PUBLIC MEETING REGARDING UPCOMING STORM WATER UTILITY ELECTION
TO BE HELD AUGUST 23, 2016

August 15, 2016

The City Council of the City of Norman, Cleveland County, State of Oklahoma, attended a public meeting at 6:00 p.m. in the Municipal Building Council Chambers on the 15th day of August, 2016, and notice of the public 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. Although this meeting was not a regularly scheduled meeting of the Council a quorum was present; therefore, a summary of the meeting was recorded as required by the Open Meeting Act.

PRESENT:	Councilmembers Allison, Clark, Chappel, Hickman, Holman, Karjala, and Mayor Miller
ABSENT:	Councilmembers Castleberry and Heiple

PRESENTATION AND DISCUSSION REGARDING UPCOMING STORM WATER UTILITY ELECTION TO BE HELD AUGUST 23, 2016.

Mayor Miller welcomed everyone to tonight's public meeting regarding the upcoming Storm Water Utility (SWU), election to be held on August 23, 2016.

Mr. Shawn O'Leary provided background on the SWU stating storm water is not just rain, but the result of rain flowing over hard surfaces. He said the stormwater runoff picks up pollutants and contaminants while making its way to the City's drainage system, creeks and streams, to the Canadian River and to Lake Thunderbird.

Mr. O'Leary said hard or impervious surfaces reduce rainfall's ability to soak into the ground and impervious surface includes homes, businesses, pavement, driveways, parking lots, and walkways. He said runoff gets polluted when rain runs off of a hard surface, onto lawns, and picks up gasoline, motor oil, fertilizers, and pet waste. Mr. O'Leary said the polluted storm water flows over streets collecting more contaminants such as grass and debris and runs into the City's drainage system. He said the runoff flows through underground drainage pipes from the drainage system into streams and creeks and goes, *untreated*, into Lake Thunderbird and the Canadian River.

Mr. O'Leary said a SWU needed to be established in order to have a predictable and stable funding source for programs that can help address stormwater runoff to protect drinking water; maintain creeks, streams, and drainage systems; repair erosion of streams and creeks, and meet federal and state regulatory requirements. He said Norman is the only large city in Oklahoma without a SWU.

Mr. O'Leary highlighted the unfunded mandates and said the state and federal requirements require the City to address the polluted runoff and protect drinking water. He said the City is also required to do additional regulations to address the limit of pollution in Lake Thunderbird and possible fines and penalties of up to $10,000 per day can be imposed if not addressed.

Mr. O'Leary highlighted the rates for the proposed SWU stating the monthly utility rate is $1.25 per 1,000 square feet of hard surface area and a $1.00 per month stormwater management fee. He said this does not include properties that have not been developed. Mr. O'Leary said Staff researched other Oklahoma cities to find out how they established a SWU as well as performed rate comparisons. Those

cities include Midwest City, Edmond, Broken Bow, Oklahoma City, Lawton, Bartlesville, Stillwater, and Tulsa. The City of Norman determined a rate based on hard surface area was the best method because it is the approach used by the comparison cities. Mr. O'Leary said the more impervious area equals more stormwater runoff which includes more contaminants and pollutants that impact water quality.

The SWU is expected to generate $4,900,000 in the first full year and assist with the following:

- $1,100,000 – more maintenance of stormwater, pipeline and channels;
- $1,680,000 – to comply with state and federal regulatory requirements; and
- $2,120,000 – more maintenance in neighborhoods and small-scale capital flood relief projects.

Mr. O'Leary said each year Lake Thunderbird supplies three (3) billion gallons of water for our community. He highlighted the proposed annual Storm Water Budget totaling $7.325 million as follows: current Storm Water Budget (General Fund) FYE 2016: $2.375 million for basic maintenance and unfunded mandates and new proposed additional Storm Water Budget with SWU FYE 2017: $4.9 million for basic maintenance, unfunded mandates, and flood relief projects. He stated 29% or $2,120,000 will assist with flood relief; 32% or $2,355,000 will assist with unfunded mandates; and 39% or $2,850,000 will assist with basic maintenance. He said the funds will benefit the community by adding more inspectors, street sweepers, and educational programs. Additionally, the SWU will assist with repairs and restoration of eroding streams that threaten property and damage water and sewer lines as well as assist with the removal of debris that blocks streams, creeks, and channels.

Mr. O'Leary said protecting the quality in Norman means cleaner water; healthier streams and creeks; and reduced risk of flooding from improved flow of stormwater. He reminded the audience the SWU Election is scheduled for August 23rd and encouraged everyone to vote.

