

CITY COUNCIL OVERSIGHT COMMITTEE MINUTES

December 13, 2018

The City Council Oversight Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 4:07 p.m. in the City Council Conference Room on the 13th day of December, 2018, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray 48 hours prior to the beginning of the meeting.

PRESENT: Councilmembers Hickman, Holman, Wilson, and Chairman Clark

ABSENT: Councilmember Carter and Castleberry

OTHER STAFF PRESENT: Mayor Lynne Miller
Mr. Terry Floyd, Development Coordinator
Ms. Joyce Green, GIS Services Manager
Ms. Jane Hudson, Interim Planning and Community Development Director
Ms. Shelby Jameson, Administrative Tech III
Mr. Ken Komiske, Director of Utilities
Ms. Beth Muckala, Assistant City Attorney
Ms. Mary Rupp, Interim City Manager
Ms. Kathryn Walker, Assistant City Attorney

Item 1, being:

CONTINUED DISCUSSION REGARDING POSSIBLE REGULATIONS FOR THE USE OF PLASTIC BAGS.

Mr. Terry Floyd, Development Coordinator, said staff has been looking into developing an ordinance on use of single-use bags. He said he researched this issue with other cities; some cities approach it as an outright ban and some assess a fee. Based on prior discussions, the City appears to be leaning toward a fee; however, there are some exemptions, e.g., certain businesses, certain individuals who may be on some type of assistance, pharmaceutical bags, laundry services bags, bulk item bags and moisture protecting bags. He said the ordinance would specify the use of the funds derived from implementing the fee and the City would need to develop a specific use outline. He highlighted the draft ordinance as well as ordinances from other cities. The draft ordinance applies to retail stores a 5% fee on all single-use check out bags as defined in the ordinance.

Chairman Clark asked why pharmaceutical bags are included in the exemption; what is the difference between those bags and bags used at checkout at Walgreens, CVS, etc. Mr. Floyd explained that it would not apply to the checkout bags, but to the bags the medicine actually is put in.

Councilmember Hickman asked if sales tax exempt individuals could be added to the exemption category. Mr. Floyd said Staff will look into that to see if it could be added into the assistance program exemption.

Councilmember Wilson asked if the stores would be responsible for making sure the exemptions are implemented and is there a way to program their Point of Sale (POS) systems to process it right.

Item 1, continued:

Marc Jones, CEO of Homeland, said the difficulty of programing the POS systems to add the bag fee would be relatively simple for them; unsure about other retailers. The store does not know someone is an Electronic Benefit Transfer (EBT) (state assistance) customer until receipt of payment step. So there would have to be a manual cashier override; you would also not want to ask the customer beforehand if they are an EBT user to get around having to override the transaction to remove the bag fee. Maybe a sign could be implemented to assure an EBT customer would provide that information before transaction is complete to tender.

Chairman Clark said the fee part of the \$0.02 that would be retained by the retail stores could be used to help cover signage and training so they are prepared to handle this in a productive way.

Mr. Floyd agreed that it would be a great way to address that issue. He said some of the other exceptions are bags that are used in the store for packaging bulk items, small hardware items, frozen foods, meat, flowers, potted plants, things that have moisture barriers, bags for unwrapped foods, recycle bags, prescription drugs, and many other types of bags. Types of retail store exemptions could be stores that are temporary vending establishments (roadside stands, farmers market, and temporary type events). Some ordinances researched included a provision that locally owned businesses did not have to pay the fee or collect the fee.

Chairman Clark said she would prefer it be applied to all retailers, but would like one of the provisions to possibly be some type of hardship for domestic Oklahoma businesses. Councilmember Wilson said she would like to see more leniencies on local businesses, but asked if it would be legal to give some preference. Councilmember Bill Hickman said there could be a legal issue there for sure.

Mr. Floyd said they could develop a metric based on annual sales and Staff will research that further. In the draft ordinance, the use of the fees proposes 60/40 split with those who would be collecting the fees; 60% to the City, 40% to the retailer. There are provisions in the draft ordinance on how the City would utilize those fees, e.g., providing reusable bags to residents/vendors, education to the public and businesses on reusable bags, and/or provide recycle bins for bags. The City could educate on the impact these bags have on our environment and to help reduce waste. The City could also implement a website for education on recycling bags.

