

CITY COUNCIL  
COMMUNITY PLANNING AND TRANSPORTATION  
COMMITTEE MINUTES

August 23, 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 23rd day of August, 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 Clark, Holman, Scott, Wilson,  
and Chairman Hickman

ABSENT: Councilmember Bierman

OTHERS PRESENT: Councilmember Castleberry, Ward Three  
Ms. Jane Hudson, Interim Director of Planning  
and Community Development  
Mr. Terry Floyd, Development Coordinator  
Mr. Kris Glenn, Director of Cleveland Area Rapid  
Transit (CART)  
Mr. Taylor Johnson, Planner and Grant Specialist  
for Cleveland Area Rapid Transit (CART)  
Mr. Travis King, Fire Chief  
Ms. Lisa Krieg, Community Development Block  
Grant (CDBG) Grant Manager  
Mr. Angelo Lombardo, Transportation Traffic  
Engineer  
Mr. Tony Menseh, Street Superintendent  
Ms. Beth Muckala, Assistant City Attorney  
Mr. Shawn O'Leary, Director of Public Works  
Ms. Jeanne Snider, Assistant City Attorney  
Mr. Scott Sturtz, City Engineer  
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 JUNE AND JULY, 2018.

Mr. Taylor Johnson, Planner and Grant Specialist for Cleveland Area Rapid Transit (CART), highlighted CART Ridership Reports for June and July 2018, and said fiscal year-to-date ridership (July to June) had a decrease of 7% over the same period last year. In June, CART transported 35,644 passengers that included 563 riders who traveled with bicycles and 308 riders who traveled with wheelchairs.

Item 1, continued:

CARTaccess transported 2,851 riders in June, a decrease of 5% over the same month last year with an average daily ridership of 146 riders. Year-to-date primary zone ridership decreased by 7% while secondary zone ridership increased by 8%.

In July, CART transported 35,933 passengers, an increase of 14% over the same month last year, with an average daily ridership of 179 riders that included 526 riders who traveled with bicycles and 249 riders who traveled with wheelchairs.

CARTaccess transported 2,780 riders in July, an increase of 2% over the same month last year with an average daily ridership of 111 riders. Year-to-date primary zone ridership increased by 1% while secondary zone ridership increased by 14%.

Mr. Johnson said CART hosted a Quarterly Public Transportation Coordination meeting on June 6, 2018, where public transit providers and related organizations for the metropolitan region meet regularly to discuss service changes and other issues.

CART hosted public meetings on June 25th and June 27th at the Norman Public Library Central to make a presentation of the proposed changes to Route 20, West Norman Link. A public notice of the proposed changes and meeting dates were issued on May 25th in the Norman Transcript, CART's website, social media, and CART vehicles.

CART hosted a "Read and Ride" event with Councilmember Clark on August 11th and Mayor Miller and Officer Ali Jaffery were also in attendance.

Mr. Johnson said CART provided free rides to election polls on June 26th and will do the same on November 6th to further encourage voters to participate in these elections.

CART began accepting applications in July for the FYE 2019 Community Development Block Grant (CDBG) Bus Pass Program that provides fare assistance for low to moderate income passengers. Applicants are required to complete the application online and if they are not able to do that, CART worked to ensure applicants can go to a social service agency, the Public Library, or the CART office to complete the application.

Mr. Johnson said CART provided a shuttle for the Norman Public Library East grand opening on July 20th. The shuttle picked up passengers from the Norman North High School Sports Complex and transported them to the Library.

CART Staff will be participating in Safety Training on August 28th in preparation for a new Federal Transit Administration regulation requiring a Safety Plan to be in place. The Oklahoma Transit Association has chosen Norman to be the host of the 2018 Oklahoma State Driving Championships and Training Conference this fall. The conference will be held October 16 through October 18 and will consist of a driving competition, driver and administrative staff training, notable speakers, and an evening out in Norman. The champions of each driving category (minivan, shuttle bus, and city bus) will be sent to the national competition to compete. Councilmember Wilson asked if Council could attend the driving competition and Mr. Johnson said yes.

Item 1, continued:

Councilmember Holman said the new bus stops on West Lindsey Street have shelters surrounded by brick walls that people are complaining prevents air from circulating through the shelter. He asked if CART has received complaints and Mr. Johnson said they have not.

Councilmember Holman asked if there is an update on a water fountain being installed at the main hub on Brooks Street and Mr. Johnson said no because the estimate was \$30,000, which is cost prohibitive to CART at this time.

