

CITY COUNCIL CONFERENCE MINUTES

May 5, 2016

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a conference at 5:12 p.m. in the Municipal Building Conference Room on the 5th day of May, 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.

PRESENT: Councilmembers Castleberry, Heiple, Holman, Karjala, Lang, Miller, Mayor Rosenthal

ABSENT: Councilmembers Allison and Jungman

Item 1, being:

CONTINUED DISCUSSION REGARDING THE CREATION OF A STORM WASTER UTILITY.

Mr. Shawn O'Leary, Director of Public Works, said at the May 3, 2016, study session, Council requested Staff bring back a revised Storm Water Utility (SWU) proposal. He highlighted SWU Option C, stating it was calculated with the 2015 Geographical Information System (GIS) impervious area data which is the most current data. All parcels will be treated equally in terms of tiers; therefore, zero to 10,999 square feet (sq. ft.) would have seven (7) tiers regardless of residential and/or non-residential and 11,000 sq. ft. and greater, a straight Equivalent Residential Unit (ERU) of \$6.00 per 3,600 sq. ft. Mr. O'Leary said Option C includes a rate cap for Norman Public Schools (NPS) to pay a maximum rate of \$640 per site/per month. He said Council can consider possible credit(s) for educational programs, there are provisions for low income customers, and a simple and accessible appeal process is available.

Option C:

Mr. Scott Sturtz, City Engineer, highlighted the rates per month from zero to 11,000 sq. ft. based on hard/impermeable surface area as follows:

- Less than 2,000 sq. ft. \$ 3.50 per month
- At least 2,000 but less than 3,000 sq. ft. \$ 4.25 per month
- At least 3,000 but less than 4,000 sq. ft. \$ 5.75 per month
- At least 4,000 but less than 5,500 sq. ft. \$ 8.00 per month
- At least 5,500 but less than 6,500 sq. ft. \$10.25 per month
- At least 6,500 but less than 8,000 sq. ft. \$13.00 per month
- At least 8,000 but less than 11,000 sq. ft. \$15.00 per month
- 11,000 sq. ft. or greater: \$ 6.00 per ERU

Mr. Sturtz said the hard surface area on an average home in Norman is approximately 3,600 sq. ft., i.e., the house is 2,900 sq. ft. with 700 sq. ft. of additional hard surfaces, e.g., driveways, patios, sidewalks, etc.; therefore, 3,600 sq. ft. is one (1) ERU.

Mr. Sturtz said Council requested Staff bring back information regarding placing a \$640 SWU cap on NPS. He said currently there are only three (3) NPS that were large enough to be affected, i.e., Norman High School, Norman North High School, and Irving Middle School. All other NPS properties were below that threshold and their numbers did not change from previous discussions. Mr. Sturtz said NPS would pay approximately \$83,376 annually for SWU fees, rather than \$104,328, a difference of \$20,952.

City Council Conference Minutes

May 5, 2016

Page 2

Mr. Sturtz said Staff also looked at Moore Norman Technology Center (MNTC). He said they did exceed the threshold and would be capped at \$640, rather than the initial figure of \$1,734, for an annual total of \$7,680, a difference of \$13,128.

Mr. Sturtz said under Option C, 83% of all residential properties would have a SWU fee of \$10.25 or less. Mayor Rosenthal said only 7% of residential properties are going to be calculated under the ERU and Mr. Sturtz said that is correct. He said under Option C the total yearly fees collected for single-family would be approximately \$3.9 million and the total yearly fees collected for non-single family would be approximately \$2.6 million for a grand total of \$6.3 million after removing 5%. Mr. Sturtz reiterated Option C includes \$1 per month reserved for Storm Water Capital Projects; \$640 cap for each NPS and MNTC property; and potential reductions for NPS for a storm water education program.

Councilmember Lang said the NPS maximum rate of \$640 monthly saves the schools approximately \$20,000 and Mr. Sturtz said that is correct. He felt the NPS's have an annual budget of \$100 million and wondered whether only having a \$20,000 difference would be enough of an amount to exclude them in a cap. Councilmember Lang felt the City might get backlash from the private schools located in Norman since they would not be included in the cap. Mr. Sturtz said Staff looked at the private schools, i.e., All Saints, Christian Community School, and Terre Verde, and none of them reached the threshold of \$640.00; therefore, they would not be affected.

Councilmember Castleberry felt if the City needs to have \$7.2 million to take care of storm water issues, then that is the figure the City needs to raise. He distributed and highlighted his proposal for a SWU, stating the proposal may need to be tweaked some; but conceptually it will raise \$7.4 million and 64% of residential customers would pay \$5.50 or less each month. Councilmember Castleberry said his proposal would earmark 29% or \$2.1 million of the SWU funds for a separate Capital Fund for capital improvements.

