

CITY COUNCIL
COMMUNITY PLANNING AND TRANSPORTATION
COMMITTEE MINUTES

April 26, 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 26th day of April, 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: Councilmember Clark, Holman, Karjala, Wilson,
and Chairman Hickman

ABSENT: None

OTHERS PRESENT: Councilmember Kate Bierman, Ward One
Councilmember-Elect Alexandra Scott, Ward Eight
Ms. Carrie Evenson, Stormwater Program Manager
Mr. Terry Floyd, Development Coordinator
Mr. Jud Foster, Director of Parks and Recreation
Mr. Todd Gibson, Acting Cleveland County Sheriff
Mr. Kris Glenn, Director, Cleveland Area Rapid
Transit (CART)
Mr. Matt Hendren, Parks Superintendent
Mr. Shawn O'Leary, Director of Public Works
Mr. Brandon McLendon, Safety Manager
Mr. Chris Serrano, Construction Manager
Ms. Jeanne Snider, Assistant City Attorney II
Ms. Kathryn Walker, Assistant City Attorney III

Item 1, being:

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

Mr. Taylor Johnson, Marketing Specialist for Cleveland Area Rapid Transit (CART), highlighted CART Ridership Reports for March 2018, and said fiscal year-to-date ridership (July to March) had an increase of 8.9% over the same period last year. In March, CART transported 112,378 passengers that included 623 riders who traveled with bicycles and 346 riders who traveled with wheelchairs.

CARTaccess transported 2,549 riders in March, a decrease of 16% over the same month last year with an average daily ridership of 114 riders. Year-to-date primary zone ridership decreased by 15% while secondary zone ridership increased by 12%.

Mr. Johnson said on March 5, 6, and 7, CART Staff attended the Southwest Transit Association Conference in Denver, Colorado, for training sessions that included marketing, procurement, safety/security, and innovation. On March 27th, Proterra, an electric bus manufacturer, demonstrated one of its vehicles and presented performance and cost information. On March 30th, EMBARK (formerly Central Oklahoma Parking and Transportation Authority) hosted an open house to unveil the new streetcars scheduled to begin operations in Oklahoma City around December 2018.

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Mr. Johnson said CART participated in a “Turn Up for Transit” event at the University of Oklahoma Campus on April 11th where CART spoke with faculty and students regarding alternative forms of transportation. CART also participated in a few community events that included Norman Open Streets on April 15th and Norman Earth Day on April 22nd where CART demonstrated how to use the bus bike racks and how to rent a Crimson Cruiser (Bicycle Share Program). He said Staff then answered questions from the public regarding public transportation options in Norman.

Mr. Johnson thanked Council for approving the contract for the Americans with Disability Act (ADA) bus stop and sidewalk improvements on April 8th, which will improve several bus stop locations and sidewalks for ADA riders. Chairman Hickman asked Mr. Johnson to clarify the bus stop improvements will focus on citizens with disabilities and Mr. Johnson said that is correct and approximately 35 bus stops will be modified to enable citizens with disabilities to maneuver to bus stops more fluidly. He said there will also be modifications for sidewalk connectivity to and from bus stops. He said the improvements will actually benefit everyone, but are focused on ADA standards.

Chairman Hickman asked if a list of those bus stop improvements have been uploaded onto the City's or CART's websites and Mr. Johnson said a list of bus stops and a map were an attachment to the agenda item posted on the City's website. Mr. Shawn O'Leary, Director of Public Works, said the information could be uploaded to the City's website.

Chairman Hickman asked if all busses are ADA compliant and Mr. Johnson said yes, most busses have a lowered floor or wheelchair lift.

Councilmember Holman asked if CART Staff would provide of a list of bus stops that do not currently have a bus shelter or bench at the next meeting and Mr. Johnson said he would provide that information.

Councilmember Bierman asked if the Committee could get a list of the most frequented routes and number of riders because she has heard a lot of complaints regarding the east side routes being overcrowded.

