

CITY COUNCIL
COMMUNITY PLANNING AND TRANSPORTATION
COMMITTEE MINUTES

October 25, 2018

The City Council Community Planning and Transportation Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 4:00 p.m. in the Conference Room on the 25th day of October, 2018, 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 48 hours prior to the beginning of the meeting.

PRESENT: Councilmembers Bierman (arrived 4:20 p.m.),
Clark, Holman, Scott (arrived 4:12 p.m.), and
Chairman Hickman

ABSENT: Councilmember Wilson

OTHERS PRESENT: Mayor Lynne Miller
Councilmember Carter, Ward Two
Mr. Terry Floyd, Development Coordinator
Mr. Jud Foster, Director of Parks and Recreation
Mr. Kris Glenn, Director of Cleveland Area Rapid
Transit (CART)
Ms. Jane Hudson, Interim Director of Planning and
Community Development
Mr. Taylor Johnson, Planner and Grant Specialist for
Cleveland Area Rapid Transit (CART)
Mr. Ken Komiske, Director of Utilities
Ms. Beth Muckala, Assistant City Attorney
Mr. Shawn O'Leary, Director of Public Works
Ms. Mary Rupp, Interim City Manager
Ms. Kathryn Walker, Assistant City Attorney
Ms. Syndi Runyon, Administrative Technician IV

Item 1, being:

CLEVELAND AREA RAPID TRANSIT (CART) RIDERSHIP REPORT INCLUDING SAFERIDE
AND EXTENDED SERVICE FOR THE MONTH OF SEPTEMBER, 2018.

Mr. Taylor Johnson, Planner and Grant Specialist for Cleveland Area Rapid Transit (CART), highlighted CART Ridership Reports for September 2018, and said fiscal year-to-date ridership (July to September) had a decrease of 9% over the same period last year. In September, CART transported 123,316 passengers that included 565 riders who traveled with bicycles and 239 riders who traveled with wheelchairs.

CARTaccess transported 2,652 riders in September, a decrease of 9% over the same month last year with an average daily ridership of 133 riders. Year-to-date primary zone ridership decreased by 7% while secondary zone ridership decreased by 15%.

Mr. Johnson said CART will provide free rides to election polls on November 6th to further encourage voters to participate in these elections.

Item 1, continued:

Mr. Johnson said CART held a meeting with its CART Transportation Advisory Committee (CTAC) on September 10, 2018, to discuss the Oklahoma Transit Authority (OTA) Transit OK/Vision 2020 Campaign. He said this campaign includes creating transit advocacy groups across the state that will work towards increasing state funding for transit in the future. Mr. Johnson said CART is working closely with its CTAC members to form this advocacy group.

CART staff attended an OTA Long-Term Strategic Planning workshop on September 17, 2018, to help build the framework for the association moving forward and began preparing for the annual National Transit Database (NTD) report as required by the Federal Transit Authority (FTA) that is due in October.

Mr. Johnson said OTA chose Norman to be the host of the 2018 Oklahoma State Driving Championships and Training Conference held October 16 through October 18, 2018. The conference included a driving competition, driver and administrative staff training, notable speakers, and an evening out in Norman. He said one CART driver placed third in the city bus challenge. During the October 20, 2018, Touch a Truck Event, CART provided the trolley and it was a well-attended event.

Mr. Johnson said during the last meeting, Councilmember Bierman requested data on the Saturday service ridership and last fiscal year there was an average of 609 passengers per Saturday and this fiscal year ridership numbers have fallen to 535 per Saturday.

Mayor Miller said she has heard from consumers that use CARTaccess that they need the service because it is really important, but when she looks at ridership numbers it looks like ridership is decreasing and Mr. Johnson said it increased the first two months of the fiscal year, but is down in September. Mr. Kris Glenn, Director of CART, said the bus system does not operate on home football game day Saturdays so that probably made a difference in the numbers.

Chairman Hickman said the City will hold a meeting on Tuesday, October 30, 2018, at 5:30 p.m. for an in depth discussion about the future relationship between the City and CART. He encouraged the public to attend Tuesday's meeting to learn more.

