

## CITY COUNCIL CONFERENCE MINUTES

October 28, 2014

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a conference at 5:30 p.m. in the Municipal Building Conference Room on the 28th day of October, 2014, and notice and agenda of the meeting were posted at the Municipal Building at 201 West Gray, and the Norman Public Library at 225 North Webster 48 hours prior to the beginning of the meeting.

**PRESENT:**

Councilmembers Castleberry, Heiple, Holman, Jungman, Lang, Miller, Williams, and Mayor Rosenthal

**ABSENT:**

Councilmember Quinn

Item 1, being:

### DISCUSSION REGARDING PROPOSED AMENDMENTS TO CHAPTER 7.5, ELECTIONS, TO COMPLY WITH CHANGES IN STATE LAW ESTABLISHED UNDER THE MUNICIPAL CAMPAIGN FINANCE AND FINANCIAL DISCLOSURE ACT.

Mr. Jeff Bryant, City Attorney, said Ms. Kristina Bell, Assistant City Attorney, and Ms. Brenda Hall, City Clerk, have been working on a draft ordinance to amend Chapter 7.5 of the Code of Ordinances of the City of Norman, due to the passage of Senate Bill (SB) 1745, Municipal Campaign Finance and Financial Disclosure Act (Municipal Act), repealing the Political Subdivisions Act, which governed election reporting requirements at the state level. He said the ordinance is proposed to go to First Reading on November 10, 2014, and Second Reading and Final Reading on November 25, 2014. The ordinance will become effective prior to candidate filing in January.

Ms. Bell said SB 1745 repeals the Political Subdivisions Act and creates three new state statutes regulating the conduct of campaigns for counties, technology center/independent school districts, and municipal elections and gives the Ethics Commission the authority to promulgate specific rules governing such conduct as well as the authority to enforce them. She said SB 1745 becomes effective January 1, 2015.

Ms. Bell said SB 1745 effectively preempts many of the provisions of Chapter 7.5 of the Code of Ordinances of the City of Norman pertaining to financial campaign disclosure reports, such as individual contribution limits, specific contents of such reports, and filing deadlines of such reports. The Municipal Act places most aspects of local election under the oversight of the State Ethics Commission including forms; reporting requirements; due dates; contribution limits; investigations; and enforcement. The Municipal Act is implemented through the "Ethics Rules" created by the Oklahoma Ethics Commission. The Municipal Act prohibits any local regulations which overlap, duplicate, or conflict with state rules because the State of Oklahoma felt the conduct of local election campaigns is a matter of statewide concern and enforcement should be uniform statewide.

Ms. Bell highlighted the 2014 Ethics Commission Rules. She said the Ethics Commission Rules were created for State elections so definitions will not be the same and municipalities, counties, and schools must keep that in mind. She said the Municipal Act regulates the financial reporting requirements of "campaign committees" and "municipal political committees." A campaign committee is defined as "a committee which may be composed of one or more person the purpose of which is to support the election of a specific candidate to municipal office, whose name as it will appear on the ballot shall appear in the name of the committee." A municipal political committee is defined as "any committee composed of one or more persons whose purpose includes the election or defeat of one or more candidates for municipal office but which is not required to register with the Ethics Commission or the Federal Election Commission." The Municipal Act requires both campaign committees and municipal political committees to file a "statement of organization (R-1 Form)" and a "report of contributions and expenditures (C-1 Form)." All candidates for municipal office and all elected municipal officers are also required to file a statement of financial interests (F-1 form).

Item 1, continued:

Ms. Bell said campaign reports must be filed with the City Clerk and the City Clerk has the option of posting these reports on the City's website or retaining them for four years after the date on which they are filed.

Ms. Bell said Chapter 7.5 currently requires the filing of municipal campaign statements, allows the Norman Election Commission (NEC) to receive and investigate complaints, and provides for penalties. She said the proposed amendments to Chapter 7.5 allows modification of definitions to be consistent with state law; removes requirements to file municipal forms; modifies duties of the City Clerk to accept and review only state forms; and modifies and clarifies duties of NEC to be consistent with state law. She said NEC's primary duties will be educating candidates, the public, and Council, reviewing state forms for compliance with state law, and reporting substantial discrepancies to the Oklahoma Ethics Commission.

Ms. Bell said the NEC met on October 20, 2014, to review the changes to Chapter 7.5 and voted to recommend the proposed amended ordinance as drafted.

