

CITY COUNCIL OVERSIGHT COMMITTEE MINUTES

December 12, 2012

The City Council Oversight Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 5:30 p.m. in the City Council Conference Room on the 12th day of December, 2012, 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:	Councilmembers Castleberry, Jungman, Lockett, Spaulding, and Chairman Kovach
ABSENT:	None
OTHERS PRESENT:	Councilmember Jim Griffith, Ward Six Mayor Cindy Rosenthal Councilmember Chad Williams, Ward Eight Mr. Trey Bates, 3720 Timberidge Drive Mr. James Chappel, Oklahoma Gas and Electric Company (OG&E) Mr. Harold Heiple, 218 East Eufaula Ms. Joy Hampton, <u>The Norman Transcript</u> Ms. Amanda Nairn, Chair, Environmental Control Advisory Board Mr. John Woods, Director, Norman Chamber of Commerce
STAFF PRESENT:	Ms. Courtney Bucklin, Legal Intern Ms. Susan Connors, Director of Planning and Community Development Mr. Terry Floyd, Development Coordinator Mr. Jud Foster, Director of Parks and Recreation Mr. James Fullingim, Fire Chief Mr. Keith Humphrey, Police Chief Mr. Ken Komiske, Director of Utilities Mr. Steve Lewis, City Manager Ms. Leah Messner, Assistant City Attorney Mr. Aaron Milligan, Stormwater Pollution Specialist Mr. Shawn O'Leary, Director of Public Works Mr. Richard Schlechter, Storm Water Engineer Ms. Debra Smith, Environmental Services Coordinator Mr. Scott Sturtz, City Engineer Ms. Kathryn Walker, Assistant City Attorney Ms. Syndi Runyon, Administrative Assistant IV

Item 1, being:

FOLLOWUP DISCUSSION REGARDING THE PROPOSED ORDINANCE REGULATING THE APPLICATION AND STORAGE OF MANUFACTURED FERTILIZER.

In its meeting of October 10, 2012, the City Council Oversight Committee reviewed a draft ordinance regulating fertilizer containing phosphorous. A Study Session was held on November 20, 2012, and Mr. Scott Sturtz, City Engineer, presented two versions of the draft ordinance to Council. Both versions require public education; distribution of a pamphlet containing pertinent information about the

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ordinance to commercial applicators and retailers; fertilizer containing phosphorus be clearly marked by commercial retailers and notice posted that its use is regulated by the City of Norman; registration of commercial applicators with the City's Stormwater Engineer; and a penalty of \$50 to \$750 for violations.

Councilmember Gallagher expressed concern that an ordinance would be meaningless if the City of Norman did not coordinate plans with other cities that contribute to the runoff in Lake Thunderbird. Additional concerns were raised during the Study Session and Mayor Rosenthal suggested the Oversight Committee review a final draft of the ordinance including input received at the Study Session prior to going forward to a City Council meeting.

Mr. Sturtz said consensus seemed to favor Version 1 of the draft ordinance that included phosphorus fertilizer exemptions; phosphorus fertilizer restrictions; annual distribution of a fertilizer pamphlet by staff; point of sale provisions; penalties for violations; and registration of commercial applicators. He said exemptions were removed for flowerbeds, golf courses, agriculturally zones areas, and vegetable gardens. He said all commercial applicators will certify they are training all personnel applying manufactured fertilizer and a training log must be maintained. He said there was concern over whether the company applying the fertilizer or individual applicators; however, due to turnover in companies Staff felt the individual applicators should be responsible for training.

Mr. Sturtz said the applicator company, individual applicator, or both can be registered, but that would be Council's decision. He said the requirement for a log book is intended to track addresses where fertilizer containing phosphorus is applied and is not to be a log of all fertilizer usage. He said Ann Arbor, Michigan's ordinance requires an annual report due by December 15th including when, where, and how the fertilizer was applied as well soil tests showing phosphorus fertilizer was needed. He said the City could require the log book or annual report, but need some type of record to track phosphorus fertilizer usage.

Mr. Sturtz said Staff has made an effort to contact commercial applicators and most of them do not use phosphorus fertilizers and those that do only use it when soil tests confirm a nutrient deficiency. He said some of the commercial applicators had heard an ordinance was being created and supported the ordinance, but were split on the registration requirement.

