CITY COUNCIL STUDY SESSION

January 27, 2014

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a study session at 5:30 p.m. in the Municipal Building Council Chambers on the 27th day of January, 2014, 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 Castleberry, Griffith, Heiple, Holman, Jungman, Kovach, Miller, Williams, Mayor Rosenthal
ABSENT:	None

Item 1, being:

CONTINUED DISCUSSION REGARDING RENEWAL OF THE PUBLIC SAFETY SALES TAX INCLUDING THE PROPOSED ORDINANCE CALLING FOR THE SPECIAL ELECTION.

Mayor Rosenthal said after continued public input and Council discussion, two versions of the Public Safety Sales Tax (PSST) renewal ordinance have been drafted. She said there is consensus among Council regarding a number of the proposals for the renewal such as retaining 71 public safety personnel; adding 13 School Resource Officers (SRO's); adding four emergency communication officers; and adding two emergency vehicle mechanics. She said the Public Safety Sales Tax Oversight Committee (PSOC) voted four (4) to two (2) to retain the temporary tax with one abstention; six (6) to one (1) for a ten year tax if tax was temporary; four (4) to three (3) for an April election; and was unanimous in supporting 1/2%; the SRO Program; the additional personnel; and the capital projects. She said the PSOC asked that language be added to the ordinance stating the SRO Program will be jointly funded by Norman Public Schools and PSOC will continue to review expenditures and provide recommendations on other public safety issues that may arise in the future.

Mayor Rosenthal said there has been support for a permanent tax in the public meeting, which has been incorporated into both proposals being discussed tonight.

Mr. Jeff Bryant, City Attorney, highlighted the two proposals as follows:

- Version#1 proposes a permanent 1/2% sales tax deposited into the PSST Fund until all capital projects are satisfied <u>then</u> 3/8% will be deposited into the General Fund (GF) and 1/8% into the Capital Fund (CF)
- Version #2 proposes a 3/8% permanent tax deposited to the General Fund and a 1/8% temporary tax to the Capital Fund for ten years.

Mr. Bryant said Version #1 proposes public safety personnel positions will be funded for ten years and a GF subsidy will have to take place at some point after the 1/8% goes to CF and all capital projects will be completed. In Version #2 public safety personnel would be funded through year two year then a GF subsidy would be needed and capital projects would only be completed to the extent feasible through year ten since that portion is temporary. Version #1 includes transfers to the Rainy Day Fund and 9-1-1 contributions and Version #2 does not.

Councilmember Kovach said the language in Version #1 that states the PSOC will "review revenues collected to ensure funds are being expended for the purposes specified in the ordinance ***<u>and</u>*** may review and make recommendations on such other issues related to public safety as may be assigned by Council" needs to be incorporated into Version #2. Mr. Bryant said Staff will do that.

Councilmember Williams said in previous discussions, assumptions were made that all capital projects would be completed and asked how that had changed to the extent feasible in ten years. Mr. Anthony Francisco, Finance Director, said in Version #1, a permanent tax would allow all capital projects to be completed before public safety funds are deposited into the GF, but in Version #2, capital projects would be completed if funds are available throughout a ten year temporary tax period.

Councilmember Castleberry said in Version #1, 1/8% will be diverted to CF and asked if those funds will be used specifically for public safety capital projects or if they can be used for any capital project and Mr. Bryant said the way the language is drafted, the funds will be used for public safety, but if there were no additional public safety priorities the funds would be available for other capital projects within the GF. Mr. Francisco reminded Council that CF monies can only be used for capital projects and cannot be used for salaries.

Councilmember Holman preferred Version #1, but would like appointments to the PSOC to be nominated by Councilmembers from each Ward with approval by the majority of Council as stated in Version #2. Mayor Rosenthal said Version #1 allows the Mayor to nominate applicants with Council's approval. She felt the Mayor's role was to look at the suggestions from Council as a group to ensure the committee is diversely balanced with different levels of expertise.

Councilmember Kovach said there is Council consensus to have the proposals on one ballot instead of two and asked if that is possible. He said the Bond Counsel varied on whether this is possible and the information emailed to Council from the Bond Counsel did not have the money going to separate funds and he is concerned this could be challenged by the Courts. Mr. Bryant said the Bond Counsel did not say one ballot is illegal, they just stated two ballots would be the most conservative approach to avoid challenges. He said the scenario Councilmember Kovach is referring to is known as "log rolling, but felt that log rolling would not apply to this ballot because funds are coming from one revenue source even though the revenues are being placed into two separate funds. Councilmember Kovach feared that if two items were placed on the ballot, citizens could vote for the capital projects, but reject the positions and that would be problematic.