Items submitted for the record

1. Cleveland Area Rapid Transit Ridership Totals for the months of March 2018
2. Cleveland Area Rapid Transit Monthly Reports for March 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. She said voters would have had to approve the franchise agreement, but the ordinance was

Item 2, continued:

rescinded and Staff is currently working with OG&E to negotiate a new franchise agreement and develop a vegetation management ordinance.

Ms. Walker said the Federal Power Act empowered the Federal Energy Regulatory Commission (FERC) to regulate the public utility industry transactions made in interstate commerce, primarily the sale of power from one utility to another. In 2005, after rolling blackouts impacted large areas of the United States and Canada, the Energy Policy Act was adopted to improve electric grid reliability. She said FERC's jurisdiction was expanded under this Act to all users, owners, and operators of bulk power systems, except facilities limited to local distribution facilities, which are usually governed by State agencies such as the Oklahoma Corporation Commission (OCC). The FERC oversees major transmission lines that could be impacted by a vegetation management ordinance.

Ms. Walker said FERC, through the adoption of Reliability Standard FAC-003-04, requires that vegetation be managed to prevent encroachment into the Minimum Vegetation Clearance Distance of transmission lines. The minimum distance requirements vary from 1.1 feet to 14.3 feet based on the maximum system voltage and it is noted in the standards that prudent vegetation management practices dictate that substantially greater distances will be achieved at the time of vegetation management. She said vegetation inspections of transmission lines and vegetation work plans are required annually.

The OCC is granted general supervision over all public utilities and is empowered to set rates and promulgate rules affecting services, operation, management, and conduct of business. The term "public utilities" includes rural electric cooperatives even if they have voted to exempt themselves from OCC regulation regarding rates. Rules promulgated by the OCC prevail over city ordinances that materially affect rights and duties of franchised utilities where the activity under consideration affects the utility's duty to repair, maintain, or install its equipment. This is also true in rate setting or in regulation of day-to-day affairs of the utility.

The OCC rules related to vegetation management are focused on distribution reliability. Each utility is required to have a reliability program that limits the frequency and duration of electric service interruptions, maintain acceptable electric service reliability levels, and sustain that program over time. The program must address all factors that impact the reliability of the distribution system including, but not limited to, the age, distribution, and location of equipment on each circuit; the number, density, and location of customers on each circuit; the location and density of trees on the system; an annual vegetation plan; and impacts on distribution system reliability of animals, winds, storms, ice, and automobile accidents.

The OCC defines vegetation management as "all activities associated with the trimming, removal, or control of plant materials in the proximity of energized electric utility conductors and equipment." Each utility is required to submit an annual vegetation management plan to the OCC as part of its reliability program and the plan must include a definition, calendar of activities, implementation plan, criteria to assess the result of the plan, and contact information for a company representative who knows the plan, the implementation, and results. All costs of the vegetation management must be tracked by the utility as part of the rate justification.

Ms. Walker said OCC sets the timeline for notification of vegetation management activities and a utility is required to make a "reasonable attempt to contact the landowner, customer, or tenant at a minimum of

Item 2, continued:

24 hours prior to beginning work on the area.” She said the form of contact is not dictated by OCC so notification can be through written notice, telephone call, or in-person contact. If a property owner, customer, or tenant wants to be present when the work is done on his or her property, the utility is required to make a reasonable effort to accommodate such requests. In the case of an emergency repair, no notice is required.

Ms. Walker 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.

Under federal law, the Agriculture and Nutrition Act of 2018 has a provision that would amend the Federal Insecticide, Fungicide, and Rodenticide Act to restrict political subdivisions from passing more stringent pesticide regulations than federal law.

Ms. Walker said it is not unreasonable for Council to ask that vegetation management plans specific to Norman be provided on an annual basis. This would provide a tool for better communication with the utility as well as impacted residents. Such a plan should depict the areas involved in the maintenance plan and the schedule for line maintenance as well as the method of maintenance, such as trimming, removal, chemical application, etc. She said vegetative maintenance plans and their contribution to the rate structure often rely on application of chemicals to avoid repeated maintenance at a higher cost to ratepayers. An 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.

