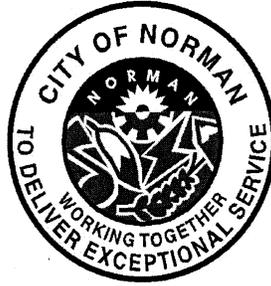


# City of Norman, OK

*Municipal Building Council Chambers  
201 West Gray Street  
Norman, OK 73069*



## Meeting Agenda

**Tuesday, May 10, 2011**

**6:30 PM**

**Municipal Building Council Chambers**

### **City Council**

*Mayor Cindy Rosenthal  
Council Member Alan Atkins  
Council Member Tom Kovach  
Council Member Hal Ezzell  
Council Member Carol Dillingham  
Council Member Rachel Butler  
Council Member Jim Griffith  
Council Member Doug Cubberley  
Council Member Dan Quinn*

*City Council, Norman Utilities Authority, Norman Municipal Authority, and Norman Tax  
Increment Finance Authority Agenda*

1 Roll Call

2 Pledge of Allegiance

### Awards and Presentations

3 AP-1011-20 APPROVAL OF CONFIRMATION OF NOMINEES TO THE NORMAN YOUTH COUNCIL.

INFORMATION: The Children's Rights Coordinating Commission met with City Council in a conference on January 12, 2010, and recommended that City Council sponsor the creation of a Norman Youth Council. On February 9, 2010, City Council adopted Resolution No. R-0910-92 creating the Norman Youth Council to promote civic engagement among youth, give youth a formal role in local decision-making, and offer real world experiences with elected and advisory bodies. The first Youth Council was appointed June 8, 2010 and meetings with meetings held from September until May. The Children's Rights Coordinating Commission met on April 11, 2011, to review applications for the upcoming year and is recommending the following nominations to the Norman Youth Council: Gary Cox, Ryan Domstead, Ann Estes, Manon Fisher, Holly Forsyth, Jordan Franks, Autumn Fryar, Mir Ghouri, Trevor Herrian, Ellie Johnson, Caroline Lott, Sarah McKenzie, Jefferson McKnight, Albert Odell-Miller, Steven Mudd, Drew Mullinex, Dustin Mullinex, Payton Phillips, Paige Portwood, Caleb Sturz, Margaret Vittitow, and Karey Whittier.

ACTION NEEDED: Motion to confirm or reject the nominees to the Norman Youth Council.

ACTION TAKEN: \_\_\_\_\_

**Attachments:** CRCC Minutes

- 4      **P-1011-17**      PROCLAMATION NO. P-1011-17: A PROCLAMATION OF THE MAYOR OF THE CITY OF NORMAN, OKLAHOMA, PROCLAIMING FRIDAY, MAY 20, 2011, AS BIKE TO WORK DAY IN THE CITY OF NORMAN.

ACTION NEEDED: Motion to acknowledge receipt of Proclamation No. P-1011-17 proclaiming May 20, 2011, as Bike to Work Day in the City of Norman and direct the filing thereof.

ACTION TAKEN: \_\_\_\_\_

**Attachments:** Bike to Work Day

- 5      **P-1011-18**      PROCLAMATION NO. P-1011-18: A PROCLAMATION OF THE MAYOR OF THE CITY OF NORMAN, OKLAHOMA, PROCLAIMING THE WEEK OF MAY 15 THROUGH 21, 2011, AS EMERGENCY MEDICAL SERVICES WEEK IN THE CITY OF NORMAN.

ACTION NEEDED: Motion to acknowledge receipt of Proclamation No. P-1011-18 proclaiming the week of May 15 through 21, 2011, as Emergency Medical Services Week in the City of Norman and direct the filing thereof.

ACTION TAKEN: \_\_\_\_\_

**Attachments:** Emergency Medical Services Week

- 6      **P-1011-19**      PROCLAMATION NO. P-1011-19: A PROCLAMATION OF THE MAYOR OF THE CITY OF NORMAN, OKLAHOMA, PROCLAIMING THE WEEK OF MAY 8 THROUGH 14, 2011, AS NATIONAL TRAVEL AND TOURISM WEEK IN THE CITY OF NORMAN.

ACTION NEEDED: Motion to acknowledge receipt of Proclamation No. P-1011-19 proclaiming the week of May 8 through 14, 2011, as National Travel and Tourism Week in the City of Norman and direct the filing thereof.

ACTION TAKEN: \_\_\_\_\_

**Attachments:** National Tourism Week

**6A P-1011-21** PROCLAMATION NO. P-1011-21: A PROCLAMATION OF THE MAYOR OF THE CITY OF NORMAN, OKLAHOMA, PROCLAIMING SUNDAY, MAY 15, 2011, AS PEACE OFFICERS MEMORIAL DAY AND THE WEEK OF MAY 15 THROUGH 21, 2011, AS NATIONAL POLICE WEEK IN THE CITY OF NORMAN.

**ACTION NEEDED:** Motion to acknowledge receipt of Proclamation No. P-1011-21 proclaiming Sunday, May 15, 2011, as Peace Officers' Memorial Day and the week of May 15 through 21, 2011, as National Police Week in the City of Norman.

**ACTION TAKEN:** \_\_\_\_\_

**Attachments:** Peace Officers Memorial and Police Officers Week

**7 Consent Docket**

*Consent Docket*

*This item is placed on the agenda so that the City Council, by unanimous consent, can designate those routine agenda items that they wish to be approved or acknowledged by one motion. If any item proposed does not meet with approval of all Councilmembers, that item will be heard in regular order. Staff recommends that Item 8 through Item 20 be placed on the consent docket.*

**ACTION NEEDED:** Motion to place Item through Item on the Consent Docket by unanimous vote.

**ACTION TAKEN:**

**ACTION NEEDED:** Acting as the City Council, Norman Utilities Authority, Norman Municipal Authority, and Norman Tax Increment Finance Authority, motion to approve or acknowledge all items on the Consent Docket subject to any conditions included in the individual action needed by item.

**ACTION TAKEN:**

**8      GID-1011-28    APPROVAL OF THE MINUTES AS FOLLOWS:**

CITY COUNCIL STUDY SESSION MINUTES OF APRIL 19, 2011  
CITY COUNCIL FINANCE COMMITTEE MINUTES OF APRIL 20,  
2011  
CITY COUNCIL MINUTES OF APRIL 26, 2011  
NORMAN UTILITIES AUTHORITY MINUTES OF APRIL 26, 2011  
NORMAN MUNICIPAL AUTHORITY MINUTES OF APRIL 26, 2011  
NORMAN TAX INCREMENT FINANCE AUTHORITY MINUTES OF  
APRIL 26, 2011

**ACTION NEEDED:** Acting as the City Council, Norman Utilities Authority, Norman Municipal Authority, and Norman Tax Increment Finance Authority, motion to approve the minutes; and, if approved, direct the filing thereof.

**ACTION TAKEN:** \_\_\_\_\_

**Attachments:** April 19 SS Minutes  
April 20 Finance Committee Minutes  
April 26 CC Minutes

- 9      **O-1011-07**      CONSIDERATION OF ORDINANCE NO. O-1011-07 UPON FIRST READING BY TITLE: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING ARTICLE III, SECTION 19-303 OF CHAPTER 19 OF THE CODE OF THE CITY OF NORMAN BY ADDING A PROVISION REGARDING THE PLACEMENT OF A DUMPSTER AND/OR COMPACTOR ON PROPERTY ZONED INDUSTRIAL, COMMERCIAL, OFFICE, OR MULTI-FAMILY; AND PROVIDING FOR THE SEVERABILITY THEREOF.

ACTION NEEDED:    Motion to Introduce and adopt Ordinance No. O-1011-07 upon First Reading by title.

ACTION TAKEN: \_\_\_\_\_

**Attachments:**    O-1011-7  
                          O-1011-7 Annotated  
                          Pert Excerpts CC Oversight October 13, 2010  
                          Pertinent Exc January 5 Oversight Minutes  
                          Pert exc April 6 Oversight Comm Minutes

- 10      O-1011-49      CONSIDERATION OF ORDINANCE NO. O-1011-49 UPON FIRST READING BY TITLE: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 460 OF CHAPTER 22 OF THE CODE OF THE CITY OF NORMAN SO AS TO PLACE A TRACT OF LAND LYING IN THE NORTHWEST QUARTER OF SECTION 3, TOWNSHIP 9 NORTH, RANGE 3 WEST OF THE INDIAN MERIDIAN TO NORMAN, CLEVELAND COUNTY, OKLAHOMA, IN THE PUD, PLANNED UNIT DEVELOPMENT DISTRICT, AND REMOVE THE SAME FROM THE A-2, RURAL AGRICULTURAL DISTRICT, OF SAID CITY; AND PROVIDING FOR THE SEVERABILITY THEREOF. (GENERALLY LOCATED ON THE SOUTH SIDE OF INDIAN HILLS ROAD APPROXIMATELY 1,318 LINEAR FEET EAST OF 48TH AVENUE N.W.)

ACTION NEEDED:      Motion to Introduce and adopt Ordinance No. O-1011-49 upon First Reading by title.

ACTION TAKEN: \_\_\_\_\_

**Attachments:**    O-1011-49  
                          Glenridge Rezoning Location Map  
                          Glenridge PUD Staff Report  
                          Preliminary Plat  
                          Typical Lot Site Plan  
                          GLENRIDGE PUD Narrative  
                          4-14-11 PC Minutes - Glenridge

- 11    **O-1011-52**    CONSIDERATION OF ORDINANCE NO. O-1011-52 UPON FIRST READING BY TITLE: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING CHAPTER 19 OF THE CODE OF THE CITY OF NORMAN TO PROVIDE FOR STANDARDS AND REQUIREMENTS FOR A DESIGNATED WATER QUALITY PROTECTION ZONE INCLUSIVE OF THE LAKE THUNDERBIRD WATERSHED; AND PROVIDING FOR THE SEVERABILITY THEREOF.

ACTION NEEDED:    Motion to introduce and adopt Ordinance No. O-1011-52 upon First Reading by title.

ACTION TAKEN: \_\_\_\_\_

**Attachments:**    O-1011-52  
                          O-1011-52 Annotated  
                          WQPZ Staff Report from PC meeting  
                          4-14-11 PC Minutes-WQPZOD  
                          April 8 PCDC Minutes  
                          March 8 Conference minutes  
                          February 11 PCDC Minutes

- 12      **O-1011-53**      CONSIDERATION OF ORDINANCE NO. O-1011-53 UPON FIRST READING BY TITLE: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING CHAPTER 22 OF THE CODE OF THE CITY OF NORMAN TO ADD SECTION 429.7 CREATING A ZONING OVERLAY DISTRICT FOR THE WATER QUALITY PROTECTION ZONE AND AMENDING SECTION 441(11) PROVIDING FOR SUBMITTALS FOR A VARIANCE FROM THE REQUIREMENTS OF THE WATER QUALITY PROTECTION ZONING OVERLAY DISTRICT; AND PROVIDING FOR THE SEVERABILITY THEREOF.

ACTION NEEDED:      Motion to introduce and adopt Ordinance No. O-1011-53 upon First Reading by title.

ACTION TAKEN: \_\_\_\_\_

**Attachments:**    O-1011-53  
                          O-1011-53 Annotated  
                          Exhibit A to O-1011-53  
                          4-14-11 PC Minutes-WQPZOD  
                          April 8 PCDC Minutes  
                          March 8 Conference minutes  
                          February 11 PCDC Minutes

- 13      **K-1011-156**      CONSIDERATION OF AWARDING OF BID NO. 1011-68; CONTRACT NO. K-1011-156 WITH CENTRAL CONTRACTING SERVICES, INC., IN THE AMOUNT OF \$1,181,068.04, PERFORMANCE BOND NO. B-1011-93; STATUTORY BOND NO. B-1011-94; AND MAINTENANCE BOND NO. MB-1011-92 FOR THE PHASE 2A, WELL FIELD DEVELOPMENT WATER LINE CONSTRUCTION PROJECT AND BUDGET TRANSFER.

ACTION NEEDED: Acting as the Norman Utilities Authority, motion to accept or reject all bids meeting specifications; and, if accepted, award the bid in the amount of \$1,181,068.04 to Central Contracting Services, Inc., as the lowest and best bidder meeting specifications; approve Contract No. K-1011-156 and the performance, statutory, and maintenance bonds; direct the filing of the bonds; authorize the execution of the contract and the Norman Utilities Authority as part of the contract to pay subcontractors for equipment and supplies at prices agreed to by Central Contracting Services; and transfer \$150,000 from Project No. WB0141, FYE 08 16" Water Line Bond Project, Construction (031-9345-462.61-01) to Project No. WB0186, FYE 10 16" Water Line Bond Project, Construction (031-9345-462.61-01).

ACTION TAKEN: \_\_\_\_\_

**Attachments:**    Table 1  
                          Bid Summary  
                          K-1011-156  
                          Perf B-1011-93  
                          Stat B-1011-94  
                          MB-1011-92  
                          Project Location Map  
                          Central Contracting Purchase Req

- 14      **COS-1011-7**    CONSIDERATION OF NORMAN RURAL CERTIFICATE OF SURVEY NO. COS-1011-7 FOR LOT 4, ARMS ACRES. (LOCATED ON THE SOUTH SIDE OF INDIAN HILLS ROAD APPROXIMATELY ONE-FOURTH MILE WEST OF NORTH PORTER AVENUE)

ACTION NEEDED: Motion to approve or reject Norman Rural Certificate of Survey No. COS-1011-7 for Lot 4, Arms Acres; and, if approved, direct the filing of thereof with the Cleveland County Clerk.

ACTION TAKEN: \_\_\_\_\_

**Attachments:**    Lot 4 ArmsAcres Location Map  
                          ArmsAcresCOS  
                          Arms Acres COS Staff Report  
                          4-14-11 PC Minutes - ArmsAcres

- 15      **LL-1011-16**    LIMITED LICENSE NO. LL-1011-16: LIMITED LICENSE TO PLACE FIVE (5) GROUND BANNERS WITHIN THE PUBLIC RIGHTS-OF-WAY PURSUANT TO A REQUEST FROM THE JAZZ IN JUNE COMMITTEE FOR JAZZ IN JUNE TO BE HELD JUNE 23 THROUGH 25, 2011.

ACTION NEEDED: Motion to approve or reject Limited License No. LL-1011-16 to place five (5) ground banners within the public rights-of way pursuant to a request from the Jazz in June Committee; and if approved, authorize the issuance thereof.

ACTION TAKEN: \_\_\_\_\_

**Attachments:**    Jazz in June application.doc  
                          Jazz in June

- 16      **K-0910-61**      AMENDMENT NO. ONE TO CONTRACT NO. K-0910-61: A  
**Amend 1**      CONTRACT BY AND BETWEEN THE NORMAN UTILITIES  
   AUTHORITY AND POE AND ASSOCIATES, INC. IN THE AMOUNT  
   OF \$172,000 TO PROVIDE ENGINEERING DESIGN SERVICES,  
   BIDDING AND CONSTRUCTION SERVICES FOR THE BERRY  
   WATER LINE REPLACEMENT PROJECT .

ACTION NEEDED: Acting as the Norman Utilities Authority, motion to approve or reject Amendment No. One to Contract No. K-0910-61 with Poe and Associates, Inc., in the amount of \$172,000; and, if approved, authorize the execution thereof.

ACTION TAKEN: \_\_\_\_\_

**Attachments:**    Amend 1 K-0910-61  
   Poe On-Call Services K-0910-91

- 17      **K-1011-130**      CONSIDERATION OF FINAL ACCEPTANCE AND FINAL PAYMENT  
**FINAL**      OF CONTRACT NO. K-1011-130 BY AND BETWEEN THE CITY OF  
   NORMAN, OKLAHOMA, AND LASHAR HOME COMFORT  
   SYSTEMS, L.L.C., FOR THE SENIOR CITIZENS HVAC  
   IMPROVEMENT PROJECT.

ACTION NEEDED: Motion to accept or reject the project; and, if accepted, direct final payment in the amount of \$1,269.60 to Lashar Home Comfort Systems, L.L.C.

ACTION TAKEN: \_\_\_\_\_

**Attachments:**    PO Lashar

- 18      **K-1011-163**      CONTRACT NO. K-1011-163: A CONTRACT BY AND BETWEEN THE  
**FINAL**      NORMAN MUNICIPAL AUTHORITY AND DAVID MINIHAN,  
   WESTWOOD TENNIS PROFESSIONAL FOR A TERM OF FIVE  
   YEARS.

ACTION TAKEN: Acting as the Norman Municipal Authority, motion to approve or reject Contract No. K-1011-163 with David Minihan for a term of five years; and, if approved, authorize the execution thereof.