Councilmember Griffith asked to what extent the GF subsidies may be required for both versions and Mr. Francisco said there is significant GF subsidy in Version #2 than in Version #1. He said to fill all the positions over a course of ten years would require a $7 million subsidy from the GF.

Councilmember Miller said when discussing the SRO's, Council previously discussed the City having a Memorandum of Understanding (MOU) with Norman Public Schools (NPS) and she did not see language in the ordinance to that effect. Mr. Bryant said language is in Version #1 that the SRO Program will be jointly funded with participating schools systems within the municipality through a contract or MOU. Councilmember Holman asked what would happen to SRO's if the program was eliminated in the future and Mr. Bryant said the SRO's would be commissioned police officers so the City would try to absorb them into regular police operations.

Councilmember Castleberry asked the bonding capacity on capital projects for both versions and Mr. Francisco said he has not done that assumption using these scenarios, but if you assume a $7 million figure then approximately $1.5 million over a ten year period could be bonded. He said if the City did not bond the money, then over a course of ten years the City would have $7 million, but if the City up-fronts the cost there would be less than that because the cash flow is greater at the end than at the beginning.

Mayor Rosenthal said if there is a need for a GF subsidy and the money is tied up in the CF, would the City have to cut personnel or programs in other areas and Mr. Francisco said that is a decision Council would have to make.

Mayor Rosenthal said the 3/8% sales tax scenario presented at the public meetings did not include SRO positions, communications support, or mechanics which total $775,000. She said in the 3/8% scenario with only PSST I employees there is a net total of $227,000, which would mean the City would be half a million dollars short in year one. She said when you add in the transfers to E911 and the Rainy Day Fund that would put the City $1.5 million in the hole in year one and that is very disconcerting. Councilmember Castleberry said the City needs to fund permanent salaries with a permanent tax whatever that rate may be then use the excess towards capital projects.

Councilmember Jungman said he did not understand the value of Version #2 and asked how it is superior to Version #1. Councilmember Castleberry said Version #2 is not really superior, but it gives the City more money for capital projects so those projects can be done more quickly. He said it is also a temporary tax so in ten years the City can go back to the public and say the City has accomplished all it has promised and here is another list of capital projects that needs to be done and request a renewal of the tax. He said Version #1 proposes that after the City completes the capital projects listed, the assets go into the GF to be used for whatever Council deems necessary.

Councilmember Kovach said in Version #1, not all of the 1/2 % would go into the GF. He said 1/8% would go into the CF after all capital projects were completed. He did not believe any future Councilmember would vote to lay off public safety officers and 3/8% of the tax would be funding salaries, which guarantees the perpetuity of what the money will be used for. He said there is a broad spectrum of capital needs the 1/8% would be used for. He does not imagine capital improvements for public safety needs will ever go away. He said during the public meetings citizens wanted a permanent tax, but did not differentiate how those funds would be used. He said the main focus of the original PSST was Community Oriented Policing (COP) and that is why the PSOC role is clarified in the ordinance. He said whether it is year one or year fifteen of the tax there will always be an oversight committee committed to COP and ensuring funds are spent on public safety capital projects first. Once capital projects are completed, the PSOC will make recommendations for new public safety needs. He said Version #1 addresses many of the concerns raised at the public meetings such as permanent funding for public safety positions. His primary problem with Version #2 is his fear of a constitution challenge.

Mayor Rosenthal said when the original PSST was started funds were deposited into the GF, but Council established a separate PSST fund for maximum accountability. She asked what practice of accounting could be used to ensure the 1/8% going into the CF is being used for its purpose of public safety capital needs in the future and Mr. Francisco said separate cost centers within the CF could be established to track expenditures related to the PSST. Mayor Rosenthal felt strongly that accounting should remain as is for the immediate future.

Councilmember Castleberry said if the PSST is continued would that be a new fund or a continuation of the current PSST and Mr. Francisco said there is a separate distinction between the GF, CF, and PSST because Council established those funds separately. He said there are statutory regulations on capital fund expenditures. Councilmember Castleberry said the current PSST balance assumption is $9 million and asked if that could be used to cover the assumed $7 million shortfall? Mr. Francisco said it could be used as a subsidy in the short term, but in the long term the subsidy needed from the GF would be greater. Councilmember Castleberry asked when the GF is projected to have a deficit and Mr. Francisco said 2016. Councilmember Castleberry asked why everyone is concerned about year two or three when the GF is going to be depleted in 2016 and Mr. Francisco said that is a valid question and Council needs to be concerned about the long term status of the GF separate and apart from the PSST. Councilmember Castleberry said the bigger issue seems to be the condition of the GF even without the PSST and Mr. Francisco said that is correct.

