

CITY COUNCIL OVERSIGHT COMMITTEE MINUTES

May 30, 2017

The City Council Oversight Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 5:00 p.m. in the City Council Conference Room on the 30th day of May, 2017, 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: Councilmember Allison, Holman, Karjala, and
Chairman Castleberry

ABSENT: None

OTHER STAFF PRESENT: Mayor Miller
Councilmember-Elect Kate Bierman
Ms. Kristina Bell, Assistant City Attorney
Mr. Jeff Bryant, City Attorney
Mr. Bob Christian, Permit Manager
Councilmember Breea Clark
Ms. Susan Connors, Director of Planning and
Community Development
Mr. Terry Floyd, Development Coordinator
Ms. Brenda Hall, City Clerk
Mr. Travis King, Fire Chief
Mr. Steve Lewis, City Manager
Ms. Regina Oliphant, Administrative Tech III
Ms. Syndi Runyon, Administrative Tech IV
Mr. Kelvin Winter, Code Compliance Supervisor

Item 1, being:

DISCUSSION REGARDING PROPOSED CHARTER AMENDMENTS RELATED TO COUNCIL CANDIDATE ELECTION PROCESSES AND PROCEDURES.

Mr. Jeff Bryant, City Attorney, said Council, at the last meeting, requested a review of a particular item such as ranked voting as a possibility with the Cleveland County Election Board processes, and follow-up on the progress of the various bills in the legislature.

Ranked Voting

Mr. Bryant said the election board is not able to accommodate the request for ranked voting. Councilmember Karjala asked if the election board gave an explanation. Ms. Brenda Hall, City Clerk, said yes, the election board has a statewide system and everyone has to be on the same system. Ranked voting could only be accommodated with the election board if the entire state chose ranked voting and voting machines currently are not calibrated for a ranked voting ballot. She said the City of Norman could conduct their own elections, but conducting their own City elections involves purchasing machines, hiring precinct judges and officials and assigning staff to conduct them, and the cost factor would be a challenge.

Item 1, continued:

State Legislature Bills

Mr. Bryant said Council asked staff to follow-up on the status of the various bills progressing through at the legislative level. Ms. Kristina Bell, Assistant City Attorney, said there was no additional activity on the bills regarding the election dates; those bills did not pass. SB146 regarding the cost of an election, passed the house and continued on to the Senate, but they were unable to agree after a joint conference partially due to Senate amendments rejected by the House. She said there will not be any changes to those legislative bills this session.

Charter Changes for Election Dates

Mr. Bryant said the Council requested Staff to provide adjustments to Charter language (Sections 5, 6, and 10(d) of Article II), relating specifically to municipal office election dates which would maximize flexibility for setting filing dates as necessary depending on future statutory changes. He said a consensus indicated a preference for spring elections and the adjustments were drafted with that consensus in mind. He said the discussion regarding swearing in dates indicated preferences toward eliminating the “lame duck” period and returning to the previous language in the Charter to reflect the swearing in date as the second regularly scheduled Council meeting after the potential run-off election, rather than the current language of the first scheduled Council meeting in July. Mayor Miller said the terms of the odd numbered wards and the Mayor will be shortened if the swearing in dates go into effect in 2019.

Mr. Bryant said there were two options discussed; one, if no opponent was drawn, the candidate would be sworn in right away; or two, make a uniform swearing in date for all elected councilmembers during the second regularly scheduled Council meeting in April following a run-off election. In regard to the swearing in date change, he said the concerns were with the new councilmembers not having the time needed to be able to get up to speed with the upcoming budget process.

Councilmember Hickman asked whether the changes could go into effect for the 2018 election if they have an election in November regarding the Charter amendments. Mr. Bryant said yes.

Chairman Castleberry said he does not have a problem with when the change goes into effect. Ms. Hall said those filing for office in 2018 will create the same dynamic either way whether it goes into effect in 2018 or 2019.

Councilmember Karjala said a determination needs to be made on the length of office, if run-offs are still going to be used, and if any changes are made on swearing in dates. Chairman Castleberry said he would not be in favor of being elected without the majority, when you have runoffs as a possibility, and would like to see the runoffs closer to the primary election date; i.e. within a month.

Councilmember Karjala said runoffs are expensive, deter candidates by drawing out the process in a way that does not make them friendly, and the voter turnout is much lower for a runoff election. Ms. Hall said a City Wide Election is \$35,000, but ward election costs depend on the ward. She said, for example, the Ward 5 election was approximately \$15,000; however, the cost is determined by the number of precincts in a particular ward and Ward Five has 19 precincts.

Item 1, continued:

Regarding the state bills that did not pass, Councilmember Hickman asked Ms. Bell if those bills come back, will they impact the February and April election dates. Ms. Bell said no, the bills during this session actually did not affect the election dates for officer elections; those bills only affected election dates for issue elections.

Ms. Hall said some cities have taken the option to amend their charters to conduct elections as allowed by current state law, setting the election date by resolution each year, eliminating the need to keep amending the charter. Ms. Bell said the proposed drafted language is a more broad language, "when coincides with current state law," but there is a stated preference, "if allowed by state law, to be February or April." The proposed draft language contains the date preferences as it "shall be" unless those dates are removed and then the new dates would be selected by resolution; thus keeping the consistency without the need for continued Charter changes.

Councilmember Hickman asked if the length of term can be discussed. Chairman Castleberry said no, before we can set the date or the length of term, we need to know if we are having a runoff or not. Chairman Castleberry said he is not in favor of runoff elections, but is in favor of having a runoff procedure in place. He said he can foresee possible manipulation of ballots with ranked voting if a candidate is not required to win the election by majority.

Councilmember Clark said it would be interesting to see how many elections went to a runoff, and out of those particular elections, who won the first election; stating she won her election as well as the runoff, and the same for Councilmember-Elect Sereta Wilson. She said she understands the possibility of manipulation but would also like find out if the City is wasting money on runoffs by conducting the election with the same winning results. Ms. Hall said she can do the research on the request for however long Council requests.

