

CITY COUNCIL SPECIAL SESSION MINUTES

March 13, 2012

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in Special Session at 5:30 p.m. in the Municipal Building Conference Room on the 13th day of March, 2012, 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 Dillingham, Gallagher, Griffith, Kovach, Lockett, Quinn, Mayor Rosenthal
ABSENT:	None
TARDY:	Councilmembers Ezzell and Spaulding

Item 1, being:

PRESENTATION BY MR. J.R. RESKOVAC, CAPITOL DECISIONS, CONCERNING FEDERAL ISSUES RELATED TO NORMAN AND EFFORTS TO ADDRESS FUNDING ISSUES.

Mr. J.R. Reskovic, Capitol Decisions, Inc., (CDL) said he was aware Council had been looking at strategic water updates and reauthorization of the Water Resources Development Act will not occur this year. He said he had been in discussions with Environmental Public Works (EPW) staff and it appears because the EPW Committee has jurisdiction over this and the highway bill and due to timing constraints on both issues, the highway bill was extended until March 31, 2012. He said in the next few months some legislative language would be added to the bill dropping several old projects, some going back to 1992, allowing for a \$10 million flexible authorization to be put on high priority, also allowing the delegation to call the Corps of Engineers to get money moved as quickly as possible. He said this has been a long process and this is the largest expenditure in the state other than the authorization of the Arkansas River Corridor in the Tulsa area. He said the Highway Bill, which is a \$109 billion authorization providing the United States Senate will probably pass \$416 million for the State. He said one of the major roadblocks in the House Bill was a provision that would no longer fund mass transit projects through the Highway Trust Fund. Money for future transit initiatives would have been subject to annual congressional budget fights, like numerous other federal programs battling for shrinking outlays of domestic spending. By working with Committee members, this provision has been changed based upon the negative impact it would have on the CART program and now has at least a two-year funding cycle. Councilmember Kovach said there are a couple of grant applications being held up by the Highway Bill and asked if there were any updates on the progress. Mr. Reskovic said they would move forward once the money is transferred to the Federal Highway Administration.

Mr. Reskovic said CDL continues to work with the Census Bureau to ensure Norman is not included in the Oklahoma City metro designation in order that CART can qualify for operating costs. He said the Census Bureau has indicated that the rules are going to be favorable for areas like Norman and it is anticipated the final rule will be published by March 25, 2012.

Mr. Reskovic said the Lake Thunderbird Efficient Use Act of 2012, House Bill No. 3263, passed the House Committee on February 29, 2012 and the leadership will now determine when it will be scheduled for the House Floor. He said the bill allows for transfer of water into Lake Thunderbird from the Atoka pipeline; however, this would only be during drought conditions. He said Senator Inhofe has a companion bill, Senate Bill 802, which was passed by the Senate Committee and is waiting for consideration. Councilmember Gallagher asked if there was a timetable available for this bill and Mr. Reskovic said it could possibly be done by the August recess.

Mr. Reskovic provided an update about Chromium 6. He said the Environmental Protection Agency (EPA) anticipates the draft assessment for Chromium will be released for public comment and external peer review in the Spring of 2013. He said this was based upon new industry data provided by the Chemistry Council and EPA is now agreeing to look at total data input. He said a website is available to read the comments and he would forward that information to Council. Councilmember Gallagher said other areas are working more diligently and lowering Chromium 6 levels considerably and asked if there had been any word of what levels might be reached. Mr. Reskovic said he had heard nothing as this point but would ask. Mayor Rosenthal said she understood that the data provided by the Chemistry Council based on current regulatory standards suggested there was no link to cancer from drinking water. Mr. Reskovic said that was true. Councilmember Gallagher said he had done quite a bit of research and there was no evidence that shows any elevated risk of cancer from chromium. Mr. Reskovic said the EPA provides data that was not previously available.

Mr. Reskovic said Senate Bill No. 1832, Taxation of Remote Commerce-Marketplace Fairness Act, currently with eleven co-sponsors, allows a new tax in revenue from internet sales which is very important for every municipality. This legislation may be combined with a number of other tax measures when consideration of

major tax reform legislation commences. Councilmember Kovach asked if they were looking at a flat internet tax. Mr. Reskovac said there were two versions, a flat tax and a graduated tax.

