CITY COUNCIL CONFERENCE MINUTES

May 19, 2016

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a conference at 5:05 p.m. in the Municipal Building Conference Room on the 19th 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 Allison, Castleberry, Heiple, Holman, Karjala, Lang, Miller, Mayor Rosenthal
ABSENT:	Councilmember Jungman

Item 1, being:

CONTINUED DISCUSSION REGARDING THE CREATION OF A STORM WASTER UTILITY.

Mayor Rosenthal said Council has held several meetings regarding a Storm Water Utility (SWU) and public meetings have been held as well. She said Council has been listening to input.

Councilmember Miller said Council has listened to a lot of comments since the public process began; however, this is not the beginning of the storm water discussion process since Council has been discussing storm water for quite a long time. Council has heard a lot of people ask why the process is being rushed and not being given more time, but the storm water discussion process has not been any different than what happened during the Norman Forward discussions. Norman Forward was a citizen's initiative brought to Council's attention by several groups of people that cared about the quality of life in Norman and those groups wanted Norman Forward proposals to be put to a vote of the people as soon as possible. She said Council devoted extensive time and diverted Staff time to review the proposals, obtain public input, put together financial projections, put together operation and maintenance projections, etc., in order to meet a timeline to put the proposals on a ballot. She said storm water is an issue that is every bit as important as the Norman Forward projects except that storm water projects are an essential service that needs to be funded. The City has been performing storm water programming for years, but it has been done without a dedicated funding stream. Everyone has known for a long time the City really needs that funding stream and it is beginning to impact the City's budget as well as other programs in a negative way.

Councilmember Miller said even though it seems as if Council is hurrying the process, Council has been consistently discussing a SWU for the past eighteen months and the City adopted a Storm Water Master Plan (SWMP) in 2011. She said every year since Council has stated there is a need to address storm water issues so here we are, the time has come. She said public meetings were held in 2014, but the SWU was pushed back and in 2015, it was delayed again because of Norman Forward. Now the City is in a situation where State mandates are being put into place regarding storm water requirements and she is concerned that if the City does not get this issue on a ballot for a vote in August, the City is going to have a bare bones budget for the coming year. The City is going to have to meet the mandated requirements with no funding stream and there will be no money for prevention and maintenance to help neighborhoods that are experiencing severe storm water issues that cause or could potentially cause damage to their properties. Although Council is pushing forward on this, Council is listening to everyone's concerns and comments and the public meetings have been a great resource in terms of information from the public. The City received 500 plus responses to the storm water survey, Councilmembers are receiving emails from constituents and businesses, Councilmembers are meeting with constituents and businesses, and the Norman Transcript has printed 15 articles.

Councilmember Miller said there is strong agreement from everyone that a SWU is needed and she realizes there are concerns about the economy, especially the State economy, as it impacts public schools and non-profit agencies. She said Norman is a community full of educational institutions and non-profit agencies so these concerns are important to Council. She said there are also concerns regarding overburdening large employers who bring jobs to Norman that provide services and provide taxes as well. She said as State and Federal money is reduced, the City has to provide more resources that will come out of its budget. She said the City wants to be sensitive to all these concerns and she has some suggestions tonight that might address them.

There was a concern regarding who should be billed for the SWU - the property owner, the lessee, or other responsible part. Staff felt there could be some issues in tracking down landlords. Councilmember Miller suggested the City clarify ordinance language to add something along the lines of "billing the holder of the City of Norman utility account whether that is the tenant, owner, or other responsible person upon receipt of proper documentation." She felt that language would give both the City and property owner flexibility.

Councilmember Allison said each suggestion should be listed and addressed one by one because he felt some issues would be skipped over. He wanted discussion on school SWU rates, an appeals process, and rebates for best practices. Mayor Rosenthal said as far as best practices, it was implied in earlier discussions that engineering solutions would provide an opportunity for offsets of the rates.

Councilmember Castleberry would like to hear the entire presentation then go through all the suggestions one by one because classic negotiations are a process of agreeing to this point, agreeing to that point, etc. He would like to see everything on the table first then go back and obtain comments. Councilmember Miller said her plan was to go over all of the different proposed amendments knowing that Council may have other ideas, adding those ideas then going back to discuss each item.