Ms. Walker said the City cannot conflict with OCC regulations, but the City *can* codify State requirements for pesticide applicators and industry standards for tree trimming contractors. The City can also require timely removal of debris (the goal being same day) from vegetation management efforts as OCC does not regulate debris removal. She said the most effective way to avoid conflicts over vegetation maintenance is through preventative education to residents and the Arbor Day Foundation is a great resource for information. She said if trees in the ROW are limited to a maximum height of 25 feet or less, many conflicts could be avoided and integrated vegetation management methods could help as well. She said Integrated Vegetation Management is the practice of promoting desirable, stable, low growing plant communities that will resist invasion by tall growing tree species through the use of appropriate, environmentally friendly, and cost-effective control methods.

Councilmember Wilson asked if Council can require the utility companies with overhead lines to place them underground for future build out or replacement and Ms. Walker said new subdivisions require underground utilities so that addresses the future. In older neighborhoods it would be cost prohibitive for the utilities and customers to place existing utility lines underground. She said under State law, the City would have to pay the difference between replacing like with like and going underground and the City has done that on projects they believe are worthwhile. Councilmember Bierman asked if that could be required when there is storm damage to lines and Ms. Walker said the City has never required that before.

Item 2, continued:

Councilmember Holman said there is a cost to not placing lines underground when storm moves through and takes power lines down so the extra cost to place the lines underground might be equal to the lifetime costs of lines being above ground. He would like the City to require lines be placed underground if there is a natural disaster that requires replacement of lines or during road widening projects.

Chairman Hickman said part of the reason for this discussion is for Council to give feedback to Staff to explore talking with utility companies and moving forward with ordinance language that includes requirement for underground lines.

Councilmember Wilson would like to explore public/private partnerships or obtain grant money to assist with the cost to place lines underground.

Councilmember Bierman asked if placing lines underground can be required for future bond projects because it was disheartening to see utility poles moved a few feet back to accommodate a recent road widening project. She said since poles are being moved already, it seems the costs to bury the utility underground would be minimized.

Chairman Hickman asked if the City can require that utilities obtain a permit at no cost before performing tree trimming or chemical spraying so the City would know when and where trimming and spraying are taking place. He said requiring a copy of the vegetative plan would be informative and help Council address constituents concerns.

Councilmember Holman would like a cost benefit breakdown of burying utilities versus not burying them as well as maintenance and liability. Ms. Walker said OG&E's concern regarding burying lines in the congestion in the ROW and work being performed in the ROW damaging utilities.

Councilmember Bierman said State regulations state the City cannot affect any ordinance, rule, regulation, or statute, but could the City enter into a voluntary agreement with OG&E to address these types of issues and Ms. Walker said yes, that is the way Staff is approaching the ordinance language, but the utilities must be on board with it first. She said the best way to move forward and avoid a legal challenge is to have everyone on the same page and if that came forward as an agreement, the City would want to ensure **all** utilities are being required to do the same things.

Chairman Hickman likes the idea of codifying state and federal regulations because that will give the City some enforceability on vegetation management. Could the City have an enforcement clause? Ms. Walker said yes, but the City would probably be enforcing against the contractor, not the utility company if they are not following the rules, but cautioned Council that the City rules cannot be more stringent than federal or state laws.

Chairman Hickman asked if laws regarding chemicals address wind or proximity to water and, if not, perhaps Council could discuss imposing restrictions on the use of chemicals near bodies of water, etc. Ms. Walker said she has not read all the rules, but will research that.

Councilmember Wilson said the biggest complaint she hears from constituents is, "they are spraying in the ROW, but everything within fifteen feet of the area is brown and crusty." She is curious if state and federal laws are restrictive in how chemicals are applied, such as using a hand pump versus a motorized device that broadcasts the spray further. Ms. Walker said she will research all pesticide laws for that information.