Mr. Reskovac said the overall funding for the Community Development Block Grant (CDBG) would be cut again in FYE 2013 by five percent to \$3,143 billion. The CDBG Formula funding would remain the same as was enacted in FYE 2012 at \$2.95 billion, an 11.6% reduction from FYE 2012; however, the Administration proposes funding for the Sustainable Communities Initiative at \$100 million, after no funding for the program in FYE 2012. He said there was a Sustainable Living Initiative Grant that the City of Norman could possibly qualify for that is approximately \$100 million. Councilmember Gallagher asked for more information about this. Mr. Reskovac said the grant requires that residents of the community would live, work, and transit within a one square mile area such as what exists in larger urban areas.

Mr. Reskovac said CDI had also supported the payroll tax bill, which has about \$7 billion in public safety funding with a \$200 million grant competitive grant program to look at communications.

Items submitted for the record

1. PowerPoint presentation dated March 13, 2012

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Item 2, being:

DISCUSSION REGARDING A PROPOSED LEASE AGREEMENT WITH THE PIONEER LIBRARY SYSTEM FOR A WEST SIDE BRANCH LIBRARY.

Ms. Leah Messner, Assistant City Attorney, said the Pioneer Library System is the multi-county library system serving Cleveland, McClain, and Pottawatomie Counties. Currently, the PLS administrative offices for the three county-system are located at Norman Public Library (Main Library) at 225 North Webster Avenue. She said because of space constraints, PLS purchased the former Borders Bookstore building at 300 North Center Court Drive. PLS is relocating all of the administrative offices to this new location. She said PLS has approached the City of Norman about potentially opening and operating a West Side Branch Library (West Side Branch) at this location.

Ms. Messner said the City of Norman and PLS entered into a contract in July 1962, for operation of the Main Library. She said the conditions are that PLS utilizes the Main Library as the headquarters library for the library system and provides a library staff, book stock, and other materials and the City of Norman provides the library building, adequate heating, lighting, air conditioning, janitorial services, and utilities. She said the agreement was for an initial term of one year, which renews automatically for successive one-year terms (ongoing for 50 years).

She said the proposed lease agreement for the West Side Branch would lease to the City up to 7,000 square feet within the former Borders building for use as a branch library for up to twenty (20) years. She said PLS is in the process of finalizing construction plans to determine the exact square footage for the West Side Branch but it would not exceed 7,000 square feet. The City would pay an annual lease rate of \$9 per square foot broken down by \$7 for the initial lease with an additional \$2 a square foot to be used to pay for maintenance and custodial services. She said the total base lease rate would be \$63,000 annually. She said in addition to the base rent, the City would pay for design services, improvements, furnishings, and fixtures to equip the West Side Branch in an amount not-to-exceed \$500,000. PLS has agreed to initially fund this amount but the lease would require the City to pay back the amount of the improvements amortized over a ten-year term with 5% annual interest. The lease also includes a 10% rent increase after the first five years of the lease and at each subsequent five-year interval. She clarified that this 10% rent increase applies to the \$9 base rent fee and not to the \$500,000 in amortized improvements.

Councilmember Kovach asked if there was a maintenance failure that exceeded the amount stipulated for the maintenance costs, who would be responsible. Ms. Messner said PLS is saying that if the City pays them \$2 per square for the maintenance, they would be responsible for all of the maintenance.

Ms. Messner provided a chart tracking the annual lease payments for each year of the twenty-year lease. She said this chart includes the maximum payment that could be paid to PLS and \$500,000 to be amortized for ten years. She said these figures could be different depending on the amount of actual square footage and ten year amortized amount.

Ms. Messner said a project team will be created comprised of an architect engaged by PLS, two members designated by the Director of PLS, and two members designated by the City Manager to manage the design, construction, and installation of the branch library. She said if the City terminates the lease prior to repayment

of the \$500,000 in design, fixtures, and furnishings, the City will still be required to pay the remaining portion of these costs upon termination. She said the lease allocates responsibility for maintenance, utilities, and insurance. PLS assumes all responsibility for maintenance and repair. She said the City of Norman is responsible for its pro rata share of the utilities and insurance premiums. PLS has expressed a desire to separately meter the West Side Branch, where possible, in order to have a better number of what the pro-rata share of the utilities would be.

Mayor Rosenthal asked what the current market rates are for commercial rentals on the west side of town. Councilmember Ezzell said rentals are as high as \$20 per square foot and \$15 was typical and this was a very favorable lease rate.