Chairman Castleberry said a third party in any particular election could say they endorse candidate number two and if those votes go to the other candidate, the candidate that won the election by the most votes could possibly not win the runoff election. Mayor Miller asked whether a third person could make a mathematical difference somehow, having someone ready to go, manipulating the voting, and controlling the outcome. Chairman Castleberry said that is the reason for the need of a majority rule.

Councilmember Allison asked if City elections always had the majority rule. Ms. Hall said yes. Councilmember Allison said all the blame can be eliminated by doing things the same way and staying with the majority. Chairman Castleberry said our Charter does not match up with state law, and making the necessary changes will eliminate frequent changes in the future.

Councilmember Holman said his concern with it not having a majority is, for example, some bigger cities have several candidates running for City Council or Mayor with no majority, and there was an elected official with only twenty percent of the votes. He said he would not feel uncomfortable if the Mayor was elected with these results. Councilmember Allison agreed with Councilmember Holman. He said we need to find a way to save money and try not to create a run-off election, keeping in mind what is best for the voters. He said keeping the majority is the best for voters, but he realizes it's not the best for City finances.

Item 1, continued:

Councilmember Hickman asked for our degree of confidence of that ranked voting is not an option. He asked if the Cleveland County Election Board told us if we could order a different ballot and use their machines. Ms. Hall said she is very confident that ranked voting is not an option. She said the election board representative spoke to the State Election Board Secretary to make sure there was not another option for us and the State Election Board confirmed the entire state would have to be changed to ranked voting. Councilmember Hickman asked if we bought the machines to read the ballots, could we transition to that option, providing the machines with the Cleveland County Election Board staffing the election. He said the cost of the elections versus the cost of the machines could be an investment that would pay off if the City wanted to try that option. Ms. Hall said no, the election board staff is trained to conduct elections on one system, the state wide system. She said if the City wants to go with ranked voting and purchase machines, we will have to conduct those elections by providing the multiple machines and staffing for all precincts in each ward.

Councilmember Allison said the challenges with conducting our own elections is what if we cannot secure the same precincts, causing voters to change the precincts between city and state elections, and we do not have the money to even think about our own election board. He said there are also some non-tangible issues with having our own election procedures. Chairman Castleberry said there are independence issues as well, such as, “the City of Norman is running their own elections.” He said there is a difference between having your own Charter and counting your own ballots.

Councilmember Hickman said assuming we can't do the ranked voting, he agrees with Councilmember Holman and said having the consistent election cycles of February and April is important. He said he supports getting sworn in as immediately as possible. He said he would prefer if Council had a consensus for the February cycle, for the new elected official to get sworn in as soon as possible to be a part of the budget discussions.

Chairman Castleberry said that after talking with former Councilmembers about when they changed the Charter, the reason they changed the Charter is because Councilmembers wanted to be up to speed and they did not have time to accomplish that; therefore the reason for the swearing in date of July 1st. He said he doesn't approve of councilmembers necessarily being sworn in during the month of February, but after the second week in April does not make sense either. Councilmember Hickman said they would still have a portion of the budget to become familiar with.

Mayor Miller said you then cut the others short that may have even had to go through a runoff to get elected; cutting their term short by three months if you start in February. Chairman Castleberry said he is not necessarily concerned if someone gets voted out of office and they don't serve out their term. He said if the people in their ward say they don't want you re-elected then he is not sure the people really want you in the office for the last few months of the term either.

Councilmember Hickman said he is not opposed to running without ranked voting and getting the majority. Councilmember Holman asked if the charter language could say we have our elections in February without runoffs needed then the elected officials are sworn in at the following meeting, but if a runoff is needed then everyone would be sworn in at the meeting following the runoff so everyone elected would be sworn in at the same time. Councilmember Hickman said Councilmember Karjala was sworn in early because the other councilmember decided to step down, so we swear in at different times for different reasons.

Item 1, continued:

Councilmember Karjala said the Charter does not have to be changed for every little thing. Chairman Castleberry said we need to remember the changes are proposals. He said if voters do not pass the changes, your fallback position is July 1st.

Councilmember Holman asked if they could see what Oklahoma City does. He said they swear in the following week after the election, he cannot think of any runoffs they have had, and they usually get many more candidates.

Chairman Castleberry asked if there was consensus for a majority but not necessarily a consensus for when elected officials would be sworn in. He asked if we have a consensus for the second meeting in April. Councilmember Hickman prefers the meeting after the election.

Chairman Castleberry said if they go with February, would there still be a filing period of December. Mr. Bryant said yes.

Chairman Castleberry said if you file in December and they do not draw an opponent, the county election board declares them the winner; then, they are sworn in at the following meeting in December. Councilmember Clark said it makes sense since you are already there.

Chairman Castleberry said if they do draw an opponent and win their election with a majority; then, they would be sworn in during February. He said if they draw an opponent and do not win their election there would be a runoff election; then, they would be sworn in during April. He said there would be a possibility of three different swearing in dates during the cycle.

Councilmember Clark asked what if the meeting after the February election was chosen for the swearing in meeting. Chairman Castleberry said what if there is a runoff. Councilmember Clark said there would then be a swearing in date after the runoff election. Mayor Miller said then it is the same scenario Chairman Castleberry was just describing.

Councilmember Hickman said he agrees with there just being two swear in dates at most; one after each actual election date. Chairman Castleberry said yes, one in February and one in April. Mayor Miller said for clarification, if they have no opponent in December, the candidate would still not take office until February. Chairman Castleberry said, right.

Chairman Castleberry said they do not need to make the changes too complicated. He said the people need to understand what they are voting for and not three different scenarios. He said the language could read "the next meeting upon election," and this would cover those candidates whether February or April, or "the meeting subsequent to their being elected." Chairman Castleberry said this also helps if the state changes the filing dates on us.