Public Comments:

The SWU online calculator is not accurate and that is unacceptable. When will the City make corrections to the online calculator? It needs to be done before the election.

A citizen wanted to explain to the audience that a street sweeper actually sucks up the dirt and removes it from the street(s). Mr. O'Leary said that is correct and the SWU budget includes buying additional street sweepers including hiring personnel to operate them.

If the SWU does not pass by voter approval on August 23rd, when will the City bring another SWU proposal forward? Mayor Rosenthal said possibly in January, April, or June 2017.

The SWU is unfair. I do not have City water and it seems to me like the SWU is for rural citizens to pay for urban projects. Gravel is not a hard surface so why is it being included as impervious area(s)? Can the cameras for the City sewer lines be used for stormwater drains? Mr. O'Leary said the other cities that Staff researched include gravel as impervious areas; however, the City of Norman may look into the issue of exempting those areas. He said the cameras for the sewer lines cannot be used for SWU issues. The SWU enterprise fund will be a different utility; therefore, the equipment and funding for the Sewer enterprise fund must be kept separate from the equipment and funding for the SWU enterprise fund.

Will the rural residents in East Norman who have their own well be taxed? I currently do not have City utilities, i.e., water, sewer, trash, etc., does that mean I will be exempt from being billed for a SWU? If no, how will I be billed since I currently do not received a utility bill from Norman? Mr. O'Leary said rural residents will not be exempt from a SWU. He said a SWU is based on impervious surface run-off

and a new administrative process and customer category will be developed for SWU customers who do not currently receive a utility bill.

Del City and Midwest City draw water from Lake Thunderbird. Is the City of Norman going to bill these two (2) cities for stormwater runoff? Mayor Miller said the Central Oklahoma Master Conservancy Board (COMCD) manages Lake Thunderbird and has representatives from Norman, Del City, and Midwest City. All three (3) cities draw water from Lake Thunderbird; however, Del City and Midwest City do not contribute storm water to Lake Thunderbird; therefore, the two (2) cities cannot be expected to pay a SWU for/to Norman, as well as pay a SWU to their cities. She said Del City and Midwest City are very concerned that Norman addresses the storm water issue(s) because of the water quality impact on Lake Thunderbird.

HOAs maintain portions of the storm water drainage. Will the City assume maintenance of these areas if a SWU is implemented or will the neighborhoods be double assessed? Mr. O'Leary said while the City has participated in a 50/50 cost share with some neighborhoods on small capital projects, there is not a "one size fits all" plan and each project must be taken individually once a funding stream is available. Future maintenance of a dam or pond infrastructure has been discussed, but no formal policy has been established. Mr. O'Leary said 70% of the channels/streams in Norman do not have public drainage easements and acquiring these easements is included in the storm water program. He said the City would ask the neighborhood or HOA to make the improvement(s) to a major system, i.e., a dam, etc., and the City would offer to loan the money to the HOA. Each of the homeowners in the HOA would pay back the entire funding to make the repair and once the dam is repaired and meets City and State standards the City Council would be asked to assume ownership and maintenance of the dam, not the lakes, trails and/or open spaces, only the dam. Mr. O'Leary said the City could also participate in smaller neighborhood projects such as repairs to flumes or pipelines within the detention basins; however, the City would not assume the ownership and maintenance once the repair was completed, rather the HOA would continue to own the private spaces. He said large capital projects will not be covered by the SWU, i.e., Imhoff Creek will be a major capital project not covered, although the City may use SWU funds to address maintenance and minor improvements to slow down erosion along Imhoff Creek and other creeks and channels.

Will the SWU help with the Summit Lakes Dam Project? Mr. O'Leary said Summit Lakes is located at 24th Avenue S.E. and Alameda and currently the dam has a leak. He said the Oklahoma Water Resources Board (OWRB) has determined the dam must be repaired; however, the dam is owned by the Home Owners Association (HOA) and could cost $500,000. The SWU could assist with this project, but that has not been determined at this time.

City Staff said the University of Oklahoma (OU) will pay approximately $160,000 annually for a SWU. That amount is a sweet deal for OU since they have a lot of impervious surface areas and the City should not give OU a break, but instead charge an amount that is fair. Mr. O'Leary said the SWU has not been negotiated with OU; however, the $160,000 is the calculation for all impervious surface areas and not a reduced amount. He said OU pays for all of its utilities under a negotiated contractual agreement that they enter into once the City determines its own utility rates. OU will not be asked in advance of the City to determine what that rate will be to sign a contract rather they will presumably enter into negotiations with the City as they do for water, sanitation, and wastewater. Mr. O'Leary noted that OU has a Phase II permit and they are required to do storm water improvements as well as have a storm water program. He felt it will be necessary to acknowledge and recognize these requirements during the negotiation process.