Councilmember Clark said residents would like to have a temporary bus stop on the southwest side of Robinson Street from Memorial Day to Labor Day while the Westwood Aquatic Center is open for the season. She would like CART to plan for that next year and Mr. Johnson said Staff will review that. Chairman Hickman asked for an update in three months and Mr. Johnson said that would not be a problem.

Chairman Hickman asked for an update on the additional funding CART requested from the City and Mr. Kris Glenn, Director of CART, said CART and City leadership will be meeting on Tuesday to find a solution.

Chairman Hickman asked the last time a study has been performed to evaluate bus routes, ridership, funding contributions, expenses, etc., as well as the partnership between CART and the City in order to determine if the City is providing its fair share. Mr. Johnson said there has not been a study to his knowledge. Mr. Glenn said in 2003, the City of Norman became a direct recipient of FTA funding and CART was the transit system at that time so the City appointed CART to administer those funds.

Items submitted for the record

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

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Item 2, being:

#### DISCUSSION REGARDING THE TRANSPORTATION BOND PROGRAM.

Mr. Shawn O'Leary, Director of Public Works, said there are two types of transportation bond issues, the Street Maintenance Bond Program, a five year program that targets basic maintenance of neighborhood streets (approximately 800 miles) and the Transportation Bond Program that targets principal and minor arterial roadways to reduce congestion, improve traffic safety, and preserve the City's transportation infrastructure backbone.

Councilmember Castleberry asked how Staff determines which streets need maintenance under the Street Maintenance Bond Program and Mr. O'Leary said the City uses the Pavement Management

Item 2, continued:

System, which is a computerized system where street data is entered on a block by block basis and every year Staff re-evaluates the condition of the streets. The streets are given grades of zero (0) to 100 and the goal is for every street to pass at grade 70 and the Pavement Management System software chooses streets with the highest maintenance needs. He said with each bond election, there has been a greater voter approval rating for the program because the City provides a list of streets that will receive maintenance over a five year period, which citizens seem to find favorable.

Mr. O'Leary said in 1992, voters approved a \$7.3 million Transportation Bond Program; in 2005, voters approved a \$20 million program; and in 2012, voters approved a \$42 million program. He said in 2012, there were eight (8) bond projects that consisted of improvements to Cedar Lane Road; Franklin Road Bridge; Lindsey Street; 12th Avenue S.E.; Main Street Bridge over Brookhaven Creek; 24th Avenue East; 36th Avenue N.W.; and Alameda Street. He said the 2012 Transportation Bond Program was the largest transportation bond package in Norman's history with total costs of \$89,502,690 with \$46,927,680 coming from federal funds and \$42,575,000 from bond funds. He said the City is matching more than dollar per dollar in federal funding. He said some projects have not started because federal funding has not been received; however, design is complete and the City is ready to begin the projects once funding is received. He said the City averages \$7 million per year in federal funding, but needs \$11.5 million for 36th Avenue N.W. so the City has to do that project in two phases.

Councilmember Wilson asked what the Alameda Street Project entails and Mr. O'Leary said widening and paving the shoulders on Alameda Street from 24th Avenue East to 48th Avenue East for road safety issues. He said the shoulders will double as bike lanes making it safer for bicyclists and vehicles. Councilmember Wilson asked if there will be a traffic light at the Norman Public Library East and Mr. O'Leary said it is under consideration, but projections do not indicate a necessity. Councilmember Wilson asked what makes it necessary or unnecessary and Mr. O'Leary said the Traffic Code designates when a traffic signal is warranted based on traffic volume, number of accidents, peak hour congestion, etc. He said other cities as well as the Oklahoma Department of Transportation (ODOT) uses the same process for determining whether or not a traffic light is warranted.

Councilmember Holman said the 12th Avenue S.E. Project was originally planned to happen in 2015, but the City did not receive federal funding until this year. Mr. O'Leary said that is correct and when Staff presented the 2012 Transportation Bond issue to the voters, the hope was to finish the program by the end of this year, but that will not happen.

Chairman Hickman said in order for projects to be eligible for federal funding, the projects have to be on the Association of Central Oklahoma Governments (ACOG) project list so how far into the future is the City looking at when discussing the next bond package? Mr. O'Leary said current projects have to be completed before new federal funds can be anticipated and that will be 2022 or 2023. He said there are many projects that are not federally funded yet and there are some projects that will not be federally funded, but are budgeted in the City's Capital Improvements Budget (CIP).