Councilmember Allison said, for example, in 2017 we were looking at February 14th as the election date, and then swearing in at the February 28th meeting. He said he was sworn in during January, and there were budget documents at his doorstep when he arrived home after the weekend. He said it was a pretty tough turn around to understand the budget and make sure he knew what he was doing. Chairman Castleberry said if you are sworn in during February, you have one budget meeting and then you won't get the final budget until April anyway. He said you actually see the final budget no later than anyone else on Council. Chairman Castleberry said that if a person is running for office they will be attending Study Sessions and Council Meetings and will have acquired the information and knowledge at the same pace as the current members of Council.

Item 1, continued:

Mr. Steve Lewis, City Manager, said he thinks Councilmember Allison is saying that if a Councilmember goes in that early all they really are seeing is the Capital side of the budget. He said the Manager's Operating Budget will not be released until the middle of April. Chairman Castleberry said they have basically the same amount of time any other councilmember has to look at the budget. He said we are not looking at the budget in September through December. He said the second meeting in February accomplishes the time needed to view the budget.

Chairman Castleberry asked if there is a consensus on the February date. Councilmember Hickman said he is comfortable with two swearing in dates; those being February, and April if there is a runoff election.

Chairman Castleberry said the literature to the voters needs to explain why we are changing the Charter, and what the problem is we are trying to solve. Mayor Miller said the problem is exacerbated because some candidates are elected in April with still quite a bit of time until July, but now we have elections in February therefore an even longer period of time for the incumbent to stay engaged. She said this has always been a problem even when the lapsed period of time is shorter; attendance declines and they do not stay engaged. Councilmember Hickman said it is in the best interest of the citizens, if a new candidate is voted in, the new elected official should fill the seat as soon as possible, and why prolong it artificially because the rules we have in place. Chairman Castleberry agreed.

Chairman Castleberry asked Mr. Bryant about the drafted language and Mr. Bryant said he was looking at Oklahoma City's language included in the packets on January 19, 2017, and their elected officials take office the second Tuesday in April, regardless if they have an opponent or not.

Councilmember Allison said Council wants to move it up a month closer for those officials elected in February. Chairman Castleberry said yes, if you have a runoff they would swear in during April, but if you don't have runoff, then February.

Councilmember Allison asked if there is a cost associated with multiple swearing in dates, and if there is no additional cost, he does not have a problem with the dates of February and April. Councilmember Holman said the costs involved are the expenses for the ceremony.

Chairman Castleberry said either February or April will be the period of time for swearing in of the new elected officials, and if the candidate does not draw an opponent, they will be sworn in at the meeting following the February election.

Charter Changes for Length of Term

Mr. Bryant said Council asked Staff to look at three year terms for councilmembers and four year terms for the Mayor, and the information depicted in the chart (Exhibit 4), beginning in 2019, is to show the cycle numbers for the entire twelve year cycle. He said the first year the Mayoral election would coincide with four ward elections; in the fourth year, the Mayoral election would coincide with the other four ward elections; in the eighth year, the Mayoral race with not occur with any other ward races at all; and every sixth year, there would be no municipal elections during the cycle. Chairman Castleberry said the issue not being addressed here is, every year; you have half the Council up for re-election, potentially a loss of half the institutional knowledge, or a gain of half with new ideas. He said what if we accomplish this with thirds, and to do so, he thinks everyone would have to have the same length of term.

Item 1, continued:

Councilmember Allison asked if there could be a completely new Council election. Mr. Bryant said he thinks Chairman Castleberry is saying three wards per year, for example, each election cycle would include Wards 1, 2, and 3; Wards 4, 5, and 6; and Wards 7, 8, and the Mayor. Mayor Miller said part of the issue is in terms of the actual election itself. She said it is one thing to prepare for an election for a ward, but it is another thing to prepare for an election for the whole community. She said the Mayoral campaigning process costs much more, and for those looking to run for mayor might actually want to run if they felt like they would be seated for a four year term; making it worth doing even if just for one term. She thinks this is the reason it is a four year term in a lot of the communities.

Councilmember Holman asked what advantage or disadvantage is it for a councilmember to run in the same election cycle as the Mayor. He said the way we have it set up now during an election cycle is one half of the Council runs with the Mayor and then during the next Mayoral election cycle the other half of Council runs with the Mayor. He said there are certain scenarios where the same group of wards would have to run in Mayoral cycle every time, and half the Council would never have to run for election during the Mayoral cycle. He said one thing he likes about our current system is the fact that not every Council seat runs during the Mayoral cycle every term. He thinks Council ward seats would all have to have the same length of term in order to accomplish this goals and he would like to see only two or three seats up for election every year or two, so half the Council is not up for election every year. Chairman Castleberry said he would like to add four year terms, but the need is to figure out the sequence for the cycles and what wards will be involved in the process.

Councilmember Hickman said he likes Exhibit #4, agrees with wards being three year terms and Mayor being a four year term. He said the citizens are not going to be upset that they are not going to have a council vote every two or three years, and it saves the City money in the process. He said one of the things he hears from voters is voter fatigue. He feels the "third process" of an election cycle gets too complicated.

Councilmember Hickman said the even wards have other obstacles involved during their election years such as the presidential primary or state elections during even numbered years. He said if you rotate the ward elections with a three year term, there will be times the odd numbered wards will be involved during the even numbered years, creating a better opportunity for the voters to get a chance to vote on different cycles and opportunities to get more involved. Chairman Castleberry said you have primaries in April, and if we move to February, Council would not have primaries and their election would happen before any national or state election.

Mayor Miller asked if the Charter amendments go to the people for a vote, would there be a problem with putting in a change in the term length for councilmembers and the mayor, and would the change impact what we do? She said in case someone wants to run again, and you are already having everyone vote on your term being longer. Mr. Bryant said there was a reason why 2018 was not a good option. He said particularly if you are changing the Mayor's term. He said he would go back and look at his notes, but if you wanted to go with the three and four year term lengths to make it all fit when the Mayor's term ends, 2019 is the time to begin the change.