Chairman Clark said there is a student association at the University of Oklahoma who voluntarily set up recycling containers at Art Walk. She would also like to see a program in repurposing plastic bags (take one-leave one), trashcan liners, distribute food for non-profits, pet waste, etc. No recycling company in the state of Oklahoma takes plastic bags.

Chairman Clark said the Greenhome Grant is something she is really excited about and she feels it would appeal to a lot of residents. Multi-family housing could possibly apply for funds to build recycling enclosures, which could help make recycling more of a reality at apartment complexes.

Chairman Clark said that many cities that have implemented some type of ordinance have seemed to be successful because recycling and sustainability are important. She said she has been discussing this issue with Ms. Jodie Lewis, Oklahoma Municipal League, who is with us today. She is excited for the work and research that has been done on this issue.

Item 1, continued:

Chairman Clark said she would love to get input from colleagues and the public. Mr. Floyd said it could be beneficial to have a public meeting to discuss it further. He felt it would be important to our constituents that this is not a City revenue source and it is important to get the message out that the fees would be utilized to fund a program.

Councilmember Hickman asked how the City would manage the program; is the City going to hire someone to take on this responsibility or will it be managed with existing Staff? He questioned if there would be an audit issue if someone in the Finance Department managed the program. Mr. Floyd said the sustainability coordinator could be involved in it; this could be something that Mr. Ken Komiske, Director of Utilities, would want to take it on under Environmental Services or Sanitation. It would be a General Fund revenue; however, by ordinance it would be designated for specific uses. Mayor Miller said that the City plans on hiring a sustainability coordinator sometime in January. Chairman Clark said that position is also under the Mayor's Climate Protection Agreement.

Councilmember Holman asked about the self-checkout systems and how it would work. He said there are retail stores that charge this fee and have the self-checkout system so he believes there is a way to track it.

Mr. Jones said that they do not collect it anywhere at the moment as identifying EBT and other assistant programs before it goes to tender in the POS system will need to be addressed as well as training. He said self-checkouts could have an option to select number of bags.

Councilmember Hickman asked why paper bags are included as it was his understanding this was just plastic bags. He said if the City really wants to be environmentally friendly, then Council should consider mandatory use of compostable bags because they have less of an impact overall.

Chairman Clark said that when they provide both, one has a fee, and then the companies pay a lot for the free option. If they want to actually be environmentally friendly, the carbon footprint of paper sacks is not great either. The whole goal is to use reusable bags.

Mayor Miller said in the Innovation Challenge she attended, there were some University of Oklahoma students who were developing a product that was biodegradable. She said they made bags, drinking cups, etc. She felt that was something that would happen in the future, but the City should do what it can now by encouraging that.

Chairman Clark said she asked volunteers to conduct customer surveys and thanked Homeland for allowing them to be done. She said Homeland is the only store that has allowed a survey to be done with customers. The survey asked three simple questions: How many bags are in your cart? Are they reusable or plastic? Would you support a \$0.05 fee that goes towards reusable bags, recycling education, expanding recycling, and Greenhome grants? She said she will be creating an online survey as well and the City might also want to consider a public meeting. Mayor Miller suggested it be put on the City's website and social media as well.

Councilmember Hickman asked about the specifications of the plastic bags. He said the definition of reusable bag in the ordinance states it has to be at least 2.25 mil thick if made from plastic. He asked what that standard would be for paper bags. Chairman Clark explained that it is more about just single-use bags. People can bring any type of bag they would like and not be charged a fee. It is a fee regarding what the store provides.

Item 1, continued:

Ms. Jodie Lewis, Director of Legislative Affairs for Oklahoma Municipal League, cautioned the Committee about defining specific materials as reusable. She also noted Aldi charges a fee for bags to purchase in store and if the City's fee is charged on top of that, the city would have to watch out for doing a form of double taxation. Ms. Beth Muckala, Assistant City Attorney, added there is not an exact amount or specific size, it was just a suggestion. Mr. Jones said the thickness of the normal plastic bag is a fraction of that measurement so he does not think it would be economical for a company to buy a bunch that size to get around the fee. Chairman Clark said she liked what Ms. Lewis said about how we need to be careful on the definition and designation of the fee in regards to the Aldi example. She suggested exempting stores that already charge a fee for bags, especially if they are charging more than 3 cents.

