry said he is okay with Phase I, but before the City moves forward with Phase II there should be a Council vote with separate contracts for each phase. Mr. O'Leary said Staff will structure the contracts in whatever way Council desires; however, the Phase I contract will explain the Phase II structure. Mayor Miller said Council will only be voting on Phase I on April 11th.

Councilmember Castleberry said the SWMP outlines what is needed and he does not believe Freese and Nichols will come up with anything different so he is not sure the City will get the value for Phase II. He said citizens only want to know what it will cost and what they will get for that cost. He thinks people understand why a SWU is needed due to regulatory requirements and capital projects, but what they were not comfortable with was the cost per parcel. The City held several public meetings and changed the fee structure based on citizen input, but prior to the election the plan was changed to the point that it did not resemble anything the citizens wanted. Why not start with the plan that had no opposition and tweak that? Why throw out all that work? Mayor Miller said that information will be part of what Freese and Nichols and the Steering Committee will be reviewing. Councilmember Castleberry said he is fine with Phase I because a citizens committee is a good idea, but Council needs to give them direction. Councilmember Chappel agreed a citizens committee is needed for representation of all sectors of Norman, but there should be some ground rules as to what is and is not in play.

Mr. Shanks said it is very important to establish guidelines for the Steering Committee so they will understand what Council wants them to provide. He said a large part of Phase I will consist of assigning the different variables (gravel driveways, detention ponds, etc.); determining how to equitably distribute costs; determining how much the Steering Committee should tackle; reviewing available funding options; and educating the public in diverse ways. Phase I will help figure out the lay of the land before diving off into a full blown study. After Phase I is complete, if there is still a large part of the community that does not believe the City has stormwater needs, then the City can take a step back and reassess the situation.

Councilmember Hickman is concerned that if the City cannot have a working product by early July and have an opportunity to discuss the plan with the public for feedback then a November election may not be doable.

Mr. O'Leary said this will be one of the most intense, high pressured committees he has ever worked with because they have such a short timeframe. He said each of the members will be trying to represent a constituency and find balance, which will be difficult.

Mayor Miller said there seems to be consensus to move forward with Phase I. Councilmember Castleberry said he cannot support Phase I because both phases are in the contract Council is considering April 11th. Mr. Steve

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Lewis, City Manager, said Staff can draft explicit contract language that states if the City moves forward with Phase II it will have to come back to Council for approval.

Councilmember Hickman said it is important for the Steering Committee to understand the level of commitment they are undertaking. If this plan is not going to make the calendar deadline, he wants that to be known before Council votes to spend \$200,000 on the next phase because that would not be a good investment of money in his opinion. He said the role of this committee is unique and it takes a different level of understanding than any other committee. He would like the Phase I contract to include deliverables by a date certain because there needs to be a clear plan before Council votes on Phase II.

Councilmember Heiple said there is a large portion of the population that will say no to the SWU because in their mind it is a tax. He said Norman is the only community in the State of Oklahoma that has to have a vote of the people for utility rates and Council has a fiduciary obligation for the planning of infrastructure and safety. He asked the City Attorney to review whether or not the Charter is in-line with State statutes and make sure Norman is not violating that fiduciary obligation due to the inability to raise utility rates without a vote.

Items submitted for the record

1. PowerPoint presentation entitled, "Tax Increment Financing: A Valuable Tool for Economic Development," presented by the Center for Economic Development Law, City Council Study Session, dated March 21, 2017
2. Stormwater Utility-Related Activities Since August 2016

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The meeting adjourned at 7:20 p.m.

ATTEST:

City Clerk

Mayor