Item 1, continued:

Councilmember Holman said if we run for re-election two years from now, we would be running for re-election for a three year term. Councilmember Hickman said we are not changing our terms now and giving ourselves more time to be seated for three years. He said if voters voted November 2017 and they approved these changes, including the length of term; a month later, anyone in Wards 2, 4, 6, or 8 could file to run for City Council knowing it could be a three year term. He said the elections are held in February and April, and if you win you get sworn in the meeting after the February election or the meeting after the April runoff election. He asked if all these changes go into effect immediately, as opposed to waiting a year; why wait.

Chairman Castleberry said there could be a possible conflict of interest. Councilmember Hickman said we all are voting on the same issue affecting all wards.

Mayor Miller asked if the Mayor ran again in 2019, and we voted this to go into effect; it still would not affect that term. Ms. Hall said yes, it would start in 2019.

Councilmember Hickman said you want to start the process in 2019 and the 2017 elections are over; you do not want to start for the even years. If it theoretically could begin by voting in November and whomever sitting in the seats right now for the even years, but for the odd seats it would go into effect for their election cycle in 2019 which is no more of a conflict of interest or unfair than those of us sitting in the even seats right now. Chairman Castleberry said when you move the cycle up to 2018 we would move the election up early. Councilmember Hickman said he understands that if we put this process in effect in 2018 and he runs and loses; he understands he just sacrificed three months of his term because people voted him out versus, if it does not go into effect until 2019, he will serve out his term until July 1st. Chairman Castleberry said we can make the swearing in effective in 2018, and Councilmember Hickman said it does not make sense to make the swearing in effective in 2018 but not the length of term.

Councilmember Hickman said if the people vote to approve these amendments in November, then we should be prepared to proceed and have the amendments go into effect in 2018. Councilmember Hickman asked if there is a holding period after a vote for amendments to the Charter for it to take effect, e.g. six months. Mr. Bryant said there is a process where the Governor has to sign off on the amendment. Ms. Hall said the timeframe can be from a month to six months at the state level.

Chairman Castleberry said he has not received an overwhelming response to extending the terms for Council to three year terms, and if three-year terms are wanted, then you need term limits. Mayor Miller said she understands that way of thinking but really does not think the average voter understands the amount of responsibility. She said look at what happened in the legislature with term limits. She said you don't have anybody that has any kind of depth of experience, and even being on the City Council is really information intensive. She said we are making really important decisions for our City and she can think of a lot of reasons for having longer terms. She said she is not sure that she feels comfortable having a Charter amendment that says the Mayor's term is going to go to four years and have it happen before the next election. Councilmember Allison said it does not shorten your term. He said an opponent could come in 2019 and run against you. He said he likes this exhibit and the way it's laid out; it's very logical and flows. He said he would like to see this change voted on in November or sometime next year.

Councilmember Karjala said she appreciates the work that went into Exhibit 4 and if we are going to make different terms of office; however, there is something that has to be thought about that Councilmember Holman was talking about earlier and that is there is a little bit of danger with having

Item 1, continued:

half of the City Council up for election for one year and the Mayor at the same time; losing lots of institutional memory. She said this is just her suggestion but to remember she is a political scientist and you can take that for what it is worth. She said it is probably not a good idea to have more than a third of your body up for election at any given time. She said she thinks that Exhibit 4 needs to be changed to a starting date of 2019 or 2020 and decide three wards at a time for elections; however, keeping with three years for councilmembers and four years for the Mayor, or leave the Mayor at three years. She said she can draw this out for everyone but one of the reasons term limits are very harmful is that they are not able to write a budget or get anything done by losing institutional memory. She said you have to be careful setting up an electoral system because although it does not usually create a clean sweep with new councilmembers, it still could happen. She said if we are going to make the changes now then it would be smart to go ahead and make the changes to eliminate the possibilities in the future of half the Council being new members. Chairman Castleberry said he would be interested to see how we would group in thirds. Councilmember Karjala said we could draw numbers out of a hat to be ultimately fair.

Chairman Castleberry asked is that the desire or the consensus to lengthen the term and if so, we need to figure out on a chart how to do that, but if we do not have a consensus then we do not need to worry about it. Councilmember Holman is interested in lengthening terms, and he would also be opposed to the term limits. He said we have seen much turnover on the City Council, seen very few career councilmembers, and his predecessor served five terms with three unopposed. He said some wards have more participation than other wards, but in a city setting, we want to re-elect a Mayor or councilmember over and over without term limits.

Councilmember Hickman said he supports extending the term length but if we are not inclined to do that then he would put on the table for the stipend to expand. He said serving on Council is not businessman friendly. He said if you want to get people involved in the process we need to give people an opportunity to serve on Council, creating competition and if you will expand the length making it worth their while to serve. Chairman Castleberry said that would be great; Council increases their term length and pay. He said that would make a great headline.

Councilmember Hickman said that if we paid a better stipend it may encourage more involvement. He said a better stipend may make small business owners feel better about the sacrifice they are making to their small business. Chairman Castleberry asked what that stipend is. Councilmember Clark said people may treat it more seriously by getting a bigger paycheck and in return, get more work.

Councilmember Holman said Oklahoma City is six times larger than Norman and they get a thousand dollars per month and free admission to all city-owned venues such as the Zoo Amphitheater. He said they also get an office with an assistant, and possible medical benefits. He said it was not ever a huge pressing issue and the thought of asking citizens to give the Council a raise seemed weird with budget problems always existing. He said anytime people ask and he tells them how much he gets paid, the people are always surprised. He would like to see longer terms and the Council get compensated more for the service.