Item 2, continued:

Chairman Hickman asked if there is consensus to be more restrictive on chemical spraying and Councilmembers said yes. Chairman Hickman said some Councilmembers would prefer a complete ban on chemical spraying, but that may not be feasible; however, if the City has the flexibility to restrict certain types of chemicals and how they are applied, he believed Council would be interested in discussing that. He would also like an enforcement mechanism with penalties for violations as well as requiring more than 24 hour notice.

Councilmember Karjala said 24 hour notice is not enough time as she gets calls from constituents telling her their pets freaking out because someone is in the backyard and the property owner had no idea what was going on, plus it is dangerous to spray chemicals with pets in the vicinity. Councilmember Clark asked what would be the longest period of time Council could set for notification and Ms. Walker said notice has to be given a minimum of 24 hours in advance and she is suggesting "a reasonable time" for ordinance language. She said if a vegetation management plan is filed with the City and the City knows what areas are going to be impacted, this will help with communication to the public. Councilmember Clark asked how the City will share that information once it is filed, would it be in the City Manager's Report or directly emailed to Council and Ms. Walker said the information could be shared through press releases, on the City's website, etc.

Councilmember Karjala felt it would be helpful to have an action plan as well as a central contact or access point.

Chairman Hickman asked if utility companies can work outside of the ROW and, if so, do they have the same protection under state and federal law? Can the City regulate that more stringently or would that violate the utility companies' rights? Mr. Walker said the utility companies' authority is in the ROW, utility easement, and addressing vegetation that might be planted outside of the ROW or easement, but is encroaching onto the lines.

Mr. Matthew Clinton said the trees chemically sprayed in his neighborhood died and in areas where trees were trimmed, the debris was left on the property and he ended up contacting the local newspaper in order to get any action taken on the debris removal, but it took a lot of effort on his part. He would be concerned if pets were in the area where chemical spraying is taking place. He said certain chemicals are allowed around pets, certain chemicals are allowed around water, and certain chemicals are not supposed to be sprayed before it rains, etc. He questioned whether or not rules are being followed and if anyone is checking to make sure the rules are being followed. He said the City has the ability to help utility companies follow the rules and that is what the City needs to do.

Councilmember Karjala felt vegetation removal is important and asked if the City can require debris removal in its ordinance? Ms. Walker said there are no OCC rules regarding debris removal so that is something that could be required in an ordinance and Councilmember Karjala said she would like that to be addressed in the ordinance.

Chairman Hickman suggested someone in Parks and Recreation or Public Works Departments make spot checks of the maintenance areas to ensure utilities are following procedure and if utility companies know the City is checking, they may be more sensitive to what pesticides they are spraying and how it is being applied.

Item 2, continued:

Councilmember Bierman said when the utilities spray chemicals it kills everything so all you see is dead, brown vegetation. She feels there should be some mitigation to that whether it is mowing the dead vegetation or pulling it up.

Ms. Jayne Crumpley said the core area has a lot of older trees and felt they could be cut and trimmed below the utility lines in a better way. She said the people that perform the vegetative maintenance are often disrespectful to the property owner as they think they have the right to do whatever they want. She would like direct notice because if they are going to be on her property she wants to be there as well.

Chairman Hickman would like Staff to review whether or not the City can be more stringent on how trees are trimmed and debris removed.

Ms. Walker said utility companies work on a four year vegetative maintenance schedule so they have to do whatever they can to prevent the vegetation from encroaching onto the lines for the next four years.

Chairman Hickman asked Staff to draft ordinance language for Committee review in July or August.

