

## CITY COUNCIL CONFERENCE MINUTES

May 28, 2019

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a conference at 5:00 p.m. in the Municipal Building Conference Room on the 28th day of May, 2019, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray and the Norman Public Library at 225 North Webster 24 hours prior to the beginning of the meeting.

**PRESENT:**

Councilmembers Bierman, Carter, Castleberry, Hickman, Holman, Scott, Wilson, Mayor Miller

**ABSENT:**

Councilmember Clark

Item 1, being:

### UPDATE ON THE PROGRESS OF THE MEMORANDUM OF UNDERSTANDING REGARDING THE UNIVERSITY NORTH PARK TAX INCREMENT FINANCE DISTRICT AND ANALYSIS OF SITES FOR NORMAN FORWARD PROJECTS.

Ms. Kathryn Walker, Interim City Attorney, provided a brief overview of the background components of the University North Park Tax Increment Finance (UNPTIF) District previously provided in City Council's study session of May 14, 2019. She also re-emphasized Council's desire to end the TIF early due to declining sales tax revenues to support the General Fund. She reminded Council of ADG's assessment of possible site locations for NORMAN FORWARD projects, some of which are located in UNP, also discussed in the May 14th study session. She said ADG was here tonight to provide a brief overview of the comparisons previously provided and answer any questions Council may have.

Mr. Jason Cotton, Director of Program Management for ADG, Inc., said a preliminary study was conducted in 2013 for the Parks and Recreation Master Plan. The study focused on the need to not only serve residents of Norman, but to also create a "state-of-the-art" facility with the hopes of attracting youth sports competitions from as far away as a four hour drive. Specific needs identified for indoor facilities included four basketball courts, four volleyball courts, and a competitive pool. In 2017, ADG worked to establish a preliminary conceptual building program for the projects that quantified the total physical footprint needed for each proposed facility. The preliminary assessment indicated approximately 38,000 square feet would be needed for the Indoor Aquatic Facility and approximately 70,500 square feet for the Indoor Multi-Sports Facility. The proposed program also included administrative and support spaces. Parking requirements indicated 340 spaces would be needed; however, City Staff suggested 500 to 600 spaces might be necessary in order to support the facilities when they are simultaneously at maximum capacity. As the ability to park, 500 to 600 vehicles may be a somewhat infrequent occurrence, properties

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smaller than this range should still be considered feasible alternatives, which assumes overflow parking can be handled via existing off-street parking areas or other similar facilities.

Mr. Cotton presented a brief overview three proposed sites analyzed for the proposed indoor sport projects as follows:

University North Park (UNP) North Site

This site is located north of Rock Creek Road and consists of 12.3 acres platted in 2014 for Norman Economic Development Coalition (NEDC) economic development projects. The site has water, sewer, road, and stormwater infrastructure in place; however, some of that infrastructure may need to be relocated to accommodate design of the sport facilities. A private drainage easement may also need to be relocated. Rock Creek Road will most likely have to be extended to accommodate entrance into the site.

University North Park (UNP) South Site

This site is located north of Rock Creek Road and consists of 17.9 acres that has not been platted. Water and sewer is available at the site and stormwater drainage is already provided. Rock Creek Road will most likely have to be extended to accommodate entrance into the site. At this time, no infrastructure would need to be relocated.

North Base Site

The North Base site is adjacent to Flood Avenue and consists of 13.5 acres that has not been platted. The City of Norman planned to purchase the land for the site for the sports facilities. There are no water or sewer lines at the site so that is something that will need to be considered and costs determined. Approximately \$1 million or more in road improvements will be needed as well as possible demolition of the existing Optimist Gym (World War II Hangar) that contains asbestos.