Councilmember Miller said in response to concerns about the schools, one suggestion was to delay the effective date for application of the rate structure to July 1, 2018, for schools and entities qualifying under 501(c)(3) of the Internal Revenue Service (IRS) code, which would add non-profit agencies and churches. She was not sure if private schools were non-profit and Councilmember Lang said some are. Councilmember Castleberry asked what the impact of that would be financially $50,000, $200,000? Councilmember Miller said the single-family rate structure could be applied to entities qualifying under 501(c)(3) of the IRS code, which would move churches and non-profits into the residential rate structure. She said many non-profits are already located in residentially zoned areas and in looking at individual examples, this solution would benefit a number of those and Staff will have the dollar impact of that later in the meeting. Councilmember Lang thought the rates would be the same for residential and non-residential (commercial) so what difference would this idea make? Mayor Rosenthal said there was an expressed desire from leaders in the business community to look at a different rate structure.

Councilmember Miller said single family residential rate structures could be modified to provide for a monthly flat rate in the lower seven tiers and an Equivalent Residential Unit (ERU) based top tier rate for parcels with impervious surface of 11,000 square feet not-to-exceed $300 per month, which would include non-profit agencies and churches. Councilmember Lang said he assumes as we move forward we will have an idea of how many schools, churches, and non-profit agencies this actually impacts.

Councilmember Miller said the non-single-family rate structure could also be amended, but it is difficult for her to explain and she would leave that to Staff. She distributed handouts she said depicts Option C, as discussed and as modified, with the major change being in the non-single-family residential rate structure.

Mr. Scott Sturtz, City Engineer, said the modified Option C does not include calculation changes for non-profit agencies as Staff has not had an opportunity to pull that information together so this information will not reflect

moving those to the residential category. Mayor Rosenthal said most non-profit agencies and churches are already in the residential category due to zoning so there should not be a huge change to the calculations and Mr. Sturtz agreed.

Mr. Sturtz was able to calculate some of the schools impervious structure figures and it would cost the schools $104,000 annually without the rate cap of $300, and $65,808 annually with the revised rate cap, which is a significant savings. Under the previously discussed rate cap of $640 the annual cost would be $83,000. Councilmember Miller said Council has also discussed a storm water education credit to further lower that figure. Mr. Shawn O'Leary, Director of Public Works, said Council has also talked about delay of the rate structure for schools to July 1, 2018, to give them a chance to adapt to the rates. Mayor Rosenthal said by moving non-profits into residential rates, the City is expecting relief there as well. Mr. Sturtz said under the previous proposal three schools met the maximum impervious surface cap of $300 and under the new proposal nine schools would meet that maximum impervious surface cap.

Councilmember Holman asked what encourages Norman Public Schools (NPS) to build schools in the future that do not have a lot of impervious surface because the cap does not seem to give NPS the incentive to take that into future consideration. Mayor Rosenthal said generally, not just for schools, if there is some rebate or offset for best practices and the City recognizes that then everybody would benefit from those engineered solutions. Councilmember Holman said if schools have a cap on their fee, they will not be encouraged to lessen their footprint. Councilmember Castleberry said the school system will build their schools based on the needs for the education of the students, not how much impervious surface the school has. Councilmember Miller thinks this will evolve just like the recycling has evolved and water conservation has evolved. Mayor Rosenthal agreed and said the City is going to see changes in engineering standards and practices that will evolve over time.

Mr. Sturtz said the non-single family rate structure has been changed to add an ERU maximum of $850. Mayor Rosenthal said Norman has a lot of state agencies and public entities, such as the hospital, and there has been concern expressed about how the SWU would impact large employers that at some point would become onerous. She believes the ERU cap benefits those public partners and large employers in the community.

Mayor Rosenthal said the new proposal does not vary from the $5.75 per month residents were projected to pay in the previous proposals. She asked Mr. Steve Lewis, City Manager, to speak about how he would propose to manage the phase-in and what impact that would have in terms of trying to accomplish the entire storm water program.