Item 2, continued:

Councilmember Scott asked about 36th Avenue N.W. and Mr. Lombardo said that project is being suggested for the future bond issue to widen 36th Avenue N.W. from north of Indian Hills road to Moore city limits and there have been conversations with the City of Moore to continue that project within their city limits.

Councilmember Castleberry asked when bonds are sold and Mr. Anthony Francisco, Director of Finance, said the authorization was approved in 2012, and one package was sold in 2012 and another package in 2015. Councilmember Castleberry asked if bonds are sold when the City believes it will need the money for the project and Mr. Francisco said yes because there are federal regulations regarding when cities can issue tax exempt debt and spend it.

Chairman Hickman said in existing projects, which one is lowest in the rating system for receiving matching federal funds and Mr. O'Leary said Alameda Street. Chairman Hickman said in theory, could the City place the \$3,641,000 in federal funding for Alameda Street towards the next round of projects and use local money to complete Alameda Street and Mr. O'Leary said he believes that could be considered.

Mr. O'Leary said Norman competes with 39 other agencies in Oklahoma for federal funding and competition is getting heavier every year so Norman receives less funding every year. He said ACOG recently changed the ranking rating system so Staff is entering the new application process with some trepidation. Mr. Lombardo said Staff should know the new criteria for projects by January 2019. Councilmember Castleberry said Norman has done very well in obtaining federal funds and Mr. O'Leary said 56% is the maximum any entity can receive and Norman is probably the only city that has reached that percentage over the years.

Mr. O'Leary said Staff is proposing a Transportation Bond Program for 2019 or 2020 in the amount of \$70 to \$75 million and there is a deadline for a bond election in 2019 that would not require raising property taxes. He said the projects being proposed include congestion mitigation and development, stormwater related to bridges, special corridors, and trails and sidewalks. He said the City received approximately \$13 million in transportation funds on Lindsey Street to improve stormwater issues. He said Staff often joked that Lindsey Street was a "stormwater project with a street on top" and because the stormwater system was under Lindsey Street, federal funds could be used for the entire project not just the street itself, which is a rare opportunity. In Oklahoma, some projects requires 60% voter approval instead of 50%. He said in 2005, four of the propositions passed and one proposition for sidewalks failed because of the voter percentage.

Councilmember Clark asked where that voter approval percentage criteria comes from as it seems as if the State of Oklahoma is creating statutes that make it difficult for cities to build a walkable community. Mr. Francisco said it is State constitutional in that the State Constitution allows a simple majority vote on things that are deemed to be a public utility and while streets are a public utility, sidewalks are not. He said whenever a street project includes sidewalks there can be a simple majority vote. He also pointed out that a bond issue without a property levy increase is very important and the current tax levy rate expires June 30, 2019.

Item 2, continued:

Mr. O'Leary highlighted the criteria for developing the projects, which begins with following the adopted Comprehensive Transportation Plan (CTP). He said development drives transportation, but sometimes development and transit move at different rates which causes the City to do some catching up. He said recent activity in platting has taken place near Interstate I-35 and Indian Hills Road although there has not been much development to date. He said Staff began to worry a few years ago that 36th Avenue N.W. may not be ready to accommodate new development in the area so that is how 36th Avenue N.W. ended up on the project list. He said Norman is currently working with ODOT on the I-35 Corridor Study. The Indian Hills Interchange is the oldest and worst interchange in Oklahoma, which Staff believes should be the top priority. He said there have been holes patched in the deck of the bridge and the interchange is 50 years old, but that interchange is an ODOT issue not a City issue.

Mr. O'Leary said 20 projects are being proposed for the bond issue that include improvements to:

- Jenkins Avenue – Imhoff Road to Lindsey Street;
- Porter Avenue/Acres Street – Porter Corridor;
- 36th Avenue N.W. – north of Indian Hills Road to Moore city limits;
- Indian Hills Road – 48th Avenue N.W. to I-35;
- 12th Avenue N.W. – Rock Creek Road to Tecumseh Road;
- Tecumseh Road – 12th Avenue N.E. to Hollister Trail;
- Cedar Lane Road – east of 24th Avenue S.E. to 36th Avenue S.E.;
- 36th Avenue S.E. – Cedar Lane Road to State Highway 9;
- 24th Avenue N.E. – Rock Creek Road to Tecumseh Road;
- Tecumseh Road – Hollister Trail to 24th Avenue N.E.;
- 48th Avenue N.W. - Phase II – Rock Creek Road to Tecumseh Road;
- 48th Avenue N.W. – Phase IV – Franklin Road to Indian Hills Road;
- 48th Avenue N.W. – Phase I – Robinson Street to Rock Creek Road;
- 48th Avenue N.W. – Phase III – Tecumseh Road to Franklin Road;
- Tecumseh Road Railroad Grade Separation;
- Main and Gray Streets two-way conversion;
- James Garner Avenue Special Corridor – Phase II – Acres Street to Duffy Street;
- Lindsey Street Special Corridor – Pickard Avenue to Jenkins Avenue;
- Constitution Street – Jenkins Avenue to Classen Boulevard; and
- Traffic Management Center (TMC) (a control center for monitoring the transportation network).