Mr. Cotton said a comparative analysis matrix was created to examine each of the sites using the following four categories:

- ❖ Site Considerations (weighting factor x2)
- ❖ Urban Impact (weighting factor x3)
- ❖ Access Considerations (weighting factor x1)
- ❖ Financial Considerations (weighting factor x3)

Mr. Cotton said the UNP North site scored 95 because it has limited design flexibility, additional costs of utility relocations, and no room for expansion. He said the UNP South site scored 131

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because it has design flexibility, potential for use of existing off-street parking overflow, and potential synergy with adjacent hotels, retail, and restaurants. The North Base site scored 84 because there will be additional costs for utility and roadway infrastructure. He said Council has expressed a desire to keep the hangar, which may make the facility design challenging. He said the site is also somewhat isolated from visitor-focused land uses, e.g., lodging, retail, and restaurants. He said ADG recommends the UNP South site because it has the most flexible design opportunities, sufficient room for proposed program and future expansion, possible synergies with adjacent hotels, retail, and restaurants, and has lower site development costs.

Mayor Miller asked if the hangar remains on North Base how many acres would be available for development and Ms. Walker said approximately 12 acres. Ms. Walker said if the hangar remains, it would be challenging to design the facilities.

Councilmember Scott asked if this analysis is a standard approach ADG uses or is it specific to these sites in Norman and Mr. Cotton said ADG uses this type of approach for most projects, but was trying to touch on what could be critical to Norman's projects.

Councilmember Castleberry said there are no dollar amounts included in the analysis and asked how Council can justify choosing a site without financial data. Mr. Cotton said without a site plan or other data it would be hard to determine cost estimates; however, North Base will need additional infrastructure that the UNP sites will not need.

Mr. AJ Kirkpatrick, Director of Urban Planning for ADG, said one of the site considerations is the ability to acquire a site and UNP South scored higher in opportunity costs and meeting all the matrix criteria.

Councilmember Hickman said in regards to site preparation construction costs, have traffic studies been performed on either of the UNP sites? Ms. Walker said not for these particular uses; however, traffic generated from these NORMAN FORWARD projects are not expected to be greater than the commercial development already planned for those sites.

Councilmember Bierman asked how the weighting factors were determined and Mr. Cotton said based on input from City Staff, project budgets, and research of the projects and sites. He said the analysis is more qualitative than quantitative.

Ms. Walker said Council expressed an interest in working with Norman Public Schools (NPS) to determine the budget impact on schools by ending the TIF early. She said the City needs to address remaining authorized projects that includes Legacy Park (Business Improvement District (BID), public art, enhanced landscaping); the Lifestyle Center; economic development; and the use of funds designated for a Cultural Facility for NORMAN FORWARD projects (deciding location, price, and funding); and traffic and roadway improvements. She said approximately \$25 million remains in authorized project costs with \$15 to \$17 million in TIF revenues.

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Councilmember Wilson left the meeting at 5:35 p.m.

Ms. Walker discussed negotiation points for ending the TIF and said the City needs to secure sufficient funding for planned traffic and roadway improvements that consist of the following:

❖ Robinson Street at West I-35 Drive and Crossroads Boulevard	\$1,678,671
❖ Tecumseh Road and Interstate Drive East	\$1,086,723
❖ Tecumseh Road/Flood Avenue/24th Avenue N.W.	\$1,152,237
❖ Tecumseh Road and Interstate Drive West	\$ 650,000
❖ Contingency (10%)	\$ 456,763
TOTAL	\$ 5,024,394

Ms. Walker said the City needs to ensure sufficient funding to fulfill the BID (\$75,000 annually) and Legacy Park surface parking project (\$175,000). Some of the funds contributed to date are wrapped in the \$15 to \$17 million estimated revenues through June 30th. She said proposed public art for Legacy Park in the amount of \$1.5 million will be removed from the Project Plan as well as \$750,000 for enhanced landscaping.

The economic development component has \$3,404,762 remaining in the allocation and is the most complex piece of ending the UNPTIF. She said NEDC purchased 60 acres at a reduced price and part of the negotiations included UNP's repurchase (at cost) and cure rights if the property was not developed or if NEDC defaults. There is also an approval requirement for a qualified user, a user that will bring in quality jobs. She said the Norman Tax Increment Finance Authority (NTIFA) has the right to prepay or purchase the debt. She said Development Agreement No. Six includes an incentive obligation in a maximum amount of \$770,000 to provide incentives for IMMY job growth.

