

## CITY COUNCIL STUDY SESSION MINUTES

February 19, 2013

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 19th day of February, 2013, 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, Gallagher, Griffith, Kovach, Lockett, Williams, and Mayor Rosenthal

ABSENT:

Councilmembers Jungman and Spaulding

Item 1, being:

### CONTINUED DISCUSSION REGARDING THE REGIONAL OUTDOOR WARNING SYSTEM POLICY AND SHELTER REQUIREMENTS.

In a Study Session on January 15, 2103, Mr. James Fullingim, Fire Chief, updated City Council on the Regional Outdoor Warning System (OWS) Policy and shelter requirements. He said, at that time, Council had questions and he would like to provide follow-up on those questions. He said one question was whether or not the current City sponsored storm shelters at Irving Recreation Center, Whittier Recreation Center, Cleveland Elementary School, and Little Axe Recreation Center are effective when considering safety in terms of the buildings' construction and travel time for the public. He said research indicated Whittier Recreation Center provides a higher level of safety for citizens living in a nearby mobile home park and is within reasonable traveling distance of that park. He said the other shelters do not really have a higher level of safety within the Federal Emergency Management Association (FEMA) recognized eight minute walk time to the shelter.

Chief Fullingim said it would be difficult to open Whittier Recreation Center that can hold 300 or 400 people and say it is only to be used by mobile home park residents and not expect other people to show up wanting to use the facility. He said Council could create a credentialing program, but people that do not have a badge would have to stand outside and that would not be good. He did not know how to control only mobile home park residents being allowed entrance or ensure there would be adequate room for everyone. He said people as far away as Moore drive to the Norman sponsored shelters during storms because they believe it is better than what they currently have as shelter. He said he is not sure Whittier Recreation Center is a viable solution and believes it is better for individuals to have their own emergency plan that does not include everyone going to the same place.

Another issue was how to get the word out to people that the shelters will be closed and will no longer be an option. He said immediately closing the shelters is not a good idea as the City cannot get the word out to citizens quickly enough. He said literature could be provided to people coming to the shelters during the 2013 storm season letting them know the shelters will no longer be available after the 2013 storm season. He said there needs to be an aggressive public education campaign before the City decides to no longer operate the shelters.

Chief Fullingim said he spoke to Dr. Roger Brown, Superintendent of Norman Public Schools, and Dr. Brown was not willing to say the schools would not provide shelter to someone seeking refuge from the storm, but he did not like the idea of the schools becoming a shelter location due to security issues. During the day when students are in attendance, there are areas within the schools designated as the safest part of the school during a storm, but those areas are for students and teachers, not the general public. Dr. Brown said having people randomly entering the schools is a concern and compromises the security of the school. Chief Fullingim said letting people believe the schools are a shelter option is misleading because that gives people the false sense of security that the school is always open, which is not the case. After school hours, the buildings are locked.

Item 1, continued:

Chief Fullingim recommended the City move towards accepting the nationally recognized idea of sheltering in place or preparing your own plan for shelter. He said other cities that provide shelters are slowly moving away from that due to overcrowding issues. He said it is difficult for governments to provide citizens individual protection against natural occurrences.

Councilmember Kovach asked how long the City will be handing out literature at the shelters and Chief Fullingim said he recommends the City not close the shelters until after July 1, 2013, in order to have the entire storm season to educate the community.

Councilmember Kovach asked what the City can do to contact and help people develop a personal emergency plan, especially vulnerable areas such as mobile home communities. Chief Fullingim said the Fire Department will be visiting all of the mobile home parks in Norman on March 9, 2013, to distribute smoke detectors so fire personnel will be knocking on every door to distribute a smoke detector. He said the Fire Department will include a severe weather preparedness aspect as well and can help individuals prepare personal emergency plans.

Councilmember Kovach asked if the City will be distributing literature to multi-family housing areas as well and Chief Fullingim said the Fire Department annually inspects apartment complexes so town hall type meetings can be held in conjunction with those inspections to give tenants ideas and help on formulating a personal plan. He said the Fire Department has a large volunteer group that helps distribute smoke detectors and this would be a great opportunity to involve the community.