ACTION TAKEN: \_\_\_\_\_

**Attachments:**    K-1011-163

- 19     **K-1011-164**     CONTRACT NO. K-1011-164: MEMORANDUM OF UNDERSTANDING BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND THE OKLAHOMA OFFICE OF HOMELAND SECURITY REGARDING THE ASSIGNMENT OF GRANT FUNDS RECEIVED FROM THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY.

ACTION NEEDED: Motion to approve or reject Contract No. K-1011-164 with the Oklahoma Office of Homeland Security; and, if approved, authorize the execution thereof.

ACTION TAKEN: \_\_\_\_\_

**Attachments:**   K-1011-164

- 20     **K-1011-168**     CONTRACT NO. K-1011-168: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND THE ASSOCIATION OF CENTRAL OKLAHOMA GOVERNMENTS (ACOG) TO PROVIDE FUNDING IN THE AMOUNT OF \$10,560 AS A PART OF THE UNIFIED PLANNING WORKS PROGRAM (UPWP) FOR THE COLLECTION OF TRAFFIC DATA AND THE PREPARATION OF TRAVEL TIME/DELAY STUDIES AND BUDGET APPROPRIATION.

ACTION NEEDED: Motion to approve or reject Contract No. K-1011-168 with ACOG to provide funding in the amount of \$10,560 as part of the UPWP Program; and, if approved, authorize the execution thereof and upon reimbursement of the funds increase the Special Revenue Fund Balance (022-0000-253.20-00) by \$10,560 and appropriate \$10,560 to Maintenance Supplies/Traffic Signal Parts (022-5023-429.32-12).

ACTION TAKEN: \_\_\_\_\_

**Attachments:**   K-1011-168-ACOG, Collection of Traffic Data

- 21     **Miscellaneous Discussion**  
This is an opportunity for citizens to address City Council. Remarks should be directed to the Council as a whole and limited to five minutes or less.
- 22     **Adjournment**



**CITY COUNCIL AGENDA  
MAY 10, 2011**

Municipal Building Council  
Chambers  
201 West Gray Street  
Norman, OK 73069

**Item No. 3**

**Text File Number: AP-1011-20**

---

**Introduced:** 4/14/2011

**Current Status:** Consent Item

**Version:** 1

**Matter Type:** Appointment

**APPROVAL OF CONFIRMATION OF NOMINEES TO THE NORMAN YOUTH COUNCIL.**

**INFORMATION:** The Children's Rights Coordinating Commission met with City Council in a conference on January 12, 2010, and recommended that City Council sponsor the creation of a Norman Youth Council. On February 9, 2010, City Council adopted Resolution No. R-0910-92 creating the Norman Youth Council to promote civic engagement among youth, give youth a formal role in local decision-making, and offer real world experiences with elected and advisory bodies. The first Youth Council was appointed June 8, 2010 and meetings with meetings held from September until May. The Children's Rights Coordinating Commission met on April 11, 2011, to review applications for the upcoming year and is recommending the following nominations to the Norman Youth Council:

Gary Cox  
Ryan Domstead  
Ann Estes  
Manon Fisher  
Holly Forsyth  
Jordan Franks  
Autumn Fryar

Mir Ghouri  
Trevor Herrian  
Ellie Johnson  
Caroline Lott  
Sarah McKenzie  
Jefferson McKnight  
Albert Odell-Miller  
Steven Mudd

Drew Mullinex  
Dustin Mullinex  
Payton Phillips  
Paige Portwood  
Caleb Sturtz  
Margaret Vittitow  
Karey Whittier

**ACTION NEEDED:** Motion to confirm or reject the nominees to the Norman Youth Council.

**ACTION TAKEN:** \_\_\_\_\_

CHILDREN'S RIGHTS COORDINATING COMMISSION MINUTES

April 11, 2011

The Children's Rights Coordinating Commission met at the City of Norman City Hall on the 11th day of April 2011, at 4:00 p.m. and notice and agenda of the meeting were duly posted 24 hours prior to the beginning of the meeting.

PRESENT: Commissioners Georgia Berry, Diana Blackmon, Emily Furney, Robin Stafford and Chris Tweedy

ABSENT: Commissioners Tiffany Couch, Jolene Ring, Pat Valley and Dale Wares

OTHERS PRESENT: Carol Coles

\* \* \* \* \*

Item 2, being:

APPROVAL OF THE AGENDA OF THE APRIL 11, 2011, MEETING.

Commissioner Blackmon moved that the agenda of the April 11, 2011, meeting of the Children's Rights Coordinating Commission be approved, which motion was duly seconded by Commissioner Berry; and the question being upon approving the April 11, 2011, agenda of the Children's Rights Coordinating Commission, a vote was taken with the following result:

YEAS: Commissioners Berry, Blackmon, Furney, Stafford and Tweedy

NAYES: None

The Chair declared the motion carried; and the agenda of the April 11, 2011, meeting of the Children's Rights Coordinating Commission was approved.

\* \* \* \* \*

Item 3, being:

APPROVAL OF THE MINUTES OF THE MARCH 7, 2011, MEETING OF THE CHILDREN'S RIGHTS COORDINATING COMMISSION.

Commissioner Stafford moved that the minutes of the March 7, 2011, meeting of the Children's Rights Coordinating Commission be approved, which motion was duly seconded by

Commissioner Tweedy; and the question being upon approving the minutes of the March 7, 2011, meeting of the Children's Rights Coordinating Commission, a vote was taken with the following result:

YEAS: Commissioners Berry, Blackmon, Furney, Stafford and  
Tweedy

NAYES: None

The Chair declared the motion carried; and the minutes of the March 7, 2011, meeting of the Children's Rights Coordinating Commission was approved.

Items submitted for the record:

1. March 7, 2011, minutes of the Children's Rights Coordinating Commission

\* \* \* \* \*

Item 4 being:

DISCUSSION OF CHILDREN'S RIGHTS AWARD FOR OUTSTANDING SERVICE TO CHILDREN.

Commissioner Stafford moved that the Children's Rights Award for Outstanding Service to Children be presented to Fran Roberson, which motion was duly seconded by Commissioner Tweedy; and the question being upon approving presenting the Children's Rights Award for Outstanding Service to Children to Fran Roberson, a vote was taken with the following result:

YEAS: Commissioners Berry, Blackmon, Furney, Stafford and  
Tweedy

NAYES: None

The Chair declared the motion carried; and the Children's Rights Award for Outstanding Service to Children will be presented to Fran Roberson at the April 26<sup>th</sup> City Council meeting.

\* \* \* \* \*

Item 5 being:

YOUTH COUNCIL DISCUSSION.

Commissioner Blackmon moved that the 12 new applicants and the 10 current applicants for

Youth Council be approved, which motion was duly seconded by Commissioner Berry; and the question being upon approving the 22 applicants for membership in Youth Council, a vote was taken with the following result:

YEAS: Commissioners Berry, Blackmon, Furney, Stafford and  
Tweedy

NAYES: None

The Chair declared the motion carried; and the 22 applicants for Youth Council were approved.

\* \* \* \* \*

Item 6 being:  
MISCELLANEOUS DISCUSSION.

No discussion

\* \* \* \* \*

Item 7 being:  
ADJOURNMENT.

Commissioner Blackmon moved that the April 11, 2011, meeting of the Children's Rights Coordinating Commission be adjourned, which motion was duly seconded by Commissioner Berry; and the question being upon adjourning the April 11, 2011, meeting of the Children's Rights Coordinating Commission, a vote was taken with the following result:

YEAS: Commissioners Berry, Blackmon, Furney, Stafford and  
Tweedy

NAYES: None

The Chair declared the motion carried; and the April 11, 2011, Children's Rights Coordinating Commission meeting was adjourned at 4:35 p.m.

\* \* \* \* \*



**CITY COUNCIL AGENDA  
MAY 10, 2011**

Municipal Building Council  
Chambers  
201 West Gray Street  
Norman, OK 73069

**Item No. 4**

**Text File Number: P-1011-17**

---

**Introduced:** 4/26/2011 by James Briggs, Park Planner

**Current Status:** Consent Item

**Version:** 1

**Matter Type:** Proclamation

Title

**PROCLAMATION NO. P-1011-17: A PROCLAMATION OF THE MAYOR OF THE CITY OF NORMAN, OKLAHOMA, PROCLAIMING FRIDAY, MAY 20, 2011, AS BIKE TO WORK DAY IN THE CITY OF NORMAN.**

**ACTION NEEDED:** Motion to acknowledge receipt of Proclamation No. P-1011-17 proclaiming May 20, 2011, as Bike to Work Day in the City of Norman and direct the filing thereof.

**ACTION TAKEN:** \_\_\_\_\_

P-1011-17

A PROCLAMATION OF THE MAYOR OF THE CITY OF NORMAN, OKLAHOMA, PROCLAIMING FRIDAY, MAY 20, 2011, AS BIKE-TO-WORK DAY IN THE CITY OF NORMAN.

- § 1. WHEREAS, for more than a century, the bicycle has been an important part of the lives of most Americans; and
- § 2. WHEREAS, today, millions of Americans engage in bicycling because it is a viable and environmentally friendly form of transportation, an excellent form of fitness, provides quality recreation, and helps relieve the fiscal strain of high gas prices; and
- § 3. WHEREAS, the education of cyclists and motorists as to the proper and safe operation of bicycles is important to ensure the safety and comfort of all users; and
- § 4. WHEREAS, the City of Norman continues to update its bicycle plan and bicycle transportation network, including the project to re-stripe several miles of bike lanes and the construction of the bike-friendly Rock Creek road bridge over I-35; and
- § 5. WHEREAS, the City of Norman is working with the League of American Bicyclists to implement policies and programs that will make Norman an official "Bicycle Friendly Community; and
- § 6. WHEREAS, the Norman Bicycle Advisory Committee, the Bicycle League of Norman, the Oklahoma Bicycle Society, and independent cyclists throughout our state are promoting greater public awareness of bicycle operation and safety education in an effort to reduce accidents, injuries and fatalities for all.

NOW, THEREFORE, I, MAYOR OF THE CITY OF NORMAN, OKLAHOMA:

- § 7. Do hereby proclaim Friday, May 20, 2011, as Bike-to-Work Day in the City of Norman and encourage all citizens to recognize the importance of bicycle safety and be more aware of cyclists on our streets and highways; and invite all to ride their bicycles to Andrews Park that morning as they bike to work for an 8:00 a.m. rally as a show of support for bicycle use for all those reasons named herein.

PASSED AND APPROVED this 10th day of May, 2011.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk





# CITY COUNCIL AGENDA MAY 10, 2011

Municipal Building Council  
Chambers  
201 West Gray Street  
Norman, OK 73069

## Item No. 5

Text File Number: P-1011-18

---

**Introduced:** 4/26/2011

**Current Status:** Consent Item

**Version:** 1

**Matter Type:** Proclamation

Title

PROCLAMATION NO. P-1011-18: A PROCLAMATION OF THE MAYOR OF THE CITY OF NORMAN, OKLAHOMA, PROCLAIMING THE WEEK OF MAY 15 THROUGH 21, 2011, AS EMERGENCY MEDICAL SERVICES WEEK IN THE CITY OF NORMAN.

**ACTION NEEDED:** Motion to acknowledge receipt of Proclamation No. P-1011-18 proclaiming the week of May 15 through 21, 2011, as Emergency Medical Services Week in the City of Norman and direct the filing thereof.

**ACTION TAKEN:** \_\_\_\_\_

A PROCLAMATION OF THE MAYOR OF THE CITY OF NORMAN, OKLAHOMA, PROCLAIMING THE WEEK OF MAY 15 THROUGH 21, 2011, AS EMERGENCY MEDICAL SERVICES WEEK IN THE CITY OF NORMAN.

- § 1. WHEREAS, emergency medical services are a vital public service as members of emergency medical services teams are ready to provide lifesaving care to those in need 24 hours a day, seven days a week; and
- § 2. WHEREAS, access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury; and
- § 3. WHEREAS, emergency medical services teams consist of emergency medical technicians, emergency physicians, emergency nurses, paramedics, firefighters, educators, and administrators who engage in hours of specialized training and continuing education to enhance their lifesaving skills; and
- § 4. WHEREAS, the citizens of Norman benefit daily from the knowledge and skills of these highly trained individuals and value the accomplishments of emergency medical services providers; and
- § 5. WHEREAS, injury prevention and the appropriate use of the emergency medical services system will help reduce national health care costs.

NOW, THEREFORE, I, MAYOR OF THE CITY OF NORMAN, OKLAHOMA:

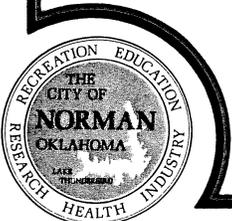
- § 6. Do hereby proclaim the week of May 15 through 21, 2011, as Emergency Medical Services Week in the City of Norman.

PASSED AND APPROVED this 10th day of May, 2011.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk





**CITY COUNCIL AGENDA  
MAY 10, 2011**

Municipal Building Council  
Chambers  
201 West Gray Street  
Norman, OK 73069

**Item No. 6**

**Text File Number: P-1011-19**

---

**Introduced:** 4/26/2011

**Current Status:** Consent Item

**Version:** 1

**Matter Type:** Proclamation

Title

**PROCLAMATION NO. P-1011-19:** A PROCLAMATION OF THE MAYOR OF THE CITY OF NORMAN, OKLAHOMA, PROCLAIMING THE WEEK OF MAY 8 THROUGH 14, 2011, AS NATIONAL TRAVEL AND TOURISM WEEK IN THE CITY OF NORMAN.

**ACTION NEEDED:** Motion to acknowledge receipt of Proclamation No. P-1011-19 proclaiming the week of May 8 through 14, 2011, as National Travel and Tourism Week in the City of Norman and direct the filing thereof.

**ACTION TAKEN:** \_\_\_\_\_

A PROCLAMATION OF THE MAYOR OF THE CITY OF NORMAN, OKLAHOMA, PROCLAIMING THE WEEK OF MAY 8 THROUGH 14, 2011, AS NATIONAL TRAVEL AND TOURISM WEEK IN THE CITY OF NORMAN.

- § 1. WHEREAS, the Norman Convention and Visitors Bureau and other local organizations in conjunction with the United States Travel Association are celebrating National Travel and Tourism Week during the second week of May; and
- § 2. WHEREAS, meetings, events, and incentive travel are core business functions that help companies strengthen business relationships, align and educate employees and customers, and reward business performance; and
- § 3. WHEREAS, the United States Congress passed and the President signed into law, the Travel Promotion Act, creating a new, nationally coordinated communications and promotions program to attract millions of new international visitors and create thousands of new U.S. jobs; and
- § 4. WHEREAS, Oklahoma domestic tourism generates \$6.1 billion in annual traveler expenditures making tourism the third largest industry in Oklahoma; and
- § 5. WHEREAS, Cleveland County posted \$209.4 million in domestic expenditures to rank third in domestic travel impact in Oklahoma, generating \$27 million in payroll as well as 1,900 jobs within the county; and
- § 6. WHEREAS, 76,200 jobs are secured by Oklahoma tourism, supporting the economies of all 77 counties in Oklahoma; and
- § 7. WHEREAS, Oklahoma tourism travelers account for more than \$953.3 million in federal, state, and local economy tax revenues; and
- § 8. WHEREAS, travel contributes to quality of life, professional advancement, education, cultural understanding, and the enhancement of America's image around the world.

NOW, THEREFORE, I, MAYOR OF THE CITY OF NORMAN, OKLAHOMA:

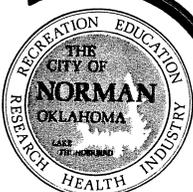
- § 9. Do hereby proclaim the week of May 8 through 14, 2011, as National Travel and Tourism Week in the City of Norman and encourage all citizens, businesses, public and private agencies, media, and religious and educational industries to support and participate in National Travel and Tourism week.

PASSED AND APPROVED this 10th day of May, 2011.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk





**CITY COUNCIL AGENDA  
MAY 10, 2011**

Municipal Building Council  
Chambers  
201 West Gray Street  
Norman, OK 73069

**Item No. 6A**

**Text File Number: P-1011-21**

---

**Introduced:** 5/9/2011

**Current Status:** Consent Item

**Version:** 1

**Matter Type:** Proclamation

Title

PROCLAMATION NO. P-1011-21: A PROCLAMATION OF THE MAYOR OF THE CITY OF NORMAN, OKLAHOMA, PROCLAIMING SUNDAY, MAY 15, 2011, AS PEACE OFFICERS MEMORIAL DAY AND THE WEEK OF MAY 15 THROUGH 21, 2011, AS NATIONAL POLICE WEEK IN THE CITY OF NORMAN.

