

## CITY COUNCIL CONFERENCE MINUTES

December 11, 2012

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 11th day of December, 2012, 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 24 hours prior to the beginning of the meeting.

**PRESENT:**

Councilmembers Castleberry, Gallagher, Griffith, Jungman, Kovach, Lockett, Spaulding, Williams, Mayor Rosenthal

**ABSENT:**

None

Item 1, being:

### DISCUSSION REGARDING CONSTRUCTION OF LEGACY PARK.

Mr. Jud Foster, Director of Parks and Recreation, highlighted the timeline of Legacy Park and said bids were opened on November 20, 2012. The project bids were prepared with a number of alternates and Staff is looking for direction from Council on how to proceed.

Mr. Foster said the engineer's estimate of the project bids was \$6,018,500 for the base bid with an additional \$1,897,160 for alternates for a total bid amount of \$7,915,660. Five bids were received with the lowest bid from CGC, L.L.C., in the amount of \$5,525,900 for the base bid with an additional \$1,495,000 for alternates for a total bid amount of \$7,020,900. Items included in the base bid are as follows:

- "Wishbone" entry drive
- Enhanced treatment of Legacy Park Drive
- Entry portals
- Amphitheatre stage, cover, seating area
- One acre pond with programmable fountains
- Promenade walk around pond
- Upper arbor west side of pond
- Restroom building
- West side walkways – main park area
- Extensive landscaping and pedestrian lighting

Mr. Foster said project bid alternates include:

- |   |           |
|---|-----------|
| ▪ Stage Railing                                     | \$ 35,000 |
| ▪ Added walking trail landscape plantings and sod   | \$ 35,000 |
| ▪ Added walking trail sidewalks                     | \$ 65,000 |
| ▪ Added walking trail benches and trash receptacles | \$ 38,000 |
| ▪ Added walking trail lighting                      | \$120,000 |
| ▪ Amphitheatre seat wall light                      | \$ 36,000 |
| ▪ Stage floor light fixtures                        | \$ 7,000  |
| ▪ Decorative light fixtures at entry                | \$ 12,000 |
| ▪ Pole fixtures (14')                               | \$102,000 |
| ▪ Decorative light fixtures                         | \$ 23,000 |
| ▪ Cascading water features                          | \$865,000 |
| ▪ Green screen portals                              | \$ 27,000 |
| ▪ Lower arbor sections (west)                       | \$130,000 |
| ▪ Glass block in restroom                           | \$ 0.00   |

Item 1, continued:

Mr. Foster highlighted project funding and said, currently, \$7.99 million is available for construction of Legacy Park and 24th Avenue S.W. improvements. He said the construction base bid with alternates is \$7,020,900 and Staff will be proposing an amendment to the architect's contract to add project oversight and testing in the amount of \$143,949. He said project oversight is necessary because City Staff cannot oversee the project as needed. He said concrete testing will be necessary throughout the project.

Councilmember Kovach asked what the original bid amount was and Mr. Foster said the base bid was \$5.3 million, which is a 3 1/2% increase.

Councilmember Kovach asked if Legacy Park hours would be the same as other City park hours to be closed at sunset and Mr. Foster said because Legacy Park is proposed to be set up for night time use so that will need to be addressed.

Councilmember Kovach asked if the detention pond to the west is part of the park and Mr. Foster said it is not. Councilmember Castleberry said if the detention pond is not part of the park then why is the City spending \$258,000 to landscape around the pond. Mr. Foster said the detention pond will be highly visible and without landscaping it will look very different than the rest of the park. Councilmember Williams asked who owns the detention pond and Mr. Foster said the developer, but the City owns a drainage easement there. Councilmember Kovach said previous Council explicitly excluded the detention pond from design plans so he does not understand why it is being brought forward without discussion of current Council. He felt the community would be more comfortable spending the money on beautifying the rest of the park so he would support everything except the detention pond landscaping. Councilmember Jungman said the detention pond is currently an eyesore and if the park is a going to be a "signature" public venue, he would support landscaping. Mayor Rosenthal agreed and said landscaping the proposed walkway around the detention pond is important because people are going to associate the pond with Legacy Park. Councilmember Kovach asked if the detention pond were not located in the University North Park Tax Increment Finance district (UNPTIF) could the City spend money on private property with public funds and Mr. Jeff Bryant, City Attorney, said when there is an easement that abuts a public park it can be done. Councilmember Kovach said a few years ago, Council changed the policy on how public rights-of-way are maintained by requiring the property owners to maintain the right-of-way they have no access to. He said there was discontent from the public, but Council made the changes for budgetary reasons. He said he would have a hard time telling people to mow their right-of-way, when the City is planning to use public dollars to maintain a detention pond. He said he is all for expanding Legacy Trail, but just because the City has money to spend on the project, does not mean it should spent in this manner.