Where do the Tax Increment Financing (TIF) Districts fall into the SWU program? Mr. O'Leary said TIF Districts have impervious surfaces and just like any other development in the community, they would have their impervious surfaces calculated and pay an amount monthly.

I support a SWU; however, the City needs to address the issues that create runoff in the first place in order to reduce the runoff in Norman. Who will pay the SWU for the retail businesses and retail parking lots? What will be done for apartment complexes? Mr. O'Leary said new developments address runoff by constructing retention/detention basins. He said whoever currently gets the utility bill will pay the SWU fee, i.e., if the property owner gets the utility bill, the property owner will pay OR if the tenant gets the utility bill, the tenant will pay. Mr. O'Leary said the City provides a provision for apartment owners and can split the SWU fee accordingly which is a fair method of allocation for the owner to bill their tenant. Any person or entity other than the presumptive responsible party may be assessed and billed the SWU upon providing proper documentation to the City's billing department.

Will the City of Norman pay a SWU? Mr. O'Leary said yes, the City currently pays for utilities via the General Fund; i.e., the Sanitation Utility, Water Utility, and Wastewater Utility are paid by the General Fund through a cost allocation charge to cover those expenses and a SWU will be paid in the same manner.

Gravel roads and/or driveways are not impervious surface areas and should not be included in the SWU calculations? Mr. O'Leary said the other cities that Staff researched include gravel as impervious areas. Mayor Miller said the City of Norman may look further into the issue of exempting gravel.

Take gravel off the ballot and/or cancel the SWU election. Mayor Miller said the gravel calculation cannot be removed from the ballot and August 23rd election cannot be cancelled.

Will the credits be in place before November, 2016, the first SWU billing? Mayor Miller said yes.

Why did the City of Norman push for an August 2016 vote on the SWU? Mayor Miller that the City is now under Federal and State mandates/requirements and an August 2016 vote will put the City in a position to begin collecting SWU in 2017, if voter approval is obtained.

Council is asking the citizens to vote for a SWU that is an open proposal without a credit process. Why was the credit process not determined before bringing this to the vote? Mayor Miller said Council met many times to discuss the SWU which included many rate structures and there simply was not enough time to discuss the credit process. Council felt an August 2016 election will put the City in a position to begin collection SWU in 2017, rather than waiting until 2018, if voter approval is obtained. She said Council will make the credit process discussions top priority.

Will citizens go vote at their usual precinct for the August 23rd election? An election occurred in July on another topic. It seems like it would save a lot of time and money had the SWU issue been on the July ballot as well. Mayor Miller said registered voters will vote at their usual/regular precinct. She said the City has to give the Cleveland County Election Board notice of an election (60 days or 75 days depending on whether there are State/Federal ballot questions) and there was not enough time to put it on the July ballot.

I am offended by the SWU calculations. I live in rural Norman and own 33 acres; however, according to the calculation link on the City's website, I will pay ten times more than urban developers and/or residents. If the SWU election should pass I intend to appeal the amount. How can I be assured the calculations will be corrected and/or changed before the first billing in November, 2016? Mr. O'Leary

and the Mayor agreed and realize there are issues with the online SWU calculator. Mr. O'Leary said it is possible that surfaces have been captured that do not meet defined impervious surfaces, i.e., cattle trail, chip rock landscaping, and garden areas. He said errors in impervious surface calculations can be quickly corrected by providing information to Staff and/or a field inspection.

The East side rural citizens are upset and feel like the City does not assist them. The rural citizens feel they will not benefit from a SWU. Mayor Miller said the City cares about all of its citizens and while rural citizens may not get water and/or sewer services they do get other very important services such as police and fire. Mr. O'Leary said the goal of a SWU is to address storm water pollution and/or needs for all of Norman.

I support the City and a SWU; however, the rate structure is unfair and a burden on rural people. The City should set the same flat rate for all property owners and the credit process should be done before the election. Mayor Miller said Council looked at a flat rate structure but it was not equitable. She said if the SWU passes on August 23rd, Staff and Council will make the credit process top priority.

If a storm water utility is not funded, what does the City propose to cut from the budget to pay for storm water needs? Mayor Miller said that will indeed be a question that Council will need to deliberate on if a SWU is not approved by the voters. She said new services, as well as new Staff positions, have been added in recent years and Council will have to discuss what may need to be cut from the budget in order to fund the required Federal and State mandates.

