

## CITY COUNCIL CONFERENCE MINUTES

September 12, 2017

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a conference at 5:05 p.m. in the Municipal Building Conference Room on the 12<sup>th</sup> day of September, 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, Bierman, Castleberry, Clark, Hickman, Holman, Karjala, Wilson, Mayor Miller

ABSENT: None

Item 1, being:

### DISCUSSION REGARDING OF A COUNCIL MEDIA POLICY.

Mayor Miller said during the Council Retreat on August 4, 2017, Council discussed a social media policy and whether or not to adopt one. Since that time, it was requested that the policy be expanded to other forms of media. She said if Council decides to adopt standards for the media policy, there will be standards set and Council will be responsible individually for following them.

Ms. Claudia Deakins, Chief Communications Director, said the social policy is based on posts “going viral” which reflects the increased scrutiny Councilmembers face as elected officials versus private citizens. She said the purpose of the policy is to outline the roles, responsibilities, and best practice recommendations for the use of social media and other media by individual Councilmembers. She said the policy seeks a balance between the First Amendment rights of elected Councilmembers and the public’s expectation that elected officials possess a high level of personal and professional integrity and should refrain from engaging in conduct that reflects unfavorably on the City. She said while social media is an excellent way to communicate with constituents and encourages two-way communication, the benefits of public comments have accompanying risks. She said the policy assists in managing those risks, which could include violation of the Oklahoma Open Meetings Act (OMA), lack of proper legal notice, disclosure of confidential information, and conflicts of interest. She said the policy contents included general provisions including a list of recommendations regarding posting content and commenting on social media, records retention requirements, OMA Compliance, and provisions for Councilmembers to report and enforce any misuse of social media included in the policy.

### **Councilmember Comments/Questions**

Councilmember Allison said he does not have any issues with the policy as written.

Councilmember Bierman asked if promoting a fundraiser for local social service agencies would be prohibited. Mayor Miller said she does not know if it is legal and felt mentioning community non-profits is okay, but not soliciting for money.

Councilmember Bierman said Councilmembers should distinguish the difference between advertisement on Ward pages and personal pages.

**Councilmember Comments/Questions, continued:**

Councilmember Hickman expressed concern that both Ward and personal pages would be subject to the policy.

Mr. Rick Knighton, Assistant City Attorney, said that is not completely accurate and from the research of the case cited, a Councilmember can have a personal Facebook page and Council is allowed to talk about personal things on their personal Facebook page and it remains personal. He said as a Councilmember you can have a Councilmember Facebook page to engage constituents with regard to issues related to their capacity as a Councilmember. The difficulty comes when Council starts engaging people on their personal page regarding public business. He said that is when the possibility exists for someone to say this is a public forum, because you have engaged constituents on a personal page. He said the case cited is about a public official that banned someone from their personal Facebook page, because something inappropriate had been said. The individual sued the Councilmember saying you cannot ban me from your personal page, because it is a public forum. He said the court said it was converted to a public forum, because it was used to engage constituents. He said if Council wants to have a personal page, do not engage citizens about public issues and Council issues on the personal page. If you already have engaged with citizens on your personal page, he would suggest posting from this day forward, this page is no longer essentially a public forum and comply with the rule to ensure you do not engage with people on your private page.

Councilmember Castleberry said the public perception is you are always a Councilmember whether you are speaking as a Councilmember or a private citizen. He said he would like the policy to be more about what is being said not where it is posted.

Councilmember Bierman thinks there is a distinction between being a Councilmember and content of the discussion. She said there needs to be some type of guidelines set.

Councilmember Hickman said anyone connected to social media and sending emails is subject to being monitored and reviewed by the City without notice and without consent. He said if you log into the City's WIFI, it could possibly be monitored and recorded.

Mr. Knighton said if you have an email account through the City, that information is kept by Information Technology (IT). He said if he is logged into his computer and uses the internet, that information is maintained by IT. He does not know if the wireless signal provided by the City to the public is monitored by IT.

Ms. Brenda Hall, City Clerk, said the public WIFI does not touch the City's Network and therefore is not monitored by the IT Department.

Councilmember Holman asked what defines "city business". Mayor Miller said it relates to issues Council makes decisions on.

Councilmember Clark asked if sharing events will be a problem on the Ward pages and would like guidance on deleting comments.