Mr. Sturtz said public education will be a huge part of getting information to homeowners that apply their own fertilizer. He said the City will mail out an educational pamphlet to all Norman addresses and place information in utility bills. He said other education will include educating commercial applicators at time of registration, engaging retailers to help in the education; placing information on the City's website, Channel 20, and local newspapers; and placing advertisement on billboards, busses, bus stops, and other public locations.

Mr. Sturtz said the State standard for Chlorophyll-A is ten micrograms per liter (mgl) and according to a study done by Vieux and Associates in 2007, Lake Thunderbird was at 30.8 mgl and micrograms per liter are projected to grow as high as 44 mgl or more if nothing is done. The Study recommended best practices that include fertilizer reduction, constructed wetlands, and structural controls. He said the Storm Water Master Plan (SWMP) recommends the implementation of structural controls (primarily by developers) as well as nonstructural controls (developers and City) such as stream bank stabilization, creating regional detention basins, water sampling, street sweeping, public education, and fertilizer usage targeting lawn care companies.

Mr. Sturtz said previously, Council requested information on constructive wetlands. He said Brookhaven Creek is a naturally occurring wetland in Norman and serves the purpose of what is expected of a wetland. He said constructive wetland benefits include a high degree of nutrient uptake and sediment removal, creates aquatic habitats, and can be designed for different size watersheds. He said constructed wetlands are a system that

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has shallow areas, deep areas, and pool areas with different types of wetland growth. He said the Corps of Engineers (COE) has a set definition that has to meet three criteria: 1) hydrology, 2) soils, and 3) plant life.

He said the City would supply the hydrology then plant the proper plant life to become a well-functioning wetlands and over time those soils will develop the characteristics of a wetland. He said estimated construction costs for wetlands are \$39,000 to \$82,000 per acre with maintenance costs of \$780 to \$1,640 per acre per year. Mr. Sturtz discussed possible future sites for wetlands that include Commerce Parkway and Little River Trails. He said Commerce Parkway is near Little River with a large detention pond on site and parkland is being dedicated to the City so this is a location the City would not have to purchase property to construct 1.27 acres of wetlands at a construction cost of \$63,500 with yearly maintenance of \$1,651. Little River Trails is directly on the Little River, has two detention ponds, and some areas are in the Water Quality Protection Zone (WQPC) so purchase of property may not be necessary to construct 1.93 acres of wetlands at a construction cost of \$96,500 with a yearly maintenance cost of \$2,509.

Chairman Kovach said a draft Oklahoma Department of Environmental Quality (ODEQ) Watershed Plan Development was completed regulating the allowable Total Maximum Daily Load (TMDL) for cities. He said ODEQ is considering a 35% reduction, which is significant in what the City will have to reduce currently as well as in the future. He said everything the City can do to comply in a cost efficient manner is going to be important and fertilizer control and wetlands are two ways to accomplish that. He said he liked the idea of looking for projects coming forward with mixed uses such as public dedications.

Councilmember Spaulding asked if the City is proposing that only commercial applicators that apply phosphorus based fertilizer register or all commercial applicators and Mr. Sturtz said all commercial applicators. Councilmember Castleberry asked the point of registering commercial applicators that do not use phosphorus fertilizer and Mr. Sturtz said to have the opportunity to get information to them. He said applicators will receive the educational pamphlets to distribute to customers. Chairman Kovach said all commercial applicators will register, but only applicators using phosphorus fertilizer will be required to keep a log book and Mr. Sturtz said that is correct, only locations where the phosphorus fertilizer is applied will need to be logged.

Councilmember Spaulding asked if there is cost associated to registration and Mr. Sturtz said Staff proposed a \$25 fee. Councilmember Spaulding asked why the City would not just accept current State requirements and Mr. Sturtz said the City's requirements are above and beyond what the State requires. He said State requirements do not address application of fertilizer and does not address phosphorus at all and are geared more toward distribution and storage. Chairman Kovach asked what kind of burden the registration places on applicators and Mr. Sturtz said the applicator will fill out an application form and be given a copy of the ordinance and educational pamphlet. Chairman Kovach said registration is being used as an education point to ensure users understand the problem with phosphorus and nitrogen runoff into Lake Thunderbird.

Councilmember Spaulding asked about proposed enforcement and a projected time for measurement of improvement. Mr. Sturtz said Staff expects to see results within two years. He said as far as enforcement, Staff can request to review the log books or an annual report and can request a sample of fertilizer they apply to check for phosphorus/nitrogen. He said enforcement would be complaint based.