Item 1, continued:

Chairman Castleberry said he is seeing a consensus for longer terms. He said the additional work on longer terms, how that would work; whether Exhibit 4, or is there a way a chart can be created to see what the process of thirds would look like. Mr. Bryant said the Mayoral term would be four years, and the councilmembers' terms would be three years each and divided in thirds as three, three, and two wards for each election period. Councilmember Holman said he would like it to be where the same seats are not running during the Mayoral election every cycle.

Councilmember Hickman said that there is a question that people have asked about, which is, our Charter says you have to reside in the ward in which you seek election. He asked if you own a business in the ward you are seeking election in, but reside in another, can the Charter can be changed to allow that. Chairman Castleberry said that hypothetically if he is a banker that works at multiple branches, he may work in every ward in the City. Councilmember Allison said there are several people that own property in different wards in Norman. Mayor Miller said all the property she owns is in Ward 4.

Councilmember Holman said if we are addressing the issue about how long you are supposed to live in your ward before you can run, his opponent had not been a resident in Ward 7 for six months but she was allowed to run anyway. Ms. Bell said the packet has changes to the language to say municipal election or runoff; making the wording consistent with the rest of the Charter. Mr. Bryant said they tried to clean that up with the county election board ruling the last time, of course, we have no control over their ruling and all we can do is address the language changes in the Charter.

Items submitted for the record

1. Memorandum dated May 12, 2017, from Kristina L. Bell, Assistant City Attorney, through Jeff Harley Bryant, City Attorney, to the City Council Oversight Committee with Exhibit 1, City Council Oversight Committee Minutes dated March 16, 2017; Exhibit 2, Section 2, Term of Office, Section 5, Municipal Elections, Section 6, Municipal runoff elections, Section 10, Candidates, Section 19, Election of Mayor Pro Tem; duties of Mayor Pro Tem; Exhibit 3: (Alternate Section 2 – Seated after their election), Section 2, Term of Office, Section 19, Election of Mayor Pro Tem; duties of Mayor Pro Tem; and Exhibit 4, Length of Office Chart (12 year cycle), and Potential Election Dates Chart

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Item 2, being:

DISCUSSION REGARDING A PROPOSED AMENDMENT TO CHAPTER 7.5, ELECTIONS, REGARDING THE ANNUAL REPORTS SUBMITTED BY THE NORMAN ELECTION COMMISSION.

Ms. Brenda Hall, City Clerk, said Item 2 refers to Chapter 7.5 of the City Code not the Charter; dealing with city elections, the duties of the Election Commission, and her duties relative to candidate elections. She said there are two provisions in Chapter 7.5 requiring the Election Commission to submit reports to the Council. She said the first one required is a preliminary report within thirty days of the municipal Election, a final report within forty days of the municipal election,

Item 2, continued:

or within ninety days from the runoff election. She said the problem now is, under the new state reporting rules, they do not have the final reports from the candidates from all the expenses they had during the election in time to meet the ninety day window from the runoff; requiring candidates to submit a report to Council prior to having all of the data from the election cycle. She said they are proposing to change the wording so that it allows candidates to submit the report after each election, but they would still submit two reports to Council each year after all the financial reports are submitted for the election cycle; reporting to Council a complete report instead narrowing into forty or ninety days. She said you will get a report this year, which is supposed to be the final report, but it will be a preliminary final report because the final numbers coming in for the candidates will not come in until after the report is due.

Mr. Jeff Bryant, City Attorney, said this is a City ordinance change, not a City Charter change. He said this item can be brought before Council, per second reading, to clean up the wording, but as it relates to the Charter changes, their attention will be drawn to the last paragraph of the memo. He said if Council wants to clean up the language before the next filing period, the timeline to accomplish the November election date would be as follows:

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|---------------------------|-------------------|
| ▪ Packet Information | July 24, 2017 |
| ▪ 1 st Reading | August 8, 2017 |
| ▪ 2 nd Reading | August 22, 2017 |
| ▪ Election Board | August 30, 2017 |
| ▪ Election | November 14, 2017 |

He said if there are reasons for delay on some of these issues, they might consider sending through some of the simpler issues to rectify the filing period issues dealt with during the last election.

Ms. Hall said she wanted to remind Chairman Castleberry the Oversight Committee meeting in June has been cancelled to allow for the Plan Norman presentation. She said the committee does not currently have the meeting rescheduled, but expressed the need of moving it to another day in order to keep this on a November ballot schedule, and reminded him generally there are no committee meetings held in July. Chairman Castleberry said they may need to schedule a special meeting. Mr. Bryant said he noticed there were seven out of the nine councilmembers at the committee meeting, and usually it comes out of the committee before going to Council in Study Session, however, you may want to skip that step since you have so many councilmembers present and because of the time schedule.

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Item 3, being:

DISCUSSION REGARDING UPDATES TO CITY OF NORMAN BUILDING, FIRE PREVENTION, AND PROPERTY MAINTENANCE CODES AND CLARIFICATION OF CERTAIN PERMIT FEES.

Ms. Susan Connors, Director of Planning and Community Development said in 2009, the state appointed a board to look at all the building codes, residential and commercial, and create a State Code. She said municipalities are required to adopt the State Code and the City of Norman did so in

Item 3, continued:

2009. She said the only thing that a municipality can do is create a more stringent local amendment to the State Code but not a less stringent amendment. She said Staff is here to provide the information and much is reformatting of the current wording to clarify. She said Council will have to adopt the State Code and there are a few local amendments adopted in 2009 that they want to carry forward. She said Mr. Bob Christian, Permit Manager, will provide information about the Building Code; Mr. Travis King, Fire Chief, will talk to them about the Fire Code; and Mr. Kelvin Winter, Code Compliance Supervisor, will talk about the Property Maintenance Code. She said all of these codes are going to be coming before Council for adoption.