Councilmember Kovach asked what kind of public education programs have been put in place in other communities and how much money would be needed. Chief Fullingim said most communities do not offer a public education program. He said the City of Norman can distribute FEMA publications, which are free, and print literature in-house as well using grant money so additional funding would not be needed.

Councilmember Gallagher asked if there is a legal liability if the City kept the shelters at schools open and a wall or roof collapsed and someone is injured. Mr. Jeff Bryant, City Attorney, said he did not believe the City would be liable because schools are not City buildings and damages would be caused by a severe weather event, not something the City did. Councilmember Gallagher said he supports closure of the shelters as of July 1st and, in the meantime, aggressively educating the community on the closures and developing their own emergency plan. Councilmember Williams said Whittier and Irving Recreation Centers are City buildings and asked if that changes the liability issue and Mr. Bryant said the "act of God" (a severe weather event) will keep the City from being liable. Councilmember Williams is concerned that citizens believe the buildings are storm shelters when they are not and Mr. Bryant said the City needs to make it clear that these buildings are not certified storm shelters built to withstand tornadic events. Councilmember Williams asked if opening the building as a shelter would be an admission that they are certified shelters and Mr. Bryant said he did not believe the City would be culpable because of the nature of the damage and if it is an "act of God" the City would not be responsible.

Mayor Rosenthal said there is a pretty clear recommendation from the Fire Chief and the transition of closing shelters as of July 1st gives the City time to get information to citizens. She said she is impressed with the outreach plans of the Fire Department and is supportive of the recommendations. She felt the City should move in that direction.

Councilmember Lockett suggested the Fire Department develop a program similar to their program on what to do during a fire and make that program available to civic groups, church groups, etc.

Items submitted for the record

1. Memorandum dated February 14, 2013, from James Fullingim, Fire Chief, to Honorable Mayor and City Council

Participants in discussion

1. Mr. James Fullingim, Fire Chief
2. Ms. Joy Hampton, The Norman Transcript

Item 2, being:

DISCUSSION REGARDING AN AGREEMENT WITH THE CITY OF DEL CITY AND CENTRAL OKLAHOMA MASTER CONSERVANCY DISTRICT FOR THE PURCHASE OF WATER.

Mr. Ken Komiske, Director of Utilities, said 62% of the City's water comes from Lake Thunderbird and the remainder comes from the Garber-Wellington Aquifer, which is being renamed the Central Oklahoma Aquifer. He said Norman obtains water from Oklahoma City (OKC) during emergency circumstances during the hotter periods of the summer. He said Norman, Midwest City, and Del City receive an allocation of water from Lake Thunderbird and, in the past, Norman was always below their total allocation, but for the past 16 years we have been over. He said Del City has decreased usage of their allocation because they are depending more on wells so they have surplus water that Norman could use. He said the availability of using Del City's water is not going to get Norman more water when it is needed in the summer, but it will help Norman to stay under their allocation in the long term.

Ms. Kathryn Walker, Assistant City Attorney, highlighted the terms of the contract with Del City. She said Del City chronically underuses their allocation. She said the contract would be for a five year term beginning May 1, 2013, with a renewal option for an additional five year term. Norman will pay thirty-three cents per 1,000 gallons and 300 million gallons will be available annually at a total cost of \$99,000. She said the contract has an option for the potential provision of 500 million gallons at the same rate. If Del City institutes water rationing, Norman would have to do that as well. If Del City loses four or more of their wells, they do not have to provide the water to Norman.

Councilmember Castleberry asked what the City of Norman charges customers per thousand gallons of water and Mr. Komiske said \$2.00 for the first 2,000 gallons and commercial businesses pay a flat rate of \$2.10 per thousand gallons. Councilmember Castleberry said basically the base rate is \$2.00 and the City will pay thirty-three cents to Del City and Ms. Walker said the thirty-three cents buys raw water and the City charges customers for potable water. Councilmember Castleberry asked the cost for treating raw water and Mr. Komiske said costs depend on an economy of scale and ranges from \$1.20 to \$1.50.