Councilmember Gallagher asked why charge \$25 to fill out an application form when \$10 or \$15 would suffice? He said some companies are small, one person businesses. Mr. Sturtz said Staff was trying to keep the number small so it would not be a burden on the business and the City could recover costs of reproducing educational materials. Mayor Rosenthal wanted to know the range of fees charged for other licensing in the City and Ms. Syndi Runyon, License Administrator for the City Clerk's Office, highlighted the various licenses and fees issued by her office. Mayor Rosenthal said in the range of fees, \$25 does not seem onerous.

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Councilmember Gallagher felt one man businesses will not register because they feel they will never be caught and there does not seem to be any type of serious enforcement being considered. Councilmember Lockett said a small business would rather pay \$25 than fill out an annual report.

Councilmember Castleberry said not many commercial applicators are using phosphorus so where is the phosphorus problem coming from and is the City really addressing the issue. He asked why agriculturally zoned areas are being exempted. Chairman Kovach said anyone with agricultural land is going to test their soil to know what they need so they already comply by testing their soil. Councilmember Castleberry said if the soil needs phosphorus, it can be applied so the City is not banning phosphorus and Chairman Kovach said correct, it is control not a ban. Mr. Sturtz said everyone can use phosphorous during the first six months of planting to get the root system started, but after that there is no positive affect on growth, or they can get a soil test done to prove they need phosphorus. He said soil testing done by Cleveland County shows the soil is typically two to three times the phosphorus levels. Councilmember Spaulding said there is a discrepancy in reports because he went to a deer management presentation held at the County and they indicated there was a deficiency in phosphorus, but the probability of discrepancy could be the difference between rural and urban areas.

Councilmember Williams asked if Staff had considered allowing companies that do not use phosphorous to forgo the registration and fee. He suggested simply handing out the educational material as a reward for not using phosphorus. Councilmember Spaulding said a lot of people do not want big government so why would a small business give the City all their information and pay them? He said if it was presented in an educational manner and not a requirement of registration that might make it more palatable. He said he is uncomfortable with registering. Chairman Kovach said not everyone will register even if it is free, but most commercial applicators want all businesses to follow the rules so the City needs to set a standard. He said it might be helpful to create a list of phosphorus free vendors as an incentive to participate and not require a log book or annual report as a reward for good behavior. Councilmember Lockett suggested distributing a "phosphorus free" emblem to those businesses to display on signs and advertising. Councilmember Spaulding thought that was a good idea and said the City approved something similar for the Crime Free Multi-Housing Program. Councilmember Castleberry said there will be situations where the company will have to apply phosphorus after soil testing so they would not be phosphorus free. He said if the goal is for companies not to use phosphorus then charge \$1,000 fee if they use phosphorus. Chairman Kovach said if someone owns a small business, nothing is more valuable than time so by avoiding logs by not using phosphorus is a huge incentive. Councilmember Jungman said when someone chooses to engage in the business of fertilizer application, they are directly affecting the water supply so the public has a right to require registration and following reasonable guidelines. He said the ordinance is a nice compromise because the solution that best

protects Lake Thunderbird is much stronger. He said the \$25 is reasonable and providing emblem and marketing is a good idea. Ms. Joy Hampton, Norman Transcript, suggested the emblem have a green foot stating, "City of Norman Environmentally Compliant."

Councilmember Gallagher said there seems to be only a few commercial applicators so registration will be low. He said education material will be the key. Mr. Sturtz estimated there are between 25 and 30 applicators with 8 to 12 of those using phosphorus fertilizer. He said the City's goal is to decrease phosphorous use. Mayor Rosenthal said the public education efforts and point of sale is aimed at the individual homeowner.

Chairman Kovach said the City needs to work on incentives and Mayor Rosenthal agreed, but felt incentives should be a part of public education. He said based on ODEQ's TMDL draft report, the decision of reducing phosphorus might not be the City's to make and he would rather be in the driver's seat. He wants to bring the ordinance forward, as is, for First Reading. Councilmember Lockett said to start small with incentives instead of enforcement. Chairman Kovach said the City needs to begin discussion with cities that share Lake Thunderbird. He also wanted to move forward so businesses can be informed in a timely fashion prior to ordering spring

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inventory. Mr. Sturtz said he liked the idea of a “no log or report” requirement if the company is phosphorus free and an emblem or sticker be used instead. He felt it would be well received by the business community.