Councilmember Carter asked what the trigger for defaulting on the land would be and Ms. Walker said failure to make payments on the loan or failure to develop the land for economic development jobs within ten years. He asked if the City cosigned the loan and Ms. Walker said the City provided funds for security and interest payments. Councilmember Carter asked if the interest payments have come out of the General Fund (GF) and Ms. Walker said no, it comes out of the UNPTIF Economic Development Fund.

Ms. Walker said another component is the Cultural Facility, which is being renamed in the draft agreement to Recreation Facility. The City will spend an estimated \$22.5 million on an indoor competitive pool and indoor multi-sport facilities with NORMAN FORWARD Funds. She said the facilities will be located on UTC property where 12 acres have been donated in exchange for release of Lifestyle Center penalties and also provides \$2 million to supplement construction of the facilities. She said the impact to NPS funding from the TIF is approximately \$700,000 annually so if the City captures the ad valorem revenues from the assessments from this year to be paid next

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year, that will leave six months of ad valorem that would have been collected had the TIF not ended early. She said \$350,000 is proposed to be set aside to offset anticipated annual contributions by NPS for operation of the indoor aquatic facility.

Councilmember Hickman asked if the \$2 million construction supplement identified for a Cultural Facility will now go towards the two NORMAN FORWARD projects and Ms. Walker said yes.

Councilmember Carter said there seems to be three benchmarks in terms of cost that include site acquisition costs, site improvement costs, and building construction costs; so the \$2 million is for the construction of the two facilities, but theoretically that money could be applied to any of the three locations.

Ms. Walker said there might be some pushback from the developers if the \$2 million is used for construction outside of the UNPTIF. Councilmember Carter asked if total costs are expected to be \$22.5 million plus the \$2 million and Ms. Walker said yes. Councilmember Carter said he applauds Staff's efforts to build an additional \$2 million into the agreement that will allow the City to build these facilities to the public's expectations.

Ms. Walker said like the economic development component, the Town Center (previously known as the Lifestyle Center) component is complicated as well. She said UTC wants assurance they will be able to access these funds in exchange for less available funding. The original allocation for a Lifestyle Center was \$8.25 million, but that is not what the City is proposing. She highlighted criteria that would allow assured access to funds, with Council's approval as follows:

- ❖ Must be in area designated as "Lifestyle Center"
- ❖ Must support a user not already in Norman
- ❖ Retail - \$300 per square foot for stores larger than 10,000 square feet and \$400 per square foot for stores smaller than 10,000 square feet – demonstrated based on past performance in communities with similar developments
- ❖ Entertainment – no sales per square foot requirement – must present an entertainment option unique to Norman
- ❖ Urban design, walkability, and connectivity
- ❖ User must either purchase land or sign a lease of at least three years

If the proposal does not meet these criteria, then a development agreement would be required for Council approval. She said authorization to use Town Center incentive funds expires June 30, 2026.

Councilmember Carter said if the original agreement was \$8.25 million for the Lifestyle Center what is the new agreement amount and Ms. Walker said discussions are still ongoing, but the City is proposing \$4.5 to \$5 million.

Item 1, continued:

Ms. Walker said the MOU automatically terminates on June 30, 2019, unless the parties agree to an extension. Participation in the MOU can be terminated early if any party reasonably determines that further discussion will be fruitless. She said negotiations are ongoing and the parties are not at a point where negotiations would be fruitless. If the entire amendment process cannot be completed by June 30th, the parties are willing to make the amendment and the agreement(s) effective on June 30th.