Mr. Lewis said projected expenditures for storm water is expected to be $7.3 million while projected revenues for a SWU is expected to be $6.3 million, which is $1 million short. He said Staff has tried to think of ways to bridge that amount and an option to do that consist of appropriating $300,000 per year from the Water Fund to go towards relieving the Total Maximum Daily Load (TMDL) component in terms of water testing and water monitoring. He said this would be an appropriate use of those funds and would be especially appropriate for Norman since Norman has a reservoir it depends upon for drinking water. To make up the additional $700,000 per year, Staff is looking at removing projects from the Capital Fund's five year plan as well as reducing some projects during that scope of time. He said projects that could be removed or reduced over a five period include a salt storage facility at North Base, building security and access systems, traffic calming, police firearm berm renovation, etc. Mayor Rosenthal asked how the proposal to delay a portion of the fee structure from non-profits and public schools would impact that plan and Mr. Sturtz said most of the storm water projects have not been designed and are not shovel ready so there is already a delay in starting construction on the larger projects. It would be easy to phase those projects in over the next couple of years. Councilmember Castleberry said if the City can delay those projects for a couple of years because they are not ready then why would delaying the SWU cost the City anything? Mr. Sturtz said these projects are only the capital portions of the program, all the

other portions of the program are still necessary, but the capital portions could be phased in allowing the City to move forward in acquiring right-of-way and completing design.

Councilmember Lang asked where is the delay of increasing costs if we are not going to be doing projects for one to two years. He said in previous meetings Council understood that capital projects increase the costs dramatically requiring Council to move forward quickly with the SWU. Mr. Sturtz said even if the City had full funding in the first year the City would still have the same delay for design, right-of-way acquisition, and construction, but if the City delays further it compounds problems beyond that point. Mr. O'Leary said Staff is only talking about the delay for the public schools and non-profit agencies, not delay of the entire program.

Councilmember Miller said if a SWU is approved by voters in August, the City will not receive a full fiscal year of funding and there are plenty of projects to spend that money on. Councilmember Lang asked if this will be a pay as you go program and Mayor Rosenthal said Council has discussed debt financing the larger capital projects. She said there is a natural sequence of events that have to take place first that will not require the City to encumber the entire amount that might be the delta between the delay of non-profits and public schools.

Councilmember Allison said he found out earlier this afternoon that Council would be negotiating a new rate structure at tonight's meeting and looking over the information, some properties will be charged more than previously presented and Councilmember Miller said that is correct because the new proposal has tiered rates. Councilmember Allison said that means the City will be helping out the big out-of-town businesses, the big corporate structures, and hurting the hometown people. He said Council wanted to create something that would help hometown companies, but this proposal raises rates on locally owned companies and he cannot support that. Councilmember Miller said businesses that have been involved in storm water discussions were in agreement that a tiered rate system is simpler. She said this is one of the arguments being made about the ERU's because the only way to make rates fair for each individual person is if rates are based on ERU's, but if you make rates simpler by utilizing tiers there are winners and there are losers. Councilmember Allison said the way to make that work is to lower the target revenue and he knows that is not what Council wants to do, but that is the only way to get this to work. Councilmember Holman said if the City caps the bigger companies, schools, and non-profits without raising the costs on everyone else that means the City will have to subsidize the program from the General Fund and it would be the only utility subsidized by the General Fund. Councilmember Allison said the City does not need to subsidize the program, just lower the budget or delete projects. Councilmember Miller said if the City does that then it is basically saying some of those budgeted projects are not important. She said the Storm Water Program is an essential service and a matter of public safety, health, and property values and she wants to help neighborhoods experiencing problems with flooding.

Councilmember Allison said there has been a lot of discussion about helping neighborhoods experiencing flooding problems, but when you look at the SWMP the neighborhoods are prioritized at the bottom of the list and the City is using neighborhoods to falsely market the SWU. Mr. O'Leary said he did not believe neighborhood projects were listed in the SWMP. Councilmember Castleberry asked where neighborhoods come in because projects that have been discussed included helping neighborhoods with flooding issues. What do we tell the voters if we are not going to help neighborhoods? Mayor Rosenthal said it is important to convey that the capital projects for storm water is not a static list, but what is important is the criteria on how to decide project priorities. Mr. Sturtz said a ranking criteria is set in the SWMP that is applied to new projects and there are two lists of projects with different types of funding set aside so if there are small projects not ranked high they would still be addressed. Mr. O'Leary said the enhanced maintenance program suggests that neighborhood Homeowners Associations (HOA) would contribute 50% towards maintenance, but he suspects there will be neighborhoods that will not be able to do that so other projects would be prioritized before them. He said projects listed will be a bit of a moving target if that is the policy Council adopts.