**ACTION NEEDED:** Motion to acknowledge receipt of Proclamation No. P-1011-21 proclaiming Sunday, May 15, 2011, as Peace Officers' Memorial Day and the week of May 15 through 21, 2011, as National Police Week in the City of Norman.

**ACTION TAKEN:** \_\_\_\_\_

A PROCLAMATION OF THE MAYOR OF THE CITY OF NORMAN, OKLAHOMA, PROCLAIMING SUNDAY, MAY 15, 2011, AS PEACE OFFICERS MEMORIAL DAY AND THE WEEK OF MAY 15 THROUGH 21, 2011, AS NATIONAL POLICE WEEK IN THE CITY OF NORMAN.

- § 1. WHEREAS, Congress and the President of the United States have designated May 15 as Peace Officers' Memorial Day and the week in which May 15 falls as National Police Week; and
- § 2. WHEREAS, members of the Norman Police Department play an essential role in safeguarding the rights and freedoms of Norman, Oklahoma; and
- § 3. WHEREAS, it is important that all citizens know and understand the duties, responsibilities, hazards, and sacrifices of their law enforcement agency, and that members of our law enforcement agency recognize their duty to serve the people by safeguarding life and property, by protecting them against violence and disorder, and by protecting the innocent against deception and the weak against oppression; and
- § 4. WHEREAS, the men and women of the Norman Police Department unceasingly provide a vital public service.

NOW, THEREFORE, I, MAYOR OF THE CITY OF NORMAN, OKLAHOMA:

- § 5. Do hereby proclaim Sunday, May 15, 2011, as Peace Officers Memorial Day in honor of those law enforcement officers who, through their courageous deeds, have made the ultimate sacrifice in service to their community or have become disabled in the performance of duty and let us recognize and pay respect to the survivors of our fallen heroes.
- § 6. Do further proclaim the week of May 15 through 21, 2011, as National Police Week and call upon all citizens of Norman and upon all patriotic, civic, and educational organizations to observe the week with appropriate ceremonies and observances in which all of our people may join in commemorating law enforcement officers, past and present, who, by their faithful and loyal devotion to their responsibilities, have rendered a dedicated service to their communities and, in so doing, have established for themselves an enviable and enduring reputation for preserving the rights and security of all citizens.

PASSED AND APPROVED this 10th day of May, 2011.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



**CITY COUNCIL AGENDA  
MAY 10, 2011**

Municipal Building Council  
Chambers  
201 West Gray Street  
Norman, OK 73069

**Item No. 8**

**Text File Number: GID-1011-28**

---

**Introduced:** 4/26/2011 by Brenda Hall, City Clerk

**Current Status:** Consent Item

**Version:** 1

**Matter Type:** Minutes

Title

**APPROVAL OF THE MINUTES AS FOLLOWS:**

CITY COUNCIL STUDY SESSION MINUTES OF APRIL 19, 2011

CITY COUNCIL FINANCE COMMITTEE MINUTES OF APRIL 20, 2011

CITY COUNCIL MINUTES OF APRIL 26, 2011

NORMAN UTILITIES AUTHORITY MINUTES OF APRIL 26, 2011

NORMAN MUNICIPAL AUTHORITY MINUTES OF APRIL 26, 2011

NORMAN TAX INCREMENT FINANCE AUTHORITY MINUTES OF APRIL 26, 2011

**ACTION NEEDED:** Acting as the City Council, Norman Utilities Authority, Norman Municipal Authority, and Norman Tax Increment Finance Authority, motion to approve the minutes; and, if approved, direct the filing thereof.

**ACTION TAKEN:** \_\_\_\_\_

## CITY COUNCIL STUDY SESSION MINUTES

April 19, 2011

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a Study Session at 5:35 p.m. in the Municipal Building Conference Room on the 19th day of April, 2011, 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 Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Quinn, Mayor Rosenthal

ABSENT: Councilmember Ezzell

### DISCUSSION REGARDING THE FYE 2012 BUDGET – GENERAL AND SPECIAL REVENUE FUNDS.

Mr. Steve Lewis, City Manager, said tonight's presentation will include the FYE 2012 General Fund Budget as well as fund balance policy, sales tax, and health insurance issues. He said Staff provided a mid-term budget review in January 2011, and expressed an incremental improvement over FYE 2011 Budget. Although the sales tax collections have increased for Norman, economically the City is where it was two years ago.

One proxy for economic health in the community is home building and one of Norman's greatest years for home building was in 2005, when 722 homes began construction. Home building dropped to 337 in 2009 and 339 in 2010. Mr. Lewis said lending is very rigid especially for spec homes, but conversations with the Home Builders Association are that home building will improve slightly next year.

Sales have shifted throughout the country toward on-line sales and Staff will discuss specifically on-line sales, as they relate to Norman sales tax. Research has shown about six percent of all United States (U.S.) retail sales transactions are done on-line and are predicted to increase to eight percent by 2014. Mr. Lewis said Staff will also discuss expenditures and the continuation of 2010 issues in terms of a hiring freeze, elimination of base budget adjustment, and reductions in departmental operating accounts. He said cities in Oklahoma, in general, are over-reliant on sales tax and Oklahoma is the only state that prohibits the use of property taxes for general municipal operations. He felt cities in Oklahoma are aware of the need to have a more diversified revenue stream to achieve some fiscal stability. Mr. Lewis suggested contemplating the level/quality of services the City will and will not provide and any new initiatives the City may or may not want to pursue when discussing FYE 2012 Budget. He said the budget is a very important policy document for the City but it also shapes the community in which we live.

Mr. Anthony Francisco, Director of Finance, stated the information provided today is the City Manager's proposal of the FYE 2012 Budget and Staff will rely on input from Council and the public to identify any changes. The FYE 2011-2012 Budget calendar began on July 21, 2010, with budget discussions at a Council Finance Committee meeting. A Council Budget Retreat was held on September 18, 2010, where Council directed Staff to prioritize the FYE 2011 Budget at that point in time. Mr. Francisco said throughout the next several months the Finance Committee and Council as a whole have given Staff direction in a series of meetings, phone calls, and emails, etc., and the proposed FYE 2012 Budget reflects that input. He said today's study session is the first of three discussing the FYE 2012 Budget. A study session is scheduled for April 26, 2012, on Enterprise Funds, and on May 3, 2011, when the Capital Budget will be discussed. A public budget hearing is scheduled for May 24, 2011, and Council will consider the FYE 2012 Budget for adoption on June 14, 2011.

The format of budget documents for the proposed FYE 2012 Budget include the City Manager's letter to Council; Community Profile/Demographic and Socioeconomic Information and Benchmark Comparisons: Overview/Statistical Aggregated Data; Financial Policies/Municipal Budget Act; Financial Summaries and Budget Highlights; Fund/Departmental Detail, Mission Statements, Organizational Charts, Goals and Objectives by Division; and Capital Summary/Capital Project Budget.

Mr. Francisco highlighted the General and Special Revenue Funds and said the General Fund is the general operating fund of the City and is used to account for all financial resources, except those required to be accounted for in another fund. He said Special Revenue Funds are used to account for the proceeds of specific revenue sources, (other than special assessments, expendable trusts, or major capital projects) that are legally restricted to expenditures for specific purposes and will have specific stipulations attached to particular revenue sources that can only be spent for certain and precise purposes.

Mr. Francisco provided background information on the U.S. economy and said this time last year was the midst, or perhaps the end, of the greatest recession that the Country had faced in over 80 years. He said most economists believe the U.S. economy has stabilized and is slowly beginning to advance, but it is still weak and vulnerable. Although the U.S. is beginning to come out of the recession, employment growth is not advancing as quickly and this concerns economists. Mr. Francisco said housing markets have not recovered nationally and are inconsistent in Norman which is another concern for economists. Inflation has been held to a low rate for a lengthy time, but most economists do not believe that can be sustained much longer. He said the nation could move into an inflationary period bringing both positive and negative issues for national and local economies.

Housing construction, or the lack of, strongly impacts Norman's sales tax, use tax, and permit fees. When housing construction is in high demand construction items, i.e., shingles, lumber, etc., are being bought and sales/use taxes are applied to those purchases. Mr. Francisco said Norman's building industry has had a five year decline causing a negative impact on the sales tax and local economic base thus producing negative impacts and downward pressures on very important sources of revenue for the City.

Mr. Francisco stated the City was continuing a historical growth trend in sales tax (approximately 4.5% per year growth) for Fiscal Year Ending (FYE) 2009. He said the City experienced a decline of 4.5% overall in the sales tax for FYE 2010 and although the sales tax has slightly increased in FYE 2011, the growth started "in the red" thus only bringing the sales tax back to where it was two years ago. Mr. Francisco stated the City's expenses over the last two years have continued to increase causing serious issues and Mayor Rosenthal said it was important to remember the increase in the 2008 General Fund revenues was largely due to the Federal Emergency Management Association (FEMA) reimbursements from the 2007 Ice Storm. She said since 2007 there has been virtually no growth in the total of the sales tax revenue that is available in the General Fund.

Mr. Francisco provided the FYE 2012 projected total revenues in the amount of \$165,831,409 and the total expenditures in the amount of \$179,299,062. He said the largest area of expenditures are for Public Safety, i.e., Police and Fire; Utilities for Water, Wastewater, and Sanitation; and Public Works; and stated all are areas of service the City provides to citizens.

Mr. Francisco highlighted the General Fund revenues by source and said sales/use tax dominates the General Fund at 59%. He said it is not good to have such a strong reliance on the sales/use tax as the primary General Fund revenue source. He felt the City should diversify the revenue base in the General Fund as much as possible, but under State law there is not much the City can do to make those changes. Mr. Francisco provided information for the FYE 2011-2012 General Fund expenditures by department and stated direct services to the citizens provided by Fire, Police, and Public Works are approximately 65% of the General Fund budget.

Mr. Francisco provided a 10-year history for Norman's use tax revenue and said online purchases are a growing trend in consumer behavior. He said by law when a Norman citizen makes an online purchase from an out of state retailer and has it shipped to Norman, a use tax should apply to the purchase, but this is very difficult to enforce. He said use tax has been a rapidly growing source of revenue for eight of the last ten years, but even so, the last two years the use tax has declined, and this is an issue. Mr. Francisco said the City is doing the best it can to get voluntary compliance with use tax statutes, but it is a difficult issue to implement when retailers are out of state. He said when retailers evade the payment of lawfully required taxes it is a direct hit to Norman's General Fund.

Mr. Francisco said there is a substantial level of trepidation concerning the General Fund revenue assumptions, but said history tends to repeat itself and a 4.6 % growth rate appears to be sustainable. General Fund revenue assumptions include:

- Sales tax projection of 4.6% growth from projected fiscal year 2010-2011 levels, based on the historic growth patterns
- Sales tax projections account for estimated apportionments to the University North Park Tax Increment Finance (TIF)
- Assumption of a 3% growth rate for use tax, franchise fee, and other tax revenues from FYE 2011 levels
- Fine and Forfeitures revenue estimate excludes revenue from one-time collections of past due citation payments in FYE 2012
- Licenses, Permits, and Service Fee revenue are projected to grow by 1% from FYE 2011 estimates
- Transfers from Water and Wastewater Utilities of 5% of their revenue (based on what private utilities pay for the use of public rights-of way and property taxes)
- Transfers from Capital Fund for costs of capital outlay items budgeted in General Fund but paid from capital sales tax, and for Street Maintenance Division labor used for capital projects
- General Fund internal service charge revenue is decreased due to creation of Risk Management Fund
- Cost allocation charges based on costs of central services, i.e., legal, financial, etc., provided to utilities

Mr. Francisco said there is a small increased projection for investment revenues. He said investment revenues in FYE 2011 are predicted to have declined and the small growth projected for FYE 2012 is from a lower base. The major General Fund Budget expenditure assumptions include:

- Salary and benefit category expenses budgeted for each position in FYE 2012 based on negotiated costs and assumed to grow overall by 5% in FYE 2013 to FYE 2016, i.e., salaries for full-time and part-time employees, overtime expenditures, health care expenditures, worker's compensation premiums, unemployment compensation premiums, etc.
- Expenditures in Services and Maintenance and Supply and Materials maintained at FYE 2011 levels and assumed to grow by 1% in FYE 2013 to FYE 2016
- Expenditures in Internal Services category based on budgeted costs in Internal Service functions and assumed to grow 2% per year in FYE 2013 to FYE 2016 – this includes departmental payments to the Fleet Maintenance Division for fuel. Fuel has been increasing at a much larger rate than 2% per year the last several years. If this continues then the City will not be able to hold to the 2% projection.
- FYE 2011 Outside Agency funding cuts (10%) are maintained
- Increased fuel costs reflected in Internal Services expenditure category

Major salary and benefit assumptions include:

- No budgeted cost of living increase for FYE 2012
- No budgeted merit ("step") increases for FYE 2012
- Health insurance cost (City contribution) increase of 5%, to \$7,780 for single employee and \$15,727 for family coverage (premiums increased by 15% mid-fiscal year 2011 and the 5% increase is in addition to that)
- "Employee turnover savings" estimated at \$1,000,000 under assumption that "smart hiring freeze" will be maintained. Overall turnover remains extremely low.

Mayor Rosenthal asked Staff what would be the employee's contribution for health insurance and Mr. Francisco said it family coverage would be approximately \$260.00 per month. Councilmember Dillingham asked if the coverage for family would be the same if for one child or two, three, etc., and Mr. Francisco answered in the affirmative. Mr. Lewis said there are some provisions for the new federal health care law discussing high value plans and based on where the

City is currently and future projections, Staff may recommend a high value plan in 2018 when that particular provision of law will go into effect. He said there are not any regulations at this time and depending on how the health care system remains and/or escalates; the City could be vulnerable to that increase (increment above a threshold).

Councilmember Cubberley asked if the \$1,000,000 savings for the salary assumptions included a certain number of City positions held vacant and Mr. Francisco said no, it is only assuming that the non-critical positions that come open/available, will remain and be held vacant. Mayor Rosenthal said there are approximately 45 positions in the City that are vacant and Mr. Francisco said some of those positions will continue to remain "frozen". Councilmember Cubberley asked Staff why not just eliminate those vacant positions and Mayor Rosenthal said the vacant positions may be unevenly spread throughout the City.

Councilmember Cubberley said the City is in a budget crisis and felt a false impression is being given to the public when the public is told that the level of service will not be affected/adjusted. He said City employees are already stretched, some more than others, and felt the City needed to look at how to deliver services differently or determine what services are most critical, eliminating those that are less critical. He said the City's budget, based on Staff's projections and over time, is not sustainable. He said FYE 2012 Budget is a constitutional budget, but when looking at the future projections the deficit will continue to grow. Councilmember Dillingham agreed but would rather have the City Manager look at open positions to determine where eliminations may occur. She felt additional public input and education would further establish where the City is stretched to thin and whether or not the City should consider the way services are delivered.

Councilmember Kovach asked about voluntary furloughs and feasibility of buy-out programs and Mr. Lewis said Staff has been working with the City's labor counsel. He felt adding furlough days to the current staffing levels will only compound the workload issue. He said Staff can provide information to Council in reference to buy-out, at an appropriate setting, when the City begins moving into the upcoming labor discussions.

Mayor Rosenthal asked Staff if the longevity program would continue in the proposed FYE 2012 Budget and Mr. Lewis answered in the affirmative. He said under the employee handbook and as part of the collective bargaining agreements there is a longevity program stipend available to employees which equates to approximately \$910,000 annually. Mayor Rosenthal said the original longevity program was designed to begin after an employee reached the last step of their position but now the longevity program begins at five years for an employee and she felt the design of the longevity program was not in sync with the original intent. She understood the longevity program is a negotiable item but said it would make sense to get it back to the original design and intent and suggested this issue be looked at going forward. Councilmember Atkins asked if the City has benchmarked benefit packages using public sector versus private sector in surrounding communities and Mr. Francisco said yes. He said total compensation and all the components were benchmarked and Councilmember Atkins wondered if any of the "fringe areas" i.e., funeral leave etc., could be eliminated without impacting the employee.