Items submitted for the record

1. Memorandum dated April 20, 2018, from Kathryn L. Walker, Assistant City Attorney III, through Jeff Bryant, City Attorney, to Members of the Community Planning and Transportation Committee
2. Environmental Protection Agency Integrated Vegetation Management Fact Sheet
3. PowerPoint presentation entitled, "Vegetation Management in the Rights of Way," Community Planning and Transportation Committee, April 26, 2018

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Item 3, being:

DISCUSSION REGARDING MUNICIPAL ORDINANCES AND POLICIES THAT MAY BE IMPACTED WITH PASSAGE OF STATE QUESTION 788 (MEDICAL MARIJUANA).

Chairman Hickman said several Councilmembers expressed interest in discussing the possible impacts to City ordinances, personnel policy, etc., if State Question 788 (SQ 788) regarding medical marijuana passed in June 2018. He said discussion today is not to debate the issue or discuss it from a pro or con perspective.

Ms. Jeanne Snider, Assistant City Attorney, said SQ 788 is set for a statewide vote on June 26, 2018, which would allow the usage and sale of medical marijuana for medicinal purposes. She said a "yes" vote would be to legalize medical marijuana and a "no" vote would oppose the measure. If SQ 788 passes, the Oklahoma State Department of Health (OSDH) will regulate medical license recipients, dispensaries, growers, and packagers and must have promulgated rules within 60 days, but she is skeptical that OSDH will have promulgated rules within that time frame.

Item 3, continued:

LICENSING

Ms. Snider said medical marijuana license holders will pay an application fee of \$100 for two years and \$20 if they are on Medicaid, Medicare, or Sooner Care; a license holder must be 18 years old or older unless a parent and two physicians sign off on the application; all applications must be signed by an Oklahoma Board certified physician (no qualifying conditions on what a certified physician will encompass); a medical marijuana license must be recommended according to accepted standards a reasonable, prudent physician would follow when recommending or approving any medication; no physician may be unduly stigmatized or harassed for signing a medical marijuana application; a caregiver license will be available for qualified caregivers of a medical marijuana license holder who is homebound and will have the same rights as a medical marijuana holder; and a temporary 30 day license will be issued to medical marijuana holders from other states for a fee of \$100.

A person in possession of a State issued medical marijuana license shall be able to consume marijuana legally and possess up to three ounces of marijuana on their person; six mature marijuana plants; six seedling plants; one ounce of concentrated marijuana; 72 ounces of edible marijuana; and eight ounces of marijuana in their residence. Counties and cities may enact medical marijuana guidelines allowing license holders to exceed the limits noted above.

A medical marijuana dispensary license holder will pay a \$2,500 application fee; must be an Oklahoma resident registered to do business in Oklahoma; must be 25 years old or older; all members, managers, and board members must be Oklahoma residents; any non-Oklahoma resident may not exceed 25% (no clarification on what that means); OSDH shall review application, approve or reject application, and mail approval/rejection letter within two weeks to applicant; only non-violent felony convictions within two years or other felonies within five years; inmates or person currently incarcerated may not qualify; location is prohibited within 1,000 feet of any public or private school; and penalties for fraudulent sales will be \$5,000 for the initial offense and revocation of license for the second offense.

A commercial grower license holder will pay a \$2,500 application fee; will be considered wholesale and not subject to taxation; cannot sell marijuana directly to a medical marijuana license holder; will be allowed to sell marijuana between States if federal restrictions are lifted; there will be no limits on how much marijuana a licensed grower can grow; and if gross sales discrepancy exist and cannot be explained there will be a \$5,000 fine for the first offense and revocation of license for the second offense.

A medical marijuana processing license will pay a \$2,500 application fee; be in line with current food preparation guidelines as regulated by OSDH for edible products; will require an annual inspection; will be considered wholesale and not subject to taxation; cannot sell marijuana or marijuana product directly to medical marijuana license holder; and a licensed processor can process cannabis into a concentrated form for medical license holder for a fee.

A marijuana transportation license will be issued to qualified applicants for a marijuana retail, growing, or processing license at the time of approval for application; allows holder to transport marijuana to/from Oklahoma licensed marijuana retailer, licensed growing facility, or licensed processor facility; and all marijuana or marijuana products shall be transported in a locked container clearly labeled "Medical Marijuana or Derivative."

