CITY COUNCIL CONFERENCE MINUTES

March 22, 2016

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a conference at 5:06 p.m. in the Municipal Building Conference Room on the 22nd day of March, 2016, 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.

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| YEAS: | Councilmembers Allison, Castleberry, Holman, Jungman, Lang, Miller, Williams, Mayor Rosenthal |
| TARDY: | Councilmember Heiple arrived at 5:55 p.m. |
| NAYES: | None |

Item 1, being:

CONTINUED DISCUSSION REGARDING CREATION OF A STORM WATER UTILITY.

Mayor Rosenthal said the Finance Committee has been looking at various rate options regarding the creation of a Storm Water Utility (SWU) and reminded Council this issue will have to go to a citizen vote. She said the earliest election date would be August, 2016, and if approved, there will still be several months of implementation long into FYE 2017 Budget.

Mr. Shawn O'Leary, Public Works Director, said Council has been discussing a SWU, as well as the Storm Water Master Plan (SWMP) for 10 years. He said tonight's presentation includes six (6) options with calculations recommended by Staff for Council to look at and compare.

Mr. O'Leary said throughout all the discussions, the SWU has never sought to pay for all the storm water expenses, existing and/or new. He said a SWU is a stand-alone service enterprise and would be responsible for funding the operation and maintenance of storm water facilities as well as storm water system planning and management. Mr. O'Leary said a SWU fee would be billed to residential utility bills and would look similar to the monthly sewer utility fee and/or a water utility fee that is currently charged.

Mr. O'Leary said Norman is the only large city in Oklahoma without a SWU and said a SWU would benefit Norman in the following ways:

- Improve water quality/water supply;
- Assist with unfunded Federal/State mandates;
- Support reduced flooding;
- Reduce erosion and improve stream stability – many stream corridors need additional maintenance and repairs, a stream corridor "blitz" could be conducted each year, enhanced construction site erosion control, i.e., ensure the City and/or construction sites comply with Oklahoma Department of Environmental Quality (ODEQ) and Lake Thunderbird Total Maximum Daily Load (TMDL); and
- Enhance neighborhood maintenance – program to assist property owners and homeowners associations with repairs to drainage facilities, detention basins, dams, and structures.

Mr. O'Leary said a SWU would also assist with small capital projects from the Storm Water Master Plan (SWMP) and help fund the remaining capital projects in the $65 million SWMP.

Councilmember Castleberry asked whether the neighborhood enhanced maintenance projects are addressed in the SWMP and Mr. O'Leary said there is $60 million in capital projects; however, the neighborhood maintenance issues are not included in those projects. Mr. O'Leary said a separate General Obligation (GO) Bond issue is anticipated for capital projects and the SWU will pay for the ongoing maintenance.

Mr. O'Leary said the City has been discussing Federal and State mandates for years and the deadlines are upon us. He said the City can no longer just discuss, we must take action on the following:

- Storm Water Channel/Pipeline Maintenance: 138 miles of pipe up to 90 years old and 328 miles of streams, identify illicit discharges to the storm water system and identify areas in need of repairs;
- Additional Street Sweeping: removes contaminants from the street surface reducing the pollution transported to streams and ultimately Lake Thunderbird; add four (4) new street sweepers and four (4) operators for a total of six (6) street sweepers and quarterly sweep residential streets; and
- Lake Thunderbird TMDL: effective January 2016, TMDL is for total nitrogen, total phosphorus, and total suspended solids, and Oklahoma City and Moore must also comply with the TMDL.

Mr. O'Leary highlighted the FYE 2017 City Storm Water Budget stating the FYE 2016 Storm Water Budget utilizing the General Fund is $3,250,000 and the proposed additional City Storm Water Budget with the SWU is $4,950,000. He restated the SWU was planned to be a subsidized program and was never anticipated to pay for all the costs.

