

## CITY COUNCIL SPECIAL SESSION MEETING MINUTES

August 19, 2014

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in Special Session meeting at 5:30 p.m. in the Municipal Building Conference Room on the 19th day of August, 2014, and notice and agenda of the meeting were posted in 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 Robert Castleberry, Greg Heiple, Stephen Holman, Greg Jungman, Jerry Lange, Lynne Miller, Chad Williams, Clint Williams and Mayor Rosenthal

ABSENT: None

Mayor Rosenthal said Items 1 and 2 go hand in hand so Council will be discussing them concurrently.

Item 1, being:

DISCUSSION REGARDING ORDINANCE NO. O-1314-52 AMENDING CHAPTER 8, SECTION 8-103, REGARDING REQUIREMENTS FOR RESERVE FUNDS.

Item 2, being:

DISCUSSION REGARDING RESOLUTION NO. R-1314-141 ESTABLISHING REQUIREMENTS FOR RESERVE FUNDS.

Items 1 and 2 were discussed together.

Mr. Jeff Bryant, City Attorney, said as required by the Rule of Three Ordinance, this item was requested by Councilmembers Tom Kovach, Robert Castleberry, and Chad Williams on June 2, 2014. He said the City Manager asked Staff to prepare Ordinance No. O-1314-52 and Resolution No. R-1314-121 for First Reading to be considered by Council on June 12, 2014. After the June 12, 2014, meeting there was a general consensus by Council that this proposal actually related to General Fund budgeting and should be vetted through the Finance Committee before being voted on by Council. He said the Finance Committee reviewed the items in its meeting of June 18, 2014, making suggestions for modifications. The items were then scheduled for the June 26, 2014, Council agenda for Second Reading at which time Council made a motion to postpone both items until August 26, 2014.

Mr. Bryant said the modifications suggested by the Finance Committee are being reviewed by Council tonight with the focus on reserve goals and requiring Council approval of expenditures exceeding \$50,000 when it is budgeted for one purpose, but then proposed to be expended for another purpose.

Mr. Bryant said prior to the Finance Committee meeting on June 18, 2014, Staff asked for clarification of the intent of the proposal to aid in drafting the ordinance and resolution properly. He highlighted some points of clarification that included the following:

- Will the proposed restrictions be in effect for the fiscal year 2015-2016 Budget and subsequent budgets *and* only come into play if the City Manager's budget would not meet the 3% operating reserve balance based on assumed revenue and expenditure projections?
- Does the term "expenditure(s)" refer to releasing monies already appropriated after the adoption of the budget?
- Is the proposal intended to apply to the General Fund budget rather than "all budgets?"
- Does the use of the term "those goals" include the Rainy Day Fund requirement and if so, does the term include the 3% minimum or the 4.5% target reserve?
- Is the intent of the ordinance to prevent Council from allocating fund balances in annual budgets when the required reserves are projected to be met?

Mr. Bryant said there are potential impacts of the proposed ordinance/resolution. He said, as written, the ordinance/resolution may require Council to approve all transfers related to any expenditure over \$50,000, which could require Council to approve a transfer from an engineering services design account to a right-of-way acquisition account within the same capital project. He said there was some concern about how to define "nonessential expenditures" as proposed. He said the proposal may require an amendment to Section 8-206 of the City Code which currently authorizes the City Manager "to approved payment of any invoices submitted against the City for payment." If the proposed resolution and/or ordinance is intended to place an additional requirement before the City Manager can utilize appropriated revenues to accomplish the plan of work, then additional qualifying language may need to be drafted; however, if the intent is to shift the administrative

Items 1 and 2 continued:

function away from the City Manager and place the administrative function with the Council, then that would require a Charter amendment.

Mr. Bryant said the mechanics of how expenditures would be “segregated” as stated in the ordinance is unclear and a separate Council expenditure account requiring Council approval would be contrary to the City Charter preventing the Council from being involved in the City administration. He said the proposed items also appear to be contrary to the Municipal Budget Act delineation that the City Manager (chief executive) may transfer appropriated balances from one expenditure account to another within a fund or department of the City. He said there are very few, individual expenditures in the General Fund exceeding \$50,000 that would not already be authorized through appropriation of revenue with adoption of the budget.

Mr. Bryant highlighted current City policies and said Council approval is already required when transfers are made between funds; when transfers are made between capital projects in different categories; when transfers are made between capital projects even in the same categories; when transfers are made between capital equipment accounts to capital project accounts. He said under City Code provisions, any contracts for goods and services in excess of \$25,000 must be approved by Council.

Councilmember Castleberry asked if individual contracts would have to come to Council for approval even if the funds have been approved in the budget for a particular purpose and Mr. Bryant said yes.