He said project construction costs total \$95,241,149 with total costs being \$170,619,426 and \$75,378.287 proposed in bond funds.

Councilmember Wilson asked if the 36th Avenue S.E. and Cedar Lane Road Project consists of reworking the intersection and widening the road. Mr. O'Leary said yes, this project is the continuation of Cedar Lane Road to 36th Avenue S.E. and 36th Avenue S.E. from Highway 9 East to Cedar Lane Road. Councilmember Wilson asked if there will be a traffic signal and Mr. O'Leary said it is possible and that would be part of the design process. He said early results in the engineering design show the City would be raising the grade of the intersection 20 vertical feet, which is a tremendous undertaking.

Item 2, continued:

Councilmember Clark said Mr. O'Leary drove her around her Ward looking at sidewalks and discussed expansion of Rock Creek Road from 12th Avenue N.E. to 24th Avenue N.E., but it is not on the project list. Mr. O'Leary said Staff needs suggestions from Council on what projects are important to them because Council sets the priorities on bond projects. He said his top priority would be Jenkins Avenue between Lindsey Street and Imhoff Road because the University of Oklahoma (OU) just opened a large residential campus area and in a couple of years the City will open a huge Reaves Park Sports Complex and the street will not function well for the traffic these venues will draw.

Councilmember Scott asked if the 36th Avenue/Indian Hills Road Project would fall under ODOT's jurisdiction and Mr. O'Leary said no; however, ODOT will construct part of Indian Hills Road as it abuts the interchange.

Councilmember Wilson asked if OU paid a platting fee when they built their big new residential complex and Mr. O'Leary said no, OU is exempt from zoning, platting, etc., but they did help the City with the traffic impact analysis in the amount of \$10,000. Councilmember Wilson asked how much the road improvements will cost and Mr. O'Leary said several million, but to OU's credit they did recognize the continuing university development was going to create a burden on the transportation system. He said the Jenkins Avenue portion was presented to Council in 2004, as part of the 2005 bond package and Council opted not to move forward with the project because OU did not want the roads widened; that is something the City and OU need to discuss. He said at that time, OU was hesitant about the notion of a highway going through the middle of campus and the City understood that concern, but there is an enormous amount of development planned for the area and the current roadway will not function well. He can imagine the first major sporting event once Reaves is complete, and traffic being backed up for two hours, which will not be acceptable.

Councilmember Holman said he is concerned about traffic issues when Reaves Park improvements are completed and being utilized at the same time as OU football game days. He said the rights-of-way on Jenkins Avenue seem to be prepped for widening so that would not be a hindrance to the project. He requested Constitution Street be added to the list because it is currently two lanes with no turn lane and the sidewalks are not continuous on either side. He feels Constitution Street will be impacted by Reaves Park improvements as well. He said these are the two largest transportation issues in his Ward.

Chairman Hickman said he would like to add Porter Avenue improvements from Robinson Street to Alameda Street or Acres Street to Alameda Street because improving the intersection at Porter Avenue and Acres Street will not help all the traffic problems. He knows there has been discussion regarding improvements to the Porter Avenue and Classen Boulevard intersection due to traffic backing up at all times of the day. He said the City could reduce its reliance on federal funds and add the Porter Avenue Project to the bond issue. He said \$20 million is projected for the Tecumseh Road Railroad Grade Separation Project, but he does not know how critical that project is considering the amount of investment it would take. Councilmember Clark said the congestion on Alameda Street is really bad as well as the school crossing on Porter Avenue being unsafe.