Councilmember Castleberry asked if the City is allocating any funds from the July sales tax report to the UNPTIF and Mr. Anthony Francisco, Director of Finance, said if Council directs Staff to do that then yes. Councilmember Castleberry said the sales tax increment to the UNPTIF Fund will end and that sales tax will now go into the GF, correct? Ms. Walker said the increment will continue, but once the agreement is signed and approved by all parties the sales tax beginning July 1st will be transferred to the GF. Councilmember Castleberry said he would like to see allocations stop on June 30th.

Councilmember Bierman asked the original price per square foot of the UTC land and Ms. Walker said the agreement was for two acres donated, two acres for \$5.00 per square foot, and an additional eight acres for \$5.50 per square foot. Councilmember Bierman asked the value of the Lifestyle Center penalty and Ms. Walker said approximately \$8 million. Councilmember Bierman said even with the \$2 million construction supplement and NPS funding the developers are still getting a Lifestyle Center at no cost to them.

Ms. Walker said this is the essence of compromise and it is not pretty for everyone as there are issues the City does not like and there are issues the developers do not like. Councilmember Bierman said the developers seem to be getting a great deal and is curious as to what Staff thinks the City's liability is for in a lawsuit. Mr. Walker said the biggest issue is with UTC and the Lifestyle Center because their argument is they were counting on the benefit of that money. She said if the City ended the TIF without an agreement and UTC came forward with a proposal for the full \$8.25 million and the City did not have that money, the City would have to find a way to meet the funding request. Councilmember Bierman felt the City is not getting enough from the proposed amendments and she has never been concerned about the threat of a lawsuit.

Mayor Miller felt negotiations are going well and said it is hard for Staff when Council tells them they want something of this magnitude stopped by a time certain with no excuses, which puts the City in a difficult negotiating position.

Councilmember Scott said Council has stated the south UNP site is acceptable and asked when the City will move forward on developing the NORMAN FORWARD projects. Ms. Walker said Staff has interviews scheduled with design firms in mid-June and once a firm is selected, the design process will move forward. She said the Senior Citizen Center will be located in Reaves Park after senior citizens rejected the UNP site so the Senior Center project can move forward while negotiations for the other UNP site is ongoing.

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Councilmember Hickman said the MOU expires June 30th and asked if Staff is comfortable with the MOU expiring while they continue to negotiate with developers. Ms. Walker said Staff would want a formal extension if possible and she hopes to have a proposal for the Statutory Committee to review within a couple of weeks. Councilmember Hickman said if the City terminates the MOU, directs Staff to finish negotiations, and ends the tax increment collective effective June 30th that has the same net effect, correct? Ms. Walker said the MOU expires automatically June 30th so there would be no need to terminate the MOU. Councilmember Hickman said if there is not an amended Project Plan by June 11th, Council should go ahead and take action to end the tax increment. He said most attorneys have deadlines they meet all the time and he is concerned about this issue dragging out beyond the expiration date. He said the whole point of the MOU was to have deadlines.

Ms. Walker said ending the tax increment as well as negotiations could result in lawsuits and donation of land being taken off the table, but she can prepare something for June 11th and hopefully that will be a Project Plan amendment. If not, she can prepare an ordinance ending the UNPTIF by June 30th if Council so desires.

Items submitted for the record

1. PowerPoint presentation entitled, “UNP Update, City Council Conference” dated May 28, 2019
2. PowerPoint presentation entitled, “Comparative Site Analysis for Indoor Multi-Sport and Indoor Aquatic Facilities,” prepared by ADG, City Council Conference dated May 28, 2019
3. Memorandum dated May 21, 2019, from Jason Cotton, PE, Director of Program Management, and AJ Kirkpatrick, Director of Urban Planning, ADG, to Jud Foster, Director of Parks and Recreation

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Item 2, being:

UPDATE ON THE CLEVELAND AREA RAPID TRANSIT (CART) PUBLIC TRANSIT PROGRAM.

Due to time constraints, this item was postponed to June 4th.

ADJOURNMENT

The meeting adjourned at 6:14 p.m.

ATTEST:

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City Clerk

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Mayor