Mr. Bryant said after the Finance Committee meeting, it was felt that with the Finance Committee monitoring of expenditure categories within the General Fund, an ordinance may not be necessary and a resolution formally expressing Council’s intent may be adequate. He reviewed the proposed resolution and ordinance language.

Mayor Rosenthal said after the June Finance Committee, some people believed that Paragraph 5 would not be in the resolution while others believed it would be. Paragraph 5 reads as follows:

Further, the City Council Finance Committee should be apprised of single transfers exceeding \$50,000 between the following general fund expenditure categories:  
Salaries & Benefits,  
Supplies & Materials,  
Services & Maintenance, and  
Capital Equipment.

Mayor Rosenthal said she left the Finance Committee meeting with the impression the above stated language would not be in the resolution and Councilmember Heiple agreed. Councilmember Castleberry said the fact that transfers are being reported to the Finance Committee accomplishes Council’s goal so he has no problem removing the language. He said the main idea behind the Rule of Three request was transparency and as long as the public hears what is happening with the funds whether it is through the budget public meeting or in the Finance Committee meeting he has no problem removing the language.

Councilmember Heiple felt the resolution would be micro management in the highest level and Council has to trust City Staff to a certain degree. He said there is transparency under the guidance of the Finance Director and City Manager as well as a process in place that works. He felt the resolution would be over reaching and does not want to see it on Council’s agenda. He understands what is trying to be accomplished, but felt this is the wrong tool. He agreed there should be a better discussion about tools that would bring better financial transparency, but this is not it.

Councilmember Miller said as long as transfers are being monitored by the Finance Committee that is what is important. She said communication between the City Manager and City Council is important, but she does believe that needs to be done by resolution or other formal language.

Councilmember Castleberry said it is possible that in five or ten years there will be a whole new Council or a new City Manager that does not communicate as well with Council. He said the resolution would serve as a budgeting tool for times when the budget is tight, as it is now. He said if the City Manager’s budget meets the 3% reserve requirement then the resolution would not come into play. He said before money is taken from the Fund Balance, which is basically the City’s savings account, Council needs to know what the money is being used for. He felt the resolution would help Council manage the budget better. He would rather have the ordinance because it has more teeth to it, but said he could live with the resolution.

Mayor Rosenthal said she would like clarification ordinance language in Section 4 that reads, “That all future General Fund budgets projected to not meet the goal of an unappropriated Operating Reserve Fund balance of

at least three (3) percent of annually budgeted expenditures must also identify specific expenditures, for which appropriation will be made, in an amount equal to the amount projected expenditures are proposed to exceed projected revenues with the City Council Finance Committee being kept apprised of the City Manager's use of such identified expenditures as the fiscal year progresses." She asked if the language is saying that the adopted budget items one through ten on the City Manager's list that are appropriated are things the City might not spend the money on and Mr. Bryant said yes. Mayor Rosenthal said, for example, item one is personnel savings of \$200,000 and asked how that savings would take place, through a position freeze? Mr. Lewis said it would be positions control such as delayed hiring of a position. Mayor Rosenthal asked if the City is going to appropriate those funds, but watch certain items through the Finance Committee and Mr. Lewis said Council might not appropriate that money. Mayor Rosenthal said that is true since Council has the choice to appropriate the money because Council deems the money critical to whatever the money has budgeted for and not meet the 3% reserve or Council could remove the appropriation entirely to try to meet the 3% requirement.

Councilmember Jungman felt the resolution is saying Council would like the City Manager to give Council a list of items that could be cut in order to bring the budget in the balance. He said all the resolution does is let the City Manager know that under tight budgeting conditions; the Council would like to have this information at hand to review and make a decision on what to cut as a group. He felt this was a good compromise and supports the resolution as presented.

Mayor Rosenthal said the 3% reserve was adopted at the same time Council adopted the Rainy Day Fund and the 3% reserve is in addition to the Rainy Day Fund and she would like language to reflect that more clearly.

Councilmember Lang said he understood the resolution to mean that if the budget presented does not have a 3% reserve, the City Manager will have prepared a list of items that could be cut and give that list to Council well in advance of Council adopting the budget in order for Council to make cuts to meet the 3% reserve.

Mr. Bryant said Staff could work to clarify the language in Section 4 and remove Section 5 and forward the modified resolution to Council prior to the meeting. He said the item would appear on Council's agenda on August 26<sup>th</sup> as presented in June and if Council so desires, a motion could be made to substitute the resolution with the modified one.