The proposed position changes for the General Fund include adding three part-time dispatch "call takers" and deleting one part-time Planning technician intern. Councilmember Kovach said the Planning Department recently had an administrative level employee leave the City and felt now might be the time to consider the creation of a new position, i.e., ombudsmen, to assist new businesses. Councilmember Dillingham agreed but felt the City Manager should weigh in on any open, vacant, or new positions, and Mr. Lewis said Staff will provide cost estimates to Council on the position. Mayor Rosenthal understood the extra demand on support services since the inception of the Public Safety Sales Tax (PSST) and said Staff previously mentioned the PSST also affected Information Technology (IT), Fleet Maintenance, Municipal Court, etc. She asked Staff for clarification as to why three part-time positions were only being added to the Police Department/Dispatch and not any other City departments and Mr. Lewis said Staff looked at approximately \$453,000 total PSST support positions but felt the proposed positions for the Police dispatch "call takers" were the best options at this time. He felt going forward positions would be needed as additional Police Officers and/or Fire Fighters are hired. Mayor Rosenthal appreciated the explanation of the "downstream" effects of the PSST hires and said there is no question the PSST is generating additional demands/burdens on the rest of the City Staff and Mr. Lewis agreed.

Mr. Francisco highlighted major issues for the FYE 2012 Budget and beyond to include:

- General Fund balance (reserve) policies
- Health insurance program changes
- Implementation of GASB Statement #54
- Long-term realignment of resources and program priorities
- Outside agency support and phase-out of utility payments
- Public Safety Sales Tax (PSST) fund “surplus”
- Implementation of Stormwater/Drainage Utility
- Utility Enterprise Capital Improvements Projects (CIP) and Operations funding
- University North Park (UNP) Development and Tax Increment Finance District (TIF) financing

Currently the City pays utilities for some of the City owned facilities that are contracted to outside agencies to operate and provide services to Norman citizens, such as Firehouse Arts Center and Sooner Theatre. Staff proposes over a five-year period those outside agencies will begin paying their own utilities. The Stormwater Utility has been discussed for several years and will have major impacts on the Utility and General Funds. Many of services the General Fund is currently paying for would be allocated by the Stormwater Utility.

Mr. Lewis said the term Stormwater Utility may be new to Norman but it is a concept that has been used around the country and Staff identified at least eight Oklahoma communities that currently have a Stormwater Utility fee. He stated fees range from \$1.00 to \$5.43 per month with the average being \$3.25 per month. Mr. Lewis said these communities have been able to implement a Stormwater Utility fee that has been able to help them solve some of their chronic stormwater management issues but at the same time has been a derivative of easing up the General Fund. He said ultimately a Stormwater Utility allows the General Fund to concentrate on some of the fundamental issues, i.e., public safety, code compliance, parks and recreation, etc., which citizens have requested in order to improve the quality of life in Norman.

Mr. Francisco said the City’s current balance for the General Fund infringes on the Fund Balance Policy and has been for quite some time. He provided a chart reflecting General Fund balances for FYE 2008 to FYE 2012 and said the City should have a General Fund balance of approximately \$12 million in order to cover self-insurance, operation, and emergency reserves. He said the City has been spending more than it’s taking in for the last four to five years and the FYE 2012 General Fund balance is projected to be approximately \$2 million. Mr. Francisco said it is against State law to deficit spend and stated the Fund balance can be considered a revenue in the General Fund. He said Fund Balance can be used for operations within the General Fund legally but it is not prudent to do so, because Fund Balance is a one time configuration, i.e., once it is spent, it is gone.

Mayor Rosenthal said the City Manager’s letter summarizes the City’s policy has been to have an 8% reserve for the Fund balance with 2%, or approximately \$1.3 million, of which goes into an emergency account. She said the FYE 2012 Fund balance reveals it will be \$1.4 million short of the targeted goal.

Mr. Francisco summarized the Health Insurance proposals to include:

- Encourage employee wellness through mandatory health screenings and education
- Increase deductibles and change co-pay proportions to better share the cost between the City and beneficiaries
- Fund employee health savings accounts to pay higher deductibles if health screenings are done and health maintenance standards are met
- Change prescription drug program to financially encourage use of generic and lower-cost name brand drugs
- Changes require successful negotiation with unions

Mr. Francisco said proposals for the health insurance program have been discussed by an Employee Health Insurance Committee for over a year and the proposal is not a cut but a reduction in the growth rate. He said instead of the Health Insurance growing 10% to 12% per year, the hope is to bring the growth rate down to only 5% per year.

He said the concept encourages employees to make wise choices with their health insurance funds, stating unwise choices would be more costly to the employee. The increased insurance deductibles would be financed with deposits to a health insurance savings account (put into place for all employees), *if* they comply with the mandatory health screening. Mr. Francisco said approximately 85% of the cost for health insurance is being spent on only 15% of the City's employees; therefore, 85% of the City's employees are actually spending more than they are getting out of the City's health insurance plan. He said the Employee Health Insurance Committee has been trying to address this issue as well as employees who have catastrophic illnesses. He said majority of catastrophic illness claims are the result of employees who are not getting annual or upfront checkups but instead employees who are finding out they have health conditions that have reached disastrous levels. Mr. Francisco said if illnesses such as cancers and diabetic conditions could be identified earlier, they can be treated at a much lower cost but more importantly the treatment would be a larger benefit to the employee. He said the intent is to encourage employees to seek health care screenings upfront so any conditions might be identified before the employees become extremely ill, making a healthier workforce which in fact would lower health insurance costs.

Councilmember Dillingham felt incentives, particularly gym memberships, might outweigh some of the perceived negatives when negotiating and Councilmember Cubberley agreed stating it can be very difficult to get past negotiations when discussing mandatory negotiation items. Mayor Rosenthal stated controlling the City's health care cost(s) is a very critical aspect of being able to control the growth in the City's personnel cost(s), even more than the salaries and step increases and she felt the City's health care cost(s) are consuming the City. Councilmember Cubberley asked what the percentage was for last years health care costs and Mr. Francisco said 15%. Councilmember Cubberley felt the City can not sustain 15% on health benefits and hope to meet targets of 0%, 2% or even 5% for the City's FYE 2012 Budget.

Mr. Francisco said Governmental Accounting Standards Board (GASB) is a committee of accountants, certified public accountants (CPA)s, etc., both public and private, throughout the nation who discuss problems in accounting and GASB issues new standards (or statements) to address issues and determine general accepted accounting principles. He said the most recent GASB Statement 54, will have a wide ranging impact on the City's accounting practices and requires re-classification of fund balance types, basically addressing the concern that the City of Norman is currently facing. GASB 54 also changes the standards for special revenue funds and internal service funds. The previous Fund Balance classifications were Reserved Fund Balance and Unreserved Fund Balance, but under GASB 54 the new classifications will be Non-spendable Fund Balance, Restricted Fund Balance, Committed Fund Balance, Assigned Fund Balance, and Unassigned Fund Balance. Mr. Francisco highlighted Norman's proposed changes to comply with GASB 54 as follows:

- Recreation Fund and Emergency Communications Fund eliminated and operations included in General Fund
- Establish a Risk Management Internal Service Fund to account for worker's compensation, and health insurance, tort claims cost, and administration
- Risk Management Fund will assume the required Reserve for Self-Insurance, premiums will be adjusted to meet FYE 2012 fund balance requirements, and future year premiums will be adjusted to build Self-Insurance Reserve, by category, by June 30, 2016
- Reclassification of fund balances with FYE 2011 financial statements
- Codification of existing fund balances to clarify classifications

In order to realign the City's mission with the Community Goals, Mr. Francisco felt Council will need to consider the following items, some have been discussed in the past and some may need to be considered in the future:

- Identify program of lower priority for elimination
- Increase sales tax rate for operations
- Increase E911 Tariff
- Broaden Purpose of 7/10% Capital Sales Tax
- Implement Stormwater Utility

Councilmember Kovach felt it would be appropriate for cost allocation(s) to be distributed to the Tax Increment Fund (TIF) from departments and employees supporting TIF items and suggested future discussion on this topic.

The Public Safety Sales Tax (PSST) Fund has a projected beginning fund balance of \$5.8 million and additional personnel added in FYE 2011 include five Police Officers, three Fire Captains, three Fire Driver/Engineer, and nine Firefighters. By the end of FYE 2012 the total number of personnel added due to the PSST will be 65 of the 71 positions promised. Mr. James Fullingim, Fire Chief, said Fire Station No. 8 will be completed in May and Staff is reviewing the preliminary design of Fire Station No. 9. He said Fire Station No. 9 should begin construction in a couple of months with an estimated completion date of 12 to 18 months

Other Special Revenue Funds include Special Grant Fund; Room Tax Fund; Seizures and Restitution Fund; Council on Law Enforcement Education and Training (CLEET) Fund; Art in Public Places Fund; and Westwood Fund.

Councilmember Kovach asked about the Westwood subsidy in the General Fund and Mr. Francisco said those are funds from the General Fund used to subsidize the Westwood facility. Councilmember Kovach stated in the budget the City is continuing to reduce the amount to various agencies and asked whether there will be a reduction for the cost/fee to Oklahoma Municipal League (OML). Mayor Rosenthal said the OML fee was a decreased last year and will remain the same this year.

Councilmember Kovach asked Staff if the FYE 2012 Budget is online for the public to review and Mr. Lewis said it will be online April 20, 2011, but the FYE 2012 Budget is now available to review at the Norman Public Library (NPL). Councilmember Dillingham requested Staff provide the NPL more than one budget book.

Councilmember Kovach requested the numbers in reference to the cost allocation to the TIF. Mr. Francisco said Staff is currently working on a cost allocation study for the entire City but figures may not be available until after the budget process. Mayor Rosenthal asked Staff to provide a rough estimate of TIF allocation. Mayor Rosenthal asked if projects are being charged back to the TIF, such as the Staff work/time on the Rock Creek Bridge and Mr. Francisco said indirectly. He said the approach has been those employee salaries that are dedicated for CIP are being charged to the Capital Fund. Mayor Rosenthal felt there are some very important public policy decisions related to employee/health care benefits that will need to be addressed going forward in the budget process.

Items submitted for the record

1. Memorandum dated April 14, 2011, from Ms. Suzanne Krohmer, Budget Manager, through Mr. Anthony Francisco, Director of Finance, to Honorable Mayor and Council Members
2. Memorandum dated April, 19, 2011, from Ms. Carolyn Stager, Oklahoma Municipal League, to Mayor Cindy Rosenthal
3. The City of Norman Budget, Fiscal Year Ending June 30, 2012
4. The City of Norman Capital Improvements Project Budget, Fiscal Year Ending June 30, 2012, Financial Plan, Fiscal Year-End, 2012-2016
5. PowerPoint Presentation entitled, "City Council Fiscal Year 2011-2012 Budget Study Session dated April 19, 2011"

The meeting adjourned at 7:30 p.m.

ATTEST:

---

City Clerk

---

Mayor

## FINANCE COMMITTEE MINUTES

April 20, 2011

The City Council Finance Committee of the City of Norman, Cleveland County, State of Oklahoma, met immediately after the Council Study Session scheduled at 5:30 p.m. in the Municipal Building Study Session Room on the 20th day of April, 2011, and notice and agenda of the meeting were posted in 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: Members Dillingham, Quinn, and Chair Cubberley

ABSENT: Member Ezzell

OTHERS PRESENT: Cindy Rosenthal, Mayor  
Jim Griffith, Council Member  
Tom Kovach, Council Member  
Steve Lewis, City Manager  
Anthony Francisco, Finance Director  
Suzanne Krohmer, Budget Manager  
Roger Gallagher, Council Member-elect  
Jeff Bryant, City Attorney  
Jud Foster, Parks and Recreation Director  
Don Wood, NEDC Executive Director  
Stephen Koranda, NCVB Executive Director  
Joe Sparks, NCVB Board  
Yves Badaroux, Marriott/US Postal Training Center  
Erinn Gavaghan, NAC Executive Director  
William Murray, Montford Inn  
Joan Goth, Parks Board  
Diane Moershel, Pisces Project  
Nancy Yoch, Pisces Project

### DISCUSSION REGARDING TRANSIENT GUEST ROOM TAX

Committee discussed proposal to increase room tax rate.

Kovach – due to budget issues, explore a level of increase for room tax to help underfunded City departments. Any change in the room tax rate would have to go to a vote of the people.

Nancy Yoch and Diane Moershel made presentation of Pisces Project.

Stephen Koranda – NCVB is underfunded but does not want to increase room tax rate. Low tax rate is a selling point for organizations and groups to come to Norman.

The Committee felt that the Pisces Project cannot be funded through room tax rate.

Erinn Gavaghan – any increase in funds would help increase organization funding and more unique events.

William Murray – more money would help NCVB.

Koranda – we are competing with other states, and Oklahoma City and Tulsa daily for groups.

Mayor – Rental car tax – would need voter approval. Restaurant tax possible.

Cubberley – There are 4 – 5 initiatives to go to voters, go to Council Retreat. Other voter initiatives looming are water, library, storm water, recycling, PSST, etc.

Kovach – grass roots efforts needed to help proceed with room tax increase.

Dillingham – Not the time for efforts like this – time better spent.

Cubberley – Pisces Project will have to be funded through Quality of Life Sales Tax or Bond Initiative Project.

Items submitted for the record

1. Memo from Stephen Koranda to Brenda Hall dated February 19, 2011, Destination Marketing Organizations Budget Comparisons
2. Memo from Anthony Francisco to Councilmember Kovach dated April 4, 2011, Questions Raised Regarding Finance Committee Meeting
3. Cities' Room Tax Comparison & Use list prepared by Finance Department dated April 4, 2011
4. Memo from Kathryn Walker to Steve Lewis dated April 11, 2011, Transient Guest Room Tax
5. Architectural rendering of the Norman Swim Center and Waterpark, a swim complex for Norman, pisces project

DISCUSSION REGARDING ORDINANCES ESTABLISHING OPERATING, CAPITAL, AND A DEBT RESERVES

Codify policies on reserves. Draft and ordinance proposals.

Francisco – Does not meet requirements of GASB 54 – different portions/levels of fund balance that the City can't codify.

Current draft – no penalty if you don't meet ordinance.

Cubberley – Historically, it has been difficult to maintain reserve levels in policy. Downside – meaning requirements would delay payments of policy/codification.

Dillingham – exception for FEMA reimbursement, public emergency situations

Mayor – doesn't want to codify current policy as is - like Tulsa excess revenue appropriate to reserve. Like Oklahoma City – shouldn't be greater than a certain amount. Max out at 10% and Council should be able to appropriate in emergency situations.

Cubberley – address year in, year out situation. We are allowing reserves to go down and stay down. When revenues are greater than 4%, 5% or 6%, above budgeted projections, then those revenues would go into reserves, parts to Capital, too. "Excess revenues"

Francisco – we would more realistically budget things like outside legal, workers' comp, etc. if it becomes harder to appropriate, increasing budgeted expenses.

Cubberley – Raise workers' comp premiums would help with safety issues. Overtime – make premiums real

Dillingham – how long will it take us to increase annual increments and get to reserve levels? How important is this for arbitrator rulings?

Kovach – wants language to reflect need for super majority to use fund balance reserves.

Griffith – Cap on non-emergency allocations, wants it off limits for arbitrators.

Mayor – "Rainy Day" fund, voters pass it – can tap funds in financial emergency.

Lewis – "Pay it back" feature, for 2 years?

Items submitted for the record

1. Memo to Finance Committee Council Members from Anthony Francisco and Suzanne Krohmer dated April 14, 2011, Proposed Ordinance Setting Budget Reserve
2. Proposed Ordinance Setting Budget Reserve
3. Copy of Ordinances from City of Lawton
4. Copy of City of Tulsa Charter and Policy
5. Copy of City of Oklahoma City Regulation

DISCUSSION REGARDING REVENUE/EXPENDITURE REPORT

FYE 11 expenditures decreased and revenue slightly increased.

Items submitted for the record

1. Summary of Major Funds-General; Capital; Westwood; Water; Wastewater; Sewer Maintenance; New Development Excise; Sewer Sales Tax; and Sanitation Fund Revenue Sources vs. Budget, Financial Report dated March 31, 2011

DISCUSSION REGARDING REPORT ON OPEN POSITIONS

No discussion on report.

Items submitted for the record

1. City of Norman/Human Resources Department Recruitment and Selection Report dated March 14, 2011

The meeting adjourned at 7:03 p.m.

Bring back Fund Balance in May meeting.

ATTEST:

---

City Clerk

---

Mayor

CITY COUNCIL MINUTES  
NORMAN UTILITIES AUTHORITY MINUTES  
NORMAN MUNICIPAL AUTHORITY MINUTES  
NORMAN TAX INCREMENT FINANCE AUTHORITY MINUTES

April 26, 2011

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in Regular Session in the Council Chambers of the Norman Municipal Building on the 26th day of April, 2011, at 6:30 p.m., and notice and agenda of the meeting were posted at the Municipal Building at 201 West Gray and at the Norman Public Library at 225 North Webster 24 hours prior to the beginning of the meeting.

