

CITY COUNCIL CONFERENCE MINUTES

June 12, 2012

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a conference at 5:30 p.m. in the Municipal Building Conference Room on the 12th day of June, 2012, and notice and agenda of the meeting were posted at 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, Ezzell, Gallagher, Griffith, Kovach, Lockett, Quinn, Spaulding, Mayor Rosenthal

ABSENT: None

Item 1, being:

DISCUSSION REGARDING IMPROVEMENTS FOR THE SOUTH SIDE WATER RECLAMATION FACILITY, ESTABLISHING A CAPITAL PROJECT FOR THE NORTH SIDE WATER RECLAMATION FACILITY IN FYE 2013 CAPITAL BUDGET, AND ASSOCIATED FUNDING SOURCES FOR BOTH PROJECTS.

Mr. Jeff Bryant, City Attorney, said information was distributed to Council regarding discussions between City Staff and representatives of the Norman Developer's Council (NDC) and the Builders' Association for South Central Oklahoma (BASCO) regarding their desire that the Norman Utilities Authority (NUA) and Council recommit to the North Plant prior to treatment capacity expansion in the South Plant. In addition, the NDC and BASCO are willing to support moving forward with expansion in the South Plant to be accomplished along with the regulatory improvements and major required maintenance items as long as a budgetary commitment of at least \$5,875,175 in Sewer Sales Tax (SST) funds are redirected to a North Plant Project.

Mr. Bryant said the request was originally to set aside \$8.5 million of accumulated excise tax for the North Plant Project and later shifted to \$8.17 million of SST revenues referenced in the 2003 ballot language. He said because the SST funds were budgeted in 2012 for projects that address "current obligations" at locations other than the South Plant, primarily Bishop Creek Interceptor and Tecumseh Interceptor improvements, only \$5,875,175 of SST are recommended for allocation to a North Plant Project in the FYE13 Budget should that be Council's desire. Mr. Bryant said the Bishop Creek Interceptor Project may be \$200,000 under projection and if so, that additional savings of SST funds would follow the Council's direction for allocation of SST funds to either the North Plant or the South Plant Projects, making the total SST allocation closer to the \$6 million of SST funds that have been discussed by NDC and BASCO.

Mr. Bryant said this discussion is a companion item to Council's consideration of the proposed Amendment No. One to Contract K-1011-148 with Garver, L.L.C. (Garver) and will also be an item on Council's agenda later this evening. The contract will authorize Garver to proceed with the final design and bidding phases of the Phase 2 Water Reclamation Facility (WRF) Improvements (South Plant) as well as envisions adding a construction inspection phase and operational phase services by a future contract amendment, if deemed appropriate by the NUA.

The proposed scope of work and its associated cost with Garver for engineering services fee is fixed at \$3,687,000 or approximately 8.4% of the estimated construction cost, and assumes final design and bidding of all the improvements in two construction phases. Mr. Bryant said the appropriations to the FYE12 Budget to fund this contract amendment are tied to whether Council intends to budget SST funds for the North Plant project in FYE13. He highlighted the following options:

Option 1:

If Council does not intent to budget \$5,875,175 toward the North Plant Project in FYE13, then there are funds available in the FYE12 Budget to provide partial funding for the contract amendment and in addition, a supplement appropriation will be needed. The allocation of the revenue source funding for Amendment No. One to Contract No. K-1011-148 would be as follows: 34.4% by the Wastewater Fund (WWF) - \$1,268,300; 40.7% by the Sewer Excise Tax (SET) - \$1,500,600; 24.9% by the SST - \$ 918,100, for a total of \$3,687,000. To accomplish this funding

allocation in FYE12, the supplemental appropriation for the South Plant Improvements would be as follows: from WWF Balance - \$1,268,300 to Phase 2 South WRF Improvements WWF Design to be added to the following balances in the FYE12 budgets: SET Design - \$1,641,720, and SST Design - \$1,934,480, for a total of \$4,844,500.

While these allocations in the FYE12 Budget will be more than necessary for the contract amendment, the appropriation request from WWF was calculated to achieve the above described allocation of revenue source funding and the currently proposed FYE13 Budget reallocates excess SET and SST funds to other project components. With the proposed appropriation, these allocations would be adequate to fund the proposed Amendment No. One to Contract No. K-1011-148.