Councilmember Gallagher felt information placed in utility bills would be a better educational tool than spending \$42,000 to mail pamphlets to every Norman homeowner. He suggested placing an article in the local newspaper in the spring as well. Chairman Kovach agreed and said a video on how to fertilize properly would be a great educational tool as well.

Items submitted for the record

1. Draft ordinance
2. PowerPoint presentation entitled, "Storm Water Master Plan, Manufactured Fertilizer Ordinance," City Council Oversight Committee, dated Wednesday, December 12, 2012
3. Council Study Session minutes of November 20, 2012
4. Preliminary Draft of Lake Thunderbird Total Maximum Daily Load (TMDL) Report, Appendix E

Item 2, being:

DISCUSSION REGARDING THE COMMERCIAL LIGHTING ORDINANCE.

Ms. Leah Messner, Assistant City Attorney II, said Council adopted additional commercial lighting regulations in June 2011, which regulations are included in Chapter 22 of the Zoning Ordinance. She said modified regulation language regarding outdoor commercial lights has been submitted to the City Manager and that language is being brought forward for the Oversight Committee’s review.

Ms. Messner said prior to adoption of Ordinance No. O-1011-44, the City had two provisions in the Zoning Code that dealt with outdoor lighting that stated 1) any lighting installed should have minimal impact on abutting properties and all lights had to be shielded or oriented to the light source did not shine on or be visible from any abutting property or right-of-way and 2) lighting for off-street parking should be adequate and arranged to direct light away from any adjoining property in a residential district.

Ms. Messner said Ordinance No. O-1011-44 added provision regarding types of regulated and unregulated lighting; compliance and enforcement; fixture standards for pole mounted lights, wall packs, accent lighting, and canopy lighting; light output limits; and photometric plan requirements. The ordinance applies to all new outdoor lighting on sites zoned commercial, industrial, institutional, and multi-family.

Ms. Messner said lighting exempted in Ordinance No. O-1011-44 includes internally illuminated signs; temporary lighting; lighting for athletic fields; swimming pool lighting; lighting for emergency services; interior lighting; temporary holiday lighting; low-voltage landscape lighting; lighting that is not visible from adjacent properties (i.e. courtyard lighting); decorative lighting of public monuments or bridges; street lights; and lighting of historic properties.

Ms. Messner said Ordinance No. O-1011-44 includes two tables that the Planning Department uses to guide them when they receive a complaint. The ordinance contains a provision for an extension for hardship to be administratively granted to allow a property owner time to comply after a complaint is received. It also allows for an appeal to the Board of Adjustment and the Board has the power to grant an additional one year extension.

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Provisions for fixture and light level standards contained in the ordinance are as follows:

- Fixtures must be full cut-off and mounted horizontally to the ground,
- Total light output for the site may not exceed four lumens per square foot of hardscape area plus five thousand lumens per each three foot building entrance or exit plus extra canopy lighting, and
- Light levels at the property lines adjacent to residential uses may not exceed 0.2 footcandles

Ms. Messner said the modified language proposal would require all commercial, industrial, institutional, and multi-family land uses, developments, buildings or structures that require a building permit subsequent to the effective date of this section to comply with the ordinance. In addition, all new construction outdoor lighting fixtures may not be installed or maintained in such a way that more than 0.2 footcandles of light is projected onto an adjacent property zoned for single or two-family purposes. Applications for a building permit would include a site plan; estimated footcandles at ground level at the boundaries of the site that abut single or two-family zones or uses; descriptions or data sufficient to allow City Staff to readily determine whether the site lighting complies with the ordinance requirements; and City Staff may request additional documentation to determine compliance.

Ms. Messner said the proposed modifications allow for property owners or residents to file residential light trespass complaints to be investigated by the City. If Code Compliance Officers find a light spillover of greater than 0.2 footcandles at the property line that abuts single or two-family zones or uses, they can issue a violation notice and give a reasonable period of time for compliance.

Ms. Messner highlighted the differences between Ordinance O-1011-44 and the proposed modifications as follows:

- Proposed modification eliminates requirement for full cut-off fixtures, light level cap, and standards for pole-mounted lights, wall-mounted lights, accent lights, or canopy lights;
- Proposed modification removes outdoor light exemptions contained in ordinance;
- Ordinance requires submission of a photometric plan and fixture specifications while the proposed modification does not;
- Light complaints are treated differently: in proposed modification, light trespass complaints may only be made in circumstances of light spillover onto adjacent property zoned or used a single or multi-family and the ordinance allows for complaints of visible bulbs and glare as well as light trespass;
- Ordinance includes two charts that establish criteria, triggers, means of compliance, and an amortization period for compliance, while the proposal modification eliminates these provisions.