Can you describe what Imhoff Creek looks like now and what it would look like after improvements are made to the stream channel? Mr. O'Leary said one particular area of Imhoff Creek is now 30 feet deep with vertical walls; however, 40 years ago when the homeowner's purchased the property their 10 year old daughter was able to jump over the creek. He said large capital projects will not be covered by the SWU, i.e., Imhoff Creek will be a major capital project not covered, all though the City may use SWU funds to address maintenance and minor improvements to slow down erosion along Imhoff Creek and other creeks and channels.

Norman is unique whereas the City limits include urban areas and large residential areas and basing a SWU on impervious surfaces needs to be revisited. Council should look into "net-impervious" surface areas and take into account the rural land will absorb water runoff. This should be looked into prior to the vote.

East Norman is being asked to vote yes on the SWU in hopes that we will be able to apply for credits. Mayor Miller said rural property owners have asked for consideration from the City if their impervious area is less than 10 percent of the total property. She said Council will look at issuing a credit for low percentages of impervious surface but the credit will most likely apply for acreages where green space serves as a buffer between rooftops and the watershed. Plowed land or high intensity grazing land might not qualify.

If the SWU is approved, will the credit process be done before the November 1st billing is mailed out? Mayor Miller said yes, any credit will be reflected on the November billing.

Is there a mandate in regards to the Canadian River and Mr. O'Leary said the City has an ODEQ permit from 2000 for all storm water runoff to include the Canadian River. Mr. O'Leary said there will most likely be mandates specifically regarding the Canadian River in the future.

Why was the credit process not determined before the vote? The ballot language is very vague. Mayor Miller said there was not enough time to discuss the credit process before bringing it to the vote of the people.

If a credit process produces a large amount of compensation, the City will not reach its SWU budget. Will the City need to bring a vote back to the citizens in order to raise the SWU? Staff said yes, Norman cannot raise any City utility without voter approval.

Are road and/or streets being included as impervious surfaces? Mr. O'Leary said private and public roads and streets are not being included as impervious surfaces and will not be subjected to a SWU.

Who has the legal authority to define impervious surface? It is not defined in the proposition. Mr. O'Leary said impervious area is defined in the proposition which is the same term being used for hard surface being used on the ballot. He said the City of Norman is using the same definitions, mapping software, etc., that hundreds of cities have used across the country. Mr. O'Leary said the City of Norman has had the advantage of learning from other cities that have studied and implemented successful and fair SWU programs over the last 20 years. *Is the Low Impact Parcel Credit included in the proposition*? Mayor Miller said no, it is not; however, the proposition includes a broad statement regarding provisions for credits and appeals. Mr. O'Leary said the specific low impact development standards are not called out within the proposition; however, there is a credit reference if a property should apply low impact development methods such as rain gardens, etc., there would be a credit system established by the City to provide a reduction in the SWU with the theory that if property owners reduce the runoff they should be entitled to some type of reduced fee. *The credit process will need to be carefully monitored by Council so loopholes are not created.* Mr. O'Leary agreed, stating Council adopted a Low Impact Development Design Manual approximately five (5) years ago; therefore, the design criteria is already in place. He said the question for Council will be how to apply the credit and/or what percentage of reduction will be given.

What authority does the City have to collect SWU fees that are not paid? Mr. O'Leary said the SWU is a utility fee and the City will have the same authority to collect the SWU just as the City has the authority to collect the water, sewer, and sanitation utility fees. He said the City Attorney's Office has spoken to Council and indicated the same principles to collect current utility fees will be used to collect SWU fees.

It might be helpful if Staff explained the theory of why so many cities use impervious surface calculations to determine the SWU. Mr. O'Leary said his view is that it is the only measured system that has a basis in hydrology or civil engineering that the City can calculate the amount of runoff based upon the hard or impervious surface. He said all the reading he has done on the subject states it is the only consistent and fair method used by cities that has stood up through the test of litigation as opposed to a more arbitrary flat fee.

Can Staff explain the theory used for determining that gravel is impervious? Is it true that some gravel is pervious while some is impervious? Could you explain? Mr. Scott Sturtz, City Engineer, said yes gravel can be considered both pervious and impervious. He said an example of pervious gravel is placing gravel along lateral lines that is intended to be "free and open" so that water can run through it; however, when gravel is placed on a road and/or driveway and driven over repeatedly the gravel becomes compacted, closing the space(s) between the gravel so that the amount of water that can run through it is decreased becoming impervious. He said Staff researched across the nation and could not find another community in the United States that allowed exemptions for gravel parking, gravel drives, or gravel roads.