The current FYE13 South WRF Improvements Phase 2 Capital Budget is predicated on these appropriations being approved in FYE12. In the currently proposed FYE13 Budget, unencumbered design funds for the South WRF Improvements Phase 2 include: WWF Fund - \$1,660,172, SET Fund \$1,823,071, and SST Fund - \$1,201,637. If it is assumed that the South Plant improvements, including capacity expansion, should be completed without an intention to budget \$5,875,175 to further the North Plant Project, then no budget amendment to FYE13 will be needed.

Option 2:

If the NUA does intend to direct a change to its budget to provide \$5,875,175 of SST funds toward the North Plant Project in FYE13, then the SST funding originally planned for Amendment No. One to K-1011-148 will be replaced with WWF funds to provide a funding allocation for the final design and bidding phase as follows: 59.3% by the WWF - \$2,186,400, and 40.7% by the SET - \$1,500,600, for a total of \$3,687,000. To accomplish this funding allocation in FYE12, the supplemental appropriation for the South Plant Project improvements would be as follows: \$2,186,400 from Wastewater Fund Balance to Phase 2 South WRF Improvements WWF Design, and added to the SET balance currently at \$1,641,720 in the FYE12 Budget SET Design, for a total of \$3,828,120. These funds would be adequate to fund proposed Amendment No. One to Contract No. K-1011-148.

Should Council desire to move forward with Option 2, then the currently proposed FYE13 Budget would need to be amended to reflect the following changes:

South WRF Improvements Phase 2 (Project No. WW0065):

<u>Account Number</u>	<u>Amended Amount</u>
032-9048-432.62-01 WWF (Design)	\$ 2,861,809.00
323-9048-432.62-01 SST (Design)	\$ 0.00
032-9048-432.61-01 WWF (Construction)	\$ 9,733,969.00
032-9048-432.61-01 SST (Construction)	\$ 0.00

Mr. Bryant said construction cost for a North WRF is estimated to cost \$85 to \$95 million and will require future rate increases. A rate increase to customers is based on \$31.1 million 17 year bond resulting in an approximate 26% rate increase (\$5.12 per month on average bill) and accomplishes regulatory improvements, major required maintenance, odor control, and five (5) MGD additional capacity. Councilmember Kovach asked why it would be a 17 year bond instead of a 20 year bond and Mr. Bryant said the bond term can be set at 15, 17, or 20 years depending on what Council desires stating the shorter the term, the quicker the debt is paid and therefore the funds can be used for additional improvements for the North Plant when the time comes. Mayor Rosenthal asked what the rate increase would be with all of the SST included in the funding and Mr. Bryant said it would be about a four to five percent difference; therefore the rate increase would be approximately 21% to 22%.

North WRF Engineering Report (Project No. WW0204):

Rename as "North Water Reclamation Facility"

<u>Account Number</u>	<u>Amended Amount</u>
323-9049-432.62-01 SST (Design)	\$ 5,875,157.00

Councilmember Gallagher asked Staff the estimated rate increase and timeline would be and Mr. Bryant said for example, if the North Plant is built in 20 years the additional bonding capacity for the South Plant improvements will be freed up thus making the rate increase less, however if the North Plant is built in five (5) years the bonding capacity for the South Plant improvements would still be tied up thus making the rate increases higher. Councilmember Dillingham said Council could also consider not only rate increases but other funding mechanism as well and Mr. Bryant agreed, stating an excise tax increase is one example. He said the cost will also depend on ODEQ regulations that will allow the City to have indirect effluent discharge into the water system. Currently Oklahoma does not have regulations regarding indirect effluent discharge into the water system but there has been some steps made this year with Legislature to move into that direction.

Mr. Bryant said in addition to the establishment of a North Plant project in the FYE13 Budget, NDC and BASCO both requested NUA acknowledge and commit to the timeline that is included in the materials. He said a timeline was developed by City Staff from regulations concerning engineering reports (ER) from the Oklahoma Department of Environmental Quality (ODEQ) as well as the ER/EID checklist that ODEQ and Oklahoma Water Resource Board (OWRB) require when State Revolving Fund (SRF) financing is requested. For discharging wastewater treatment facilities, the process generally requires:

- Preparation and submission of the ER and ODEQ Review including approval of the ER is a six to twelve month process, possibly longer since an EID is required by the OWRB for a new site.
- A Total Maximum Daily Load (TMDL) study is required since a new facility discharge is currently not allowed in the approved 208 Plan which is an 18 to 24 month process.
- A Submission of an Application to Discharge is a six to nine month process but can be partially concurrent with the TMDL and will allow opportunity for a public hearing.
- Preparation and submission of Plans and Specifications for the approved discharge point and ODEQ approval is a 12 to 24 month process
- Bid and Award Project – 90 to 120 days
- Construction Period – 24 to 36 months

It will take approximately three to five years to complete the plan and design process and another two and one-half (2 ½) to three and one-half (3 ½) years to bid and construct the Plant, thus making the total time period for the process to be five and one-half (5 ½) to eight and one-half (8 ½) years.

The NDC supports Option 2 and requested the four (4) following points be included as a matter of record in a budget allocation action to include:

1. Commitment to a North Side Wastewater Treatment Plant (North WRF), identifying the remaining temporary SST monies (at least \$6 million) in the FYE13 Budget for the North WRF Project;
2. City to contract for preparation of the Engineering Report for the proposed North WRF with a full build-out average daily design flow of 4.5 MGD; funding to be included in FYE13 North WRF Budget using temporary SST revenues;
3. Continue efforts to encourage ODEQ regulations for “intentional [in]direct potable water reuse” and continue to work with the Oklahoma State Legislature toward the development of ODEQ reuse regulations; and
4. Ensure a timely construction of WRF by closing monitoring wastewater flows at Lift Station D by preparing monthly reports comparing the Average Daily Flow (ADF) for the previous 12 consecutive months, and moving forward with the TMDL for the North WRF, which will in no event be later than when flows reach 2.75 MGD (12 month running annual ADF) at Lift Station D.

Mr. Bryant said Staff worked with NDC and BASCO to find a way to recommit to both components of the previously adopted 2001 Wastewater Master Plan, i.e., adding capacity at a new North Plant and expansion of capacity at the South Plant that is responsive to the need for South Plant capacity expansion, provides a revenue source for moving the North Plant forward while being sensitive to the debate concerning whether the remaining temporary Sewer Sales Tax (SST) funds should be expended on the North Plant project as indicated in campaign materials during the 2003 citizen vote.

It will ultimately be the NUA/Council's decision how to fund the South Plant Improvements and Expansion Project, and whether or not to set aside SST funds for the North Plant. No budget amendment will be needed should the NUA/Council decide not to re-direct SST funds for the North Plant Project. If Council decides to honor NDC and BASCO's request to re-direct SST funds for the North Plant project, then a motion to address Option 2 will need to be made.

Mayor Rosenthal asked what the capacity will be at the South Plant in eight to 10 years and Mr. Mark Daniels, Utilities Engineer, said the capacity is estimated to be about 13 to 14 million gallons per day (MGD). Councilmember Ezzell asked how Garver would pursue and move the final design of a WRF when the regulations regarding what can and can not be done with effluent discharge has not been determined and Mr. Bryant said that particular work would not be tied to the current contract with Garver (K-1011-148), which only address the WRF Improvements at the South Plant. He said Council would consider a new and separate contract for the North Plant when it is decided whether the City will discharge treated effluent west to Canadian River or directly into the Little River.

Mr. Bryant distributed three *versions* relating to the North WRF Capital Project worksheet (page 66 of the FYE 2013 Capital Budget - 2001 Wastewater Master Plan, North and South Plant Commitments) and said if Council accepted one of the versions; it will be amended before being added to the FYE 2013 Capital Budget. He said the following proposed language is in all versions but can be added and/or amended as Council desires in the Status and Comments Section of Project No. WW0204:

*However, this CIP assumes all nonobligated SST funding (\$5,792,157) from the Phase 2 South WRF Improvements (WW0065) is transferred into this project, and when added to \$83,000 rolled over from the FYE12 Budget totals \$5,875,157. Projected expenditures, depending on progress with the timeline, are anticipated as follows: FYE13 \$83,000 (ER); FYE14/15 \$1.5 million (TMDL); FYE16/17 \$4,292,157, **supplemented with SET, to fund design contract estimated at 7% of construction costs. ***Construction cost to be funded with SET and water reclamation utility rate fees, as appropriate.*