Item 2, continued:

Mr. O'Leary said the CTP identifies the concept of special corridors that are designed with complete streets principles and context sensitive solutions, but there are corridors in Norman that do not fit that mold. He said additional special corridor project considerations include Lindsey Street between Berry Road and Jenkins Avenue; Porter Avenue between Alameda Street and Robinson Street; Flood Avenue between Main Street and Robinson Street; James Garner Avenue/Jenkins Avenue between Boyd Street and Robinson Street; and Berry Road between Imhoff Road and Robinson Street. Mr. O'Leary said James Garner Avenue's connection to Flood Avenue will have significant impacts on three of the special corridors and the City needs to wait until the project is complete to reassess impacts on the design concept of these three corridors and the two-way conversion of Main Street and Gray Street in the downtown area. He said these corridors are very unique with challenges that include land issues, right-of-way issues, utility issues, non-conventional four to five lane candidates, etc.

Mr. O'Leary said Phase I of the James Garner Avenue connection to Flood Avenue is funded through NORMAN FORWARD, but there could be a future problem with James Garner Avenue and Main Street, if the one-way to two-way conversion takes place so Council needs to consider these projects carefully so both projects are not done simultaneously. He said the last thing the City wants is to have two funded projects only to find out later that a grid lock situation has been created.

Councilmember Wilson asked if a future Regional Transit Authority (RTA) would share in any of the grade separation project costs and Mr. O'Leary said that is a possibility. Councilmember Castleberry said a RTA may pay for rails, but would not pay for hubs, stations, or other improvements cities may want.

Mr. O'Leary said if Council wants to move forward with a bond election, Staff needs to know the project priorities. He said also, there is could possibly be a stormwater bond issue coming forward and Council needs to think about that as well, including whether or not trails and sidewalks should be a separate proposition. He said Staff will need to finalize the project list, develop detail project scoping and cost estimates, hold two public meetings, and establish an election date. He said the Public Works Department is vastly understaffed and needs staffing to run this program.

Chairman Hickman felt the City should fully fund more projects and not rely as heavily on federal funding in order to move forward with projects that need to be done now, not 10 to 15 years from now. He worries about the City's level of reliance on federal funding and how citizens perceive City government's management of their money.

Councilmember Castleberry said the question is whether or not the City wants to leverage the money. Does the City want to pay half of the project costs or 100% of the costs? He said another option would be to move forward with half of the bond projects and decrease the tax levy.

Councilmember Holman said what is attractive to him about doing the entire package is that citizens will know what projects are authorized to be done and will not have to vote on a Transportation Bond Program issue for another 10 to 15 years and Councilmember Clark agreed. Councilmember Holman said all the projects listed are necessary and knowing they will be done in 10 to 15 years is better than looking back and wishing they had been authorized. He said if the City authorizes half of the projects, citizens will be asked to vote for the remainder of the projects in five years.



Chairman Hickman asked Councilmembers to email Mr. O’Leary their list of project priorities and decide if they want to move forward with the entire bond package or reduce the list and pay for some projects without federal funding. He asked Staff to bring this item back in September for further discussion.

Councilmember Castleberry said after City Council has prioritized the list there needs to be public meetings for input. He said the City needs to have buy-in from the public before an election is held.

Items submitted for the record

1. PowerPoint presentation entitled, “Future Transportation Bond Issue,” Community Planning and Transportation Committee, August 23, 2018

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Councilmember Clark left the meeting at 5:25 p.m.

Chairman Hickman said due to time constraints and subject matter he would like to discuss Item 4 prior to Item 3.

Councilmember Scott left the meeting at 5:40 p.m.

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Item 4, being:

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

Ms. Beth Muckala, Assistant City Attorney, said Staff reviewed many other State’s medical and/or recreational marijuana laws as well as other cities in Oklahoma. She said basic regulations include Licensing – fees and operational requirements; Zoning – additional setbacks and use by right versus special use; Home Growth – fee versus no fee, prohibition or limitations, nuisance/security/safety; and Professional/Use – workplace issues and criminal code. She said medical marijuana can be allowed though special uses or conditional uses and permit fees can be required. She said license fees have ranged from \$660 to \$750 for home growers and \$1,500 to \$2,500 for commercial establishments.

Ms. Muckala said establishments are generally required to implement reasonable measures to ensure safety as opposed to specific issues of security locks, cameras, etc. Some municipalities have implemented particular guidelines regarding commercial establishments that include odor control and other nuisance issues such as light, sound, and vibration emissions.