Item 3, continued:

ZONING

Ms. Snider said no municipality may unduly change or restrict zoning laws to prevent the opening of a retail marijuana store; however, the location of any retail marijuana establishment is specifically prohibited within 1,000 feet from any public or private school entrance. She said in Norman, agricultural crops are allowed in A-1, General Agricultural District, and A-2, Rural Agricultural District, and new laws state there shall be no limits on how much marijuana a commercial licensed grower can grow. She said it appears that each medical license holder can grow up to six plants for personal use. She said any uses permitted in R-1 are also allowed in RE, Residential Estate Dwelling District, and R-1, Single Family Dwelling District, allow only general purpose farm or garden while R-1A, Single Family Attached Dwelling District, R-2, Two Family Dwelling District, RM-2, Low Density Apartment District, RM-6, Medium Density Apartment District, and R-3, Multi-Family Dwelling District.

NORMAN MUNICIPAL CODE

Ms. Snider said Section 15-110 of the City Code defines marijuana; Section 15-408 makes it unlawful for any person knowingly or intentionally to possess marijuana; Section 15-413(2) relates to paraphernalia and objects used or intended for use in ingesting, inhaling, or introducing marijuana as illegal; Section 15-203 applies penalties of \$50 to \$750 or up to 60 days in jail; and Section 15-310(5) states the first offense for possession of marijuana is \$200. She said new State law states that unlicensed persons caught with marijuana, but who “can state a medical condition” can be punished by a fine not to exceed \$400.

Ms. Snider said, to her knowledge, no one has ever been sentenced to jail by Norman Municipal Court for possession of marijuana. She said the City’s ordinance regarding penalties would need to be changed to meet State regulation of fines not to exceed \$400 as well as change other ordinance language.

Councilmember Holman asked if the City could abolish all local fines for possession of marijuana and Ms. Snider said that could be a possibility, but State law does give the City the authority to assess a fine not-to-exceed \$400. She said if Council decided not to assess a fine, there will always be court. Councilmember Holman said Athens, Ohio, held a citywide vote to abolish all municipal court costs, fines, and fees associated with possession of marijuana and Ms. Snider said she would need to read that language because it does not make sense to have a law and not have a penalty for breaking that law.

Ms. Snider felt there would need to be some language changes on the State level giving municipalities more guidance.

Councilmember Wilson asked how drug paraphernalia will be handled and Ms. Snider said paraphernalia and objects used or intended for use in ingesting, inhaling, or introducing marijuana are currently illegal so that language would need to be changed or removed. Councilmember Holman wanted to make it clear that marijuana was actually used in the paraphernalia, not just assumed to be used for marijuana before citations or confiscation takes place and Ms. Snider said the City will not prosecute or confiscate paraphernalia unless marijuana is present. Councilmember Wilson asked if SQ 788 addresses paraphernalia and Ms. Snider said she does not recall reading any language pertaining to paraphernalia, but will research it.

Item 3, continued:

DRUG-FREE WORKPLACE/PERSONNEL MANUAL

Ms. Snider said Section 5(B)(2) of new State law states, “Employers may take action against a holder of a medical marijuana license if the holder uses or possesses marijuana while in the holder’s place of employment or during the hours of employment. Employers may not take action against the holder of a medical marijuana license solely based upon the status of an employee as a medical marijuana license holder or the results of a drug test showing positive for marijuana or its components.”

Title 40 § 554 in the Standards for Workplace Drug and Alcohol Testing Act allows Oklahoma employers to require employees to take a drug test following a workplace accident that results in injury or property damage, at random, as part of a routine fitness-for-duty exam, or as a follow-up to a rehabilitation program. Employers may also test if they have a reasonable belief that an employee is under the influence of drugs at work. Under current law, if an employer has in place a complying workplace drug and alcohol testing policy, and the applicant tests positive for a prohibited substance, such as marijuana, the applicant may be denied employment. Ms. Snider said Title 40 § 552(6) defines cannabinoids as a drug.