Items submitted for the record

1. Cleveland Area Rapid Transit Ridership Totals for the months of September, 2018
2. Cleveland Area Rapid Transit Monthly Reports for September, 2018

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Item 2, being:

DISCUSSION REGARDING VEGETATIVE MANAGEMENT IN THE CITY RIGHTS-OF-WAY.

Ms. Kathryn Walker, Assistant City Attorney, said in August 2017, Council voted on several amendments to the Oklahoma Gas and Electric (OG&E) Franchise Agreement (ordinance) that would grant OG&E the right to access the City's rights-of-way (ROW). The amendments proposed

by Council would require OG&E to obtain Council approval before spraying chemicals for the purpose of killing trees or other vegetation, approval by the property owner prior to removal of trees of a certain size, and require a notice be posted five days in advance of trimming, removing, or mowing vegetation, shrubs, and smaller trees.

Item 2, continued:

Ms. Walker said Staff has been working closely with OG&E and Oklahoma Electric Cooperative (OEC) to draft a Vegetative Management Ordinance that will be separate from the franchise agreements. She said OG&E hired a consultant to help develop the ordinance and the consultant consists of a group of arborists out of Dallas, Texas, who are also participating in a project in partnership with the Association of Central Oklahoma Governments (ACOG) for the Oklahoma City Metro Area Urban Canopy Study. She said the consultant contacted her today and encouraged the City to combine the Tree Ordinance with the Vegetative Management Ordinance, which may be something the Committee will want the Tree Board to review.

Mayor Miller said she has not heard about the Urban Canopy Study and would like more information and Ms. Walker said Oklahoma City is looking at the entire metro area to include Edmond and Norman. She said the City of Norman will receive free Geographical Information System (GIS) data that details areas lacking in tree canopy and areas of large tree canopies. She said the City may be able to use that information to identify areas in Norman where more tree planting needs to be encouraged.

Chairman Hickman said it is his understanding the Vegetative Management Ordinance will include options for chemical spraying as well as clearing of brush and trees from power lines. Ms. Walker said the ordinance could require vegetation management plans to list chemicals to be used and Norman's ordinance could express a preference for limited chemical application in certain instances or certain kinds of chemicals, but banning the use of chemicals would likely lead to a challenge and/or result in higher electric rates. She said the State Department of Agriculture governs pesticides and they have a provision that no city can adopt or continue in effect any ordinance, rule, regulation, or statute regarding pesticide sale or use that is more stringent than state rules including registration; notification; posting; advertising and marketing; distribution; applicator training and certification; storage; transportation; disposal; disclosure of confidential information; or product composition. The State Department of Agriculture regulates pesticides and licenses pesticides specific to right-of-way (ROW) maintenance and ground line treatment of utility poles.

Chairman Hickman asked when the Committee can expect an update on the draft ordinance and Ms. Walker said probably in November.

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Item 3, being:

DISCUSSION REGARDING THE CREATION OF A POSSIBLE TREE ORDINANCE.

Mr. Jud Foster, Director of Parks and Recreation, introduced Mr. Will Spain and Mr. Don Menzie, Tree Board members, who will present the draft ordinance to the Committee. Mr. Foster said he read

the draft Vegetative Management Ordinance and it does make sense to combine that with the Tree Ordinance. He said the Tree Board worked closely with developers and representatives of developers and while they are going to present what they have drafted to this point, it really makes good sense to send the draft Vegetative Management Ordinance to the Tree Board and ask them to review that for input.

Mr. Spain said the Tree Board presented a draft ordinance to the Committee on May 24, 2018, focusing on street trees as opposed to trees on private property; however, there was a section in the ordinance regarding historic tree designations, which needed further discussion and input from the Committee. He

Item 3, continued:

said the draft ordinance contained more regulations on tree removal as opposed to replanting, but the Tree Board expressed interest in using a combination of both. The Tree Board also looked at penalties for violations, but enforcement was the main concern because the City does not have a Forester or sufficient Staff to address violations at this time.