Councilmember Castleberry said *all* plats include this statement, "all maintenance within a drainage detention facility easement shall be the right, duty, or responsibility of the property owners in that plat. If maintenance is neglected or subject to other unusual circumstances and is determined to be hazardous or a threat to public safety by the City Engineer corrective maintenance may be performed by the government jurisdiction with cost assessed to and borne upon the property owners." Mr. O'Leary said the City has never had to do that because the property owners have always done the right thing. Councilmember Castleberry is worried about setting a precedent of helping neighborhoods at the City's expense, such as Summit Lakes. He said if the City is going to take over drainage detention maintenance under the SWU, the City cannot hold property owners responsible and that needs to be addressed prior to a vote of the people, not just ask people to trust that the City will take care of these issues.

Mayor Rosenthal said the consensus has not necessarily been to bail property owners out and Councilmember Castleberry said when the City fixes a problem at no cost to the property owner that is a bail out. Mr. Bryant said there are policy issues Council will need to work through, but he understood the City was going to set a particular standards in which the HOA would need to bring the infrastructure to current standards then the City would be willing take over long term maintenance as part of the SWU. One idea to help HOA's do this was to use some of the accumulated revenues from the SWU to provide short term financing to bring the infrastructure up to standard and move forward with the improvements. He said it is more about providing assistance than a bail out. Mayor Rosenthal said HOAs do not have engineers, project managers, or the capacity to bid a project so that is a service the City can help to provide. She said at the end of the day the City needs to be concerned about a community whose infrastructure is part of the system and if that infrastructure fails it could have negative consequences to the community. She said Council needs to think of this as a template for a partnership that allows the City to help with these issues. Councilmember Castleberry said his concern is whether or not this will be in the ordinance or if this will be a policy because future Council can get rid of policies they do not like. He wants to give some assurances to HOAs that the City will not abandon them and he would be more comfortable having it addressed in the ordinance that citizen's vote on. Councilmember Castleberry said he wants flexibility and not tie the City's hands and Mr. Bryant said there may be a way to work language into the ordinance. Mr. Bryant said each HOA will have unique issues, Summit Lakes versus Arbor Lake, etc., so the language will be pretty broad, but will give that assurance Councilmember Castleberry is requesting.

Councilmember Castleberry said if the City has never used the provision in the plat, is there an objection to taking the provision out of the plat requirements? Mr. O'Leary said that is a common provision in most cities and is really a mechanism to make emergency repairs to a structure if the HOA does not or cannot make the repairs. For that reason the clause if rarely used, but without that the City would have to stand by and let the circumstance continue. He said if the City cannot fix a portion of a storm water system, other systems down the line can have serious potential hazards. He said any emergency steps Staff took would have to have Council authority.

Councilmember Lang would like to know what HOA fees are being used for in neighborhoods that are having detention failures. He said HOAs should have anticipatory revenues in the bank for these types of issues and there does not appear to be any kind of protection for people in the HOA if the fees are not adequate to cover such emergencies. Mr. O'Leary said the Legal Department reviews every restrictive covenant that comes in as part of a final plat, but the City does not establish the HOA fees. Councilmember Miller said she did not want the City to get involved in making that type of decision and a lot of people would resent that intrusion. Councilmember Allison agreed and said a majority of Norman does not have HOAs and many of the major projects are not supported by a HOA so the City will have to bear 100% of that cost anyway. Councilmember Castleberry said whether the neighborhood has an HOA or not, they still have a liability they may not be aware of.

Mayor Rosenthal said in older neighborhoods of Norman it has become necessary for the City to perform bank stabilization or other repairs, which prompted discussions of creating a 50/50 program to help property owners without an HOA. She said in order to get assistance to fix a problem the property owner(s) is going to have to have some financial responsibility for that assistance. Over many years, Central Norman has developed drainage channels in an inconsistent way and that cannot be undone, but going forward Council recognizes issues not addressed by a SWU will have to be addressed in another way.

Councilmember Allison said a process for appeals and rebates for best practices should be outlined in the ordinance prior to a vote of the people. He said some new and future neighborhoods will want to develop ways to make their detention system better and asked if they were going to be subject to the same rates as people who have not done anything to improve their system. Councilmember Miller said there would need to be some type of criteria for those who go above and beyond what is needed, but detention ponds do not always prevent storm water runoff.