Ms. Muckala said zoning is a big concern of municipalities and identifying areas in which particular businesses are most appropriately located as well as setback regulations. She said many municipalities added additional setbacks to their local ordinances that are not in the State statute. State law states that municipalities cannot unduly zone to prevent a dispensary from operating, but does not say anything about processors or growers. She said some municipalities have prohibited

Item 4, continued:

certain types of medical marijuana establishments and added categories to the State's 1,000 foot rule regarding public or private schools such as churches, libraries, museums, and day cares.

Previous State regulations required a six foot fence plus a lock securing the gate for anyone wanting to cultivate marijuana in their backyard, but those requirements have since been removed. Some municipalities require indoor growth for home use and some require indoor growth for commercial establishments as well.

Ms. Muckala highlighted other cities regulations and said Yukon and Elk City have prohibited growers, processors, and storage for medical marijuana. She said storage is an interesting category because a marijuana storage facility is not a defined term in the State statute or in the State regulations so it may be a term anticipating the need for storage for the distribution of medical marijuana.

Councilmember Scott asked if a storage facility could be a dispensary because medical marijuana would be stored in a dispensary and Ms. Muckala said she is doing more research on that definition. She said in most cases the other cities refer to storage facilities as other than a dispensary so they did have the intent to not include dispensaries in the prohibition.

Councilmember Wilson asked if prohibiting these items opens cities up to a lawsuit and Ms. Muckala said in respect to Yukon, there could be potential litigation. She said Yukon had a 60% passage rate for medical marijuana so there has been a lot of media coverage regarding their restrictions.

Councilmember Wilson asked what can be done for odor control and is it actually a big problem because as an owner of a doggy daycare she is not required to have odor control. Is the odor control for the smoking of medical marijuana or growing of it? Ms. Muckala said it applies to growth, processing, and research facilities and ventilation systems are the most commonly used. She said some municipalities are specific about odor control while others are leaving it up to the establishments to regulate.

Councilmember Castleberry asked if Norman licenses pharmacies and Ms. Muckala said no. Councilmember Castleberry said medical marijuana should be treated the same as a pharmacy or if there is a license fee it should be consistent with liquor licenses and how those are regulated. He does not want to make it a hardship for medical marijuana businesses, but at the same time the City should be able to charge them a fee to do that type of business. He said medical marijuana is still illegal under federal law so for income tax purposes, businesses cannot deduct expenses. He said the margins on medical marijuana are huge and these businesses will be highly profitable so the fees will not be a big concern for them. He is comfortable leaning towards the higher fees because he does not think it will prevent these businesses from coming to Norman. Councilmember Wilson agreed, but would like to visit a way to promote local growers over out-of-state volume producers and proposed increasing fees over time so a "mom and pop" organization could be supported. Councilmember Castleberry questioned if increasing fees over time would be legal or would it need to be a flat rate and Ms. Muckala said all she has seen so far is a flat rate. She said under State regulations, establishments are not allowed to be owned by more than 25% of out-of-state residents so that should help with that concern. Councilmember Wilson said she did want to create a huge barrier for start-up businesses because she wants this to be an industry where businesses can have success.

Item 4, continued:

Councilmember Holman said these businesses will already have problems with banking and payment processing. He said First Fidelity Bank is willing to take their business, but requires a \$500 deposit to open the account, \$500 per month to maintain the account, and the business must hire an armored security company to bring the money to and from the bank. He said credit card companies will not do business with marijuana companies so the business has to work with a lot of cash, which makes them targets for crime. He has the same concern as Councilmember Wilson that if the regulatory costs are high then only large companies will be able to succeed. He would especially not want to make it costly for medical patients so he would err on the side of being as least restrictive as possible based on the demographics of Norman.

Councilmember Castleberry said under federal law, marijuana is a criminal activity so banks would basically be laundering money at the federal level, but not the state level so do we, at the city level, have liability in issuing a license for a criminal activity? He said Certified Public Accountants (CPAs) have struggled with the issue of helping a federal illegal activity. He asked if that issue has come up in any of the research and Ms. Muckala said not in the context of zoning, but it is being considered from the standpoint of what is done on city owned property and federal funding issues.

Councilmember Holman said some cities have put additional setback regulations in place and asked if that setback could be less than state law and Ms. Muckala said not in respect to the 1,000 foot setback set by statute. Councilmember Holman said that 1,000 feet only applies to schools, private or public correct? Ms. Jeanne Snider, Assistant City Attorney, said that is correct and public schools were not defined as “higher education” so that would not include the University of Oklahoma (OU) or Moore-Norman Technology Center. Ms. Muckala said state law states the 1,000 feet would be measured from any property boundary to the entrance of the public or private school.