Mr. Bob Christian said one of the primary objectives other than modernizing the actual Code language is to be consistent with the State Code. He said Staff works towards providing a more uniform environment particularly in the metro area. He said Staff also works to make sure the City Code is not more stringent than the State Code. He said there are a few local amendments they do recommend maintaining and a couple of practices they would like to maintain are due to new technologies not having stood the test of time. He said to get ahead a cycle or two, would allow time for the new technologies to prove themselves to some degree. He said there are few changes; most just making our fees consistent with what we are actually doing. He said people sometimes struggle with putting the pieces together and this provides clarification. He said the one new fee being suggested is when an inspection was missed and the fee is recommended to recover some of the administrative costs associated when it would be difficult to uncover or remove what is to be inspected. He said they do not normally require removal in all cases, but create solutions consistent with the Building Code that allow the work to remain as long as there is some verifiable evidence other than the normal visual inspection.

Mayor Miller said if they did not request an inspection prior to their completed work, even if you did not require them to take it out, you would try avoiding doing so, but you are saying you would charge them \$50. Mr. Christian said yes, because the Building Code obligation is an administrative cost process to record that event and even if the building inspector couldn't see it, technically the inspection could be approved. He said the option would be, for example, to tear out the concrete on a concrete slab, but if there was photo evidence or the property owner was there and saw what occurred, providing reliable evidence to support approval on an administrative basis rather than a visual inspection, we would create documents that would allow that record to take the place of the normal inspection. He said the fee would not cover the Staff time but at least it gives those who are faced with the situation to contribute something to the administrative effort. Chairman Castleberry asked Mr. Christian to highlight the changes that are more stringent than what the current Code is. He said he is interested in the amendments that are more stringent than the State Code. He said an example of the more stringent changes is detailed in Section 5-210: Item 15 (310.11CSST) where the narrative remains unchanged but the Code is changed to accommodate a new material that deals with lightening protection; however, it has not been field tested, it is laboratory tested, showing success, but the field conditions are often different to some degree or another. He said there have been extensive fires as a result of this material being a conductor during a lightning strike event. He said the pipe has a thin wall and when a pinhole exists after a strike there is enough heat to ignite the gas that escapes. He said we are simply asking to dampen that with the ground and electrode conductor or grounding conductor and not allow the exception of the Code. He said that is more stringent than what the Code allows but staff feels it is appropriate for a cycle or two more (three to six years) for the product to undergo field testing and see how it will perform in the field. He said it is relatively minor in expense but it is tremendous in terms of the safety advantage.

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Chairman Castleberry asked in Section 5-204: Item 6, regarding waterless urinals requiring a water line to a waterless urinal. Mr. Christian said history has shown the waterless urinals have priority products that have to be used; manufacturers of these products go out of business leaving people faced with a waterless urinal without access to purchase deodorizing cassettes, which is a real problem. He said they have to take a bucket of water to the urinal periodically to cleanse the waterless urinal, and often have found maintenance and cost issues involved, and after two or three years odor issues exist; and they take them out and replace them with water urinals. Chairman Castleberry asked should that be their option as opposed to Council saying you might have a problem therefore you have to install a water line. He said should it be their option to choose if they pay upfront for a waterline they may or may not ever have to use.

Ms. Connors asked if this is a state regulation. Mr. Christian said it is not a state regulation but a local amendment specific to that clause and done in concert years ago. Chairman Castleberry said that is a great idea but for some people requiring someone to do a great idea is a government overstep. Mr. Christian said this is not new but a carry-over and developed initially as a result of a concerted effort in talking with builders, plumbing contractors, architects, and engineers. Chairman Castleberry said he had to supply a waterline to a water fountain that will never be in his building, but just in case he ever wanted a water fountain the line will be there. He said if the next property owner wants to install a water fountain then the cost should be his responsibility. He said it was his personal experience and unfortunately there was a leak and there were additional costs for repairs and damages. He said he was curious if this was a state code or something more stringent from the City standpoint. Mr. Christian said the water for the urinal is a local amendment.

Councilmember Allison asked how do we come up with local amendments, how can we require the property owner to install the water line, and why do we care if it is going to possibly cost them more in the long run. He asked is it better for us or is it a public safety issue. Mr. Christian said one of the specific objectives of the codes is safety and public health and these items have been up for discussion having been determined to be in the interest of public health.

Councilmember Hickman said the permit fee schedule is changing and one thing he does not see that we do is to give incentive for the things we would want, for example, if someone was following our low impact development code, we do not discount the building permit, do we? Mr. Christian said that is correct. Councilmember Hickman asked why not, do we want them to follow the low impact development. Chairman Castleberry said we are not allowed to discount building fees.

Councilmember Allison said according to Code we cannot, but we could. Ms. Connors said you could but we have never had that conversation, and we cannot discount the excise tax. Councilmember Allison said in regard to Center City, we were not going to give any incentives.

Councilmember Hickman said while following a specific type of standard and building code, that we want to provide incentives for people to follow if it is low impact like erosion and stormwater among other things, presuming it costs more money to follow low impact development principles than not. He said it is a discussion worth having if we are amending this section of the Code to say if you follow the provisions then you can have a discounted permit fee. Ms. Connors said those are engineering provisions not building code provisions. Mr. Steve Lewis, City Manager, added, some are subdivision standards.

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Councilmember Hickman asked when and if those provisions ever cross over. He said if those provisions are required by the Engineering Department do they still not have to get a permit to accomplish those provisions. Ms. Connors said some of the subdivision standards require certain things and those permits are approved through the Public Works Department, which we coordinate, but the building code, the actual structure of the building, is separate from that. Mr. Lewis said the low impact development is generally public improvements developers build and then donate to the City, whereas what Mr. Christian is talking about are private improvements for buildings and parking lots.

Councilmember Hickman said there are low impact provisions that deal with the building an actual structure better, like Boltz Construction, having Leadership in Energy and Environmental Design (LEED), low impact development project when they built their headquarters. Ms. Connors said she was wondering if he was talking about LEED certifications that are building code certifications like our two fire stations that met those LEED requirements. She said those are different than low impact development. Councilmember Hickman responded that they also comply with low impact development standards and that these two standards can be very similar in ways.