Councilmember Griffith would like some assurances that the 3/8% going to the GF and 1/8% going to the CF in Version #1 would be spent for their purposes. He would like separate line items dedicating those funds and asked if that could be done and Mr. Francisco said yes.

Councilmember Castleberry said if excess funds are available in the CF after projects are completed, can the money be transferred and used for other items within the GF and Mr. Bryant said if 1/8% is dedicated to the CF, that money can only be used for capital projects. Mr. Bryant said if the 1/8% is not dedicated to the CF, Council could still use that money for designated capital projects and still have the flexibility to use the money for salaries once the capital projects are completed. Mayor Rosenthal said the Staffing Plan in Section 13 of the ordinance commits funds to public safety positions specified in the PSST going forward so personnel positions will be secure.

Councilmember Kovach said if more money is collected in the PSST than is projected then all that excess could go toward paying off capital projects specified in ordinance more quickly. He said the CF has a list of proven needs that can be tracked separately and there is also a turnover savings that is currently not accounted for in the budget. He said Version #1 includes transfers to the Rainy Day Fund and E911 which would not be needed if the 3/8% was going into the GF. He said given those facts, he felt 3/8% is an appropriate amount for salaries and the 1/8% is an appropriate amount for capital projects. Councilmember Castleberry said instead of 3/8% going to the GF, can language be changed to state all funding go into the GF to pay salaries first then whatever is left over go towards capital projects? He said that way there would be no need for a GF subsidy, E911 payment, Rainy Day Fund transfer, or excess funds and capital projects can be funded to the extent they need to be funded. Mr. Bryant said language can be drafted however Council wishes. Councilmember Kovach asked how that ballot language would be written. Mayor Rosenthal suggested more flexible language for Section 13 be changed as follows:

> The revenues upon satisfaction of the above purposes, shall be dedicated ~~as follows: three eigths of once percent (3/8%)~~ to the General Fund ~~and one eight of one percent (1/8%) to the Capital Fund.~~

Councilmember Griffith said isn't that similar to the current PSST where money is used to pay salaries and the remainder is spent on capital projects except now there will be additional positions and additional capital projects. He said the City would have a permanent 1/2% sales tax that funds the salaries and any leftover funds would be used for capital projects.

Councilmember Miller said 50% of the City's budget goes toward public safety and she cannot imagine what could possibly happen where there would be so much excess money that Council would even have to worry about excess funds. She said salary and benefit costs continue to rise every year. She said Version #1 is the only version that will get the City even close to what needs to be done. She said the City does not want the ballot to be more complicated than it needs to be because the public needs to be able to read and understand it.

Councilmember Griffith asked if the PSOC have some input to Council regarding the 1/8% even if it were not dedicated to capital projects. Would that not be the control for that 1/8% and the mechanism of how Council would spend the money? Mr. Bryant said the PSOC could make recommendations on how to spend the money, but it would be limited to capital projects.

Councilmember Heiple said if the City has one ballot with two propositions and the City was sued successfully, what would happen with the money? Mr. Bryant said he would argue to the Court that the voters approved the sales tax and the question is whether or not the split was appropriate so let the City continued to collect the funds and put the money into an account to sit there until the lawsuit is resolved. He said it would be difficult to refund the money since it is sales tax, but if the lawsuit was successful, a refund plan would have to be arranged. Councilmember Heiple felt citizens want public safety, permanence, and a robust program that will sustain the City financially and economically for the next twenty years. He prefers Version #1 because it is the most robust proposal.

Councilmember Castleberry said revenues are growing at a lesser rate than expenditures so the City is already upside down. He said Council's challenge is to increase revenues or contain costs and stick to the budget. He said there needs to be more accountability on excess funds over and above staffing costs. Councilmember Kovach said accountability comes with the PSOC. He said when the tax was originally passed a lot of time was spent crafting how the PSOC would be composed and what their charge would be. He said Council always envisioned the PSOC as the key element in advising Council. He said in Version #1 if something good happens and the City has excess in the 3/8% and 1/8% then those funds will go to the places they need to go so the City can alleviate some of the other budgetary problems. He would like to hear from Councilmembers who have not weighed into the discussion so Council can have an idea of where they are on support of either version or any alternatives.

Ms. Joy Hampton, The Norman Transcript, feels the two scenarios are not as flexible as the original proposal. All she has heard at the public meetings is permanent versus temporary and an April versus an August election. She asked where these proposals are coming from and has Council been talking about this off the record because neither proposal was raised in public discussions. Mayor Rosenthal said Council did hear form the public a desire for the 3/8% permanent tax with a temporary tax for capital projects. Councilmember Kovach said Council took the ordinance that was presented at the public meeting and tweaked it with conversations from the public so some of those concerns were integrated into the ordinance. He said Council tried not to redo the entire ordinance, but to change the ordinance that was already presented as little as possible based on public input.