Mr. Spain said in the May 24th meeting, Committee members made several suggestions about addressing street trees and trees in public spaces including ways to protect the trees as well as types, heights, and locations for planting; a provision for historic trees and how the property owner can take action to protect them; creating a Central Norman overlay for trees using the provisions from the Dallas, Texas, ordinance; and allowing administrative approval powers to Staff so if the City wants to save a tree, Staff can grant an administrative waiver to protect or save a tree, e.g., if the parking ordinance requires 14 parking spaces, but the developer is willing to live with 12 parking spaces in order to save some trees, Staff would be able to approve that plan.

Mr. Spain said the draft ordinance only applies to street trees between the sidewalk and street or trees within the public right-of-way (ROW). In addition, a provision was included to allow individual residents to submit trees for historic designation by a Forester, which would grant historic trees the same protection as street trees under this ordinance. He said, generally, the policy prohibits pruning or cutting any trees within the public ROW without consent of the Forester, which the City does not currently have. He said this ordinance does not apply to situations where trees are required to be altered due to existing State or City regulations for utility companies. He said the ordinance really applies to trees that are removed without consent of the Forester and the fee schedule was written in a way to encourage replanting of those trees. The unit of measurement used is called tree diameter at breast height (DBH), which is measured at 4.5 feet above the ground. He said the Tree Board understands a tree could not always be replaced with a similarly sized tree because that would unduly punish the owner of the property so the Tree Board tried to design a fee schedule to encourage replanting of multiple trees in such a way that fees could be reduced. The Tree Board hopes to limit the cutting of branches that are more than six inches DBH. He said it is important to note that in Section 4(d) there are provisions that allow removal of broken or damaged branches from street trees without permission from the Forester in the event of a storm, freeze, wind event, or other environmental event resulting in damage to trees.

Mayor Miller asked if this meant that if someone has large trees they cannot thin out the branches without the Forester's permission and Mr. Menzie said only if it is a street tree. Mr. Spain said if the tree is deemed historic by the Forester then the property owner must have the Forester's permission.

Councilmember Bierman asked the intent of having the defined boundary west of east 36th Avenue and Mr. Menzie said the entire City could not be included and the Tree Board tried to make the boundaries as simple as possible without zigzagging through the City. He said that area is mostly unincorporated and does not have a lot of sidewalks, streets, or street trees. Mr. Spain said the original importance to create the ordinance came after the removal of several large trees from the ROW on Berry Road so the Tree Board started with a very confined boundary and broadened those boundaries as discussion moved forward.

Councilmember Clark said the fine for removing a tree is \$50 per DBH inch so is the Tree Board thinking people will leave the stump behind to allow the City can calculate that DBH? Mr. Menzie said the Forester can estimate by looking at other trees in the area or pictures that may have been taken. Mr. Spain said if the tree size cannot be determined there is a provision for a \$500 maximum penalty.

Item 3, continued:

Mayor Miller said on Berry Road, OEC needed the trees to be cut lower or removed because they were disrupting the utility wires and the people that owned the property did not want the tree tops cut off and requested the tree be removed instead. She asked if OEC would have to get permission from the Forester if that occurred again and Mr. Menzie said no, utility companies have the right by law to alter or remove trees within an easement that may be encumbering their utility.

Chairman Hickman said the Vegetative Management Ordinance would be invoked for utility companies working in the ROW and the Tree Ordinance would apply to a property owner or developer that impacted street trees in the public space that creates the public canopy along the streets. He said people can protect their private property rights by designating a tree on their property as historic and passing that along through filing in County records. He said the Tree Board and City Staff deserve a lot of credit for crafting a Tree Ordinance that provides protection for public and private property. He said unless a historic designated tree becomes diseased, dead, or creates a public safety issue, the tree is protected into perpetuity. He believes the ordinance provides a good balance of protection and is better than what the City currently has, which is nothing.