Mr. Bryant said after discussions between Staff and Council, it was determined that most of the budget document language seems to be acceptable, but there was a disagreement about the line item regarding the expenditure schedule for account 323-9049-432.62-01 SST Design Funding that was to be included in the adopted FYE 2013 Budget. He said there was some concern that showing the \$5,875,157, even with the attached (above) comment, would be misleading because it looked as though the full SST monies was being appropriated and spent in full in the FYE 2013 Budget, which is not the case, since only \$83,000 was to be spent. Mr. Bryant said Council can consider the following three *versions* which modify the line item regarding expenditure schedule for account 323-9049-432-62.01 (SST Design) as follows:

- Version 1: Show \$83,000 in the Adopted FYE 2013, \$1,500,000 in the Projected FYE 2014, and \$4,292,157 in the Projected FYE 2016; or
- Version 2: Show \$5,875,157 in the Adopted FYE 2013, \$1,500,000 in the Projected FYE 2014, and \$4,292,157 in the Projected FYE 2015; or
- Version 3: Show both \$5,875,167 and [\$83,000] in the Adopted FYE 2013, [\$1,500,000] in the Projected FYE 2014, and [\$4,292,157] in the Projected FYE 2016 Budget.

Councilmember Ezzell asked Staff asked for clarification regarding recent discussions whether all parties agreed the FYE13 expenditure is \$83,000 and Mr. Bryant said yes. He said he is trying to understand the nature of the concern because if the \$83,000 expenditure is shown as adopted in the FYE13 Budget, any part of the expenditure that is not fully spent in FYE13 will still be available in the FYE14 Budget. Mr. Bryant said Capital Improvement Budgets are non-fiscal in that they can roll from year to year; however, it would take Council action to make changes or reallocate a particular expenditure.

Councilmember Kovach asked whether expenditures have been appropriated from the SST in the past, but were not actually spent and Mr. Bryant said yes. Mr. Bryant said an example is the Bishop Creek Project which is currently still in the budget and has allocations from both SST and SET funds. Councilmember Dillingham felt everyone is in agreement and understands that the \$5.8 million will not be spent on the North Plant Project in FYE13 and Version 2 with the comment/explanation is clear. Mayor Rosenthal said she is concerned with showing the entire \$5.8 million as being appropriated in the FYE13 Budget when it will not be spent in FYE13 and felt doing so would be misleading to the general public. She said the City needs to be sincere about the appropriations on the budget sheets because even with the projected and very optimistic timeline/schedule, all the \$5.8 million SST funds should not be shown in the FYE13 Budget because it will raise expectations and questions as to *why* the \$5.8 million was not spent in FYE13.

Councilmember Dillingham felt like the City should be earning interest on monies not being spent and Councilmember Ezzell asked if Council could choose to not accept Option 1 or Option 2, but instead leave the SST in the Fund 23 balance. Mr. Bryant clarified that the \$5.8 is currently included and identified in the budget, but the question is whether it is appropriated for expenditure. He said the issue is whether or not to appropriate the full \$5.8 million SST funds to be spent on the North Plant Project or appropriate only \$83,000 with a Version 1, 2, or 3 “comment” which basically states “even though only \$83,000 is being appropriated in the FYE13 Budget, the intention is to spend the remainder of the SST funds on the North Plant Project in FYE14 and FYE 16.” Mr. Anthony Francisco, Finance Director, said Council could adopt an ordinance designating the SST funds in Fund 23 for current needs that are identified in the ordinance at the North Plant Project. Councilmember Ezzell wondered if Council could defer the decision, leaving the SST funds in Fund 23 to a time more appropriate. Mr. Francisco said financially that can not be done. Mayor Rosenthal said that would be a good alternative since the City will not be spending the full \$5.8 million SST funds in FYE13 and Councilmember Kovach asked if this action could be done by ordinance or resolution.

Mr. Francisco suggested streamlining a requirement on the Fund 23 Balance located on page 69 of the FYE13 Budget and amend the budget to take the South Plant Project out so that no project is funded from the SST. Councilmember Ezzell said the South Plant Project would only be cancelled to the extent of the \$5.8 million in Fund 23 and Mr. Francisco said yes, to the extent that the South Plant Project would be supplemented by rate increases. Mayor Rosenthal said how to fully fund the South Plant Project is not an item on tonight’s Council agenda and the only issue before Council tonight is the Garver contract amendment. She felt the question of how to fund the South Plant Project, i.e., possible rate increase, etc., would be considered by Council in six to nine months. Councilmember Dillingham asked if Council decided not to appropriate the \$5.8 million would it have any affect on the Garver contract amendment and Mr. Bryant said no, because the contract amendment is merely appropriating monies from the Wastewater Fund (WWF) Balance. He said the question is how much will be appropriated from the WWF; either \$1,268,300 with SST funding or \$2,186,400 without the SST which is a difference of \$918,100 (of SST funds) that would go into the FYE13 Budget if Council establishes the North Plant Project.