Mr. Sturtz said the City currently has a Low Impact Development (LID) Storm Water Manual in place and some of those engineering solutions are part of the Water Quality Protection Zone (WQPZ) Plan and developments using LID should absolutely benefit from that, but a detention pond alone does not do the job. Councilmember Allison felt more developments would use LID if there was a benefit to doing so. Councilmember Castleberry asked if the ordinance language gives the City the flexibility to credit development for LID, and if not, there should be language that allows for that flexibility. Mr. Bryant said the appeals process was crafted to be an administrative process under the purview of the City Manager and Staff could add something about exploring and bringing forward to Council some recommendations on the credits for LID or other types of credits. He said Council could work through that and put a policy in place that they want the City Manager to administer. Mayor Rosenthal suggested an appeals process that would allow for offsets to be established by policy of the Council for the installation of drainage solutions from the LID Manual.

Councilmember Allison asked who created the LID Manual and Mr. Sturtz said the manual Norman adopted is from Wichita, Kansas, and was not created by a governing body. Mayor Rosenthal said the LID Manual was selected upon a recommendation from Mr. Tom McCaleb, SMC Consulting Engineers, during the WQPZ discussions because Wichita had similar types of geography as Norman and developers were using it and working from it. Mr. Sturtz said Wichita used the manual to retrofit Best Management Practices (BMPs) on existing sites.

Mr. O'Leary said the SWMP has a section regarding credits and Staff has always favored and encouraged credits for anything from rain barrels to pervious concrete. He said sometimes LID's can be expensive and developers choose not to use them.

Councilmember Allison asked how the SWU will be billed and Mr. Bryant said it is Staff's understanding there is a preference for the SWU to be billed initially through the City's utility system so whoever receives a utility bill will be charged a storm water impact fee. Anyone who feels they should not be charged can file an appeal with the City and provide proper documentation that the owner, not the tenant or utility holder, is responsible for that payment. The ordinance presumptively states that whoever's name is on the utility bill is responsible for the SWU. Councilmember Castleberry asked what happens if there is no utility bill and Mr. Bryant said the SWU would revert to the property owner. Councilmember Castleberry said the Internal Revenue Service (IRS) considers any fee assessed to a property owner as an ad valorem tax and deductible for IRS purposes and the City cannot charge ad valorem tax to non-profits. Mr. Bryant municipalities are allowed to assess fees for utilities.

Councilmember Allison asked how fees will be assessed. Will Staff measure everyone's impervious surface or will they use the City's Geographical Information System (GIS) impervious surface calculator? He believes the

GIS information is inaccurate. Mr. O'Leary said Staff has a lot of work to do and the first year or so will be pretty rough and there will be a lot of corrections to make, a lot of appeals, a lot of sorting out County records, etc., no matter what method of calculation is used. Councilmember Allison asked if additional staffing will be added and Councilmember Miller said that was not the plan. Mr. O'Leary said there will be additional mapping from GIS. Mayor Rosenthal said details will be worked out and there will be a phase-in and administrative implementation period that will have to be worked through. She said a SWU is not unique to Norman, it is done around the country.

Councilmember Castleberry said Staff has suggested taking $300,000 from the Water Fund to help subsidize the $1 million shortage for the storm water projects so will water rates have to be increased to cover that? Mr. Ken Komiske, Director of Utilities, said $300,000 is about one and one half percent of gross revenue so it will not affect the budget much in the short term. The information collected for the SWU will be usable information for the Utilities Department in regard to water quality and run-off. Mayor Rosenthal said building on the knowledge of what is running off into Lake Thunderbird will help with bigger issues in terms of treatment that could raise capital costs.

Councilmember Lang said if someone does not pay their utility bill the water service can be turned off and trash will not be collected, etc. If a renter does not pay their bill and leaves town does the bill have to be paid by the property owner because that basically leaves the property owner as a bill collector for the City of Norman. How does that work? Mr. Bryant said the ultimate encouragement of not paying a utility bill is having the service cut off, but if the utility bill holder is presumptively responsible the City would not ask the property owner to make the payment.