Councilmember Allison said if a SWU was enacted today what would be the amount of relief to the General Fund and Mr. O'Leary said the Finance Committee discussions have included some relief with $1.2 million being the most, depending on the option chosen. Councilmember Castleberry asked how much of the storm water items are unfunded mandates versus the amount of storm water items that are "wants," and Mr. O'Leary said approximately $2.5 million are the required unfunded mandates and approximately $2.4 million would be for capital projects, neighborhood enhanced maintenance projects, etc. Mayor Rosenthal felt the notion of the City having "wants" should be replaced with "needs" because the SWMP determined the items were essential to the City's system. She said although some of the needs may not be mandated at this time, the City needs to work with homeowner's associations regarding failing detention systems and/or erosion problems, etc. Mayor Rosenthal understood at the end of the day, the City needs to bring forward recommendations citizens will approve and/or accept.

Councilmember Jungman asked whether a SWU will supplement and/or enhance (give more relief) the General Fund in future years. Mr. O'Leary said he does not believe so, in fact the theory of the SWMP plan would be to increase the SWU every five (5) to ten (10) years in order to keep up with the additional storm water costs, including possibly future mandates.

Councilmember Miller said, for clarification purposes, it is anticipated the City will continue to spend $3.2 million annually from the General Fund on storm water items and an additional $4.9 million annually with a proposed SWU for mandated and/or maintenance storm water items.

Mr. O'Leary said that is correct and stated most of the SWU programs that he is familiar with in other cities are also subsidized programs, i.e., the SWU does not pay for the full range of storm water items.

Mr. Scott Sturtz, City Engineer, said the Finance Committee requested a review of how the parcels in Norman are distributed. He said Staff examined the impervious areas for residential and non-residential parcels, put them in logical ranges, and compared the data in graph form. He said the bulk of residential parcels by impervious surface area are between 2,500 sf and 5,500 sf and the bulk of non-residential parcels by impervious surface are between 3,000 sf and 19,000 sf.
Mr. Sturtz said the average resident rate is $6.00 for a 2,900 sf house, including 700 square foot of patios, driveways, and other hard surfaces, (or 40% impervious area) and was defined as one (1) Equivalent Residential Unit (ERU) in the SWMP. He said a typical non-residential property in Norman is 79% impervious area and highlighted how the roof top, parking lot and soft areas would be calculated to determine the impervious area. Mr. Sturtz said Staff used these figures when trying to begin the process of determining the SWU calculations. He said a typical commercial parcel has more storm water run-off than a typical residential parcel and the basis of the "impervious area concept" is that people pay based on the amount of water that runs-off, not some random factor.

Mr. Sturtz said the Finance Committee discussed six (6) possible rate structures between April 1, 2014, and March 22, 2016, and highlighted each option including projected revenue from a SWU as follows:

**Option 1: SF Residential-Multi Tiered and Non SF based on ERU:** Seven (7) tiers for residential and ERU for all non-residential; proposed rates for residential range from $3.50 to $15.00; total annual projected revenue for residential and commercial is $5,500,853;

**Option 2: Based on Billing Addresses:** Three (3) tiers for residential and non-residential based on billing addresses; proposed rates for residential are $5.00 to $9.00 per month and commercial/industrial $50.00 to $80.00; total annual projected revenue for residential and commercial is $4,872,000;

**Option 3: Based on Total Parcels:** Three (3) tiers for residential and non-residential based on parcel data; proposed rates for residential are $5.00 to $9.00 per month and commercial/industry $50.00 to $80.00; total annual projected revenue for residential and commercial is $5,160,792;

**Option 4: Based on Impervious Area Ranges of Parcels:** Three (3) tiers for residential and non-residential based on impervious area; proposed rates for residential are $5.00 to $9.00 per month and commercial/industry $50.00 to $80.00; total annual projected revenue for residential and commercial is $4,281,684;

**Option 5: Multi-Tier Based on Total Parcels:** Multiple tiers for residential and non-residential based on parcel data; proposed rates for residential are $3.00 to $13.00 per month and commercial/industry $15.00 to $180.00; total annual projected revenue for residential and commercial is $5,118,999 (less 5%); and

**Option 6: Multi-Tier Based on Total Parcels and Even Rate Distribution:** proposed rates for residential are $3.50 to $25.00 per month and commercial/industry $4.00 to $450.00; total annual projected revenue for residential and commercial is $5,118,600 (less 5%).