Councilmember Castleberry asked whether Staff foresees repairing any commercial businesses with SWU funds and Mr. O'Leary felt certain some of the capital projects within the SWMP would benefit multiple zoning districts to include commercial. Mr. O'Leary used the Lindsey Street and McGee Street projects as examples stating both residential and commercial would benefit. Councilmember Castleberry felt like a SWU program needed to ensure both commercial businesses as well as Homeowner Associations (HOA)s that the City will assist with storm water projects if they are already present or any future issues that may arise. He felt like they needed to be given value for the monthly SWU fees they will be assessed, other than water quality and street sweeping, etc. Councilmember Castleberry said, public input can be gathered to determine whether citizens would like a fully funded option versus a partially funded option. He understood his proposal puts a heavier burden on commercial; however, it caps the commercial businesses so that they know what their monthly SWU will be.

Mayor Rosenthal said the recent proposals have been driven by citizen surveys and the citizens have requested fairness. She said looking at his proposal, under the non-residential - jumbo/10% category, the cap is for impervious areas over 70,000 sq. ft., which puts a lot of smaller businesses into a category that is well above the amount they would pay with the proposal for Option C. Mayor Rosenthal felt the proposal goes against the fairness element that citizens requested. She said Council has discussed the option of having fewer tiers and/or ranges in previous proposals presented by Staff and she felt the fewer number of tiers leads to more inequities from the bottom to the top.

Councilmember Karjala felt like Councilmember Castleberry's proposal provides public dollars to help private businesses. Councilmember Miller felt this should not be an argument between residents and businesses. This should be a SWU discussion; the City is starting from zero and we need to raise a lot of money for a storm water program. Citizens have said they want it to be fair and felt businesses that have a much larger impervious surface should pay more.

Councilmember Lang said Councilmember Castleberry's proposal would fully fund a SWU program and would allow the opportunity to help address some of the HOA's that are facing difficult storm water issues. He said he would like to get public input on his proposal. Mayor Rosenthal felt it is not correct to say the City will not be able to respond to HOA's issues based on the new SWU revenue as well as projects that will continue to show up in the Capital Fund from time to time.

Mayor Rosenthal said she was certainly willing to bring Councilmember Castleberry's proposal forward at the next public meeting; however, the inequities would have to be addressed. She said Council was requested two (2) days ago to draft a SWU option based on a proposal that was put on the table and there were no objections at that time.

Councilmember Castleberry asked Staff how long they anticipated the storm water program would remain the same amount before another rate increase would need to be requested. Mr. O'Leary said the storm water program projections are five (5) years out and it is hard to say what future regulatory mandates may be. He said the program is projected to be \$7.3 million in year five (5) and as Staff understands; regardless the rate option Council considers, the budget will still be \$7.3 million and any overages would be made up by the General Fund, Capital Fund and General Obligation (GO) Bonds. Mayor Rosenthal and Councilmember Miller said that is how they understood how the program would work as well.

Ordinance:

Mr. Jeff Bryant, City Attorney, said Staff was asked to draft an ordinance establishing a monthly fee to fund a SWU, contingent on voter approval. He said if Council desires, Staff can have the proposed draft ordinance(s) ready for first reading on May 10, 2016. Mr. Bryant said Staff understands there will be a SWU public meeting between the first and second readings so that amendments can be made prior to the second reading.

Ms. Kathryn Walker, Assistant City Attorney, highlighted Ordinances O-1516-40, O-1516-41, and Special Election Proclamation and Notice of Election. She said O-1516-40 accomplishes the code amendments contingent on voter approval; O-1516-41 calls for an election; and the Special Election Proclamation and Notice of Election is the document the City gives to the Cleveland County Election Board calling a special election and informing what information is to be printed on the ballots.

Ms. Walker said the most recent rate structure presented tonight, Option C, is currently plugged in to the draft ordinances and Staff requested Council feedback, specifically the following: 1) does Council want to impose a \$640 cap on NPS and MNTC and will this also apply to any parcel owned by a public entity, supported primarily with revenue from governmental taxes; 2) does Council want to exempt SWU fees on City, State, and Federal roads, bridges, highways, streets, rights-of-way (ROW); and/or undeveloped parcels of land; and 3) does Council want to include a rate reduction for low-income residents.

Mayor Rosenthal said she has heard concerns that all public entities being exempt was too broad and requested Council comments. Councilmember Holman said since there are only three (3) NPS this would impact, agreed with Councilmember Lang's comments earlier regarding whether or not a \$20,000 difference (discount) would be enough of an amount to exclude them in a cap. Mayor Rosenthal said Councilmember Jungman is not present tonight; however, he sent her an email stating that he feels adamant about having a cap on NPS.

Councilmember Castleberry asked Staff about researching legal issues regarding rate caps for public versus private schools and Mr. Bryant said Staff learned the language gives broad latitude to the governing body to be able to implement these types of rate structures. Mr. Bryant said Staff believes public schools can be exempt, or give a rate cap, that will not apply to private schools.