Councilmember Allison said an example of what Councilmember Hickman is talking about is that if someone put in all motion sensor lighting, can we give them an incentive. Mayor Miller said Council had this discussion during the stormwater meetings about low impact development and how you could give incentives to people for those provisions.

Chairman Castleberry asked if these are inspection fees. Mr. Christian said yes. Ms. Connors said they charge fourteen cents per square foot for the building. She said this chart does not include any changes to this fee, which is not a huge amount. She said the City compares appropriately with neighboring cities.

Chairman Castleberry asked if it is possible to get a listing of the items that are more stringent. Ms. Connors said yes, they will provide a list for the committee.

Councilmember Allison said he has a question regarding one of the amendments that references adding in safe access to the building and means for inspection of such work. He said he is nervous of this wording because safe has a different interpretation between all inspectors. He asked who determines the definition of "safe," and he hoped they would be fair in the use of the word. Mr. Christian said the principle objective in having that word "safe" inserted is to help ensure the safety of our inspectors. He said there are a variety of things they used to do years ago to access areas for inspection, some of those methods were very foolish and they were fortunate not to have an on the job injury as a result. He said it is discretionary in terms of what is safe versus what is not. He said there are occasions when an eight-foot ladder may barely give access for viewing and it is still determined adequate for that particular circumstance. He said there are other occasions where the equipment is located deeper in the attic or ceiling cavity where an eight-foot ladder is inappropriate. He said there are some practical decisions that occur on a daily basis, and what we continue to emphasize to the inspectors is to act responsibly and conclude the inspection if at all possible without jeopardizing safety. He said the inspectors work regularly around construction where there are no guardrails installed, openings in floors, and inadvertently an inspector may be faced with a potential injury from a fall. Mayor Miller asked if there have been complaints from builders that inspectors have been arbitrary or capricious about their safety requirements. Mr. Christian said it happens occasionally but they try to address this issue responsibly. He said he often goes to the site to evaluate with the inspector and yet most of the time the responsible person on

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the site sees the benefit; following through with making the work site more safe. Mr. Christian said that any construction site you walk onto that is responsibly managed usually will have a large sign that says "safety first." He said safety is inherent in the process and interest in safety because there are multitudes of hazards that exist on construction sites. He said right now they have a commendable safety record through their processes and yet they still have injuries from time to time; guarding against those.

Mr. Kelvin Winter said he will provide an overview of Chapter 9 and the proposed changes. He said historically they have been working under the 1997 version of National Fire Protection Association Code (NFPA) and in 2009, the City adopted the version of International Fire Code (IFC); mandating changes to the most stringent forms of conflict. He said their proposals are for all past construction investigations and inspections work under NFPA, and for all future construction such as brand new add-ons and remodels, being under the IFC only. He said if there is a conflict such as the International Building Code referred to a NFPA standard and that NFPA standard conflicted with IFC; taking out "stringent" and replacing it with "reasonable" so officials would gather and determine what is the most reasonable approach moving forward. He said he is pleased with this and has reached out to other departments in the metro as well as the Dallas Metro, Tulsa area, and IFC is

what is being used moving forward? He said fire officials in those communities are very happy and this takes out a lot of conflict we have had in the past putting us in a good position to move forward. He said we are currently using the 2003 International Property Maintenance Code (IPMC), which is about four cycles behind, and the purpose of the 2016 update is to be consistent with the adoption of the most current building codes. He said there is not a significant difference between them and brings them up to date. He said the use of IPMC is for enforcing existing structures' maintenance and appearance of the exterior property in order to maintain the quality of life and property values in the community, and it does not affect new construction. He said the IPMC is also used for the interior of rental properties when complaints are received from tenants that the landlords have not responded to requests for maintenance. He said it is used to enforce the condition of accessory structures like fences and storage sheds. He said primarily IPMC is used for residential structures but it can encompass any existing structure even if it is commercial, and as far as amendments go, most are wording changes with legal requirements and we have methods of service to try and make it consistent with other sections of Chapter 10. He said the appeal amendment simply adopts the method already provided for field inspector decisions in 2-203, Pre-existing Administrative Section. He said this provides consistency and the appeal method is used regardless of this section of the Code being appealed.

Mr. Winter said when they previously addressed the gravel parking change, it was presented as a suggestion, and this time it makes it mandatory. He said this would be more consistent and the inspection will make easier determinations with clearly defined borders. He said the required border will not be mandated until the next time the gravel drive is in need of maintenance; meeting the requirements of the ordinance. Chairman Castleberry asked how you know when someone places new gravel. Mr. Winter said the inspector is out inspecting the neighborhoods, sees these gravel drives, and knows where the gravel drives are that have been there for a long time with grass growing up in the gravel. He said the requirement is three inches of gravel and the border will make it easier to see where the gravel drive is located. Mayor Miller said she added gravel to her drive and does not think anyone came to inspect it. Mr. Winter said it does not apply in agricultural areas where parking on the grass is allowed.

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Councilmember Allison said borders are required to be put in but there is no definition for what that border should be; however, he thinks there should be diagrams to show how to stay compliant with the request. Mr. Winter said the original intent was to require borders, but the way it was written did not require it but suggested it. He said they are putting the intent back to what it was supposed to be in the first place. He said they did not want to require concrete curbs but left it discretionary for the homeowner on how they would apply the border requirement; e.g. landscape timbers, railroad ties, or the simple plastic landscape border. Councilmember Allison said they now get into an issue as to how it relates to stormwater because many people don't think gravel should be calculated as an impervious surface, but once you install a border, it will hold water. He said he does not think that gravel driveways should be calculated as impervious surface. He said the border will be an issue in regard to rural areas and the implication as we go into stormwater will become an issue. Chairman Castleberry said the intent is to figure out where the gravel border is when the grass invades the driveway, and as long as you can differentiate, a border is not necessarily required. He asked if you can differentiate where the gravel driveway is without a border and are they still in compliance. Ms. Connors said they will look at the language to be less specific, but thinks they also do not want gravel driveways to creep to a larger size. Councilmember Allison said when putting in a gravel driveway or parking lot, there must be a temporary permit issued. Ms. Connors said those are not allowed. Mr. Winter said the temporary permit is for erosion control s more specific that you cannot expand the existing gravel driveways and another reason for borders.