Mr. Sturtz highlighted the SWU rate comparison for each option and said Staff added a column for total revenue calculated less 5% to reflect uncollected debt and/or possible adjustments to parcels. He said the projections do not account for inflation or additional revenue from growth and Options 2 through 6 do not include the projected rates for the University of Oklahoma (OU). Options 5 and 6 include additional funding for smaller scale Capital improvements. Councilmember Castleberry asked the approximate amount OU would be charged and Mr. Sturtz said Option 1 would be approximately $350,000 annually and Options 5 and 6 would be $130,000 annually, but reminded Council these figures are approximate and would be negotiated with OU at a later date. Mr. O'Leary said to put this into perspective, OU owns 160 parcels of land and most of those parcels are occupied by buildings.

Councilmember Williams asked how the City can distinctly explain to the public the difference of a SWU being calculated according to parcels versus addresses so citizens can make informed decisions and Mr. O'Leary said most of the discussions regarding a SWU have been based upon parcels. Mr. O'Leary said it is very easily explained when referring to a residential application because most homes are only located on one (1) parcel; however, commercial and/or non-residential applications can be very complicated. He said examples include one Norman church that is located on eight (8) parcels while another is only be located on (1) parcel; Sooner Fashion Mall is located on two (2) parcels; and a non-profit that is located on eight (8) parcels.

Mr. O'Leary said the feedback from the Finance Committee was it is not fair to apply the same SWU rate to a residential parcel that you would to a commercial parcel because one or the other may have more storm water run-off. He said ironically, Option 6 gets very close to Option 1 and through the evolution of the discussions gets back to the impervious area concept. Mayor Rosenthal said public concerns at the Finance Committee were expressed that small businesses on small parcels were paying more than residential properties on small parcels and that is what lead to Option 6.

Mr. Sturtz provided a rate comparison for one (1) location in Norman that has two (2) addresses that are sent utility billing; eight (8) parcels total with four (4) of the eight (8) parcels having impervious area(s). The rate comparisons vary widely and are as follows:

Option 1: $66.00 per month - 37,000 sf impervious area;
Option 2: $150.00 per month - two (2) billing addresses;
Option 3: $260.00 per month - eight (8) parcels – four (4) having impervious areas;
Option 4: $200.00 per month - eight (8) parcels – four (4) having impervious areas;
Option 5: $195.00 per month - eight (8) parcels – four (4) having impervious areas; and
Option 6: $56.00 per month - eight (8) parcels – four (4) having impervious areas.

Mayor Rosenthal felt Options 1 and 6 get the City closest to how much impervious surface is located on properties and Staff said that is correct.

Mr. O'Leary highlighted the pros and cons for each of the options stating the terms that Council will see on the comparison of rate structures include equitability, fairness, and defensibility. He said in some cities SWU have been in place for 20 to 30 years and there is a fair amount of legal precedent across the country regarding cities and/or organizations that have been sued for unfairness, etc. Mr. O'Leary said recently the City of Austin lost a case involving multi-family rates and whatever SWU option is adopted; the City certainly does not want to lose a lawsuit and have to redo the entire SWU program.

Mr. O'Leary felt Option 1 is the most equitable and defensible of the six (6) options presented tonight. He said over 82% of the SWUs in the country are using this method (Option 1); however, this method is the most complicated, most burdensome administratively, and probably the hardest to explain to voters. Option 6 is the result of the Finance Committee requesting an easier and simpler method; however, this method is less equitable and defensible.