Ms. Messner said both the ordinance and proposed modification require new construction, upon application for a building permit, to comply with lighting requirements if the property is commercial, industrial, institutional, or multi-family, property owners are required to submit information regarding estimated footcandles at the property lines, and have provisions for addressing light trespass complaints.

Chairman Kovach asked the differences, if any, for enforcement and Ms. Messner said the proposed modification states enforcement by Code Compliance Officers and the current ordinance allows investigation by the Norman Police Department (PD) especially on roadway glare. Ms. Susan Connors, Director of Planning and Community Development, said the Planning Department coordinates with Police Department to check complaints because Code Enforcement Officers do not work at night. She said there is a provision in the ordinance that allows the Board of Adjustment to give an extension on compliance, but Staff has the ability to extend compliance time as well.

Chairman Kovach asked Mr. John Woods, Director of the Norman Chamber of Commerce, to discuss difficulties businesses have encountered with the current ordinance. Mr. Woods said when the ordinance was being discussed

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Council said the ordinance could be reviewed after implementation as problems arose. He highlighted issues businesses have come across as follows:

- The lumens cap is too low whether at the point of entrance the 5,000 per each three-foot building entrance or exit or the four per square foot hardscape area
- Restrictions on lighting on public rights-of-ways that are the same as the restriction on what can be lit on adjacent residential areas – this creates issues when it comes to driveway entry points and public sidewalks adjacent to a site – Businesses are limited to an 0.2 footcandle within ten feet of where private property ends and public right-of-way begins (e.g., 7-Eleven Convenience Store at Flood/Robinson)
- Increased cost to property owners for engineering issues and lumen examination – additional pole lighting is necessary due to the full cut-off regulations (e.g., Fowler Honda put full cut-off on new facility for an additional \$37,000 and Bob Moore, who was grandfathered in, would not have relocated in Norman because of design features required of them by their parent company - Cadillac)
- Inability for property owners to access the Oklahoma Gas and Electric Company's (OG& E) payment plan for lighting – OG&E has an inventory of outdoor lights they will provide to a business under construction. Businesses enter into a payment plan so upfront costs are less – OG&E inventory lights are not built to lighting ordinance standards

Mr. Woods said while some businesses are advocating to revoke the ordinance, most businesses want be good corporate citizens and protect neighbors from spillover and glare.

Councilmember Jungman asked who drafted the proposed modifications and Councilmember Williams said he drafted language with the help of Councilmembers Spaulding and Castleberry. He said he also spoke with the Chamber of Commerce, Mr. Harold Heiple, Attorney, Mr. Sean Rieger, Attorney, as well as some of the business owners having issues.

Mayor Rosenthal said drafting the current ordinance was a long process so she would not like to move back to scratch. She would like to work on addressing the bullet points instead of incorporating them into the ordinance. She said during the process, issues related to glare had been discussed in detail. She said Council has talked about creating a different ordinance for commercial to commercial properties so perhaps the bullet points could be incorporated into that ordinance. She felt enforcement will be impossible under the proposed modification so Council needs to look closely at that aspect.

Chairman Kovach asked if Council solved the problems in the bullet points would the businesses be comfortable with that and Councilmember Spaulding said the question would be whether or not all the necessary bullet points had been listed. He asked if Mr. Woods had covered all real problems that exist? Chairman Kovach asked if the questions, problems, or difficulties people have are enumerated and addressed, would they have to be addressed with the modified language or could they be solved with other solutions. Councilmember Williams said yes, if that can be accomplished, but glare and protecting homeowners from light spillover was not mentioned.

Councilmember Williams said during discussions on the current ordinance he was told his business would not be affected, but it has been affected in the amount of \$15,000 to \$20,000. He said the building is in the middle of a field with nothing around and because the business is re-platting the property next to them, they have to meet the lighting ordinance regulations. He said the business currently has 35' light poles, but now they cannot have that size pole so the property will look terrible with different poles plus more poles are needed. He said the business had to hire a lighting engineer at a huge expense and finding someone to do that was difficult. He said all of Mr. Woods points are issues that have happened to large and small businesses. He said if you drive down I-35 there is light everywhere but there cannot be light on the service roads, which does not make sense. He said other than the glare issue the proposed modifications cover that very well.