Councilmember Kovach asked whether Version 2, along with a resolution setting aside the remaining monies would be an option and Staff said yes. Mr. Bryant said what can be accomplished with the budget sheet and resolution is additional guidance from Council for Staff of how to proceed in the future on the \$5.8 million, recognizing that \$83,000 is all that will be spent for the engineering report in FYE13. He said the *Status and Comments* on the budget sheet give that additional guidance to Staff and the issue is whether or not Council will appropriate the entire amount or only \$83,000. Councilmember Dillingham asked if Version 1 was chosen appropriating only \$83,000, Council could designate at a later time what to do with the Fund 23 balance by resolution and Mr. Bryant said yes. Councilmember Kovach asked if a timeline would need to be given in the resolution and Councilmember Dillingham suggested by the last meeting in June 2013, if that is the Council’s desire.

Councilmember Dillingham felt Option 2 for the Garver contract amendment and Version 1 for the annual budget sheet along with a resolution would accomplish both issues. Mr. Bryant said the City Manager suggested amending the reserve lines, i.e., operations, capital, deficit, or surplus, etc., on page 69 of the budget (Sewer Sales Tax Capital Fund Summary) to reflect funds as a reserve for the North Plant, stating "for the remaining \$5,875,157 less \$83,000 for North Plant." Councilmember Kovach said he liked this idea because the monies will stay un-appropriated and will get reserved for the North Plant. Mr. Steve Lewis, City Manager, asked Mr. Francisco to comment on any caveat/stipulations to this proposal and Mr. Francisco said that can certainly be done. Mr. Francisco said any funds in the SST fund are by language of the enabling ordinance reserved for only sewer capital needs and to be more specific an amendment to the reserve line on page 69 of the budget would be suitable.

Mr. Bryant said Council will consider two agenda items on tonight's City Council agenda: the Garver contract amendment moving the South Plant Project forward with a choice of two options, i.e., whether or not SST funds will be used, and the adoption of the FYE13 Budget. He said if a North Plant Project is established in the FYE13 Budget with the intention to use the remaining available/un-obligated SST funds (\$5,875,157); Council can consider Versions 1, 2, or 3 which modifies the expenditure for account 323-9049-432-62.01 (SST Design). Council discussed and Mr. Bryant asked for confirmation as to Council guidance to Staff as follows: Option 2 for the Garver contract amendment and Version 1, along with amending page 69 of the budget, *SST Capital Fund Summary*, by adding the reserve note stating the remaining \$5,875,157, less \$83,000, is to be designated for North Plant Project current needs as identified in ordinance and Council agreed.

Items submitted for the record

1. Memorandum dated June 8, 2012, from Mr. Jeff Harley Bryant, City Attorney/General Counsel, to Honorable Trustees of the Norman Utilities Authority, with attached Wastewater Master Plan Options/Potential Budget Amendments
2. Memorandum dated May 31, 2012, from Mr. Jeff Harley Bryant, City Attorney, to Honorable Mayor and Councilmembers, with attachments, letter dated May 22, 2012, from Mr. Harold Heiple, Attorney representing the Norman Developers Council, to City of Norman, c/o City Attorney, Future Expansion of Wastewater Discussion dated May 16, 2012, Use of Temporary Sales Tax Funds, City of Norman WWMP Interceptor Project Status dated April 9, 2012, Timeline for Design and Construction of the North Plant, and Projected Funding for the Future North Plant
3. Amendment No. One to Contract No. K-1011-148
4. PowerPoint presentation entitled, "2001 Wastewater Master Plan, North and South Plant Commitments," Council Conference, June 12, 2012
5. Proposed Versions 1, 2, and 3, regarding Page 66 of the FYE 2013 Annual Budget, 2001 Wastewater Master Plan, North and South Plant Commitments

The meeting adjourned at 6:24 p.m.

ATTEST:

City Clerk

Mayor