Councilmember Jungman said the public deserves the right to vote in April on the version that best protects the GF and that would be Version #1.

Councilmember Williams said he did not know why there is a big hurry. He said the public deserves clarity and he does not believe the City is being clear if they want to blend the two taxes. He likes portions of both proposals. He said the first discussions regarding the PSST dealt with funding temporary positions permanently and getting more capital projects completed. He did not know if he was ready to vote on language crafted at tomorrow's Council meeting and felt the timeframe needed to be adjusted. He said if he feels this way and he has attended all the meetings, there are probably citizens that feel the same. He could not say at this moment that he liked either version.

Mayor Rosenthal felt it important to point out that the biggest input from the public has been to make the sales tax permanent. Councilmember Castleberry said funding for salaries needs to be permanent. Mayor Rosenthal said Council made a promise to bring back this discussions mid-year and that is the crux of this debate. She said the PSOC voted 4-3 on a temporary tax and the member who was not present was on record in December in favor of a permanent tax. She is uncomfortable waiting until August for an election because the fundamentals of permanent versus temporary debate are not going to change and an August election would give Council very little time to come back if the election was not successful. She said there is more support for Version #1 than Version #2. Councilmember Castleberry was concerned that PSOC supported the proposal without seeing the financial numbers and Mayor Rosenthal did not believe that was true.

Councilmember Miller said the tax is still going to be 1/2 %, but she understands that breaking it down to 3/8% and 1/8% does make it sound different. She said the main thing Council kept hearing over and over at the public meetings was to make the tax permanent and that is what Council is trying to adapt the ordinance to do. Councilmember Kovach feels confident the public understands what Council is trying to do in this ordinance.

Councilmember Williams said his goal is to have unanimous support from Council, have enough time to educate the public, and get public input before voting. He wants to be able to have a clear and precise explanation of what the City is doing going forward when the ordinance is on the agenda for Second Reading. He does not understand it tonight and he is supposed to vote on it tomorrow night. Councilmember Castleberry asked when the public

would have to digest any changes to the ordinance if it is amended on Second Reading and Mayor Rosenthal said there has not been a radical change from the beginning of the discussions.

Councilmember Jungman said he has been asked for every possible scenario and Version #1 is still the best.

Mayor Rosenthal asked Council if they wanted language regarding PSOC appointments in Version #1 to be included in Version #1 and Councilmember Kovach said he would support that language since that is the way the original committee was appointed. He said this Council will not be here for perpetuity so it is important to make future Council's know the intent is for Councilmembers to nominate someone from there Ward, not the Mayor nominating and appointing someone. He understands that the Mayor has always done that for committees, but she will not always be the Mayor. Mayor Rosenthal said it is always been the Mayor's goal to obtain nominations from Councilmembers on any board appointments, but she tries to make sure there is diversity especially on the PSOC. Councilmember Castleberry said he is not concerned about diversity on this committee he wants qualified people and prefers people with public safety backgrounds. Mayor Rosenthal said the most important role of the PSOC is COP and diversity is needed for a successful COP. She felt to have only public safety professionals is equal to having a committee that is only concerned about public safety. She said the PSOC would have consisted of 80% white males if she had taken nominations from each Councilmember. She worked in collaboration with Councilmembers to put together a diverse board. Councilmember Kovach felt the Mayor is making a good compromise if she agrees to consult with Councilmembers before a nomination goes forward for appointment. He said as long as the Councilmember is involved in the process, that is all that is important. Mayor Rosenthal asked Staff to draft language that requires the Mayor to consult with Councilmembers on nominations and Councilmember Kovach said he would support that.

Mayor Rosenthal said a public hearing will be held on Second Reading tomorrow night and asked Staff to present Version #1 to the public and post Version #1 on the website.

Items submitted for the record

1. Public Meeting Renewal of Public Safety Sales Tax Public Comments
2. PowerPoint entitled, "Proposed Public Safety Sales Tax Renewal Public Meeting," January 21, 2014
3. Draft Ordinance No. O-1314-33
4. E-mail dated January 26, 2014, to Mayor Cindy Rosenthal and Councilmembers
5. Annotated draft of Ordinance No. O-1314-33 (3/8% permanent position and 1/8% Capital Fund)
6. Annotated draft of Ordinance No. O-1314-33 (permanent 3/8% to General Fund and 1/8% Capital Fund)
7. PowerPoint presentation entitled, "Continued Discussion Regarding Renewal of the Public Safety Sales Tax." City Council Study Session, January 27, 2014

The meeting adjourned at 7:15 p.m.

ATTEST:

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City Clerk Mayor