Councilmember Clark said she loves trees and served on the Tree Board, but this seems to be a big property rights issue. Chairman Hickman said the property rights implicated in this ordinance are the public's right to the street trees that provide the canopy for streets and sidewalks for the public, but also provides private property rights for the owner to designate a tree as historic that gives the tree protection. Councilmember Clark asked how someone would know a tree is historic years from now and Chairman Hickman said it would be filed with property records at the County. Councilmember Clark asked if that tree could ever be cut down and Chairman Hickman said if the tree becomes unsafe, diseased, or dead it can be removed. He said there is a process to remove the historic designation from the property records as well. Mr. Spain said in order to have a tree designated as historic, the tree has to be nominated and approved by the Forester. He said a person has to provide rationale for the designation in line with guidelines established in the ordinance and after consideration and recommendation of the historic designation by the Forester, the designation will proceed to the Tree Board for final approval.

Councilmember Clark asked what happens if a family buys a house with a historic tree and fully intends to stand by that, but their child is highly allergic to the tree? Is there an appeal process? Mr. Spain said yes, there is an appeal process and he would encourage people to contact the Forester and follow the policies set.

Councilmember Bierman said this is no different than buying a home in the Historic District and developing a severe mold allergy. She said historic homes have that designation for a reason and to remodel, renovate, or change the home, the owner has to go through a very arduous process so the historic tree designation is a natural addition to that process.

Chairman Hickman said he is comfortable moving this draft ordinance forward to full Council and would like the Oklahoma City Urban Canopy Study to be sent to the Tree Board for review. He would also like to have more discussion about hiring a Forester. He asked if anyone objected to moving forward with the draft ordinance and Mr. Foster said consolidating the Vegetative Management Ordinance and Tree Ordinance will take some rewriting because it adds more detail. He feels it would be wise to send all of the information back to the Tree Board to obtain their input before moving forward to full Council. He said the Vegetative Management Ordinance and Tree Ordinance are the same material expanded.

Item 3, continued:

Mayor Miller said unless there is a big rush, it seems these ordinances can be combined by December and if the Tree Board has reviewed everything by then, the ordinances can move forward to a Conference or Study Session. Mr. Foster said the Tree Board will meet on November 5th so that could be possible.

Councilmember Clark said the Tree Board should review the materials because they spent a lot on time and effort on the Tree Ordinance.

Chairman Hickman asked if the final draft should come to this Committee or move forward to full Council and Councilmember Clark said if the Tree Board likes the Vegetative Management Ordinance, the Tree Ordinance should move forward to full Council.

Councilmember Carter said for clarity, did the OG&E consultant substitute language that is different than what is being presented tonight and Ms. Foster said yes, the consultant has basically added to the Tree Ordinance, made minor changes to some of the language, added more material on pruning and planting techniques, and recommends specific tree species. He said it makes sense for the ordinances to work together. Ms. Walker said the recommendations come from the efforts to not only address quality vegetative management, but to make sure the City is not contributing to the problem by putting big trees under electric lines. She said there are recommendations on where large trees should be planted and where small trees should be planted so that is where it works well with the Tree Ordinance.

Chairman Hickman said the tentative plan will be to have the Tree Board review the additional information in November and unless they have significant changes or objections to the material it can come back to the Committee otherwise, it can move forward to full Council. He said if it moves to full Council he would like any changes or new recommendations be emailed to the Committee for review prior to moving forward.

Mayor Miller asked if there is any type of track record for the Vegetative Management Ordinance or is this something new that has never been enacted and Ms. Walker said the consultant has a city background and now works with a group of certified arborists who work with utility companies and cities to develop good vegetative management plans so she imagines most of it is tried and proven.

Chairman Hickman said he would like to discuss the Forester position. He said Council budgeted for a Sustainability Officer to start at the mid-year point and questions have come up about qualifications, job duties, and if that position would encompass the duties of a Forester. Ms. Mary Rupp, Interim City Manager, said a Forester has specific educational background, experience, and expertise so in her opinion the skill set needed for the Forester is probably very different from the skill set of a Sustainability Officer position. She said a Forester is needed to actually implement the recommendations in the ordinance. She said the Sustainability Officer position was authorized for mid-year implementation and Staff has discussed that, but is still massaging the classification and has not moved forward with advertising that position. She said Council could move forward with a Forester position now and hire a Sustainability Officer later.