Councilmember Castleberry said if someone does not get a utility bill, but receives a bill for SWU only and decides not to pay it what is the City going to do then? Mr. Bryant said the City can file a small claims judgement and place a lien against the property to collect the payment. Councilmember Miller said many citizens in Ward Five have water wells and septic systems, but do have trash service. She asked how many people in Norman do not receive a utility bill and Mr. Komiske said everyone in the City of Norman is required to have trash service; however, there are a very few number of people who move under the radar and put their trash in dumpsters within the City. Mr. O'Leary said parcels without billing addresses tend to be agricultural land.

Mayor Rosenthal said Council discussed a one year delay for public schools and non-profits due to the current economic downturn. Councilmember Allison said he does not support charging the schools because he would rather see schools use that money to hire teachers. Councilmember Castleberry shares Councilmember Allison's concerns about the schools, but he is also concerned about fairness, which ranked high in the survey results. How do you take one impervious surface customer over another impervious surface customer? So the water that runs off NPS is different than the water that runs off Embassy Suites or Sooner Mall because the City likes NPS more? Mayor Rosenthal said many of the people surveyed felt schools should be exempt or charged a special rate and the essence of Councilmember Miller's proposal is to acknowledge that. Councilmember Miller said the City is acknowledging that, but not to the degree that schools do not have to pay at all. Schools have to pay utilities, they have to pay for heat and air and Oklahoma Gas and Electric Company (OG&E) does not give them a good deal. Councilmember Miller said the City has to pay for a storm water fee and Councilmembers are the stewards of the budget so that has to be kept in mind.

Mayor Rosenthal asked if the phase-in delay could be pushed to June 2018, and Mr. Bryant said yes, that could be written in the ordinance under the City Manager's purview, but if the seated Councilmembers in 2018 decided they wanted to suspend further implementation of that ordinance as it related to schools or non-profit agencies they would be able to do that. Councilmember Castleberry asked if the City will pay the storm water fee for its own properties and Mr. O'Leary said it is a mixed bag, but yes many cities charge themselves for

utilities they provide. Councilmember Lang said the bottom line is that schools are being funded by citizens anyway and schools do not have enough money so to make a policy decision just to make ourselves feel better is senseless. Councilmember Miller said the policy is not to make the City feel better, Council is trying to be responsive to citizen's concerns. The phase-in delay gives the schools time to get used to the fact they will have another fee and schools have more impervious surface than any other entity other than the University of Oklahoma (OU). Councilmember Lang said he could make the same argument for low-income and fixed income citizens or for small businesses barely getting by. Let the City give everybody a one year delay so they know that a year from now they will have this fee and give them a chance to get ready for it. Councilmember Castleberry said this should not be about a person's ability to pay. Councilmember Holman said putting a cap on the fees for schools and giving them two years before paying is giving them a break.

Councilmember Miller asked when the fees would go into effect if the vote passes and Mr. O'Leary said November 1, 2016. Councilmember Allison said most companies will not have budgeted for the fee in that timeframe.

Mayor Rosenthal said Council has also discussed an educational component and it will take some time to decide exactly what that entails. She is puzzled at the range of opinions she is hearing tonight. She said the two year grace period is a compromise that recognizes Oklahoma is in a particular economic climate right now that is affecting public education significantly. Councilmember Holman prefers a grace period to July 1, 2017, to be reassessed at that time to see that needed to be extended to 2018. Mayor Rosenthal reminded everyone that the grace period includes non-profit agencies.

Councilmember Lang said tonight's ordinance proposal is very different than the First Reading ordinance Council started with and Mayor Rosenthal said tonight's proposal incorporates public input. Councilmember Lang said by incorporating all this input it almost seems like a totally different ordinance and asked Mr. Bryant at what point do we have a completely different ordinance? Mr. Bryant said First Reading is notice by title and the title is the same so there is no problem as far as notice by title. Councilmember Castleberry asked if Mr. Bryant anticipates each proposal to be a separate amendment to the ordinance or will there be an entirely new ordinance and Mr. Bryant said that is Council's decision. Mr. Bryant said there have been times where the ordinance has been substituted if there was general agreement on all the changes and a motion could be made to substitute the text in its entirety and there have been other times when Council has discussed and amended a section at a time. Councilmember Miller said the ordinance does look different, but if you go back and look at the earlier iterations it is basically the same and all of the amendments are based on what Council has been hearing in public meetings, from emails, from the survey, etc., and Council is trying to be sensitive to that. Mayor Rosenthal said the fundamental concepts of the ordinance have not changed.