PRESENT: Councilmembers Atkins, Butler,  
Cubberley, Dillingham, Griffith,  
Kovach, Mayor Rosenthal

ABSENT: Councilmembers Ezzell and Quinn

The Pledge of Allegiance was led by students from Lakeview Elementary School.

\* \* \* \* \*

Item 3, being:

PRESENTATION OF THE MAYOR'S CITIZENSHIP AWARDS TO STUDENTS FROM  
LAKEVIEW ELEMENTARY SCHOOL.

Mayor Rosenthal and Councilmember Butler presented Citizenship Awards to students Shayla Chaparro, Chianne Gatewood, Braden Henson, Ashleigh Joy, Erin Martin, Logan Matthews, Addison Moody, Christopher Moore, Cade Muldrow, Arielle Quartuccio, Allison Rosati, Annika Testerman, Juleyun Vanderburg, and Jesse Wetherington. Ms. Paula Palermo, Principal of Lakeview Elementary School, said the students were selected as representatives of good citizens of Lakeview Elementary School.

Items submitted for the record

1. Text File TMP-138 dated April 13, 2011, by Carol Coles, Administrative Assistant

\* \* \* \* \*

Item 4, being:

RESOLUTION NO. R-1011-114: A RESOLUTION OF THE COUNCIL OF THE CITY OF  
NORMAN, OKLAHOMA, IN CONJUNCTION WITH THE CHILDREN'S RIGHTS  
COORDINATING COMMISSION, AWARDING THE 2011 CITY OF NORMAN CHILDREN'S  
RIGHTS AWARD.

Councilmember Cubberley moved that Resolution No. R-1011-114 be adopted, which motion was duly seconded by Councilmember Atkins;

Items submitted for the record

1. Text File No. R-1011-114 dated April 13, 2011, by Carol Coles, Administrative Assistant
2. Resolution No. R-1011-114
3. Children's Rights Coordinating Commission minutes of April 11, 2011

Participants in discussion

1. Ms. Emily Furney, Chairman of the Children's Rights Coordinating Commission
2. Ms. Fran Roberson, recipient of the Children's Rights Award, accepted the resolution and thanked the Council

and the question being upon adopting Resolution No. R-1011-114, a vote was taken with the following result:

YEAS: Councilmembers Atkins, Butler,  
Cubberley, Dillingham, Griffith,  
Kovach, Mayor Rosenthal

NAYES: None

The Mayor declared the motion carried and Resolution No. R-1011-114 was adopted.

\* \* \* \* \*

Item 5, being:

CONSENT DOCKET

Councilmember Kovach that Item 6 through Item 57 excluding Item 11 be placed on the consent docket by unanimous vote, which motion was duly seconded by Councilmember Cubberley; and the question being upon the placement on the consent docket by unanimous vote of Item 6 through Item 57 excluding Item 11, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
NAYES:	None

The Mayor declared the motion carried and Item 6 through Item 57 excluding Item 11 were placed on the consent docket by unanimous vote.

\* \* \* \* \*

Item 6, being:

- CITY COUNCIL OVERSIGHT COMMITTEE MINUTES OF MARCH 2, 2011
- CITY COUNCIL CONFERENCE MINUTES OF MARCH 22, 2011
- CITY COUNCIL FINANCE COMMITTEE MINUTES OF MARCH 23, 2011
- JOINT CITY COUNCIL PLANNING AND COMMUNITY DEVELOPMENT/TRANSPORTATION COMMITTEES MINUTES OF MARCH 24, 2011
- CITY COUNCIL SISTER CITY RECEPTION/SIGNING CEREMONY FOR AREZZO, ITALY, MINUTES OF APRIL 5, 2011
- CITY COUNCIL PLANNING AND COMMUNITY DEVELOPMENT COMMITTEE MINUTES OF APRIL 8, 2011
- CITY COUNCIL SPECIAL SESSION MINUTES OF APRIL 12, 2011
- CITY COUNCIL MINUTES OF APRIL 12, 2011
- NORMAN UTILITIES AUTHORITY MINUTES OF APRIL 12, 2011
- NORMAN MUNICIPAL AUTHORITY MINUTES OF APRIL 12, 2011
- NORMAN TAX INCREMENT FINANCE AUTHORITY MINUTES OF APRIL 12, 2011

Acting as the City Council, Norman Utilities Authority, Norman Municipal Authority, and Norman Tax Increment Finance Authority, Councilmember Kovach moved that the minutes be approved and the filing thereof be directed, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

1. City Council Oversight Committee meeting minutes of March 2, 2011
2. City Council Conference minutes of March 22, 2011
3. City Council Finance Committee minutes of March 23, 2011
4. Joint City Council Planning and Community Development/Transportation Committees minutes of March 24, 2011
5. City Council Sister City Reception/Signing Ceremony for Arezzo, Italy, minutes of April 5, 2011
6. City Council Planning and Community Development Committee minutes of April 8, 2011
7. City Council Special Session minutes of April 12, 2011
8. City Council minutes of April 12, 2011
9. Norman Utilities Authority minutes of April 12, 2011
10. Norman Municipal Authority minutes of April 12, 2011
11. Norman Tax Increment Finance Authority minutes of April 12, 2011

and the question being upon approving the minutes and upon the subsequent directive, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
NAYES:	None

The Mayor declared the motion carried and the minutes approved; and the filing thereof was directed.

\* \* \* \* \*

Item 7, being:

SUBMISSION AND ACKNOWLEDGING RECEIPT OF THE FINANCE DIRECTOR'S INVESTMENT REPORT AS OF MARCH 31, 2011, AND DIRECTING THE FILING THEREOF.

Councilmember Kovach moved that receipt of the report be acknowledged and the filing thereof be directed, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. RPT-1011-40 dated April 12, 2011, by Anthony Francisco, Finance Director
- 2. Finance Director's Investment Report of March 31, 2011

Participants in discussion

- 1. Mr. Anthony Francisco, Director of Finance

and the question being upon acknowledging receipt of the report and upon the subsequent directive, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
-------	---

NAYES:	None
--------	------

The Mayor declared the motion carried and receipt of the report acknowledged; and the filing thereof was directed.

\* \* \* \* \*

Item 8, being:

SUBMISSION AND ACKNOWLEDGING RECEIPT OF THE MONTHLY DEPARTMENTAL REPORTS FOR THE MONTH OF MARCH, 2011, AND DIRECTING THE FILING THEREOF.

Councilmember Kovach moved that receipt of the reports be acknowledged and the filing thereof be directed, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. RPT-1011-39 dated April 12, 2011
- 2. Monthly Departmental Reports for the month of April 12, 2011

Participants in discussion

- 1. Mr. Anthony Francisco, Director of Finance

and the question being upon acknowledging receipt of the reports and upon the subsequent directive, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
-------	---

NAYES:	None
--------	------

The Mayor declared the motion carried and receipt of the reports acknowledged; and the filing thereof was directed.

\* \* \* \* \*

Item 9, being:

CONSIDERATION OF THE NORMAN CONVENTION AND VISITORS BUREAU, INC., SEMI-ANNUAL REPORT ENDING DECEMBER 31, 2010.

Councilmember Kovach moved that receipt of the report be acknowledged and the filing thereof be directed, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Norman Convention and Visitors Bureau, Semi-Annual Report, ending December 31, 2010

Participants in discussion

- 1. Mr. Stephen Koranda, Executive Director of the Norman Convention and Visitors Bureau, Inc.

and the question being upon acknowledging receipt of the report and upon the subsequent directive, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
-------	---

NAYES:	None
--------	------

The Mayor declared the motion carried and receipt of the report acknowledged; and the filing thereof was directed.

\* \* \* \* \*

Item 10, being:

CONSIDERATION AND AWARDING OF BID NO. 1011-63 FOR COMPRESSED NATURAL GAS (CNG) QUICK FILL AND SLOW FILL EQUIPMENT AND RESOLUTION NO. R-1011-118 APPROPRIATING FUNDS.

Councilmember Kovach moved that all bids meeting specifications for Section 1, Part A, be accepted and the bid in the amount of \$196,800 be awarded to Arrow Engine Company as the lowest and best bidder meeting specifications and J-W Power Company as the alternate bidder, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. BID-1011-63 dated April 11, 2011, by Mike White, Fleet Superintendent, with Attachment No. One dated April 16, 2011, Vendors for Fast Fill and Slow Fill Station Equipment, and Attachment No. Two, Appropriation of Funds to cover expenditures through FYE 2012
- 2. Tabulation of bids dated March 24, 2011, for Part A, Section 1, Four Stage Compressor Package for CNG Fast Fill Station

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. John Bolte, Small Arrow Engineering, consultant

and the question being upon accepting all bids meeting specifications for Section 1, Part A, and upon the subsequent awarding of the bid, a vote was taken with the following result;

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
-------	---

NAYES:	None
--------	------

The Mayor declared the motion carried and all bids meeting specifications for Section 1, Part A, accepted; and the bid in the amount of \$196,800 was awarded to Arrow Engine Company as the lowest and best bidder meeting specification and J-W Power Company as the alternate bidder.

Thereupon, Councilmember Kovach moved that all bids meeting specifications for Section 2, Part A, be accepted and the bid in the amount of \$201,832 be awarded to J-W Power Company as the lowest and best bidder meeting specifications and Tulsa Gas Technologies as the alternate bidder, which motion was duly seconded by Councilmember Cubberley;

Item 10, continued:

Items submitted for the record

1. Text File No. BID-1011-63 dated April 11, 2011, by Mike White, Fleet Superintendent, with Attachment No. One dated April 16, 2011, Vendors for Fast Fill and Slow Fill Station Equipment, and Attachment No. Two, Appropriation of Funds to cover expenditures through FYE 2012
2. Tabulation of bids dated March 24, 2011, for Section 2, Part A, Six Storage Spheres, Inlet Dryer, and Process Air Compressor for CNG Fast Fill Station

Participants in discussion

1. Mr. Steve Lewis, City Manager
2. Mr. John Bolte, Small Arrow Engineering, consultant

and the question being upon accepting all bids meeting specifications for Section 2, Part A, and upon the subsequent awarding of the bid, a vote was taken with the following result;

YEAS: Councilmembers Atkins, Butler,  
Cubberley, Dillingham, Griffith,  
Kovach, Mayor Rosenthal

NAYES: None

The Mayor declared the motion carried and all bids meeting specifications for Section 2, Part A, accepted; and the bid in the amount of \$ \$201,832 was awarded to J-W Power Company as the lowest and best bidder meeting specification and Tulsa Gas Technologies as the alternate bidder.

Thereupon, Councilmember Kovach moved that the bid as meeting specifications for Section 3, Part A, be accepted and the bid in the amount of \$160,584 be awarded to Tulsa Gas Technologies as the lowest and best bidder meeting specifications, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

1. Text File No. BID-1011-63 dated April 11, 2011, by Mike White, Fleet Superintendent, with Attachment No. One dated April 16, 2011, Vendors for Fast Fill and Slow Fill Station Equipment, and Attachment No. Two, Appropriation of Funds to cover expenditures through FYE 2012
2. Tabulation of bids dated March 24, 2011, for Section 3, Part A, Four CNG Fueling Dispensers for CNG Fast Fill Station

Participants in discussion

1. Mr. Steve Lewis, City Manager
2. Mr. John Bolte, Small Arrow Engineering, consultant

and the question being upon accepting the bid as meeting specifications for Section 3, Part A, and upon the subsequent awarding of the bid, a vote was taken with the following result;

YEAS: Councilmembers Atkins, Butler,  
Cubberley, Dillingham, Griffith,  
Kovach, Mayor Rosenthal

NAYES: None

The Mayor declared the motion carried and the bid as meeting specifications for Section 3, Part A, accepted; and the bid in the amount of \$160,584 was awarded to Tulsa Gas Technologies as the lowest and best bidder meeting specification.

Thereupon, Councilmember Kovach moved that all bids meeting specifications for Section 4, Part A, be accepted and the bid in the amount of \$23,876.21 be awarded to H.G. Flake as the lowest and best bidder meeting specifications and Greenfield Compression as the alternate bidder, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

1. Text File No. BID-1011-63 dated April 11, 2011, by Mike White, Fleet Superintendent, with Attachment No. One dated April 16, 2011, Vendors for Fast Fill and Slow Fill Station Equipment, and Attachment No. Two, Appropriation of Funds to cover expenditures through FYE 2012
2. Tabulation of bids dated March 24, 2011, for Section 4, Part A, Inlet Supply Pressure Regulator and Stainless Steel Piping and Fittings for CNG Fast Fill Station

Participants in discussion

1. Mr. Steve Lewis, City Manager
2. Mr. John Bolte, Small Arrow Engineering, consultant

Item 10, continued:

and the question being upon accepting all bids meeting specifications for Section 4, Part A, and upon the subsequent awarding of the bid, a vote was taken with the following result;

YEAS: Councilmembers Atkins, Butler,  
Cubberley, Dillingham, Griffith,  
Kovach, Mayor Rosenthal

NAYES: None

The Mayor declared the motion carried and all bids meeting specifications for Section 4, Part A, accepted; and the bid in the amount of \$23,876.21 was awarded to H.G. Flake as the lowest and best bidder meeting specification and Greenfield Compression as the alternate bidder.

Thereupon, Councilmember Kovach moved that all bids meeting specifications for Section 1, Part B, be accepted and the bid in the amount of \$187,400 be awarded to Arrow Engine Company as the lowest and best bidder meeting specifications and J-W Power Company as the alternate bidder, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

1. Text File No. BID-1011-63 dated April 11, 2011, by Mike White, Fleet Superintendent, with Attachment No. One dated April 16, 2011, Vendors for Fast Fill and Slow Fill Station Equipment, and Attachment No. Two, Appropriation of Funds to cover expenditures through FYE 2012
2. Tabulation of bids dated March 24, 2011, for Section 1, Part B, 4-Stage Compressor Package for CNG Slow Fill Station

Participants in discussion

1. Mr. Steve Lewis, City Manager
2. Mr. John Bolte, Small Arrow Engineering, consultant

and the question being upon accepting all bids meeting specifications for Section 1, Part B, and upon the subsequent awarding of the bid, a vote was taken with the following result;

YEAS: Councilmembers Atkins, Butler,  
Cubberley, Dillingham, Griffith,  
Kovach, Mayor Rosenthal

NAYES: None

The Mayor declared the motion carried and all bids meeting specifications for Section 1, Part B, accepted; and the bid in the amount of \$187,400 was awarded to Small Arrow Engine Company as the lowest and best bidder meeting specification and J.W. Power Company as the alternate bidder.

Thereupon, Councilmember Kovach moved that all bids meeting specifications for Section 2, Part B, be accepted and the bid in the amount of \$49,950 be awarded to Greenfield Compression as the lowest and best bidder meeting specifications and Tulsa Gas Technologies as the alternate bidder., which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

1. Text File No. BID-1011-63 dated April 11, 2011, by Mike White, Fleet Superintendent, with Attachment No. One dated April 16, 2011, Vendors for Fast Fill and Slow Fill Station Equipment, and Attachment No. Two, Appropriation of Funds to cover expenditures through FYE 2012
2. Tabulation of bids dated March 24, 2011, for Section 2, Part B, Slow-Fill Post Type Dispensers for CNG Slow Fill Station

Participants in discussion

1. Mr. Steve Lewis, City Manager
2. Mr. John Bolte, Small Arrow Engineering, consultant

Item 10, continued:

and the question being upon accepting all bids meeting specifications for Section 2, Part B, and upon the subsequent awarding of the bid, a vote was taken with the following result;

YEAS: Councilmembers Atkins, Butler,  
Cubberley, Dillingham, Griffith,  
Kovach, Mayor Rosenthal

NAYES: None

The Mayor declared the motion carried and all bids meeting specifications for Section 2, Part B, accepted; and the bid in the amount of \$49,950 was awarded to Greenfield Compression as the lowest and best bidder meeting specification and Tulsa Gas Technologies as the alternate bidder.

Thereupon, Councilmember Kovach moved that all bids meeting specifications for Section 3, Part B, be accepted and the bid in the amount of \$4,896 be awarded to Tulsa Gas Technologies as the lowest and best bidder meeting specifications and H.G. Flake as the alternate bidder, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

1. Text File No. BID-1011-63 dated April 11, 2011, by Mike White, Fleet Superintendent, with Attachment No. One dated April 16, 2011, Vendors for Fast Fill and Slow Fill Station Equipment, and Attachment No. Two, Appropriation of Funds to cover expenditures through FYE 2012
2. Tabulation of bids dated March 24, 2011, for Section 3, Part B, Outlet Supply Coalescing Filters for CNG Slow Fill Station

Participants in discussion

1. Mr. Steve Lewis, City Manager
2. Mr. John Bolte, Small Arrow Engineering, consultant

and the question being upon accepting all bids meeting specifications for Section 3, Part B, and upon the subsequent awarding of the bid, a vote was taken with the following result;

YEAS: Councilmembers Atkins, Butler,  
Cubberley, Dillingham, Griffith,  
Kovach, Mayor Rosenthal

NAYES: None

The Mayor declared the motion carried and all bids meeting specifications for Section 3, Part B, accepted; and the bid in the amount of \$4,896 was awarded to Tulsa Gas Technologies as the lowest and best bidder meeting specification and H.G. Flake as the alternate bidder.