Councilmember Carter said he feels that a Forester has a fairly defined skill set and is a person that lives and breathes trees while a Sustainability Officer may have a degree and passion about buildings and making them more energy efficient. If he had to choose, he would choose a Forester and would like to review whether or not there is enough money in the budget to create two positions.

Item 3, continued:

Councilmember Holman agreed and said the City had a Forester position; however, that position was cut during the recession. He said Norman receives the Tree City USA designation every year and many people wonder how that even happens without a Forester. He thinks a designated Forester position is necessary if Council is going to adopt these ordinances and while he supports both positions, a Forester needs to take priority at this time.

Mayor Miller understands the need for the Forester, but the City signed onto the Ready for 100 Renewable Energy Program so how would the City respond to all the environmental issues the Sustainability Officer would handle? She said the Environmental Control Advisory Board (ECAB) recommended hiring a Sustainability Officer because the City has a lot of really good plans in terms of energy efficiency and other green building issues.

Councilmember Bierman asked if the City has any of the required skill sets for a Sustainability Officer currently on Staff and Mr. Terry Floyd, Development Coordinator, said no, sustainability is a very specialized area. He asked the Committee what department the Sustainability Officer would work under because that might help Staff understand what type of individual Council is looking for. He said once that is decided there may be opportunities in the future for a position to mold into that role or train someone to undertake the position. Councilmember Bierman said this just proves the financial bind the City is in when there are two really important areas the City is working on and felt the City should not move forward with a Tree Ordinance if there is no Forester. She would choose moving forward with a Forester more immediately because there may be other opportunities to fill the Sustainability Officer position with someone with sustainability skills that is already on Staff. Mayor Miller said the current problem is there are not enough Staff members to train anyone.

Councilmembers Holman and Scott agreed the sustainability position should be under the Planning Department, but that position would work with all departments on sustainability initiatives. Chairman Hickman agreed and said the Forester would work in the Parks and Recreation Department.

Chairman Hickman suggested the Finance Committee review costs for a Forester and Sustainability Officer positions to help Council determine next steps.

Items submitted for the record

1. Draft Tree Ordinance

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Item 4, being:

CONTINUED DISCUSSION REGARDING LOW IMPACT DEVELOPMENT AS IT RELATES TO WATER CONSERVATION.

Mr. Terry Floyd, Development Coordinator, said the information being presented tonight is introductory information regarding incentive programs for green infrastructure/Low-Impact Development (LID) projects. This information will be a starting point for discussion to gather feedback on potential incentive areas for additional Staff research, development/building community discussion and future committee program development and consideration.

Item 4, continued:

City Council identified incentivizing optional “green building codes” as a secondary destination short-term goal during the August 2017 Council Retreat. There has also been recent discussion and input from the Comprehensive Plan (PlanNorman) Steering Committee to recommend updating the Engineering Design Criteria and Standards to include requirements for LID stormwater infrastructure elements and to evaluate the prospect of development incentives as part of the recommendations for priorities included in the Steering Committee’s Five Year Action Plan.

Mr. Floyd said Green Infrastructure/LID development includes methods and strategies that can be used in land development to maintain the hydrology character of the site or retention through reduction of runoff and pollutant loads by source control, water retention onsite, using natural landscape, and hydrology. These methods are primarily used in land development, while green building codes are primarily methods used to construct structures on the site. Common examples of LID development practices/structural controls include bio-retention; dry ponds; engineered wetlands; green roofs; infiltration basins; infiltration trenches; porous pavement; vegetated buffers; vegetated swales; wet ponds; rain gardens; and planting native and drought tolerant plants.

Mr. Floyd said the City of Norman adopted many of these practices through its adoption of the City of Wichita/Sedgwick County Stormwater Manual for LID standards. He said the City works with the development community to implement these practices. He said the next step may be to have a few experts make a presentation to the Committee about how these methods are being applied in the community.

Mr. Floyd said the City is leading the way as all NORMAN FORWARD projects are Leadership in Energy and Environmental Design (LEED) certified as well as Fire Stations 8 and 9. He said with that comes a level of expertise and additional costs which needs to be taken into consideration when thinking about it from a development perspective.