Ms. Connors mentioned staff has had several meetings with Builders Association of South Central Oklahoma (BASCO) to discuss the changes being made and had long discussions with them as well; they have tried to get the information to local architects who design professionally so they would be aware of the local amendments.

Chairman Castleberry asked how this coordinates with the Center City Form Based Code (CCFBC) recently passed. He asked if there are any conflicts. Ms. Connors said there are not really any conflicts, and CCFBC pertains to zoning and placement of buildings; therefore it will not affect the building codes. She said whatever they are doing such as attaching buildings, fire prevention, or fire walls will have to be built just like they build townhomes and attach them but it does not create a conflict.

Councilmember Hickman said regarding the Property Maintenance Code section (R-110.1), what does occupancy classification mean. Mr. Christian said it is commonly referred to as the "use group," e.g. an office building is a "business use group," a hospital is an "institutional use group," a storage building is a "storage use group," so there are different use groups classified depending on the intended use or structure of the building, and identifies the occupancy classification. He said each of those occupancy types are described in the Building Code in general terms, and from there are building and safety requirements determined e.g. certain use groups or occupancy types, such as assembly and restaurants with additional requirements such as the requirement to sprinkle the building.

Councilmember Hickman asked if there is a change in tenants in a building, will that be considered a change in occupancy classification to require a new certificate of occupancy. Mr. Christian said not necessarily, for instance if there was an insurance company there before and an attorney office move in, they are both considered "business use." Councilmember Hickman asked if he had a single family home that sold and now will become a rental property, will the occupancy change. Mr. Christian said by Building Code it is still single family use group or residential under that term.

Item 3, continued:

Councilmember Hickman said under property maintenance code, do we only inspect the residential properties such as tenant properties upon complaint or does the Code compliance department do any kind of routine inspection from time to time. Mr. Winter said externally can be used in business as well as residential and they do that but as far as internal generally they don't on the commercial side and generally because there is an agreement between the owner and the tenant regarding the remodel. He said once in a while you get into a situation where there is equipment for an entire building that has multiple tenants and sometimes the property owner is notified to fix something that affects the entire building.

Councilmember Hickman asked if there are cases in the Property Maintenance Code that could be matters of life and death e.g. *Heat Supply: Every owner or operator of a building that rents or leases one or more dwelling units is supposed to keep the temperature at a minimum of sixty-eight degrees in all inhabitable rooms.* Mr. Winter said it could be. Councilmember Hickman said assuming that it is, if you do not have heat in the cold of a winter in Norman, and you are a college student or a senior citizen, you could die. He said the penalties for this behavior are capped at \$750. Mr. Winter said that is set by state statute and ordinance, and the maximum unless you are a court of record. The City is restricted on collecting more than the \$750 because we are not the court of record.

Councilmember Hickman would like everyone to consider making the penalties stiffer and a clearer understanding that they are on a per day basis if anything of a personal safety concern is determined. He said there are many rental properties in the community; he receives calls with concerns and/or complaints and from a legal stand point, with them having no money to hire an attorney to have their rights properly adjudicated in the City, whether college students or seniors, the best alternative is for the City to assert a little more pressure and the penalties are a way to accomplish this. Mr. Bryant said each day is a separate offense. Councilmember Karjala and Councilmember Hickman said it does not make that clear in the information given.

Councilmember Allison asked if people were ever cited for the *Heat Supply* issue. Mr. Winter said they have not, and generally the interior issues get taken care of when declared unfit and tenants are required to go somewhere else that will meet their basic needs. He said they can still give the property owner a certain amount of time to get it taken care of or fixed.

Councilmember Hickman said in regard to the Construction Code and the erosion control/stormwater, how is that addressed in the Construction Code and are we talking about it addressing the actual erosion control in the since of how we handle stormwater. He asked what are we allowing to be done with the stormwater or is there a separate ordinance section on stormwater. Ms. Connors said that is in the Engineering Design Standards and not in the Building Code. Mr. Christian said all the Building Code amendments do is make it a companion with those Public Works and Stormwater regulations.

Councilmember Hickman asked on the Construction Code do we address anything in connection with tornado or earthquake standards, and are addressed in the 2015 IBC standards or somewhere else. Mr. Christian said they are addressed in the Building Code Standards and we do not have any specific amendments to those standards. Councilmember Hickman said we will be adopting the tornado or earthquake requirements in the 2015 Building Code Standards. Mr. Christian said as amended by the state. He said the state did write some amendments for those sections.

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Items submitted for the record

1. Memorandum dated May 16, 2017, from Mr. Bob Christian, Permit Manager; Mr. Fred Henderson, Fire Marshal; and Mr. Kelvin Winter, Code Compliance Supervisor, through Ms. Susan F. Connors, Planning and Community Development Director; Mr. Travis King, Fire Chief; Mr. Shawn O’Leary, Public Works Director; Mr. Steve Lewis, City Manager; and Mr. Jeff Bryant, City Attorney, to the City Council Oversight Committee
2. Current State Code Summary, adopted by the OUBBC, effective November 2, 2015
3. Chapter 5 – Building Construction, Article I through VI
4. Chapter 9 – Fire Prevention, Article I through IV
5. Chapter 10 – Health and Safety, Article VI

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ADJOURNMENT.

The meeting adjourned at 7:10 p.m.

ATTEST:

City Clerk

Mayor