Regarding a legal defense/defensibility, Mayor Rosenthal asked Staff about some of the issues that have been brought up that have created problems for other cities. Mr. O'Leary said most of the cases he has read speak to the "fairness" question of whether or not a relatively equivalent rate is being applied to all parcels and/or property owners, i.e., is residential paying the same as non-residential; is commercial paying the same as institutional, etc. He said he does not know the details, but the City of Austin was applying a higher rate to multi-family and the Court determined Austin's rate structure was inequitable and unfair to multi-family; therefore, Austin is having to re-do the multi-family rate structure.

Councilmember Lang asked for clarification between Option 1 and Option 6, specifically why is the rate lower on Option 6 and Mr. O'Leary said Option 1 calculates every parcel exclusive of itself, i.e., every parcel will get a calculated impervious area and every parcel owner can argue the calculation. He said Option 6 will group parcels into ranges, which makes it less burdensome administratively.

Councilmember Allison said he would like Staff to run the numbers/data of various parcels in Norman to see the impact. Mr. O'Leary said the Option 6 highest rate of $450 for non-single family is a cap; therefore, the true calculation of impervious surface would be closer to $1,500, i.e., for Wal-Mart.

Councilmember Allison asked whether gravel and/or grid surface is calculated and Mr. O'Leary said gravel is treated as concrete. Mr. O'Leary said there have been discussions regarding credits and/or relief to rates to a property owner who is doing something to reduce storm water run-off, impervious pavers, etc.

Mr. O'Leary said the Finance Committee discussed how each option would support the General Fund as follows:

| Method for rate calculation | Total revenue less 5% | Support of General Fund |
|---|---|---|
| Option 1: | $5,619,027 | $1,170,000 |
| Option 2 | $4,628,400 | $ 500,000 |
| Option 3: | $4,902,752 | $ 500,000 |
| Option 4: | $4,067,600 | $ 500,000 |
| Option 5: | $5,118,999 | $ 800,000 |
| Option 6: | $5,118,600 | $ 800,000 |

Councilmember Castleberry suggested splitting up the mandated items utilizing Capital Fund versus Maintenance and add a flat rate per month for capital and homeowner maintenance. Mr. O'Leary asked if he is suggesting putting capital projects and capital equipment together and Councilmember Castleberry said yes. Mr. O'Leary said that is very different than every other Norman Enterprise Fund.

Staff asked if there were options Council preferred to eliminate and Councilmembers Holman and Castleberry felt Options 2 & 4 could be eliminated. Councilmember Jungman felt Options 2, 3, and 4 could be eliminated.

Councilmembers Holman and Williams preferred Option 6 and Councilmember Williams requested Staff to run six (6) parcels through each category of Option 6.

Mayor Rosenthal said the options need to be narrowed to which is most equitable and felt Options 1, 5, and 6 get closer to where the City needs to be going. Councilmember Castleberry felt Options 5 & 6 are difficult to explain.

Councilmember Lang felt like the options that are less defensible and equitable should be eliminated. Mr. O'Leary said whatever rate structure is selected will require a significant amount of time and education for the voters to support the measure.

Mayor Rosenthal felt Council needed to stay on course and keep the SWU moving along. She reminded Council the impact to the FYE 2018 Budget if this issue is put off until January 2017. Council agreed and requested Staff bring back requested information to the next Study Session which is scheduled for April 5, 2016, at 5:00 p.m.

Items submitted for the record

1. PowerPoint presentation entitled, "Storm Water Utility," City Council Study Session dated March 22, 2016, presented by Shawn O'Leary, Director of Public Works, and Scott Sturtz, City Engineer

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The meeting adjourned at 6:28 p.m.

ATTEST:

Brenda Hall
City Clerk

Cindy Rosenthal
Mayor

CITY OF NORMAN
CORPORATE
SEAL
OKLAHOMA