Councilmember Jungman asked if contribution levels have changed and Ms. Bell said yes, there are different levels of contribution limits depending on the type of committee. She said individuals will be limited to \$2,600 to a candidate per election. Councilmember Holman said the current ordinance limits contributions to \$1,000 per household and asked if the new law has a household limit and Ms. Bell no. Councilmember Castleberry said if that is the case, what would prevent a one year old from contributing \$2,600 and Ms. Bell said there is a clause in the Ethics Rules that states a minor under 18 years of age will be allowed to contribute, but it has to be done under their parent's name. Councilmember Jungman asked if that means the parents can also make a donation or would their child's donation be seen as a part of the parent's contribution and Ms. Bell said she believed the donation would be seen as part of the parents total allowed contribution. She said the Legal Department is working closely with the Ethics Commission to get clarification of all of the rules. Mr. Bryant felt the rules limited contributions to \$2,600 per individual per election, but said it is unclear whether the minor would be counted as a separate individual or if the minor's contribution would be locked in with the parents.

Councilmember Miller asked if the Legislature had any conversations with municipalities prior to the finalization of the Act and Mayor Rosenthal said when the state was working the changes; the City of Norman was not a member of the Oklahoma Municipal League (OML) so the City was not getting information on legislative actions.

Councilmember Jungman asked if the City could continue its current rules on a voluntary basis and Mr. Bryant said he would not recommend that because the way the statute is written, it is pretty clear the state feels it is a matter of statewide concern and has preempted the field. His recommendation would be to not do anything other than what is allowed in the state statute.

Mr. Ty Hardiman, NEC Chairman, said it is NEC's goal to focus on education rather than be a punitive body. He said the election process is complicated and NEC would very much like to continue educating candidates as well as the public. The Commission has been able to keep a level of compliance that is beneficial to the voters of the City and ultimately, that is what NEC works toward. He said NEC has existed for four decades and would appreciate Council's consideration in allowing it to continue in a capacity allowed by the new law. Councilmember Jungman felt NEC has value and is well needed.

Ms. Joy Hampton, The Norman Transcript, said Mr. Lee Slater, Executive Director of the Ethics Commission, has indicated the state's intent is to keep reports at the local level so all reports can be reviewed by the public and placed on cities websites for transparency.

Item 1, continued:

Ms. June Tyhurst, 1000 Woodland Drive, asked why there is a rush for the City of Norman to abandon its existing law until the state has worked through any changes they may wish to have made. Ms. Bell said the state has made it very clear that cities cannot have separate filing requirements so if the current ordinance is not amended by January 1, 2015, the City will be inconsistent with state law. Ms. Tyhurst is concerned there may be reconsiderations in the Legislature and if the City rushes, they will have abandoned a law that has been on the books for a long time. She said if the Legislature changes their minds, the City will have to start over. Ms. Tyhurst asked if anyone has specifically stated to the Legal Department that the City of Norman must change their ordinance and Mr. Bryant said that is the Legal Department's recommendation.

Councilmember Jungman said Norman's ordinance is more restrictive than the state's and his understanding is that preemption allows stricter local rules so unless the City is told they are preemptive on campaign limits, he does not understand why the City would abandon them. Mr. Bryant said the Legal Department's recommendation is consistent with the directive of the state. Mayor Rosenthal said her experience with preemption is precisely to preempt more restrictive local laws. She suggested Staff follow up with OML to see if there may be areas of modification and Mr. Bryant said he would do that.

Councilmember Castleberry asked about rules for corporations and Ms. Bell said corporations and labor unions are not allowed to contribute to campaign committees or municipal political committees. A limited partnership or limited liability corporation that has one or more incorporated members would also be precluded from contributing to a campaign committee or municipal political committee; however, each corporation and labor union does have the ability to form its own municipal political committee to issue its own election communications.

Items submitted for the record

1. Memorandum dated October 20, 2014, from Kristina L. Bell, Assistant City Attorney, through Jeff Harley Bryant, City Attorney, to the Honorable Mayor and Councilmembers
2. Draft legislatively notated ordinance
3. Draft ordinance
4. 2014 Ethics Commission Rules
5. Registration: Committee form (R-1)
6. Campaign Contributions and Expenditure Report form (C-1)
7. Financial Disclosure Statement form (F-1)
8. PowerPoint presentation entitled, "Municipal Campaign Reporting," City Council Conference, October 28, 2014

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Item 2, being:

**DISCUSSION REGARDING ESTABLISHING THE DATES FOR THE 2015 CITY COUNCIL ELECTION AND RUN-OFF ELECTION.**

Mayor Rosenthal said Wards One, Three, Five, Seven, and Eight will be on the ballot in 2015. Ward Eight is on the ballot due to the resignation of Councilmember Chad Williams and Mr. Dan Quinn, former Ward Eight Councilmember, agreed to fill the position until the next City Council election.