Councilmember Castleberry said it is hard to know the full financial impact of each amendment and be prepared to vote on the ordinance. He said tonight's meeting makes a really strong case for postponing the ordinance until these issues have been addressed and review a January election. Councilmember Miller said there is a process to getting this on a ballot and it does box Council in in terms of time so to get this done and on the ballot Council needs to make some decisions. She is concerned about the cost to the City in not moving forward to get something out that citizens can vote on. Mayor Rosenthal said Council has already vetted many of the details and most of the proposed amendments are in response to public input.

Councilmember Holman said the sense of urgency for him is the mention of the first year of adjustments and all the things that have to take place and a vote in August would mean that process could start sooner.

Councilmember Allison said the bigger question is what happens if the SWU vote fails. Whatever Council comes up with has to pass so it does not matter if that happens in August or January. Councilmember Miller said between the time Council approves the ordinance and the time it goes to a vote of the people, that is time to

educate the voters and that is the time to get more information out to the voters. In the summer people are not as busy and they are not worried about national and state elections and there will be a lot of things going on in the fall so the City needs to get ahead of that.

Mayor Rosenthal asked Councilmember Heiple if he supported a grace period for phase-in for public schools and non-profit agencies and he said yes. Councilmember Castleberry said he does not have a problem with that if Council can review it in a year and have the flexibility to delay further or exempt them.

Councilmember Heiple left the meeting at 6:50 p.m.

Mayor Rosenthal said placing non-profit agencies in residential zoning with a $300 cap would provide some relief. Councilmember Castleberry said being non-profit does not mean they do not have money so if the reasoning is they cannot afford the fee he has a problem with that. Mayor Rosenthal said the reasoning has more to do with the purpose of the agencies and Council is making a policy decision on which rate structure they fall under. Councilmember Castleberry said he needs more time to digest this issue and is not going to make decisions on the fly. Councilmember Karjala feels Council is up against a deadline making decisions hastily and that sends the wrong message to the public. Councilmember Castleberry said Mayor Rosenthal has stated in earlier discussion there would be no exceptions because it causes problems and now Council is back to talking about exceptions. Mayor Rosenthal said there were arguments for exceptions from the public. Councilmember Karjala said many of her constituents argue that schools should be exempted, but she would argue against that because once you exclude some institutions then the argument comes that you have to exclude others. Mayor said Council is not saying "excluded" they are saying "which rate structure should 501(C)(3) entities fall under."

Councilmember Lang said there should be no delay for anyone, everyone should pay, and there should be a cap on everyone. He said not everyone is going to be happy no matter what Council decides. Mayor Rosenthal said under Option C discussed in the last meeting, no one received an exemption, but there was push back from the business community, advocates for education, non-profits, private schools, etc. If Council is going to take those concerns seriously then what Councilmember Miller is proposing gets the City closer to responding to those concerns. She said the business of creating public policy is messy and people will avoid making tough decisions until there is a deadline. Councilmembers were elected to office to make those tough decisions not to kick the can down the road. Councilmember Allison said the City should totally exempt schools.

Mayor Rosenthal said there seems to be support for the phase-in for schools non-profits and asked Staff to draft language that reflects the delay.

Councilmember Allison said he does not like tonight's proposed rate structure because it is not helping locally owned businesses. The City should not be giving a break to big box stores at the expense of the mid-range businesses. Councilmember Miller said everyone wanted a simple rate structure and rate tiers are simple so the Staff got rid of ERU's and recalculated a tiered rate structure. Councilmember Allison said the targeted revenue needs to be lowered because that is the only way to lower the fees and Councilmember Castleberry agreed. Mayor Rosenthal felt lowering targeted revenue would not address basic maintenance costs so what will the City tell neighborhoods, such as Arbor Lakes Addition, who are experiencing problems and are asking the City for help? Councilmember Castleberry said tell them they are responsible for their own maintenance. Councilmember Miller said the City is currently trying to help Summit Lakes Addition because this addition is part of a system and the City does not want Summit Lakes Addition flooding their neighbors. She said if the City does not have storm water prevention it will experience more problems and cost more money down the road. The City needs to get this right because there is no going back to the voters saying the City did not ask for enough money for some type of preventative maintenance measure at the very least.

Mayor Rosenthal asked Staff to draft the amendments proposed by Councilmember Miller for Council's consideration at the Council meeting. She said every amendment will be voted on separately by Council.