Councilmember Holman said he would not favor a permit or fee for patients or caregivers. He said the City will not receive sales tax from medical marijuana facilities so it would be appropriate for dispensaries or operations to be charged some type of fee by the City. He said the City should receive some type of revenue since those facilities or operations will require City services including police and fire. He said the City needs to be cognizant that the state tax on marijuana is 7% and adding additional tax could deter some businesses from locating in Norman. Councilmember Castleberry said it was his understanding the City could not “tax” medical marijuana and Ms. Muckala said the city cannot charge state sales tax, but the Oklahoma Municipal League and City Staff are researching the opportunity for a municipal tax. She said at least one municipality added a 3.5% sales tax on the municipal level.

Councilmember Castleberry left the meeting at 6:00 p.m.

Ms. Muckala said Muskogee seems to be the only jurisdiction that allows processors and growers in all agricultural, industrial, and commercial zoning districts and dispensaries in commercial zoning districts. She said, overall, dispensaries are allowed in commercial districts. She said Stillwater clearly delineated zoning as growers in agricultural, processors in industrial, and dispensaries in commercial. She said there has been indication from the public that owners want to combine one or more of these establishments in one location within a commercial district.

Councilmember Wilson felt that most growers would be indoor growers due to safety concerns so industrial zoning would be appropriate.

Councilmember Holman said research facilities would be appropriate in the University North Park Tax Increment District (UNPTIF).

Chairman Hickman said what he is hearing is that commercial growers could be located in industrial districts as long as it is indoor growing. He asked if odor control would be more applicable to processors and Ms. Muckala said growers have not been excluded from odor control regulations. Chairman Hickman asked Councilmembers if odor control should be applied to indoor growers and processors and Councilmembers said yes; however, Councilmember Holman would like more information on what odor control means and what businesses would need to do for that because dispensaries can have an odor too. Ms. Muckala said the Cathedral City, California, ordinance would be a template for thorough regulations as well as Ardmore, Oklahoma.

Chairman Hickman asked Councilmembers about their thoughts on hours of operation and Councilmember Holman said a business should be able to operate however they see fit unless that causes a problem and Councilmember Wilson agreed.

Chairman Hickman asked if Councilmembers wanted to require a license or fee and Councilmember Wilson said she is fine with licenses/fees for growers, processors, and dispensaries. She said if businesses are making money off the product they should be contributing to the regulation of it, but she would like to keep patient fees as low as possible. Councilmember Holman said he would like Norman's licenses/fees to be on the lower end of surrounding communities. Chairman Hickman asked if it would be a one-time license/fee and inspection or annual license/fee and inspections and Ms. Muckala said most operational requirements established with licensing include annual inspections and annual fees. She said there is usually a specified timetable for renewal and she has seen a \$500 late fee if the applicant submits the renewal less than 45 days prior to expiration.

Councilmember Hickman asked if Staff felt the City could impose a 3% sales tax fee on dispensaries and would Councilmembers be comfortable with that and Councilmembers Holman and Wilson said yes.

Ms. Muckala said particular considerations for the City of Norman include establishing zoning district guidelines; establishing licensing procedures; determining if setbacks should be applied to growers, processors, researchers, and storage facilities; what operational requirements will be placed upon medical marijuana establishments; and what Building and Fire Code applications can be applied to establishments. Considerations for residents growing medical marijuana include how will security for the establishments be required; will odor control be required for medical marijuana establishments close to residential areas; how will Norman approach home growth; and will a permit and fee be required for patients/caregivers.

Ms. Muckala highlighted safety, security, code, and nuisance considerations as follows:

- Particular Types of Equipment
  - Equipment design and set up signed off on by an engineer
  - Description with license and use permit applications

Item 4, continued:

- Restricted Access Areas
  - Safety for workers/patients/caregivers and security for establishment owners
  - Description with license and permit applications
- Use of Hazardous, Flammable, or Otherwise Dangerous Substances
  - CO2 - growth facilities – should home growers be allowed to use?
  - Butane - should home growers be allowed to use?
  - Augment building and fire codes to address marijuana establishment-specific concerns
- Indoor Restrictions (commercial/residences/both)
  - Enhance security measures for establishment owner
  - Deter crime for business community and surrounding residents
  - Mitigate odor issues
  - Other considerations: fencing height/type and lock requirements

Councilmember Wilson would like more information on the definition of an “engineer” that would design, set up, and sign off on equipment. Is that a specialty field for medical marijuana establishments? Ms. Muckala said she will research that further.