Councilmember Lockett asked how many people can be seated in the amphitheater and Mr. Foster said between 700 and 1,000.

Councilmember Castleberry asked if the park will be irrigated and Mr. Foster said yes, but not around the detention pond.

Councilmember Kovach said Staff is proposing to pay \$140,000 for additional project oversight and testing and asked if that is to make sure the project is done right and Mr. Foster said yes, \$93,000 will be for construction management, \$30,000 is for rebidding and redesign costs, and \$40,000 is for testing. Councilmember Kovach asked why the City is bearing the cost of oversight on a \$7 million project? Councilmember Jungman asked if construction management is optional or part of every project and Mr. Foster said it is a common part of any project, particularly a project of this size. Mr. Shawn O'Leary, Director of Public Works, said the Public Works Department utilizes project management on every major project they are involved with. He said it is an extensive process to build something of Legacy Park's magnitude and 1% to 2% of project costs for oversight is a very low number.

Item 1, continued:

Councilmember Spaulding asked the distance between the park and the detention pond and Mr. Scott Howard, Fairbairn Site Design, Inc., said approximately 700 feet.

Councilmember Castleberry asked if funds are available for public art and Mr. Foster said money is set aside for public art, but it is not part of this project. Councilmember Castleberry asked how much money is set aside and where it comes from and Mr. Bryant said approximately \$1.5 million was set aside in the Project Plan in Development Agreement No. 3. He said Council can decide which direction to go with public art and several pad sites are included in the design of the park. Councilmember Castleberry said public art is an important part of a public park.

Mr. Foster said park property maintenance will be contracted out and paid from an endowment fund and resources generated by surrounding businesses.

Councilmember Williams asked if the City is liable if they make improvements, such as the stage railing, and someone gets injured and Mr. Bryant said the City would have some protection if the railing was properly installed and visitors were warned of potential inherent dangers; however, anyone has the right to file a claim against the City for injuries allegedly received while on City property. Councilmember Spaulding said if the City owned the easement around the detention pond and there were no aesthetic improvements, could there be a legitimate claim for negligence? He said installing a sidewalk and improvements around the detention pond seems to make a better case for negligence. Councilmember Castleberry said by making those improvements the City is basically inviting people over to the pond. Councilmember Williams asked if improvements can be done after completion of the project if funds are available and Mr. Bryant said absolutely.

Councilmember Kovach said the cascading fountains are a significant feature that will attract people and be a feature people will remember and want to see again so he strongly supports that. He asked about the hours of the park earlier because if the park is closed at night, there is no need for lighted walkways, but if there will be evening events, lighted walkways are obviously a great idea and he would support extra railing as well. Councilmember Castleberry asked if \$865,000 is enough money to build a quality water feature and Mr. Howard said it is not the Bellagio, but it is a very nice feature. Councilmember Gallagher asked where the water would come from and Mr. Foster said the City's water supply. Councilmember Gallagher was concerned about using the fountains during drought periods and Mr. Howard said the water is continuously recirculated to be reused. Councilmember Gallagher asked what the water capacity was for the pond adjacent to the fountain and Mr. Howard said approximately one million gallons. Councilmember Williams asked if there would be a way to keep the water level uniform and Mr. Howard said there will be an auto-fill feature that pulls water from the irrigation supply line when needed.