Councilmember Castleberry asked if the business community suggested the rates being proposed in the modified Option C and Mayor Rosenthal said no, Staff asked business stakeholders for guidance and tonight's proposal reflects that guidance. Councilmember Castleberry said he did not like getting information at the last minute and felt it was unfair to all Councilmembers to be asked for input on something that has just been handed to them without having a chance to digest it. Councilmember Allison agreed and said he has been asking about credits for storm water practices since the first meeting on the SWU, but just received an answer from Mr. Sturtz moments ago. He felt that someone who had the policy decision to answer that question was holding it back because they did not want that information to come out. Mayor Rosenthal said discussion of offsets for engineered solutions was discussed along with the appeals process. Councilmember Allison asked why that information was not included in the ordinance and Mr. O'Leary said it was Staff's understanding that offsets were not Council's desire. Mayor Rosenthal said there is a proposed amendment for best practices to clarify that as well as additional language regarding appeals.

Councilmember Allison said the tenant billing issue needs to be written out really well as soon as possible because he is confused on how that would work.

Councilmember Castleberry said he would like the bottom rate to be $1 instead of $3.50 because he is concerned about smaller homes that really do not have very much impact.

Councilmember Miller understands all these complaints, but if Council cares about getting this implemented is there a possibility of getting close to a target number that will help do more for the citizens, protect property, and protect our water supply. Can we come to some kind of agreement? She said if Council waits until January that will have implications to the budget. She wishes there was more time to consider this, but there is not.

Councilmember Castleberry said there are too many unanswered questions for Council to make a hasty decision. He said if the City is already spending $2.3 million on storm water then the City does not need $6 million, it only needs $4 million. These are the issues that need be resolved between August and January. He said the people that cannot afford it in August will not be able to afford it in January. He said the items presented tonight have not been presented to the public and Mayor Rosenthal said Council has been talking about the SWU for a long time. Councilmember Castleberry said this is a brand new proposal that has never been talked about before and he has not had to chance to see what people on Facebook have to say about it. He said Council has been talking about the *concept* of a SWU for a long time, but Council is in the weeds now and has only been in the weeds for a couple of months. What are people actually going to vote on? Can he and his constituents get their heads wrapped around this by next Tuesday when Council is expected to vote on the ordinance?

Councilmember Allison asked if the appeals process would go through the City Manager's Office or if there will be an appeal committee. Mr. Lewis said his understanding is the City Manager will put together some type of policies and procedures about how the City will enact and handle appeals based upon the discussion tonight with Council's input on what that policy will be.

Councilmember Allison asked what it would cost to manually determine the amount of impervious surface that GIS is not correct on and Mayor Rosenthal said Staff used 2015 aerials. Councilmember Allison said he talking about the actual surface within a parcel and Mayor Rosenthal said that is what the appeals process comes in. Mr. Sturtz said there are 16 different separate database systems that go into calculating an impervious area so Staff knows that what was put together is an approximation and not 100% accurate for every parcel. The City can go in parcel by parcel and select individual items to get a whole different picture so the City does have good

data. Mayor Rosenthal said the purpose behind the calculator was to allow people to get an idea of where they fit into this system and this notion of impervious surface so obviously it is going to have to be worked through.

Ms. Jayne Crumpley said citizens will not have time to review the amendments before Tuesday and she is still struggling to understand the ordinance without the amendments.

Mayor Rosenthal said First Reading of the ordinance on May 10, 2016, gave public notice and since that time public feedback has been incorporated into the ordinance through proposed amendments and the question is whether Council will accept those amendments. She said Council will meet on Tuesday prior to the Council meeting to review the amendment language and work through those.

Councilmember Holman asked if a City Council meeting could be held a week from Tuesday where Council could vote on this without it being too late? Mr. Bryant said it is his understanding that Tuesday, June 7, 2016, is the last day Council can vote on this to meet the deadline of giving notice to the Cleveland County Election Board, but he will double check that.

Items submitted for the record

1. Draft Ordinance O-1516-40
2. PowerPoint presentation entitled, "Option C – Modified Non-Residential Rate Proposal - Modified Single Family Utility Rates Per Month and Modified Non-Single Family Utility Rates Per Month"

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The meeting adjourned at 7:35 p.m.

ATTEST:

Brenda Hall
City Clerk

Mayor