Mayor Miller said it becomes problematic when bad language is used and threats are made upon people. She said the Ward pages were developed for information exchange.

Item 1, continued:

**Councilmember Comments/Questions, continued:**

Councilmember Allison said a uniform set of rules could be problematic.

Councilmember Wilson said it is not a City owned page and if it is locked down, citizens will create their own page.

Councilmember Hickman asked what the definitions of “harass” and “conflict of interest” are. He said the Ethics Ordinance has no penalties, but violation of this policy as written could result in censure. He said it is inconsistent.

Councilmember Hickman asked what if the City created the Ward pages and monitored them such as the record retention, etc. Mr. Steve Lewis, City Manager, said the City does not currently have the staff to do that.

Councilmember Bierman said Ward pages monitored by Councilmembers provide a more open forum. Councilmember Wilson said she likes the casualness of a Ward page and is okay with adhering to professional guidelines that is ethical. Councilmember Holman said he is concerned with the definitions and how they would be interpreted. Mayor Miller asked if Council is willing to be more concise, because it could be less wordy and clearer.

Councilmember Hickman assumes the same standards of the policy would apply to posts and comments. Mayor Miller said the rules or standards are created to set a standard for Councilmembers and if there are repeated problems, then that is something that can be said to each other. She said if there are not any standards set for Council, then there is not anything to refer back to.

Councilmember Castleberry thinks everything in the policy is covered in the Ethics Ordinance and Council should focus on cleaning up the Ethics Ordinance and not create another policy. He is concerned the policy could be used as a political tool. Councilmember Hickman said the policy is overly broad with a lot of unintended consequences. Councilmember Bierman thinks maybe Council should include a broader statement about public comment in the Ethics Ordinance that applies to any form of communication. Mayor Miller said there is a lack of knowledge about areas where Council can get into trouble in terms of OMA, Open Records Act (ORA), etc. She asked what format would be good to have something to refer to. Councilmember Allison said Legal should prepare a document for Councilmembers that states what is and is not legal in the Orientation.

Mayor Miller said citizens feel Council should have some type of guidelines.

Councilmember Holman said he would like to see a legal disclaimer from the City that states these pages are not CON sponsored or administered by the CON and do not reflect the views of the CON.

Mayor Miller said the consensus at the moment is Council will not continue working on a social media policy, since the Oversight Committee is scheduled to review the Ethics Ordinance. She said Council may need to be updated on social media issues as they arise.

Item 1, continued:

Items submitted for the record

1. Memorandum dated, September 8, 2017, including attachment of Social Media Policy for Elected Councilmembers, from Mr. Steve Lewis and Claudia Deakins, to Mayor and Councilmembers, Social Media Policy for Elected Officials
2. Social Media Policy for Elected Officials dated September 12, 2017

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Item 2, being:

**REVIEW OF THE FYE 2017-2018 COUNCIL GOAL SETTING RESULTS AND COMMITTEE ASSIGNMENTS.**

Mayor said the number one goal for Council On Board Goals is Stormwater Utility. She said Council does not have an answer for the stand alone Senior Citizen's Center. She said Norman Forward will be ongoing for the next fifteen years, but the next three to five years are when the biggest projects will take place. She said there is an amendment to the Comprehensive Plan Update. She said Council's short-term goals are one to two years including the Center City TIF Statutory Review Committee, Recycling, Specific Neighborhood Garage Overlay District, and University North Park Master Development Plan. She said other short-term goals include studies on the Parking Garage Partnership, sidewalks, Ethics Ordinance, and Energy Audits/Renewables. Other goals to be discussed are meeting participation, agenda protocols, business development process, and Council Social Media Policy. She said short-term goals are ADA Transition Plan Update Study, develop a mobile app compatible with City's website, and optional Green Building Codes with incentives.

**Councilmember Comments/Questions**

Councilmember Hickman said under the Secondary Goals - Green Building Code Incentives, his notes indicate it has the same number of dots as primary goals. Mayor Miller said it was based on the number of dots by each thing; it is possible a mistake was made.

Items submitted for the record

1. PowerPoint presentation entitled, "Norman City Council Road Map", September 8, 2017
2. Committee Agendas Topics 2017-18
3. Strategies to Plot a Successful Course

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The meeting was adjourned at 6:21 p.m.

ATTEST:

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City Clerk

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Mayor