Councilmember Gallagher asked what PLS paid per square foot for the present library. Ms. Messner said the City provides the building and pays for all expenses except PLS pays for the phone line, inventory of books, and staff and resources in the building. Councilmember Lockett asked if all libraries were taken care of this way and Ms. Messner said all PLS facilities were. Councilmember Lockett asked if the City got a break for taking care of the present facility. Mr. Bryant said the leases are considered separate for each location and the proposed lease for the West Side Branch is owned by PLS where the Main Library is owned by the City. Councilmember Gallagher asked why interest would be included in the rental payment since the City is not loaning PLS money but making a flat rental payment. Mr. Bryant said the interest is only on the \$500,000 because PLS is loaning this money to the City and the City is paying the loan back over a 10-year period. Councilmember Kovach said this is customary for commercial property. Councilmember Gallagher asked if PLS paid for utilities now and Ms. Messner said no. He asked this is a big change for the City and questioned the design and the \$500,000 charge. Ms. Lisa Wells, PLS, said for the last 50 years, PLS has been using the administrative side of the Norman library which includes approximately 4,500 square feet and providing the phone system. The public service side of the library, contains approximately 55,000 square feet and according to policies and the same agreement held with other communities with a branch library, PLS supplies the books, technology, materials, and staffing, and the cities are responsible for the maintenance, facilities, custodial services, furniture, fixtures, and all upgrades. Ms. Becky Patten, PLS Attorney, said in this case, PLS has approached the City to suggest that Norman could meet its obligation under the policy for providing the building by using some of the space in the building that PLS owns and it has been structured through the proposed lease arrangement. She said instead of Norman going out and buying property or building a new building for the library to provide services in, Norman is renting that space from PLS through this lease agreement. Mayor Rosenthal said it was important to note that this arrangement is consistent to what is already being done at all the other PLS branch libraries. She said when the City was looking at branch libraries they were looking at an approximate cost of \$4 million to purchase land and construct a building. Councilmember Kovach pointed out that the City is saving a \$4 million expenditure plus the costs for ongoing maintenance of the building. He said we are getting half market rate and in most commercial leases, the person leasing space is responsible for all of the maintenance. He said this is a great deal. Councilmember Ezzell said PLS has had a very good deal for a long period of time and PLS is in turn offering the City a very good deal. He said there was no way to correlate the equality of value because there is a span of different decades and timeframes. Councilmember Gallagher asked if the \$500,000 takes into consideration all remodeling costs or is PLS paying an equal share. Ms. Patten said the \$500,000 not only includes all of the design but all of the furniture, fixtures, and equipment. She said there will be a maximum cost of \$500,000 to furnish a maximum library space of 7,000 square feet, so if the square footage is less, the fees will come down.

Mayor Rosenthal asked what was envisioned in terms of where the library space would be located within the West Side Branch. Ms. Wells said PLS was working with an architectural firm to determine the exact amount of space needed for the administrative offices. She said the library section would be located in the area near the restrooms, adjacent to the coffee shop and through the main front entrance and the administrative offices would be in the back of the building. Councilmember Gallagher asked if they planned on operating the coffee shop and Ms. Wells said they planned on leasing out the coffee shop and it would be open to the public.

Councilmember Lockett said she is not convinced about the future of libraries and would like to see utilization rates for the last ten years. She said she is disappointed that the City is doing this before a branch is done on the east side of Norman. She said it is her understanding that the small branch inside B&B Country Store keeps fairly busy and people travel as far as 15 miles to get to the Main Library. She said Norman has so many large projects coming up and money needs to be spent carefully. She said she is happy that the City is doing this type of lease instead building a building. Mayor Rosenthal said there are approximately 44,000 visitors to the library every month and this has been increasing over the last few years. Councilmember Kovach said he appreciates Councilmember Lockett's comments about the East Side Branch and that is why he is supporting this opportunity because this should speed up the process of getting another branch and an East Side Branch cannot be built at this time because Fire Station Nine needed to be constructed first.

Councilmember Gallagher asked if there was information about returns on the West Side book drop and Ms. Wells said she does not have the statistics available but will get that information to Council.

Councilmember Gallagher asked if the West Side Branch will reduce the number of visitors to the Main Library and Ms. Wells said, in other locations they have not seen that happen and that more people are applying for library cards because there is a new location. She said door count at the Main Library could possibly be reduced by 4,000 by opening the West Side Branch; however, she did not expect that to happen. Councilmember Ezzell said it is important to remember that no one made a conscious decision to establish a West Side Branch first; the building had been vacated and the opportunity presented itself. Councilmember Lockett asked if west side residents could order books from the Main library and have them delivered to the West Side Branch and Ms. Wells said yes. Ms. Lynne Miller, PLS Board Member, said she lived on the east side so she understood Councilmember Lockett's concern. She said the purchase of the building was a wonderful opportunity for the citizens and the City and with the purchase of the West Side Branch she thought citizens would get excited about building a new Main Library. Councilmember Lockett said she had talked to many that were unhappy about this proposal but also many parents who were excited about a safe place to take their children.