Thereupon, Councilmember Kovach moved that the bid as meeting specifications for Section 4, Part B, be accepted and the bid in the amount of \$19,020.36 be awarded to H.G. Flake as the lowest and best bidder meeting specifications, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

1. Text File No. BID-1011-63 dated April 11, 2011, by Mike White, Fleet Superintendent, with Attachment No. One dated April 16, 2011, Vendors for Fast Fill and Slow Fill Station Equipment, and Attachment No. Two, Appropriation of Funds to cover expenditures through FYE 2012
2. Tabulation of bids dated March 24, 2011, for Section 4, Part B, 4 Stainless Steel Piping and Fittings for CNG Slow Fill Station

Participants in discussion

1. Mr. Steve Lewis, City Manager
2. Mr. John Bolte, Small Arrow Engineering, consultant

Item 10, continued:

and the question being upon accepting the bid as meeting specifications for Section 4, Part B, and upon the subsequent awarding of the bid, a vote was taken with the following result;

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
-------	---

NAYES:	None
--------	------

The Mayor declared the motion carried and the bid as meeting specifications for Section 4, Part B, accepted; and the bid in the amount of \$19,020.36 was awarded to H.G. Flake as the lowest and best bidder meeting specification.

Thereupon, Councilmember Kovach moved that Resolution No. R-1011-118, which motion was duly seconded by Councilmember Cubberley;

1. Text File No. BID-1011-63 dated April 11, 2011, by Mike White, Fleet Superintendent, with Attachment No. One dated April 16, 2011, Vendors for Fast Fill and Slow Fill Station Equipment, and Attachment No. Two, Appropriation of Funds to cover expenditures through FYE 2012
2. Resolution No. R-1011-118

and the question being upon adopting Resolution No. R-1011-118, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
-------	---

NAYES:	None
--------	------

The Mayor declared the motion carried and Resolution No. R-1011-118 was adopted.

\* \* \* \* \*

Item 11, being:

CONSIDERATION OF BID NO. 1011-66, CONTRACT NO. K-1011-152 WITH RUDY CONSTRUCTION COMPANY IN THE AMOUNT OF 183,517.06; PERFORMANCE BOND NO. B-1011-89; STATUTORY BOND NO. B-1011-90; MAINTENANCE BOND NO. MB-1011-90; AND RESOLUTION NO. R-1011-100 FOR THE JEFFERSON-LONGFELLOW SAFE ROUTES TO SCHOOL INFRASTRUCTURE PROJECT.

Item 11 was withdrawn at the request of Staff.

\* \* \* \* \*

Item 12, being:

CONSIDERATION OF ACCEPTANCE OF EASEMENT NO. E-1011-63 (ROADWAY, DRAINAGE, AND UTILITY) FROM CYNTHIA L. CALDWELL IN THE AMOUNT OF \$5,025 FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Easement No. E-1011-63 be accepted, the filing thereof with the Cleveland County Clerk be directed, and payment for the easement be authorized, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

1. Text File No. E-1011-63 dated April 8, 2011, by John Clink, Capital Projects Engineer
2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
3. Easement No. E-1011-63 with Exhibit "A", legal description
4. Location map

Participants in discussion

1. Mr. Steve Lewis, City Manager
2. Mr. Angelo Lombardo, Traffic Engineer

Item 12, continued:

and the question being upon accepting Easement No. E-1011-63 and upon the subsequent directive and authorization, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
-------	---

NAYES:	None
--------	------

The Mayor declared the motion carried and Easement No. E-1011-63 accepted; the filing thereof with the Cleveland County Clerk was directed and payment for the easement was authorized.

\* \* \* \* \*

Item 13, being:

CONSIDERATION OF ACCEPTANCE OF TEMPORARY EASEMENT NO. E-1011-64 (CONSTRUCTION) FROM CYNTHIA L. CALDWELL IN THE AMOUNT OF \$375 FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Temporary Easement No. E-1011-64 be accepted, the filing thereof with the City Clerk be directed, and payment for the easement be authorized, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

1. Text File No. E-1011-64 dated April 8, 2011, by John Clink, Capital Projects Engineer
2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
3. Temporary Easement No. E-1011-64 with Exhibit "A", legal description
4. Location map

Participants in discussion

1. Mr. Steve Lewis, City Manager
2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Temporary Easement No. E-1011-64 and upon the subsequent directive and authorization, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
-------	---

NAYES:	None
--------	------

The Mayor declared the motion carried and Temporary Easement No. E-1011-64 accepted; the filing thereof with the City Clerk was directed and payment for the easement was authorized.

\* \* \* \* \*

Item 14, being:

CONSIDERATION OF ACCEPTANCE OF TEMPORARY EASEMENT NO. E-1011-65 (DRIVEWAY) DONATED BY CYNTHIA L. CALDWELL FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Temporary Easement No. E-1011-65 be accepted and the filing thereof with the City Clerk be directed be authorized, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

1. Text File No. E-1011-65 dated April 8, 2011, by John Clink, Capital Projects Engineer
2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
3. Temporary Easement No. E-1011-65 with Exhibit "A", legal description
4. Location map

Item 14, continued:

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Temporary Easement No. E-1011-65 and upon the subsequent directive, a vote was taken with the following result:

YEAS: Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal

NAYES: None

The Mayor declared the motion carried and Temporary Easement No. E-1011-64 accepted; and the filing thereof with the City Clerk was directed.

\* \* \* \* \*

Item 15, being:

CONSIDERATION OF ACCEPTANCE OF EASEMENT NO. E-1011-66 (ROADWAY, DRAINAGE, AND UTILITY) FROM CHRISTOPHER R. KENNEDY IN THE AMOUNT OF \$9,200 FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Easement No. E-1011-66 be accepted, the filing thereof with the Cleveland County Clerk be directed, and payment for the easement be authorized, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-66 dated April 8, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Easement No. E-1011-66 with Exhibit "A", legal description
- 4. Location map

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Easement No. E-1011-66 and upon the subsequent directive and authorization, a vote was taken with the following result:

YEAS: Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal

NAYES: None

The Mayor declared the motion carried and Easement No. E-1011-66 accepted; the filing thereof with the Cleveland County Clerk was directed and payment for the easement was authorized.

\* \* \* \* \*

Item 16, being:

CONSIDERATION OF ACCEPTANCE OF TEMPORARY EASEMENT NO. E-1011-67 (DRIVEWAY) FROM CHRISTOPHER R. KENNEDY IN THE AMOUNT OF \$700 FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Temporary Easement No. E-1011-67 be accepted, the filing thereof with the City Clerk be directed, and payment for the easement be authorized, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-67 dated April 8, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Temporary Easement No. E-1011-67 with Exhibit "A", legal description
- 4. Location map

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Temporary Easement No. E-1011-67 and upon the subsequent directive and authorization, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
-------	---

NAYES:	None
--------	------

The Mayor declared the motion carried and Temporary Easement No. E-1011-67 accepted; the filing thereof with the City Clerk was directed and payment for the easement was authorized.

\* \* \* \* \*

Item 17, being:

CONSIDERATION OF ACCEPTANCE OF EASEMENT NO. E-1011-68 (ROADWAY, DRAINAGE, AND UTILITY) FROM TOM SHI CONNALLY AND JENNIFER CONNALLY IN THE AMOUNT OF \$10,100 FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Easement No. E-1011-68 be accepted, the filing thereof with the Cleveland County Clerk be directed, and payment for the easement be authorized, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-68 dated April 8, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Easement No. E-1011-68 with Exhibit "A", legal description
- 4. Location map

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Easement No. E-1011-68 and upon the subsequent directive and authorization, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
-------	---

NAYES:	None
--------	------

The Mayor declared the motion carried and Easement No. E-1011-68 accepted; the filing thereof with the Cleveland County Clerk was directed and payment for the easement was authorized.

\* \* \* \* \*

Item 18, being:

CONSIDERATION OF ACCEPTANCE OF TEMPORARY EASEMENT NO. E-1011-69 (DRIVEWAY) DONATED BY TOM SHI CONNALLY AND JENNIFER CONNALLY FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Temporary Easement No. E-1011-69 be accepted and the filing thereof with the City Clerk be directed, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-69 dated April 8, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Temporary Easement No. E-1011-69 with Exhibit "A", legal description
- 4. Location map

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Temporary Easement No. E-1011-69 and upon the subsequent directive, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
-------	---

NAYES:	None
--------	------

The Mayor declared the motion carried and Temporary Easement No. E-1011-69 accepted; and the filing thereof with the City Clerk was directed.

\* \* \* \* \*

Item 19, being:

CONSIDERATION OF ACCEPTANCE OF EASEMENT NO. E-1011-70 (ROADWAY, DRAINAGE, AND UTILITY) FROM HIGHLAND HILLS, L.L.C., IN THE AMOUNT OF \$650 FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Easement No. E-1011-70 be accepted, the filing thereof with the Cleveland County Clerk be directed, and payment for the easement be authorized, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-70 dated April 8, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Easement No. E-1011-70 with Exhibit "A", legal description
- 4. Location map

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Easement No. E-1011-70 and upon the subsequent directive and authorization, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
-------	---

NAYES:	None
--------	------

The Mayor declared the motion carried and Easement No. E-1011-70 accepted; the filing thereof with the Cleveland County Clerk was directed and payment for the easement was authorized.

\* \* \* \* \*

Item 20, being:

CONSIDERATION OF ACCEPTANCE OF EASEMENT NO. E-1011-71 (ROADWAY, DRAINAGE, AND UTILITY) FROM BARRY D. BOLTON AND SHERI K. FEILER-BOLTON IN THE AMOUNT OF \$71,000 FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Easement No. E-1011-71 be accepted, the filing thereof with the Cleveland County Clerk be directed, and payment for the easement be authorized, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-71 dated April 8, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Easement No. E-1011-71 with Exhibit "A", legal description
- 4. Location map

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Easement No. E-1011-71 and upon the subsequent directive and authorization, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
-------	---

NAYES:	None
--------	------

The Mayor declared the motion carried and Easement No. E-1011-71 accepted; the filing thereof with the Cleveland County Clerk was directed and payment for the easement was authorized.

\* \* \* \* \*

Item 21, being:

CONSIDERATION OF ACCEPTANCE OF TEMPORARY EASEMENT NO. E-1011-72 (DRIVEWAY) DONATED BY BARRY D. BOLTON AND SHERI K. FEILER-BOLTON FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Temporary Easement No. E-1011-72 be accepted and the filing thereof with the City Clerk be directed, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-72 dated April 8, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Temporary Easement No. E-1011-72 with Exhibit "A", legal description
- 4. Location map

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Temporary Easement No. E-1011-72 and upon the subsequent directive, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
-------	---

NAYES:	None
--------	------

The Mayor declared the motion carried and Temporary Easement No. E-1011-72 accepted; and the filing thereof with the City Clerk was directed.

\* \* \* \* \*

Item 22, being:

CONSIDERATION OF ACCEPTANCE OF EASEMENT NO. E-1011-73 (ROADWAY, DRAINAGE, AND UTILITY) FROM UNITED PENTECOSTAL CHURCH OF NORMAN IN THE AMOUNT OF \$11,525 FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Easement No. E-1011-73 be accepted, the filing thereof with the Cleveland County Clerk be directed, and payment for the easement be authorized, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-73 dated April 8, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Easement No. E-1011-73 with Exhibit "A", legal description
- 4. Location map

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Easement No. E-1011-73 and upon the subsequent directive and authorization, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
NAYES:	None

The Mayor declared the motion carried and Easement No. E-1011-73 accepted; the filing thereof with the Cleveland County Clerk was directed and payment for the easement was authorized.

\* \* \* \* \*

Item 23, being:

CONSIDERATION OF ACCEPTANCE OF EASEMENT NO. E-1011-74 (DRAINAGE) FROM UNITED PENTECOSTAL CHURCH OF NORMAN IN THE AMOUNT OF \$225 FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Easement No. E-1011-74 be accepted, the filing thereof with the Cleveland County Clerk be directed, and payment for the easement be authorized, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-74 dated April 8, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Easement No. E-1011-74 with Exhibit "A", legal description
- 4. Location map

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Easement No. E-1011-74 and upon the subsequent directive and authorization, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
NAYES:	None

The Mayor declared the motion carried and Easement No. E-1011-74 accepted; the filing thereof with the Cleveland County Clerk was directed and payment for the easement was authorized.

\* \* \* \* \*

Item 24, being:

CONSIDERATION OF ACCEPTANCE OF TEMPORARY EASEMENT NO. E-1011-75 (CONSTRUCTION) FROM UNITED PENTECOSTAL CHURCH OF NORMAN IN THE AMOUNT OF \$500 FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Temporary Easement No. E-1011-75 be accepted, the filing thereof with the City Clerk be directed, and payment for the easement be authorized, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-75 dated April 8, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Temporary Easement No. E-1011-75 with Exhibit "A", legal description
- 4. Location map

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Temporary Easement No. E-1011-75 and upon the subsequent directive and authorization, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
NAYES:	None

The Mayor declared the motion carried and Temporary Easement No. E-1011-75 accepted; the filing thereof with the City Clerk was directed and payment for the easement was authorized.

\* \* \* \* \*

Item 25, being:

CONSIDERATION OF ACCEPTANCE OF TEMPORARY EASEMENT NO. E-1011-76 (DRIVEWAY) DONATED BY THE UNITED PENTECOSTAL CHURCH OF NORMAN FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Temporary Easement No. E-1011-76 be accepted and the filing thereof with the City Clerk be directed, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-76 dated April 8, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Temporary Easement No. E-1011-76 with Exhibit "A", legal description
- 4. Location map

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Temporary Easement No. E-1011-76 and upon the subsequent directive, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
NAYES:	None

The Mayor declared the motion carried and Temporary Easement No. E-1011-76 accepted; and the filing thereof with the City Clerk was directed.

\* \* \* \* \*

Item 26, being:

CONSIDERATION OF ACCEPTANCE OF EASEMENT NO. E-1011-77 (ROADWAY, DRAINAGE, AND UTILITY) FROM STEVEN M. SIMS IN THE AMOUNT OF \$13,450 FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD)

Councilmember Kovach moved that Easement No. E-1011-77 be accepted, the filing thereof with the Cleveland County Clerk be directed, and payment for the easement be authorized, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-77 dated April 8, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Easement No. E-1011-77 with Exhibit "A", legal description
- 4. Location map

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Easement No. E-1011-77 and upon the subsequent directive and authorization, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
-------	---

NAYES:	None
--------	------

The Mayor declared the motion carried and Easement No. E-1011-77 accepted; the filing thereof with the Cleveland County Clerk was directed and payment for the easement be authorized.

\* \* \* \* \*

Item 27, being:

CONSIDERATION OF ACCEPTANCE OF TEMPORARY EASEMENT NO. E-1011-78 (CONSTRUCTION) FROM STEVEN M. SIMS IN THE AMOUNT OF \$750 FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Temporary Easement No. E-1011-78 be accepted, the filing thereof with the City Clerk be directed, and payment for the easement be authorized, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-78 dated April 8, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Temporary Easement No. E-1011-78 with Exhibit "A", legal description
- 4. Location map

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Temporary Easement No. E-1011-78 and upon the subsequent directive and authorization, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
-------	---

NAYES:	None
--------	------

The Mayor declared the motion carried and Temporary Easement No. E-1011-78 accepted; the filing thereof with the City Clerk was directed and payment for the easement was authorized.

\* \* \* \* \*

Item 28, being:

CONSIDERATION OF ACCEPTANCE OF TEMPORARY EASEMENT NO. E-1011-79 (DRIVEWAY) DONATED BY STEVEN M. SIMS FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Temporary Easement No. E-1011-79 be accepted and the filing thereof with the City Clerk be directed, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-79 dated April 8, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Temporary Easement No. E-1011-79 with Exhibit "A", legal description
- 4. Location map

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Temporary Easement No. E-1011-79 and upon the subsequent directive, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
-------	---

NAYES:	None
--------	------

The Mayor declared the motion carried and Temporary Easement No. E-1011-79 accepted; and the filing thereof with the City Clerk was directed.