Councilmember Gallagher asked if Norman had to purchase a minimum amount of water and Ms. Walker said no. He asked Del City's growth rate where they might approach their allocation needs and Ms. Walker said she did not know, but she did not believe they have a lot of room to grow.

Councilmember Kovach said since OKC cannot tap into the Atoka Pipeline yet, will that affect Norman's ability to obtain the 2% water per their agreement with OKC and Mr. Komiske said that is a possibility. He said the 2% comes into play during Norman's peak usage and is purchased on an emergency basis so if it is available OKC is happy to sell it to Norman. Mayor Rosenthal asked what the last communication was from OKC on the availability of emergency water this summer and Mr. Komiske said it depends on OKC's demand. If demand is

Item 2, continued:

high and they do not have water available, they will not sell to Norman. Councilmember Kovach said based on the fact that OKC will not sell Norman water from the Atoka pipeline, Council can assume OKC may not have the 2% available and that is something Council should discuss and plan for.

Councilmember Kovach asked if Midwest City is interested in selling their unused allocated water to Norman and Mr. Steve Lewis, City Manager, said Del City has been the primary City willing to sell their water.

Councilmember Castleberry asked if the City has anywhere to store water other than Lake Thunderbird and Mr. Komiske said no. Mayor Rosenthal said part of the Strategic Water Supply Plan update includes looking at alternative storage.

Mayor Rosenthal said she is pleased a contract has been negotiated and wants to place the item on an agenda as soon as possible.

Items submitted for the record

1. Memorandum dated February 14, 2013, from Kathryn L. Walker, Assistant City Attorney, through Jeff H. Bryant, City Attorney, to Honorable Mayor and Councilmembers
2. Letter dated February 8, 2013, from Randy Worden, General Manager, Central Oklahoma Master Conservancy District, to Steven D. Lewis, City Manager
3. Agreement for Purchase of Surplus Municipal Water
4. PowerPoint presentation entitled, "Agreement for Purchase of Water," City Council Study Session, February 19, 2013

Participants in discussion

1. Mr. Ken Komiske, Director of Utilities
2. Ms. Kathryn Walker, Assistant City Attorney

Item 3, being:

**FOLLOW-UP DISCUSSION REGARDING THE CURBSIDE RECYCLING PROGRAM.**

Mr. Bryant said at the February 5, 2013, Study Session regarding recycling, Councilmember Kovach expressed concern that a change in service from weekly to bi-weekly would require an election since voters approved weekly curbside recycling. He said the ballot language used to approve the curbside recycling measure imposed a mandatory \$3.00 assessment to all residential customers and after reviewing that language and constitutional provisions for the State of Oklahoma, it is Staff's legal opinion that changing the frequency of collection does not require voter approval. He said a Charter provision allows voters to weigh in on a change in rates, but the rates will not change, only the frequency of collection. Mayor Rosenthal asked Mr. Bryant to elaborate on the legal opinion for the public in attendance because he cited a number of prior instances where there was a change of service without an election and the opinion draws a clear distinction between voters' approval of a tax versus an Enterprise Fund.

Mr. Bryant said the provision most often quoted regarding an initiative, referendum, or ballot language requiring usage in accordance to language in the ballot is the section of the Constitution that deals with imposition of a tax. That section clearly states that any tax imposed will be used only for the purposes for which it is imposed and although that section is quoted most often for imposition of a tax it does not apply to this situation. He said this situation is imposition of a rate. The Constitution also states that municipalities are given the right to operate and administer utilities so there is more latitude for a municipality to operate a public utility as a business. He said under the Oklahoma Constitution, public utilities are normally allowed to set their rates without voter approval; however, Norman changed the Charter in 1975 and has to get voter approval for a utility rate increase. He said that makes it a little more challenging to operate a utility in Norman so while Norman cannot adjust the rate, they