Mayor Rosenthal asked for a timeline of the project and when the lease begins. Ms. Patten said the lease begins when a certificate of occupancy is issued by the City and this probably would not occur during this fiscal year. Mayor Rosenthal said it was the consensus of Council to bring this lease forward.

Councilmember Spaulding said the City also needs to start looking at an east side location closer to the Little Axe area. Councilmember Gallagher said there is a book drop in the Little Axe area but it is outside and should be covered. Mayor Rosenthal asked PLS Staff to look at what kinds of services could be provided to these residents. Ms. Wells said PLS is already providing services at the Little Axe Community Center. She said there is an information section and a weekly delivery, books can be put on hold, and regular programming is available for both seniors and children. She said she would be happy to hear other ideas and other things PLS can do at Little Axe and the book drop could be moved to a covered location.

Items submitted for the record

1. Memorandum dated March 8, 2012, from Leah Messner, Assistant City Attorney, through Jeff Bryant, City Attorney, to Honorable Mayor and Councilmembers
2. Lease Agreement by and between the Pioneer Library System and the City of Norman
3. PowerPoint presentation dated March 13, 2012, entitled "Proposed Lease with PLS for West Side Library Branch"
4. Photographs of new West Side Branch building
5. Photographs of existing branch locations throughout the United States

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Item 3, being:

CONSIDERATION OF ADJOURNING INTO AN EXECUTIVE SESSION AS AUTHORIZED BY OKLAHOMA STATUTES TITLE 25 § 307(B)(4) IN ORDER TO DISCUSS RICK BLALOCK VS. THE CITY OF NORMAN, WORKERS' COMPENSATION COURT CASE NO. WCC-2009-01174A.

Councilmember Quinn moved that the Special Session be adjourned out of and an Executive Session be convened into as authorized by Oklahoma Statutes Title 25 § 307(B)(4) in order to discuss Rick Blalock vs. the City of Norman, Workers' Compensation Court Case No. WCC-2009-01174A, which motion was duly seconded by Councilmember Griffith; and the question being upon adjourning out of the Special Session and convening into an Executive Session as authorized by Oklahoma Statutes Title 25 § 307(B)(4) in order to discuss Rick Blalock vs. the City of Norman, Workers' Compensation Court Case No. WCC-2009-01174A, a vote was taken with the following result:

YEAS: Councilmembers Dillingham, Ezzell, Gallagher, Griffith, Kovach, Lockett, Spaulding, Quinn, Mayor Rosenthal

NAYES: None

The Mayor declared the motion carried and the Special Session adjourned out of; and an Executive Session was convened into as authorized by Oklahoma Statutes Title 25 § 307(B)(4) in order to discuss Rick Blalock vs. the City of Norman, Workers' Compensation Court Case No. WCC-2009-01174A.

The City Council adjourned into Executive Session at 5:59 p.m. Mr. Steve Lewis, City Manager; Mr. Jeff Bryant, City Attorney; and Ms. Jeanne Snider, Assistant City Attorney, were in attendance at the Executive Session.

Mayor Rosenthal acknowledged return to Open Session.

Thereupon, Councilmember Quinn moved that the Special Session be reconvened, which motion was duly seconded by Councilmember Griffith; and the question being upon reconvening the Special Session, a vote was taken with the following result:

YEAS: Councilmembers Dillingham, Ezzell, Gallagher,  
Griffith, Kovach, Lockett, Spaulding, Quinn,  
Mayor Rosenthal

NAYES: None

The Mayor declared the motion carried and the Special Session was reconvened at 6:25 p.m.

The Mayor said Rick Blalock vs. the City of Norman, Workers' Compensation Court Case No. WCC-2009-01174A, was discussed in Executive Session. No action was taken and no votes were cast.

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#### ADJOURNMENT

There being no further business, Councilmember Dillingham moved that the meeting be adjourned, which motion was duly seconded by Councilmember Kovach; and the question being upon adjournment of the meeting, a vote was taken with the following result:

YEAS: Councilmembers Dillingham, Ezzell, Gallagher,  
Griffith, Kovach, Lockett, Spaulding, Quinn,  
Mayor Rosenthal

NAYES: None

The Mayor declared the motion carried and the meeting was adjourned at 6:26 p.m.

ATTEST:

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City Clerk

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Mayor