Councilmember Gallagher asked if Council will be discussing construction alternates in greater detail and Mr. Foster said Staff hoped for input tonight so CGC, L.L.C., could prepare their contract, but if Council needs more time to review the alternates, a January meeting can be scheduled. Councilmember Gallagher felt decorative lighting and lighting along walking trails is not needed because City parks have a curfew. He felt the City would be inviting problems from a public safety standpoint if they remained open after dark. Mayor Rosenthal said it is anticipated Legacy Park will have events at night so there needs to be adequate lighting. Mr. Foster said there are also proposed high-end retail shops and restaurants around the fountain/pond area that will be open late into the evening. Councilmember Kovach agreed with Councilmember Gallagher that Council needs additional discussion about construction alternates as well as park policies and maintenance.

Councilmember Gallagher said he strongly supports railing around the water features. Mr. Howard said there will be an eight to ten foot "collar" from the edge of the water, which is approximately three feet deep at its shallowest before tapering off to a depth just shy of nine feet.

Item 1, continued:

Mayor Rosenthal said there seems to be issues that need further discussion and suggested an additional meeting be held.

Councilmember Jungman asked if noise continuation from the interstate has been addressed and Mr. Howard said there is a fountain feature where water shoots into the air and sconces attached to pylons on the back side of the pond will spout water so these two features create their own noise. He said there is also a landscape berm on the west edge of the pond to help address interstate noise issues.

Councilmember Spaulding asked if the type of landscaping has been discussed and Mr. Foster said yes. Councilmember Spaulding asked if the landscaping included red cedars and Mr. Foster said no.

Ms. Joy Hampton, The Norman Transcript, said Councilmembers did not seem to have much experience with parks that include walking trails and asked if there will be input from people who have actually used walking trails. Mayor Rosenthal said the need for public input will be a part of the additional discussion. Councilmember Castleberry said he would like that discussion to come quickly and Mayor Rosenthal agreed.

Items submitted for the record

1. PowerPoint presentation entitled, "University North Park Legacy Park Review of Construction Bid," City Council Conference, December 11, 2012

Participants in discussion

1. Mr. Jud Foster, Director of Parks and Recreation
2. Mr. Scott Howard, Fairbairn Site Design, Inc.

Item 2, being:

#### DISCUSSION REGARDING A POTENTIAL INCREASE IN THE TRANSIENT GUEST ROOM TAX.

Mayor Rosenthal said there has been discussion by the Finance Committee regarding a 1% to 2% increase in the hotel/motel room tax and there seemed to be consensus for a 1% increase. One-half would be distributed to the Norman Convention and Visitors Bureau and the remaining split between parks and recreation, administration, and arts and humanities.

Mayor Rosenthal said a room tax increase will require additional discussion, but asked if there is consensus tonight among Council for a 1% increase. Councilmember Kovach said he did not want Norman to have a higher rate than Oklahoma City or Tulsa and the choices are not just 1% or 2%, it could be 1.5%. Mayor Rosenthal said the Finance Committee heard testimony that a 1.5% spread is an important competitive advantage with hoteliers. Councilmember Williams asked if there had been discussion at the Finance Committee about a 1.5% increase instead of 1% or 2% and Mayor Rosenthal said that was not discussed. She said there is concern that even at 1.5%, the tax would begin to cut into Norman's competitive advantage and that is something Council should discuss. She asked if Council is prepared to have further discussion at the beginning of January and Councilmembers said yes they would support that discussion.

Mayor Rosenthal said Council will need to have timely discussion without multiple meetings if they want an increase to be placed on the ballot on the April 2, 2013, City Council/Mayoral election. She said that election deadline will require an ordinance be considered for First Reading on January 8, 2013, and Second Reading on January 22, 2013. She asked Staff to prepare a draft ordinance for discussion.

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Item 2, continued:

Items submitted for the record

1. Room Tax Revenue – Actual Collections
2. Distribution of Room Tax Revenue – FY 13 Budget
3. Updated Revenue Estimate
4. Tax Rate Information – Benchmark Cities
5. Sales and Room Tax Rate Comparison

The meeting adjourned at 6:20 p.m.

ATTEST:

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City Clerk

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Mayor