Regarding the online calculator/estimator not being accurate - I do not believe the City has the resources and/or manpower to verify the accuracy of all 40,000 parcels located in the community prior to the vote on August 23rd? It would be a waste of money and time to do so; not knowing if this will be the SWU method that will be used until after the SWU election. Mr. O'Leary said Staff feels confident that the GIS mapping and calculations are accurate. He said if the SWU election is successful, but before it is levied as a utility rate, the maps and or calculation may need to be updated and corrected as needed. Mr. O'Leary said Staff has taken many calls regarding the maps and calculations and what has been found is many of the calculations are correct. He said the ownership records will need to be verified relative to the parcel on the map as well.

I appreciate Staff's mention of Low Intensity development credits; but more importantly, especially for the Ward 5 citizens, the City needs to consider Low Density development credits. If the City wants me to vote yes on August 23rd, I will need the City to focus on Low Density.

Joy Hampton, The Norman Transcript, said Staff said a SWU would collect over $2 million for maintenance in neighborhoods and for small capital projects, but Staff also said the Sutton Lakes Dam is privately owned and therefore the City cannot make repairs. She asked whether the $2 million SWU will be utilized to pay for private neighborhood projects. Mr. O'Leary said $1.1 is reflected in the SWU for basis maintenance on neighborhoods and $2.1 million is listed in the SWMP for capital projects. He said the $1.2 SWU can assist with smaller capital projects, i.e., assist neighborhoods, property owners, and HOAs with repairs or upgrades to drainage facilities, detention basins, dams, and structures costing less than $500,000 could be done.

Ms. Hampton said Staff has shown a lot of SWU presentation slides that include Imhoff Creek and the erosion it is/has been experiencing; however, I have been told during discussions with Council that the Imhoff Creek problem would need to a Bond Project or a tax district because there is no way a SWU would fund the project. Which is it? A SWU project or a Bond Project? If it is not a SWU project it is misleading to show a slide reflecting the erosion at Imhoff Creek. Mr. O'Leary said the Imhoff Creek slide was intended to describe what basic creek maintenance opportunities might look like. Mayor Miller said the SWU was never meant to cover all the $84 million projects identified in the Storm Water Master Plan (SWMP) and Mr. O'Leary said the SWMP indicates that both a SWU and a Bond Project will need to be accomplished in order to address all the storm water issues and/or needs. He said Imhoff Creek will be a major capital improvement not covered by the SWU; therefore, a Bond Project would need to be accomplished. However, erosion issues to Imhoff Creek would be considered as a smaller capital project. Basic maintenance can be performed on Imhoff Creek; however, the entire project may need to be a Bond Project

Ms. Hampton said she recently wrote an article regarding rural citizens and the issues concerning the small percentage of impervious surfaces. She said she was told by the Mayor and some Councilmembers that the City has a commitment to deal with this issue and was given the impression this would be addressed prior to the vote. Ms. Hampton said Council adopted a resolution regarding the new Senior Citizens Center stating the City/Council is committed on the issue. She felt Council should adopt a similar resolution giving the commitment to rural citizens. Mayor Miller said the resolution regarding the Senior Citizens Center was only one issue and the SWU has many on-going issues. She said the City will need to go through the process of approval of those credits, which will be both rural and urban. Mayor Miller said she is committed to looking at the SWU in its entirety to help all citizens, including rural.

A $3.00 per month flat rate will not generate the $5 million needed to address stormwater issues. I am concerned about clean water and Norman needs a SWU. City Council and Staff has worked hard and citizens should trust what they are trying to accomplish.

There is not a unified voice as to what happens next should the "no" side prevails during the SWU Election. Council is offering a method to address Norman's water quality issues and felt the community needs to come together. The Council can be trusted on this very important issue and the Community should be generating trust to achieve what is best for Norman.

Mayor Miller thanked everyone for coming to tonight's public meeting and appreciated all the comments. She said there is nothing simple about a SWU but Norman needs to address the issues. Mayor Miller said if the SWU is not approved by voters on August 23rd, Council and Staff will go back to the drawing board in order to bring a SWU forward.

Items submitted for the record

1. PowerPoint presentation entitled, "Protect the Quality" dated August 15, 2016, presented by Shawn O'Leary, Director of Public Works, and Scott Sturtz, City Engineer
2. Administrative Appeals – Stormwater Utility, Draft date August 15, 2016
3. Brochure entitled "City of Norman Stormwater Utility, Special Election August 23, 2016"

The meeting adjourned at 8:52 p.m.

ATTEST:

Brenda Hall
City Clerk

Mayor

CITY OF NORMAN CORPORATE SEAL OKLAHOMA