Ms. Jeanne Snider, Assistant City Attorney, highlighted workplace restrictions regarding medical marijuana and said employees may not use or possess marijuana while at work or during hours of employment including any workplace premises or where an employer operates. She said employees cannot be impaired while working, whether that impairment is by marijuana, prescription drugs, or alcohol. She said the City has a drug test plus criteria that looks at appearance, behavior, conduct, etc. She said the City cannot ask applicants or employees if they have a medical marijuana license, but the companies doing the drug tests may report the test is negative if the person has a medical marijuana license.

Ms. Snider said there are some federally mandated substance testing requirements and one of those includes persons with a commercial driver’s license (CDL). She said the City has approximately 32 positions that require a CDL so if a person with a CDL were in an accident at work and tested positive for marijuana then that can be used for employment decisions. She said employers can discriminate if it would imminently lose a monetary or licensing related benefit under federal law regulations. She said federal contractors and sub-contractors are obligated to provide a drug free workplace.

Councilmember Holman said someone can smoke marijuana and three weeks later the tetrahydrocannabinol (THC) can still be in their system. He said they may not be impaired at the moment the drug test is done, but THC could show up on a drug test even though the person may not have consumed marijuana in over a week or so.

Ms. Snider said employers are required to drug test employees following a workplace accident or have reasonable belief employee is under the influence of drugs at work and an applicant may be denied employment if tests positive for prohibited substance including cannabis.

She highlighted actions the City will need to take that includes updating use and possession ordinances, fine tuning drug and alcohol testing program, educating employees on new workplace drug and alcohol standards, and training front line supervisors.

Item 4, continued:

Councilmember Holman would also like to add language regarding paraphernalia. He would like to clarify that paraphernalia should not be a violation of local law unless there is a presence of drugs in the paraphernalia or if a person has a medical marijuana license they can legally possess the paraphernalia.

Ms. Muckala said medical marijuana regulations are still evolving at state level. She said a bipartisan working group will be considering changes and additions to current regulations and the Oklahoma State Department of Health has already requested certain considerations. The Food Safety Board is expected to have food handling regulations in place by August 27th that could affect processors and dispensaries. Green the Vote submitted petitions for two state questions consisting of adding medical marijuana into the Oklahoma Constitution and allowing recreational marijuana supply and use; however, an insufficient number of signatures will require resubmission of recreational marijuana and State Constitution petition signatures are still being counted.

Chairman Hickman suggested land use zoning fees be the priority since other communities have taken action and asked Staff to bring forward ideas for changes to the criminal ordinances and creation of a license/fee schedule. He asked Staff to prepare that information for a Study Session or Conference.

Items submitted for the record

1. PowerPoint presentation entitled, "Medical Marijuana," Community Planning and Transportation Committee dated August 23, 2018
2. Memorandum dated August 23, 2018, from Beth Muckala, Assistant City Attorney, and Jeanne Snider, Assistant City Attorney, through Jeff H. Bryant, City Attorney, to Community Planning and Transportation Committee, with Attachment 1, Oklahoma Statutes Citationized, Title 63. Public Health and Safety: Chapter 15 –Narcotic Drugs; Attachment 2, Title 310. Oklahoma State Department of Health, Chapter 681. Medical Marijuana Control Program; Attachment 3, Norman Schools 1000 Foot Buffer zone map; Attachment 4, Ordinances 800, 801, and 802 from the City of Cathedral City California; Attachment 6, Section 14-310. Penalties; administrative payment in lieu of Court appearance from Norman Code of Ordinances; Attachment 7, Letter dated August 8, 2018, from Tom Bates, J.D., Interim Commissioner of Health, to Senator Greg McCortney and Representative Jon Echols, Majority Floor Leader; State Question 788, Potential Statute Change Recommendations from the Oklahoma Department of Health; State Question 788, Potential Statute Change Recommendations as received from Inter-Agency Partners; and PowerPoint Presentation entitled, "Oklahoma Medical Marijuana Authority: Status Update," from the Oklahoma Medical Marijuana Authority dated August 8, 2018

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Item 3, being:

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

Due to time constraints, this item will be considered on a future agenda.

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Item 5, being:

MISCELLANEOUS COMMENTS.

None.

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The meeting adjourned at 6:25 p.m.

ATTEST:

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City Clerk

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Mayor