Councilmember Hickman said he agrees that they need more input on this issue between public input and business input. He is concerned with this conversation going on at the same time the City is talking about a stormwater fee.

Mr. Floyd said he believes he has enough information to move forward with revising the draft ordinance and scheduling a date for public input.

Mr. Jones said Homeland has been happy to be a part of this conversation and would enjoy remaining in this conversation going forward. He said if the citizens of Norman establish they would be okay with this fee, they would be interested in polling their customers to see if that is what they would like. He said it costs his company over \$1,000,000 a year in plastic bags and if that switched to just paper, it would be many multiples of that. He said his business is here year round and contributes to the community and he does not feel it would be fair to exempt temporary businesses. He said Homeland could implement training and modification of their POS system if the fee is put in place.

Chairman Clark said she would love to see a statewide ordinance put in place but she really appreciates Mr. Jones and Ms. Lewis for being a part of this conversation.

Items submitted for the record

1. Memo dated December 6, 2018, from Terry Floyd, Development Coordinator, and Beth Muckala, Assistant City Attorney, to the City Council Oversight Committee with Attachment A, draft ordinance; Attachment B, city by city comparison; and Attachment C, potential revenue
2. Power Point Presentation entitled City Council Oversight Committee, Single-Use Bag Ordinance, dated December 13, 2018

Item 2, being:

DISCUSSION REGARDING SHIPPING CONTAINERS IN RESIDENTIAL AREAS.

Mr. Floyd said Staff said there have been a couple of instances recently where shipping containers have been utilized in residential areas, which has caused concern from neighbors. He said shipping containers are prefabricated metal containers and in some instances they are made into a tiny house.

The definition in the ordinance does not include PODs for moving. This issue does not apply to agricultural and commercial zoning at this time. He said clarification language would need to be added

Item 2, continued:

related to PODs. He said the Staff report proposes three options; take no action, prohibit shipping containers in residential zoned areas, or allow them in residential zoned areas with restrictions.

Mayor Miller said she has not seen a lot of shipping containers around town and wondered if it would upset people if Council banned them. She does not feel like they should be in residential zoning areas. Councilmember Holman felt they fit more as temporary storage for remodeling, storage, etc. He said some cities are doing some things with commercial shipping containers as retail shops and thinks that is something Council should look at, but not in residential areas. Councilmember Hickman agreed shipping containers should not be in residential areas.

Mr. Floyd said Staff would propose a cleanup of the POD ordinance to address the issue presented to Council. He said in many cases, particularly single family residential homes, a building permit will be issued for an accessory structure and the applicant will get to a certain point in their inspections process, but never complete the certificate of occupancy. He said those permits can be open in the system for years; therefore, a ban would be simpler to implement from a Staff perspective.

Chairman Clark said she would like to know Councilmember Wilson's thoughts on this (she had to leave after the plastic bags discussion), but it sounds like there is consensus on an outright ban and Councilmember Wilson could send her thoughts to Staff as well.

Councilmember Hickman said he does believe there is a growing trend to utilize shipping containers in commercial developments and Council may want to consider that at some point in the future.

Councilmember Holman asked if a ban would mean they would not be able to use them as storage or for temporary use. Ms. Hudson said that would get around getting it confused with the PODs ordinances. They would need to change the wording to emphasize not using the container as a residential structure.

Chairman Clark said she believes they have come to a consensus on how to move forward with this issue. This should go to a meeting or conference next month if possible.

Items submitted for the record

1. Memo dated December 13, 2018, from Jane Hudson, Planning and Community Development, to Oversight Committee with Exhibit 1, zoning ordinance from Mason, Texas, and Exhibit 2, zoning ordinance from Tioga, Grayson County, Texas

ADJOURNMENT:

The meeting adjourned at 5:19 p.m.

ATTEST:

City Clerk

Mayor