Ms. Snider said Section 305.9 of the City of Norman’s Personnel Manual sets out the cause for disciplinary action up to termination. The reason may include the “use, possession, sale, solicitation, or transfer of drugs.” The definition of “drug” in the Personnel Manual includes cannabinoids.

Ms. Snider said while marijuana is illegal under federal law, enforcement of federal marijuana laws have not been strictly implemented against medical marijuana user licenses authorized by individual States. On January 3, 2018, United States General Attorney Jeff Sessions rescinded the Cole Memo, a 2013 directive that deprioritized the enforcement of federal marijuana laws in States where marijuana has been legalized. She said this allows federal prosecutors to decide whether or not to enforce federal law regarding marijuana even in States where its use has been legalized.

Councilmember Bierman asked what “drugs” are included in the personnel manual language and Ms. Snider said drugs include amphetamines, cannabinoids, cocaine, phencyclidine (PCP), hallucinogens, methaqualone, opiates, barbiturates, benzodiazepines, synthetic narcotics, designer drugs, or a concentration of any of the substances listed. She said marijuana will be treated like any other drug or alcohol and employees cannot come to work impaired whether the medication is prescribed or not. Councilmember Clark said workplace accidents can be lethal so she can understand the need for drug testing, especially if an employee is involved in an accident, but she is torn because if someone is prescribed medication, it is because they need it and should not be punished for taking prescribed medication.

Ms. Snider said the collective bargaining (Union) contracts also need to be reviewed and brought up to date with State language and there are a lot of unknowns and questions to be answered. She said some information can be garnered from other States that have legalized marijuana whether for medical or recreational purposes.

Chairman Hickman asked if the City can require an occupational tax license for growers, dispensaries, and processors similar to what the City issues for businesses that sell alcohol. Ms. Snider said although there will be a 7% tax on marijuana, it will all go to the State for regulatory expenses and any excess will go to education and drug/alcohol rehabilitation. She believes questions being asked today will be worked

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out by the State in a new version of the law. Councilmember Clark said in March, the Oklahoma Municipal League (OML) presented information regarding municipalities not benefiting from marijuana in terms of sales tax and considering Oklahoma is heavily dependent on sales tax, this is very discouraging news. Councilmember Karjala said language does not preclude the City from charging a permit fee and Ms. Snider said that may be allowed through regulations OSDH will be creating. Ms. Snider said she will be speaking with other cities and OML to see what they are doing and Councilmember Karjala said most cities are waiting to see what Norman does. Ms. Snider said although the State is calling the 7% a "tax" it is not being reported to the Oklahoma Tax Commission, but is going straight to OSDH.

Chairman Hickman would like the City to explore its flexibility to impose some type of reasonable retail sales tax because there will potentially be services required from the City for having medical marijuana grown, dispensed, or processed. He feels the City is justified through its police powers to do that. He would also like to look at requiring a license or permit similar to what the City issues for alcohol sales since he believes there will be a burden to the City for these businesses from a service standpoint. He would also like to explore buffer zones where there can only be so many dispensaries within a community, i.e., two dispensaries cannot be side by side and are required to have a specified distance between facilities.

Councilmember Clark said Council needs to be mindful of the fact that the City has a lot of agricultural areas, which is a unique Norman issue. Chairman Hickman said that is why it is important to permit these businesses so the City will know where these businesses will be located. He said without some type of licensing or permitting, the City will have no idea how many or where the businesses are located. If they are located in agricultural areas, they will need City services, such as fire, police, utilities, etc.

Councilmember Bierman wants to be careful the City does not unfairly burden the industry in ways it does not burden other businesses especially in terms of quotas. She said the City does not limit the number of fast food restaurants or liquor stores that can be next to each other. She does not want to unfairly target the marijuana industry and although it is appropriate to have them away from schools, the City should not limit how many marijuana businesses are allowed in the City.