\* \* \* \* \*

Item 29, being:

CONSIDERATION OF ACCEPTANCE OF EASEMENT NO. E-1011-80 (ROADWAY, DRAINAGE, AND UTILITY) FROM JIMMY PAUL AND CLARA NEVADA MOSES IN THE AMOUNT OF \$38,511 FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Easement No. E-1011-80 be accepted, the filing thereof with the Cleveland County Clerk be directed, and payment for the easement be authorized, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-80 dated April 9, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Easement No. E-1011-80 with Exhibit "A", legal description
- 4. Location map

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Easement No. E-1011-80 and upon the subsequent directive and authorization, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
-------	---

NAYES:	None
--------	------

The Mayor declared the motion carried and Easement No. E-1011-80 accepted; the filing thereof with the Cleveland County Clerk was directed and payment for the easement be authorized.

\* \* \* \* \*

Item 30, being:

CONSIDERATION OF ACCEPTANCE OF TEMPORARY EASEMENT NO. E-1011-81 (CONSTRUCTION) FROM GREG A. AND L. MARIA GREENFIELD IN THE AMOUNT OF \$525 FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Temporary Easement No. E-1011-81 be accepted, the filing thereof with the City Clerk be directed, and payment for the easement be authorized, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-81 dated April 9, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Temporary Easement No. E-1011-81 with Exhibit "A", legal description
- 4. Location map

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Temporary Easement No. E-1011-81 and upon the subsequent directive and authorization, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
-------	---

NAYES:	None
--------	------

The Mayor declared the motion carried and Temporary Easement No. E-1011-81 accepted; the filing thereof with the City Clerk was directed and payment for the easement was authorized.

\* \* \* \* \*

Item 31, being:

CONSIDERATION OF ACCEPTANCE OF TEMPORARY EASEMENT NO. E-1011-82 (CONSTRUCTION) FROM COMMANDER PARTNERS, LTD., IN THE AMOUNT OF \$725 FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Temporary Easement No. E-1011-82 be accepted, the filing thereof with the City Clerk be directed, and payment for the easement be authorized, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-82 dated April 9, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Temporary Easement No. E-1011-82
- 4. Location map with Exhibit "A", legal description

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Temporary Easement No. E-1011-82 and upon the subsequent directive and authorization, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
-------	---

NAYES:	None
--------	------

The Mayor declared the motion carried and Temporary Easement No. E-1011-82 accepted; the filing thereof with the City Clerk was directed and payment for the easement was authorized.

\* \* \* \* \*

Item 32, being:

CONSIDERATION OF ACCEPTANCE OF TEMPORARY EASEMENT NO. E-1011-83 (DRIVEWAY) DONATED BY COMMANDER PARTNERS, LTD., FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD)

Councilmember Kovach moved that Temporary Easement No. E-1011-83 be accepted and the filing thereof with the City Clerk be directed, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-83 dated April 8, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Temporary Easement No. E-1011-83 with Exhibit "A", legal description

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Temporary Easement No. E-1011-83 and upon the subsequent directive, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
-------	---

NAYES:	None
--------	------

The Mayor declared the motion carried and Temporary Easement No. E-1011-83 accepted; and the filing thereof with the City Clerk was directed.

\* \* \* \* \*

Item 33, being:

CONSIDERATION OF ACCEPTANCE OF EASEMENT NO. E-1011-84 (ROADWAY, DRAINAGE, AND UTILITY) FROM MILLWHEEL INVESTMENTS, L.L.C., IN THE AMOUNT OF \$1,758 FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Easement No. E-1011-84 be accepted, the filing thereof with the Cleveland County Clerk be directed, and payment for the easement be authorized, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-84 dated April 9, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Easement No. E-1011-84 with Exhibit "A", legal description
- 4. Location map

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Easement No. E-1011-84 and upon the subsequent directive and authorization, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
-------	---

NAYES:	None
--------	------

The Mayor declared the motion carried and Easement No. E-1011-84 accepted; the filing thereof with the Cleveland County Clerk was directed, and payment for the easement be authorized.

\* \* \* \* \*

Item 34, being:

CONSIDERATION OF ACCEPTANCE OF TEMPORARY EASEMENT NO. E-1011-85 (CONSTRUCTION) FROM MILLWHEEL INVESTMENTS, L.L.C., IN THE AMOUNT OF \$442 FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Temporary Easement No. E-1011-85 be accepted, the filing thereof with the City Clerk be directed, and payment for the easement be authorized, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-85 dated April 9, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Temporary Easement No. E-1011-85 with Exhibit "A", legal description

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Temporary Easement No. E-1011-85 and upon the subsequent directive and authorization, a vote was taken with the following result:

YEAS: Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal

NAYES: None

The Mayor declared the motion carried and Temporary Easement No. E-1011-85 accepted; the filing thereof with the City Clerk was directed and payment for the easement was authorized.

\* \* \* \* \*

Item 35, being:

CONSIDERATION OF ACCEPTANCE OF EASEMENT NO. E-1011-86 (ROADWAY, DRAINAGE, AND UTILITY) FROM CALVARY FREE WILL BAPTIST CHURCH IN THE AMOUNT OF \$5,750 FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Easement No. E-1011-86 be accepted, the filing thereof with the Cleveland County Clerk be directed, and payment for the easement be authorized, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-86 dated April 9, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Easement No. E-1011-86 with Exhibit "A", legal description

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Easement No. E-1011-86 and upon the subsequent directive and authorization, a vote was taken with the following result:

YEAS: Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal

NAYES: None

The Mayor declared the motion carried and Easement No. E-1011-86 accepted; the filing thereof with the Cleveland County Clerk was directed and payment for the easement be authorized.

\* \* \* \* \*

Item 36, being:

CONSIDERATION OF ACCEPTANCE OF TEMPORARY EASEMENT NO. E-1011-87 (CONSTRUCTION) FROM CALVARY FREE WILL BAPTIST CHURCH IN THE AMOUNT OF \$825 FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Temporary Easement No. E-1011-87 be accepted, the filing thereof with the City Clerk be directed, and payment for the easement be authorized, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

1. Text File No. E-1011-87 dated April 9, 2011, by John Clink, Capital Projects Engineer
2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
3. Temporary Easement No. E-1011-87 with Exhibit "A", legal description
4. Location map

Participants in discussion

1. Mr. Steve Lewis, City Manager
2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Temporary Easement No. E-1011-87 and upon the subsequent directive and authorization, a vote was taken with the following result:

YEAS: Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal

NAYES: None

The Mayor declared the motion carried and Temporary Easement No. E-1011-87 accepted; the filing thereof with the City Clerk was directed and payment for the easement was authorized.

\* \* \* \* \*

Item 37, being:

CONSIDERATION OF ACCEPTANCE OF TEMPORARY EASEMENT NO. E-1011-88 (DRIVEWAY) DONATED BY CALVARY FREE WILL BAPTIST CHURCH FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Temporary Easement No. E-1011-88 be accepted and the filing thereof with the City Clerk be directed, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

1. Text File No. E-1011-88 dated April 9, 2011, by John Clink, Capital Projects Engineer
2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
3. Temporary Easement No. E-1011-88 with Exhibit "A", legal description
4. Location map

Participants in discussion

1. Mr. Steve Lewis, City Manager
2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Temporary Easement No. E-1011-88 and upon the subsequent directive, a vote was taken with the following result:

YEAS: Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal

NAYES: None

The Mayor declared the motion carried and Temporary Easement No. E-1011-88 accepted; and the filing thereof with the City Clerk was directed.

\* \* \* \* \*

Item 38, being:

CONSIDERATION OF ACCEPTANCE OF TEMPORARY EASEMENT NO. E-1011-89 (CONSTRUCTION) DONATED BY THE SUE JEAN SHRIER MATHENY LIVING TRUST FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Temporary Easement No. E-1011-89 be accepted and the filing thereof with the City Clerk be directed, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-89 dated April 9, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Temporary Easement No. E-1011-89 with Exhibit "A", legal description
- 4. Location map

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Temporary Easement No. E-1011-89 and upon the subsequent directive, a vote was taken with the following result:

YEAS: Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal

NAYES: None

The Mayor declared the motion carried and Temporary Easement No. E-1011-89 accepted; and the filing thereof with the City Clerk was directed.

\* \* \* \* \*

Item 39, being:

CONSIDERATION OF ACCEPTANCE OF EASEMENT NO. E-1011-90 (ROADWAY, DRAINAGE, AND UTILITY) FROM NORTHGATE BAPTIST CHURCH F/K/A BIBLE BAPTIST CONGREGATION IN THE AMOUNT OF \$9,700 FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Easement No. E-1011-90 be accepted, the filing thereof with the Cleveland County Clerk be directed, and payment for the easement be authorized, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-90 dated April 9, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Easement No. E-1011-90 with Exhibit "A", legal description
- 4. Location map

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Easement No. E-1011-90 and upon the subsequent directive and authorization, a vote was taken with the following result:

YEAS: Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal

NAYES: None

The Mayor declared the motion carried and Easement No. E-1011-90 accepted; the filing thereof with the Cleveland County Clerk was directed and payment for the easement be authorized.

\* \* \* \* \*

Item 40, being:

CONSIDERATION OF ACCEPTANCE OF TEMPORARY EASEMENT NO. E-1011-91 (CONSTRUCTION) FROM NORTHGATE BAPTIST CHURCH F/K/A BIBLE BAPTIST CONGREGATION IN THE AMOUNT OF \$725 FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Temporary Easement No. E-1011-91 be accepted, the filing thereof with the City Clerk be directed, and payment for the easement be authorized, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-91 dated April 9, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Temporary Easement No. E-1011-91 with Exhibit "A", legal description
- 4. Location map

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Temporary Easement No. E-1011-91 and upon the subsequent directive and authorization, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
-------	---

NAYES:	None
--------	------

The Mayor declared the motion carried and Temporary Easement No. E-1011-91 accepted; the filing thereof with the City Clerk was directed and payment for the easement was authorized.

\* \* \* \* \*

Item 41, being:

CONSIDERATION OF ACCEPTANCE OF TEMPORARY EASEMENT NO. E-1011-92 (CONSTRUCTION) FROM IDEAL LAND FUND 2, L.L.C., IN THE AMOUNT OF \$2,750 FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Temporary Easement No. E-1011-92 be accepted, the filing thereof with the City Clerk be directed, and payment for the easement be authorized, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-92 dated April 9, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Temporary Easement No. E-1011-92 with Exhibit "A", legal description
- 4. Location map

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Temporary Easement No. E-1011-92 and upon the subsequent directive and authorization, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
-------	---

NAYES:	None
--------	------

The Mayor declared the motion carried and Temporary Easement No. E-1011-92 accepted; the filing thereof with the City Clerk was directed and payment for the easement was authorized.

\* \* \* \* \*

Item 42, being:

CONSIDERATION OF ACCEPTANCE OF TEMPORARY EASEMENT NO. E-1011-93 (CONSTRUCTION) FROM OLETA I. THOMAS IN THE AMOUNT OF \$1,550 FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Temporary Easement No. E-1011-93 be accepted, the filing thereof with the City Clerk be directed, and payment for the easement be authorized, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-93 dated April 9, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Temporary Easement No. E-1011-93 with Exhibit "A", legal description
- 4. Location map

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Temporary Easement No. E-1011-93 and upon the subsequent directive and authorization, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
-------	---

NAYES:	None
--------	------

The Mayor declared the motion carried and Temporary Easement No. E-1011-93 accepted; the filing thereof with the City Clerk was directed and payment for the easement was authorized.

\* \* \* \* \*

Item 43, being:

CONSIDERATION OF ACCEPTANCE OF EASEMENT NO. E-1011-94 (ROADWAY, DRAINAGE, AND UTILITY) FROM MEYER OPERATING COMPANY, L.P., IN THE AMOUNT OF \$1,105 FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Easement No. E-1011-94 be accepted, the filing thereof with the Cleveland County Clerk be directed, and payment for the easement be authorized, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-94 dated April 9, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Easement No. E-1011-94 with Exhibit "A", legal description
- 4. Location map

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Easement No. E-1011-94 and upon the subsequent directive and authorization, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
-------	---

NAYES:	None
--------	------

The Mayor declared the motion carried and Easement No. E-1011-94 accepted; the filing thereof with the Cleveland County Clerk was directed and payment for the easement be authorized.

\* \* \* \* \*

Item 44, being:

CONSIDERATION OF ACCEPTANCE OF TEMPORARY EASEMENT NO. E-1011-95 (DRIVEWAY) DONATED BY MEYER OPERATING COMPANY, L.P. FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Temporary Easement No. E-1011-95 be accepted and the filing thereof with the City Clerk be directed, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-95 dated April 9, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Temporary Easement No. E-1011-95 with Exhibit "A", legal description
- 4. Location map

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Temporary Easement No. E-1011-95 and upon the subsequent directive, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
NAYES:	None

The Mayor declared the motion carried and Temporary Easement No. E-1011-95 accepted; and the filing thereof with the City Clerk was directed.

\* \* \* \* \*

Item 45, being:

CONSIDERATION OF ACCEPTANCE OF TEMPORARY EASEMENT NO. E-1011-96 (DRIVEWAY) DONATED BY MEYER OPERATING COMPANY, L.P. FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Temporary Easement No. E-1011-96 be accepted and the filing thereof with the City Clerk be directed, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-96 dated April 9, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Temporary Easement No. E-1011-96 with Exhibit "A", legal description
- 4. Location map

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Temporary Easement No. E-1011-96 and upon the subsequent directive, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
NAYES:	None

The Mayor declared the motion carried and Temporary Easement No. E-1011-96 accepted; and the filing thereof with the City Clerk was directed.

\* \* \* \* \*

Item 46, being:

CONSIDERATION OF ACCEPTANCE OF TEMPORARY EASEMENT NO. E-1011-97 (DRIVEWAY) DONATED BY MEYER OPERATING COMPANY, L.P. FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Temporary Easement No. E-1011-97 be accepted and the filing thereof with the City Clerk be directed, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-97 dated April 9, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Temporary Easement No. E-1011-97 with Exhibit "A", legal description
- 4. Location map

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Temporary Easement No. E-1011-97 and upon the subsequent directive, a vote was taken with the following result:

YEAS: Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal

NAYES: None

The Mayor declared the motion carried and Temporary Easement No. E-1011-97 accepted; and the filing thereof with the City Clerk was directed.

\* \* \* \* \*

Item 47, being:

CONSIDERATION OF ACCEPTANCE OF TEMPORARY EASEMENT NO. E-1011-98 (DRIVEWAY) DONATED BY WOODS PROPERTY MANAGEMENT, L.L.C., FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Temporary Easement No. E-1011-98 be accepted and the filing thereof with the City Clerk be directed, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-98 dated April 9, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Temporary Easement No. E-1011-98 with Exhibit "A", legal description and "Addendum" dated January 20, 2011
- 4. Location map

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Temporary Easement No. E-1011-98 and upon the subsequent directive, a vote was taken with the following result:

YEAS: Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal

NAYES: None

The Mayor declared the motion carried and Temporary Easement No. E-1011-98 accepted; and the filing thereof with the City Clerk was directed.

\* \* \* \* \*

Item 48, being:

CONSIDERATION OF ACCEPTANCE OF TEMPORARY EASEMENT NO. E-1011-99 (DRIVEWAY) DONATED BY DAVID E. AND BRENDA J. YEAKLEY FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Temporary Easement No. E-1011-99 be accepted and the filing thereof with the City Clerk be directed, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-99 dated April 9, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Temporary Easement No. E-1011-99 with Exhibit "A", legal description
- 4. Location map

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Temporary Easement No. E-1011-99 and upon the subsequent directive, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
-------	---

NAYES:	None
--------	------

The Mayor declared the motion carried and Temporary Easement No. E-1011-99 accepted; and the filing thereof with the City Clerk was directed.

\* \* \* \* \*

Item 49, being:

CONSIDERATION OF ACCEPTANCE OF TEMPORARY EASEMENT NO. E-1011-100 (CONSTRUCTION) FROM RICHARD D. GRAVLIN D/B/A GRAVCO, INC.; DANIEL J. FIORONI; AND H & L ENTERPRISES IN THE AMOUNT OF \$675 FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Temporary Easement No. E-1011-100 be accepted, the filing thereof with the City Clerk be directed, and payment for the easement be authorized, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-100 dated April 8, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Temporary Easement No. E-1011-100 with Exhibit "A", legal description
- 4. Location map

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Temporary Easement No. E-1011-100 and upon the subsequent directive and authorization, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
-------	---

NAYES:	None
--------	------

The Mayor declared the motion carried and Temporary Easement No. E-1011-100 accepted; the filing thereof with the City Clerk was directed, and payment for the easement was authorized.