Items submitted for the record

1. Memorandum dated August 14, 2014, from Anthony Francisco, Finance Director, and Jeff Harley Bryant, City Attorney, to Honorable Mayor and Councilmembers
2. Proposed Resolution from the Finance Committee dated June 3, 2014
3. Draft Resolution No. R-1314-141
4. Legislatively Notated draft Ordinance No. O-1314-52
5. Draft Ordinance No. O-1314-52
6. E-mail dated June 18, 2014, from Tom Kovach to Anthony Francisco with attachments, Staff Requested Clarifications re: Budgeting Proposal (Rule of Three), Current budgetary pre-authorization requirements, and Potential Impact of Proposed Resolution and Ordinances
7. Finance Committee minutes of June 18, 2014
8. Resolution No. R-1314-141 presented to the Finance Committee on June 18, 2014
9. Ordinance No. O-1315-52 presented to the Finance Committee on June 18, 2014
10. Resolution No. R-1314-141 presented to City Council on August 19, 2014

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Mayor Rosenthal said she would like to recognize Councilmember Chad Williams for an announcement.

Councilmember Chad Williams read the following statement: "Ward Eight citizens, Mayor, and City Council, a lot has transpired in my life in the last 36 hours. I have been offered an opportunity in my career that requires me and my family to relocate to a different State. This has been one of the hardest decisions I have yet to make in my life. I will be moving not only from the best City in America, but also away from family and friends who have supported me and stood by me. My last City Council meeting will be September 9, 2014. On accepting this opportunity it was required that I be there by September 12th. I apologize for the short timeframe given. It would be my desire to see the Ward Eight vacancy filled by holding an election being the remaining amount of the term is so long. I know that Council and Ward Eight citizens will do the right thing for the greatest City."

The Mayor and Councilmembers congratulated Councilmember Williams on his new job and expressed their sadness of losing him on Council.

Item 3, being:

CONSIDERATION OF ADJOURNING INTO AN EXECUTIVE SESSION PURSUANT TO 25 O.S., SECTION 307(B)(4), IN ORDER TO DISCUSS COMPROMISE SETTLEMENT IN THE CASE OF RODNEY BURTON V. THE CITY OF NORMAN, WORKERS' COMPENSATION CASE NOS. WCC-2010-11090J, WCC-2011-06594Y, AND WCC-2011-11026R.

Councilmember Chad Williams moved that the Special Session be adjourned out of and an Executive Session be convened into in order to discuss a Compromise Settlement in the case of Rodney Burton v. the City of Norman, Workers' Compensation Case Nos. WCC-2010-11090J, WCC-2011-06594Y, and WCC-2011-11026R, which motion was duly seconded by Councilmember Clint Williams; and the question being upon adjourning out of the Special Session and convening into an Executive Session in order to discuss a Compromise Settlement in the case of Rodney Burton v. the City of Norman, Workers' Compensation Case Nos. WCC-2010-11090J, WCC-2011-06594Y, and WCC-2011-11026R, a vote was taken with the following result:

YEAS:	Councilmembers Robert Castleberry, Greg Heiple, Stephen Holman, Greg Jungman, Jerry Lange, Lynne Miller, Chad Williams, Clint Williams and Mayor Rosenthal
NAYES:	None

The Mayor declared the motion carried and the Special Session adjourned out of; and an Executive Session was convened into in order to discuss a Compromise Settlement in the case of Rodney Burton v. the City of Norman, Workers' Compensation Case Nos. WCC-2010-11090J, WCC-2011-06594Y, and WCC-2011-11026R.

The City Council adjourned into Executive Session at 6:17 p.m. Mr. Steve Lewis, City Manager; Mr. Jeff Bryant, City Attorney; and Ms. Jeanne Snider, Assistant City Attorney, were in attendance at the Executive Session.

Mayor Rosenthal acknowledged return to Open Session.

Thereupon, Councilmember Clint Williams moved that the Special Session be reconvened, which motion was duly seconded by Councilmember Chad Williams; and the question being upon reconvening the Special Session, a vote was taken with the following result:

YEAS:	Councilmembers Robert Castleberry, Greg Heiple, Stephen Holman, Greg Jungman, Jerry Lange, Lynne Miller, Chad Williams, Clint Williams and Mayor Rosenthal
NAYES:	None

The Mayor declared the motion carried and the Special Session was reconvened at 6:34 p.m.

The Mayor said a Compromise Settlement in the case of Rodney Burton v. the City of Norman, Workers' Compensation Case Nos. WCC-2010-11090J, WCC-2011-06594Y, and WCC-2011-11026R was discussed in Executive Session. No action was taken and no votes were cast.

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#### ADJOURNMENT

There being no further business, Councilmember Chad Williams moved that the meeting be adjourned, which motion was duly seconded by Councilmember Clint Williams; and the question being upon adjournment of the meeting, a vote was taken with the following result:

YEAS:	Councilmembers Robert Castleberry, Greg Heiple, Stephen Holman, Greg Jungman, Jerry Lange, Lynne Miller, Chad Williams, Clint Williams and Mayor Rosenthal
NAYES:	None

The Mayor declared the motion carried and the meeting was adjourned at 6:35 p.m.

ATTEST:

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City Clerk

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Mayor