Mr. Floyd highlighted incentive programs commonly found in other communities as follows:

- Stormwater Fee Discounts: Reduced impervious areas and runoff volumes
- Development Incentives: Zoning upgrades, expedited permitting, increased densities
- Grants: Direct funding for green infrastructure upgrades and practices
- Rebates and Installation Financing: Funding, tax credits, or reimbursements to property owners for certain green infrastructure installations
- Awards and Recognition Programs: Marketing and public outreach to highlight successful green infrastructure projects

Mr. Floyd said Tulsa, Oklahoma, has the Tulsa Partners for a Clean Environment (PACE) Program where businesses that follow LID practices in their projects receive recognition by the city. He said awards and recognition is an area many cities use in their provisions. He said this also helps with public education on green infrastructure and LID.

Mayor Miller asked what other communities do if they have a Stormwater Utility (SWU) fee, but still wanted to implement green infrastructure and LID incentive programs. She said if Norman was able to pass a SWU, could we still look at stormwater credits for incentive programs? Mr. Floyd said he will research that, but felt confident there would be numerous examples.

Item 4, continued:

Councilmember Clark said the City is doing a good job of coordinating a SWU and incentives with the Home Energy Rating System (HERS) Index. She said with recent discussions regarding a possible plastic bag fee, fees collected from that could be put toward some type of stormwater home grant where residents could apply for money needed for a rain barrel or native vegetation for their front yards. She felt that would go a long way in encouraging sustainability practices for residents.

Chairman Hickman said construction projects generate use tax based on the costs of materials so, in theory, LID projects generally cost more money due to higher material and service costs. He said a potential form of incentive would be taking a percentage of use tax off of the project to be available as a grant, which could, in a sense, be reimbursed back to the developer. He said that would technically not cost the City money because it is really money coming out of the project and Mr. Floyd said he would be happy to research that.

Councilmember Carter said one of the precipitating factors in the removal of trees on Berry Road was the utility lines and wondered if utility line management, i.e., burying utility lines, could be part of an LID incentive program and Mr. Shawn O'Leary, Director of Public Works, said that would probably fall more under sustainability. He said the LID being discussed at this time tends to focus more on stormwater.

Councilmember Scott said regarding zoning upgrades, is Staff talking about density along greenbelts and Mr. O'Leary said absolutely. Councilmember Scott asked how the City will enforce making sure the development stays within the boundary and Mr. O'Leary said the City has a clustering option included in the Water Quality Protection Zone (WQPZ) Ordinance. He said when developing along a channel, stream, or corridor, the City requires developers to stay out of the WQPZ and one way to do that is to cluster a denser housing barrier that opens or widens the WQPZ. He said developers achieve more density, sell more houses, and make more money.

Councilmember Scott asked how the City prevents squandering of open land and Mr. Floyd said much of that is done through the platting process. He said development receives thorough study throughout the platting and permitting process where the project is checked and enforced from conception through build and occupancy.

Mr. Floyd said the next step would be to sit down with the development community to discuss what is practical to them. Chairman Hickman said the Committee would be interested in hearing ideas from local experts as well as the development community to get an idea of what incentives could really look like. He said LID projects cost more money so is that something the City wants to incentivize? He felt that would need input from experts and asked the Committee if they would be interested in hearing a presentation about LID and real world examples and they said yes.

Chairman Hickman asked if Staff could schedule a presentation to the Committee in December or January and Mr. Floyd said he would do that.

Item 4, continued:

Items submitted for the record

1. Memorandum dated October 18, 2018, from Terry Floyd, Development Coordinator, to City Council Community Planning and Transportation Committee, with Attachment A, Stormwater Management Controls Overview, and Attachment B, Stormwater Fee Discount Program
2. PowerPoint presentation entitled, "City of Norman Green Infrastructure/Low Impact Development (LID) Incentives," Council Community and Transportation Committee dated October 25, 2018

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Item 5, being:

MISCELLANEOUS COMMENTS.

None.

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The meeting adjourned at 5:20 p.m.

ATTEST:

City Clerk

Mayor