Mr. John Frasure with Green the Vote said when SQ 788 passes he wants to have seeds in the ground and wants to make sure the City of Norman does not prosecute him for growing his own medicine. Ms. Snider said individuals can possess six seedlings and six plants, but no one will have a medical marijuana license on June 26th so no one can grow marijuana without that license.

Mr. Bryson Reese said there is an age limit of 25 years or older for grower and dispensary licenses and asked if that limit extends to employees of the business and Ms. Snider said she does not have the answer to that at this time.

Mr. Ron Welchel said he is a disabled veteran with neurological back problems and has been taking opioid medication for 18 years and is looking forward to stepping down to marijuana. He is concerned about workplace drug testing when someone has a medical marijuana license.

Ms. Brittny Brissette said Colorado created a specific zoning code for cultivators and processors. She said the City could potentially charge for that rezoning at a cost that is higher standard rezoning fees. She asked if an indoor grower built the indoor center in an agriculturally zoned area then moved to a different

Item 3, continued:

zoning, would they be grandfathered in? Ms. Snider said she cannot answer these types of questions until it knows what the rules are.

Mr. Brandon Storm suggested Councilmembers educate themselves on cannabis because it is not going away and suggested people keep their marijuana in a clearly marked lockbox to avoid problems.

Mr. Troy Cheshier said he owns a local CBD Company and wondered if a business could act as a dispensary and a grower and Ms. Snider said that is an unknown and will be regulated by OSDH.

Mr. Cody Franklin asked if the City can be more lenient on the 1,000 foot radius around schools and Chairman Hickman said no, the City cannot change State law. Mr. Franklin said if a dispensary, grower, or processor obtains a permit and later on a school locates within 999 feet of the facility would there be grandfather protection or would that business have to close? Ms. Snider said she could not hazard a guess on that and suggested anyone who wants to get into the marijuana business obtain their own legal advice before moving forward.

Ms. Laurie Johnson said she is from Norman, but resides in Eugene, Oregon, and moved to Oregon to learn about the cannabis industry and educate herself. She said a dispensary will survive if the person has knowledge about cannabis and if they have a great product. She said growing cannabis is really hard and Oklahoma is really hot so there will probably be a lot of indoor growing. She said processing is also difficult and can cause explosions if not done properly.

Item 3, continued:

Mr. Brett Frantz said House Bill 3468 (HB 3468) will allow local municipalities the ability to control some permits and licenses for marijuana and encouraged Councilmembers to read HB 3468 to familiarize themselves with the new laws.

Councilmember Bierman asked if there is information on whether or not a Homeowners Association (HOA) can restrict growing of marijuana and Ms. Snider said she did not know.

Chairman Hickman would like more information regarding the grower and processor components on agriculturally zoned areas and if there will be potential traffic impacts, specifically large trucks coming and going. He would like to identify zoning specifications for growers and processors and create definitions for growers and processors.

Ms. Pam DeCosta said marijuana has a strong odor which could affect neighbors so Council needs to think about mitigating odor.

Chairman Hickman asked Staff to prepare the information requested to be discussed in August or September.

Items submitted for the record

1. Memorandum dated April 20, 2018, from Jeanne Snider, Assistant City Attorney, through Jeff H. Bryant, City Attorney, to Community Planning and Transportation Committee
2. PowerPoint presentation dated April 26, 2018, entitled, "Community Planning and Transportation Committee State question 788 – State Medical Marijuana"
3. Ballot Title for State Question 788
4. Initiative Petition for State Question 788 filed April 11, 2016

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Item 4, being:

MISCELLANEOUS PUBLIC COMMENTS.

Councilmember Clark said Senate Bill 1465 regarding regulation of plastic bags is still in play, but proponents of pre-emption are pushing hard against that. She said discussions have gotten ugly and encouraged everyone to contact their State Representative if they would like the bill to be passed.

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The meeting adjourned at 6:03 p.m.

ATTEST:

City Clerk

Mayor