Councilmember Lang asked why not exempt the University of Oklahoma (OU) since one could say they are also a public school and Mr. Bryant said Staff has researched whether or not Norman's ordinance would have jurisdiction over OU since they are a separate entity. He said OU has their own MS4 Plan for complying with storm water quality issues; therefore, as with other utilities the City would approach OU via a negotiated contract. Mayor Rosenthal said for the record, the City would not be exempting OU per se.

Councilmember Miller said she would like to see the public education entities capped for the larger sites and thinks it could be tied to educational credit. Ms. Walker said the draft ordinance Sec. 21-503(7) speaks to educational credits allowing the City Manager the authority to "...Determine whether to credit fees to public schools when such institutions offer programs and education...". She said it is anticipated once the ballot language is completed; Council would discuss and develop a process to implement a rate. Councilmember Holman said the one negative is that having a cap does not incentivize less impervious surface.

Councilmember Lang said he is opposed to capping and offering educational credits to NPS as they are already doing a good job at providing environmental education. Councilmember Heiple said he agrees. Councilmember Castleberry said he would rather remove the caps and educational credits and alleviate the questions that may come up. Councilmember Karjala agreed it made sense to take the educational credits out of the proposal(s); however, she has heard a lot from citizens who are concerned about NPS having to pay a SWU when their budgets are already so tight. She felt it could be explained at a future public meeting that NPS already is doing a good job providing the environmental education and best practices and that would ease the concern. Councilmember Holman said initially he felt strongly about having the caps and credits in the proposals; but after hearing the new information at this meeting he now felt it would make the proposals simpler to leave the caps and educational credits out.

Mayor Rosenthal said both the caps and educational credits could be left in the proposal(s) and taken to the public meeting for citizen input. She felt there was more precedent for the educational credit and is appropriate with storm water educational efforts.

City Owned Buildings and Property:

Ms. Walker said the next issue regards whether or not to exempt City owned buildings and/or property in the draft ordinance and stated public streets and rights-of-way (ROW)s are already listed as exempt. Mr. Bryant said in other local and national cities SWU ordinances do not exempt their city owned buildings and property. Mayor Rosenthal felt if the ordinance does not exempt NPS then City owned buildings and property should not be exempt. Councilmembers Holman and Karjala agreed.

Mr. Steve Lewis, City Manager, said a citizen committee met from January to December 2006 to scope the SWMP and they felt the City owned buildings and property should not be exempt from a SWU. Mr. O'Leary said that is correct.

Councilmember Lang asked Staff to explain the process of how the City would be charged a SWU and how they would pay for it. Mr. Anthony Francisco, Finance Director, said the City already gets monthly utility bills for water and/or sewer and a SWU fee would be reflected on future billings. He said the City's other utility pay the General Fund through a transfer adjustment from the Utility Funds to pay for general services the General Fund provides to the Utility Funds. Councilmember Lang asked approximately how much the City would pay annually for a SWU and Mr. O'Leary said the City would pay approximately \$200,000.

Low Income Discount:

Ms. Walker said low income users is defined by the Section 8 of the Housing Act and highlighted discounts for current City services to include: 25% for roll-off cart; 20% for recycling; 50% for sewer service; and 25% off base rate and first 5,000 gallons. She said in the proposed ordinance, low income users would receive a

City Council Conference Minutes

May 5, 2016

Page 5

25% discount for each tier and the low income discount would only apply to residential and would not apply to non-residential.

Councilmember Lang asked what is the percentage of low income utility customers and Mr. Francisco said currently the City has approximately 800 low income utility customers.

The SWU is based on parcel owner and is harder to apply the low income reduction.

Mayor Rosenthal said it is important to include even if it does not make a big difference to the bottom line.

Mayor Rosenthal said the next public meeting is scheduled for May 12, 2016 [sic] (May 16, 2016) at 6:00 p.m., in Council Chambers.

Councilmember Castleberry asked if the interest was to get the SWU fully funded or partially funded. Mayor Rosenthal said she is not in favor of another option. Councilmember Heiple said to add another option at this stage creates additional confusion. Councilmember Lang asked about the timeline and wondered whether more citizens would vote if SWU was on the November ballot. Councilmember Holman said there is no evidence of having local elections on national election days creating a higher turnout. Councilmember Miller said she supports an August election.

Items submitted for the record

1. PowerPoint presentation entitled, "Norman Storm Water Utility (SWU) Option C, dated May 5, 2016, presented by Shawn O'Leary, Director of Public Works, and Scott Sturtz, City Engineer
2. Option C
3. Storm Water Utility Assumptions presented by Councilmember Castleberry
4. Storm Water Utility Rate Legislation
5. Ordinance O-1516-40 annotated
6. City of Norman Storm Water Management Survey Results

* * * * *

The meeting adjourned at 6:24 p.m.

ATTEST:

City Clerk

Mayor