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Councilmember Jungman said he is all for reviewing the ordinance and he understands the issue with 7-Eleven because he drove there last night and could not see the entrance on the south side. He said if 7-Eleven wants to light that area, there should be a reasonable way to do that. He said the ordinance has unintended consequences and he suggests the Legal Staff make changes to the existing ordinance. He said the ordinance needs to be written for legal sufficiency as well as good outcome and no one is saying throw the baby out with the bathwater. He said the cost outcome would be the same because 0.2 footcandles is required for commercial and residential areas. Chairman Kovach said the cost difference would be primarily on commercial on commercial property, which would not be the same if Council changed the ordinance.

Chairman Kovach said Council does not want to intentionally or unintentionally take away protection to neighborhoods so that is a great starting point. He believed everyone is in agreement on the point of entrance lighting issue. He said he did not have a problem with light spillover on a sidewalk or into a street if it is not glare because glare is a traffic hazard. He said he would like Staff's input on the lumens cap issue. Ms. Connors said Staff did a lot of research with input from an engineer and felt the cap is very generous given what existed in the City prior to the ordinance, but that can change. Councilmember Spaulding asked if there had been a lot of opposition at the time that the cap would not provide enough light and Chairman Kovach said there were people saying it was not enough light and those saying it was too much light. Mr. Woods said there are differing opinions on what the total cap should be, but businesses do not consider it generous. Why not remove that cap and let businesses have what they want to have on your property to be as bright or as limited as you want, but it cannot spillover and as long as the brightness does not create a glare situation that could be dangerous from a public safety standpoint.

Mayor Rosenthal said there was a very impassioned neighborhood protest against a commercial multi-family development and there are situations with glare and visibility of light, which are not always a public safety issue and that needs to be addressed. She said an example is the Santa Rosa property and Councilmember Castleberry said there were no lighting issues with Santa Rosa. Mayor Rosenthal said there were no lighting issues because they agreed to comply with the lighting ordinance. Mayor Rosenthal said glare, visibility of light bulbs, and other issues are intrusive issues. She said there is a provision in the ordinance that allows City Staff to determine if there is a violation, but that is not sufficiently detailed and places Staff in the position of making lighting judgments with whatever means they have at hand. She said Council needs to look at that provision if they move away from the photometric plan and specify what kind of information needs to be there. She said Council makes representations to neighborhoods about light, glare, visibility, etc., and Council needs to live up to that.

Councilmember Lockett said there have been a lot of vehicle break-ins recently around Ed Noble Parkway and all businesses were concerned. She said when Home Depot closes; they turn their lights off which darkens surrounding properties. She is all for taking care of neighborhoods, but commercial property has completely different needs.

Councilmember Williams said of everything he has heard tonight, glare was not addressed. He said the apartment complex is covered, spillover to residential is covered, so to insinuate that they would not be protected is not true. They are protected in the modified ordinance from spillover with the same language that is in the current ordinance. He said he did not believe there should ever be a problem without a solution. Councilmember Williams felt an all too common issue is that committees meet to discuss change(s), but after six months the committees are still discussing and no change(s) have been made. He said the ordinance is affecting businesses and one particular business in the City - which is a great business - could have potentially left Norman because of the regulation therefore this issue needs to be fixed now. He said the modified ordinance may need some tweaking and that is the point of this meeting.

Chairman Kovach said when he asked Staff why the City needed to have a photometric plan, they had a great answer, "If you do have light spillover, someone has put in their lighting and the engineering was wrong so there is

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spillover.” He said this discussion is not about re-aiming lights it is about ripping out poles. He said he does not want to do a fix that may create a bigger burden on businesses. He said if a business knows what they are doing because they have done it a million times before then give them a one hour permit, but it is their risk if they put in a plan that is wrong and they will have tear it out. He would like that to be on everyone’s mind and Councilmember Jungman agreed. Councilmember Williams said he sees Chairman Kovach’s point, but if Council does that then they should go through all the standards. He said if a business goes through an engineering process, platting process, Staff review process, etc., then the business owners have a lot of burden to do things correctly and if that is not done to City Code, guess what, you have to fix it. He said to require a plan is an expense that does not need to be there.

Councilmember Griffith said relaxing the lumens cap on a property has detrimental effects and reflective lighting of properties has not been mentioned. He said if someone came in and illuminated a giant white building regardless if it is commercial property or not, the reflective light onto his property would be terribly offensive to him. He said while glare is an issue he believes the lumen cap has a purpose and while Council may relax restrictions a little bit, he is concerned about that reflective glow. He suggested taking the ordinance to a commercial lighting company and request them to design a plan and Councilmember Williams said they will not do it. Those manufacturers will tell you to hire a lighting engineer because that is beyond the scope of what they do.

Councilmember Castleberry said Council needs to look at enforcement as well. He said if Code Enforcement will be responsible for violations and they do not work at night, then that is problematic. He would like suggestions from Staff on how the lighting ordinance will be enforced.

Chairman Kovach said he would like Staff to work on addressing the following issues:

- Without a photometric plan, how will the ordinance be enforced at night, what are some of the options and costs, and who will be the final arbiter of the facts;
- Raising the lumen cap without creating too much glow;
- Spillover on right-of-way and point of entrance;
- Glare, invisible bulbs, and reflective light;
- Commercial on commercial lighting – changing full cut-off to semi-cut-off or cut-off; and
- OG&E payment plan –OG&E has shield they can install to simulate a semi cut-off – would OG&E be willing to go back to the payment plan and install a shield on those lights.

Councilmember Spaulding asked how the City missed the OG&E issue at the time the ordinance was being discussed and Chairman Kovach said after the ordinance was adopted OG&E told businesses they would not be able to use the payment plan because of the lighting ordinance requirements and that is when the City found out.

Mayor Rosenthal said Tables 1 and 2 in the current ordinance deal with existing lighting when there is a complaint and there is no remedy specified in the modified version and Council needs to review that before removing those tables. Councilmember Spaulding said that is addressed in Section 3. Mayor Rosenthal did not believe that language was as strong as it needs to be and would like some discussion on that.

Chairman Kovach said Mr. Heiple has offered several suggestions on the modified ordinance so he would like an analysis from Staff on that and how that will work toward the general discussion. He encouraged input from the business community before the next meeting.

Items submitted for the record

1. Memorandum dated December 6, 2012, from Leah Messner, Assistant City Attorney II, through Jeff Bryant, City Attorney, to City Council Oversight Committee
2. Existing Ordinance No. O-1011-44
3. New Proposed Version of the Lighting Ordinance submitted by Councilmember Williams
4. PowerPoint presentation entitled, "Commercial Lighting Regulations," City Council Oversight Committee, December 12, 2012
5. Letter dated December 12, 2012, from Harold Heiple, Heiple Law Offices, Inc., to Norman City Council in care of Chairman Tom Kovach, Oversight Committee

Item 3, being:

DISCUSSION REGARDING WATER CONSERVATION MEASURES AND ACTIVITIES RELATIVE TO THE EASTERN RED CEDAR AND DROUGHT RESISTANT LANDSCAPING.

Chairman Kovach said red cedars use a lot of water and a drought cycle is predicted. He said this issue will be discussed further at the next meeting, but he would like the City to lead by example by doing things that are incentivized based rather than regulatory based. He asked Staff to draft a resolution regarding red cedars as well as native plants requiring City landscaping be done in that fashion. He said he would like the development community and Staff to meet to discuss removing red cedars before an area is developed.

Items submitted for the record

1. Memorandum dated December 5, 2012, from Jud Foster, Director of Parks and Recreation, to Steve Lewis, City Manager
2. Article dated March 28, 2012, from the United States Department of Agriculture Natural Resources Conservation Service entitled, "Controlling Eastern Red Cedar"
3. A Strategy for Control and Utilization of Invasive Juniper Species in Oklahoma, Final Report of the "Redcedar Tax Force," by the Oklahoma Department of Agriculture, Food and Forestry dated December 11, 2012
4. Excerpts from City of Norman Zoning Ordinance, Section 22:431.8
5. PowerPoint presentation entitled, "Invasive Species Public Policy: Redcedar Management Options/Consequences," by Larry D. Sanders, Dave Engle, and Tracy Boyer – OWRRI Research Symposium, Governor's Water Conference, November 13 and 14, 2012

Item 4, being:

MISCELLANEOUS DISCUSSION.

None

ADJOURNMENT.

The meeting adjourned at 7:08 p.m.

ATTEST:

City Clerk

Mayor