\* \* \* \* \*

Item 50, being:

CONSIDERATION OF ACCEPTANCE OF EASEMENT NO. E-1011-101 (DRAINAGE) DONATED BY HIGHLAND HILLS, L.L.C., FOR THE NORTH PORTER AVENUE WIDENING PROJECT FROM WOODCREST DRIVE TO TECUMSEH ROAD.

Councilmember Kovach moved that Easement No. E-1011-101 be accepted and the filing thereof with the Cleveland County Clerk be directed, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. E-1011-101 dated April 8, 2011, by John Clink, Capital Projects Engineer
- 2. List of Easements for North Porter Widening from Woodcrest Drive to Tecumseh Road
- 3. Easement No. E-1011-101 with Exhibit "A", legal description
- 4. Location map

Participants in discussion

- 1. Mr. Steve Lewis, City Manager
- 2. Mr. Angelo Lombardo, Traffic Engineer

and the question being upon accepting Easement No. E-1011-101 and upon the subsequent directive, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
-------	---

NAYES:	None
--------	------

The Mayor declared the motion carried and Easement No. E-1011-101 accepted; and the filing thereof with the City Clerk was directed.

\* \* \* \* \*

Item 51, being:

DECLARATION OF SURPLUS AND/OR OBSOLETE EQUIPMENT AND MATERIALS AT THE WASTEWATER TREATMENT PLANT AND AUTHORIZING THE SALE AND/OR DISPOSITION THEREOF.

Acting as the Norman Utilities Authority, Trustee Kovach moved that the equipment be declared to be surplus and/or obsolete and the disposition and/or sale thereof be authorized, which motion was duly seconded by Trustee Cubberley;

Items submitted for the record

- 1. Text File No. GID-1011-29 dated April 11, 2011, by Mark Daniels, Utilities Engineer
- 2. List of surplus/obsolete equipment at Wastewater Treatment Plant dated April 11, 2011

and the question being upon declaring the equipment to be surplus and/or obsolete and upon the subsequent authorization, a vote was taken with the following result:

YEAS:	Trustees Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Chairman Rosenthal
-------	--

NAYES:	None
--------	------

The Chairman declared the motion carried and the equipment declared to be surplus and/or obsolete; and the disposition and/or sale thereof was authorized.

\* \* \* \* \*

Item 52, being:

CONSIDERATION OF SUBMISSION OF THE CERTIFIED LOCAL GOVERNMENTS (CLG) PROGRAM 2011 APPLICATION FOR FUNDING IN THE AMOUNT OF \$12,200 TO BE SUBMITTED TO THE OKLAHOMA STATE HISTORIC PRESERVATION OFFICE.

Councilmember Kovach moved that the proposed Certified Local Governments 2011 Application for Funding in the amount of \$12,200 be approved, the submission thereof to the Oklahoma State Historic Preservation Office be directed, and the Mayor be authorized to sign additional documentation related to the CLG grant application for funding, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. GID-1011-70 dated April 14, 2011, by Susan Atkinson, Historic District Planner
- 2. Certified Local Governments Fund Application and Instructions, Fiscal Year 2011
- 3. Assurances – Non Construction Programs
- 4. United States Department of Labor Certifications Regarding Debarment, Suspension and Other Responsibility Matters, Drug-Free Workplace Requirements and Lobbying
- 5. State of Oklahoma Department of Central Services, Central Purchasing Division, Certification for Competitive Bid and/or Contract (Non-Collusion Certification)
- 6. Letter of support dated April 12, 2011, from Stephen Koranda, Executive Director, Norman Convention and Visitors Bureau, to Susan Owen Atkinson, AICP, Community Planner/Historic District Officer
- 7. Letter of support dated April 8, 2011, from John Woods, President/Chief Operating Officer, Norman Chamber of Commerce
- 8. Email of support dated April 14, 2011, from Steve Kaplan, President, and Nancy McClellan, Secretary, Norman Downtowners Association, to Susan Atkinson, Community Planner/Historic Preservation Officer

and the question being upon approving the proposed Certified Local Governments 2011 Application for Funding in the amount of \$12,200 and upon the subsequent directive and authorization, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
-------	---

NAYES:	None
--------	------

The Mayor declared the motion carried and the proposed Certified Local Governments 2011 Application for Funding in the amount of \$12,200 approved; the submission thereof to the Oklahoma State Historic Preservation Office was directed and the Mayor was authorized to sign additional documentation related to the CLG grant application for funding.

\* \* \* \* \*

Item 53, being:

LIMITED LICENSE NO. LL-1011-15: LIMITED LICENSE TO PLACE FOUR (4) SIGNS WITHIN THE PUBLIC RIGHTS-OF-WAY PURSUANT TO A REQUEST FROM FRIENDS OF THE NORMAN LIBRARY FOR THE BETTER BOOKS SALE TO BE HELD APRIL 29 THROUGH MAY 1, 2011.

Councilmember Kovach moved that Limited License No. LL-1011-15 to place four (4) signs within the public rights-of-way pursuant to a request from Friends of the Norman Library be approved and the issuance thereof be authorized, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. LL-1011-15 dated April 12, 2011, by Wayne Stenis, Planner II
- 2. Letter of request dated March 28, 2011, from Simon H. Rudnick, 2011 Friends of the Norman Library Book Sale Co-Chair, to Brenda Hall, City Clerk
- 3. Application for Limited License for four signs dated March 28, 2011, from the Friends of the Norman Library
- 4. Location map
- 5. Limited License No. LL-1011-15

Item 53, continued:

and the question being upon approving Limited License No. LL-1011-15 to place four (4) signs within the public rights-of-way pursuant to a request from Friends of the Norman Library and upon the subsequent authorization, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
NAYES:	None

The Mayor declared the motion carried and Limited License No. LL-1011-15 to place four (4) signs within the public rights-of-way pursuant to a request from Friends of the Norman Library approved; and the issuance thereof was authorized.

\* \* \* \* \*

Item 54, being:

CONSIDERATION OF FINAL ACCEPTANCE AND PAYMENT OF CONTRACT NO. K-1011-60 BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND STANDARD ROOFING COMPANY, INC., FOR THE FLEET/LINE MAINTENANCE ROOF REPLACEMENT PROJECT.

Councilmember Kovach moved that the project be accepted and final payment in the amount of \$358,852 to Standard Roofing Company, Inc., be directed, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

1. Text File No. K-1011-60, Final, dated April 11, 2011, by Brenda Hall, City Clerk
2. Invoice No. 11287 DW dated March 28, 2011, in the amount of \$358,852 from Standard Roofing Company, Inc.
3. Photographs showing roof at Fleet/Line Maintenance Division before and after project
4. Purchase Order No. 192592 dated October 5, 2010, in the amount of \$358,852 to Standard Roofing Company, Inc.

and the question being upon accepting the project and upon the subsequent directive, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
NAYES:	None

The Mayor declared the motion carried and the project accepted; and final payment in the amount of \$358,852 to Standard Roofing Company, Inc., was directed.

\* \* \* \* \*

Item 55, being:

CONSIDERATION OF FINAL ACCEPTANCE AND PAYMENT OF CONTRACT NO. K-1011-76 BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND STANDARD ROOFING COMPANY, INC., FOR FIRE STATION NO. TWO, POLICE AUXILIARY FACILITY, AND ANIMAL CONTROL ROOF REPLACEMENT PROJECTS.

Councilmember Kovach moved that the projects be accepted and final payment in the amount of \$314,086 to Standard Roofing Company, Inc., be directed, which motion was duly seconded by Councilmember Cubberley;

Item 55, continued:

Items submitted for the record

1. Text File No. K-1011-76, Final, dated April 12, 2011, by Brenda Hall, City Clerk
2. Invoice No. 11293 DW dated April 1, 2011, in the amount of \$143,466 from Standard Roofing Company, Inc., for Fire Station No. Two roof
3. Photographs showing roof at Fire Station No. Two before and after project
4. Invoice No. 11302 DW dated April 6, 2011, in the amount of \$95,512 from Standard Roofing Company, Inc., for Police Auxiliary Facility roof
5. Photographs showing roof at the Police Auxiliary Facility before and after project
6. Invoice No. 11286 DW dated March 28, 2011, in the amount of \$75,108 from Standard Roofing Company, Inc., for Animal Control Facilities A and B roofs
7. Photographs showing roofs at Animal Control Facilities A and B before and after project
8. Purchase Order No. 194340 dated November 10, 2010, in the amount of \$314,086 to Standard Roofing Company, Inc.

and the question being upon accepting the projects and upon the subsequent directive, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
NAYES:	None

The Mayor declared the motion carried and the projects accepted; and final payment in the amount of \$314,086 to Standard Roofing Company, Inc., was directed.

\* \* \* \* \*

Item 56, being:

CONTRACT NO. K-1011-166: BY AND BETWEEN THE NORMAN UTILITIES AUTHORITY AND LASHAR HOME COMFORT SYSTEMS, L.L.C., IN THE AMOUNT OF \$45,597 FOR THE WASTEWATER TREATMENT PLANT HEATING UNITS REPLACEMENT PROJECT AND BUDGET TRANSFER.

Acting as the Norman Utilities Authority, Trustee Kovach moved that Contract No. K-1011-166 with Lashar Home Comfort Systems, L.L.C., in the amount of \$45,597 be approved, the execution thereof be authorized, and \$5,597 be transferred from Project No. WW0046, Headworks Screw Conveyer, Construction (032-9911-432.61-01) to Project No. WW0061, Wastewater Treatment Centrifuge Room Heaters, Construction (032-9677-432.61-01), which motion was duly seconded by Trustee Cubberley;

Items submitted for the record

1. Text File No. K-1011-166 dated April 19, 2011, from Brenda Hall, City Clerk
2. Quote Summary dated April 26, 2011, for the Wastewater Treatment Plant Heating Units Replacement Project
3. Proposal dated March 1, 2011, in the amount of \$45,597 to Jerry Wilson from Tonny Bryant, Lashar Home Comfort Systems, L.L.C.
4. Contract No. K-1011-166 with Certificate of Liability Insurance and Workers' Compensation and Employers Liability Policy

and the question being upon approving Contract No. K-1011-166 with Lashar Home Comfort Systems, L.L.C., in the amount of \$45,597 and upon the subsequent authorization and transfer, a vote was taken with the following result:

YEAS:	Trustees Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Chairman Rosenthal
NAYES:	None

The Chairman declared the motion carried and Contract No. K-1011-166 with Lashar Home Comfort Systems, L.L.C., in the amount of \$45,597 approved; the execution thereof was authorized and \$5,597 was transferred from Project No. WW0046, Headworks Screw Conveyer, Construction (032-9911-432.61-01) to Project No. WW0061, Wastewater Treatment Centrifuge Room Heaters, Construction (032-9677-432.61-01).

\* \* \* \* \*

Item 57, being

CONSIDERATION OF A RECOMMENDATION FROM THE CITY ATTORNEY THAT THE CITY COUNCIL APPROVE SETTLEMENTS OF THE CITY OF NORMAN VS. JOHN TERRY AND FRATERNAL ORDER OF POLICE (FOP) LODGE NO. 122, SUPREME COURT CASE NO. SD-107788 AND CLEVELAND COUNTY DISTRICT COURT CASE NO. CJ-2010-1051; NGUYEN VS. JOHN TERRY AND CITY OF NORMAN, FEDERAL COURT CASE NO. CIV-10-196-R; AND JOHN TERRY VS. CITY OF NORMAN, ET. AL., FEDERAL COURT CASE NO. CIV-10-01042-D.

Councilmember Kovach moved that the City Attorney's recommendation be approved and the City's Attorney's Office be authorized to effectuate the settlements, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

1. Text File No. GID-1011-30 dated April 15, 2011, from Jeff Bryant, City Attorney

Participants in discussion

1. Mr. Jeff Bryant, City Attorney

and the question being upon approving the City Attorney's recommendation and upon the subsequent authorization, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
NAYES:	None

The Mayor declared the motion carried and the City Attorney's recommendation approved; and the City's Attorney's Office was authorized to effectuate the settlements.

\* \* \* \* \*

Item 58, being:

RESOLUTION NO. R-1011-110: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, APPROPRIATING \$457,692 FROM THE GENERAL FUND BALANCE FOR PAYMENT OF ON-THE-JOB INJURY (OJI) MEDICAL BILLS; AND ORDERS/SETTLEMENTS IN THE WORKERS' COMPENSATION ACCOUNT AND OTHER RELATED WORKERS' COMPENSATION FEE ACCOUNTS.

Item 58 was withdrawn by Staff.

\* \* \* \* \*

Item 59, being:

CONSIDERATION OF A PRELIMINARY PLAT FOR MOOSE LODGE CHAPTER 1799 AND WAIVER OF ALLEY REQUIREMENTS FOR THE COMMERCIAL PROPERTY.

Councilmember Griffith moved that the preliminary plat for Moose Lodge Chapter 1799 and waiver of alley requirements for the commercial property be approved, which motion was duly seconded by Councilmember Butler;

Items submitted for the record

1. Text File No. PP-1011-15 dated February 8, 2011, by Ken Danner, Development Manager, with attached Traffic Impact Chart
2. Location map
3. Staff Report dated March 10, 2011, recommending approval
4. Preliminary site plan
5. Site plan
6. Preliminary plat
7. Letter requesting alley waiver dated February 22, 2011, from Tom L. McCaleb, P.E., SMC Consulting Engineers, P.C., to Mr. Jim Gasaway, Chairman, Planning Commission
8. Predevelopment Case No. PD11-02 dated January 27, 2011, for Moose Lodge Chapter 1799 located at 2812 Classen Boulevard
9. Greenbelt Enhancement Statement Comments dated January 24, 2011, for Moose Lodge Chapter 1799
10. Pertinent excerpts from Planning Commission minutes of March 10, 2011

Item 59, continued:

Participants in discussion

- 1. Mr. Tom McCaleb, SMC Consulting Engineers, P.C., 815 West Main Street, Oklahoma City, engineer representing the applicant

and the question being upon approving the preliminary plat for Moose Lodge Chapter 1799 and waiver of alley requirements for the commercial property, a vote was taken with the following result:

YEAS: Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal

NAYES: None

The Mayor declared the motion carried and the preliminary plat for Moose Lodge Chapter 1799 and waiver of alley requirements for the commercial property were approved.

\* \* \* \* \*

Item 60, being:

CONSIDERATION OF A PRELIMINARY PLAT FOR TECUMSEH MEADOWS ADDITION, SECTION 3.

Councilmember Cubberley moved that the preliminary plat for Tecumseh Meadows Addition, Section 3, be approved, which motion was duly seconded by Councilmember Griffith;

Items submitted for the record

- 1. Text File No. PP-1011-16 dated February 8, 2011, by Ken Danner, Development Manager, with attached Traffic Impact Chart
- 2. Location map
- 3. Staff Report dated March 10, 2011, recommending approval
- 4. Preliminary plat
- 5. Transportation Impacts Review Form dated February 21, 2011, conducted by David R. Riesland, P.E., Assistant City Traffic Engineer, for Tecumseh Meadows, Section 3
- 6. Greenbelt Enhancement Statement Comments dated January 24, 2011, for Green Hill Builders, L.L.C.
- 7. Predevelopment Case No. PD11-01 dated January 27, 2011, for Green Hill Builders for property located on the west end of Tecumseh Meadows Road
- 8. Pertinent excerpts from Planning Commission minutes of March 10, 2011

Participants in discussion

- 1. Mr. Tom McCaleb, SMC Consulting Engineers, P.C., 815 West Main Street, Oklahoma City, engineer representing the applicant

and the question being upon approving the preliminary plat for Tecumseh Meadows Addition, Section 3, a vote was taken with the following result:

YEAS: Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal

NAYES: None

The Mayor declared the motion carried and the preliminary plat for Tecumseh Meadows Addition, Section 3, was approved.

\* \* \* \* \*

Item 61, being:

RESOLUTION NO. R-1011-89: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING THE NORMAN 2025 LAND USE AND TRANSPORTATION PLAN, **LAND USE PLAN AMENDMENT NO. LUP-1011-8**, SO AS TO PLACE A PART OF THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 3, TOWNSHIP 9, NORTH, RANGE 3 WEST OF THE INDIAN MERIDIAN, CLEVELAND COUNTY, OKLAHOMA, IN THE CURRENT URBAN SERVICE AREA DESIGNATION AND REMOVE THE SAME FROM THE FUTURE URBAN SERVICE AREA DESIGNATION FOR THE HEREINAFTER DESCRIBED PROPERTY. (GENERALLY LOCATED ON THE SOUTH SIDE OF INDIAN HILLS ROAD AND APPROXIMATELY 980 FEET EAST OF 48TH AVENUE N.W.)

Councilmember Griffith moved that Resolution No. R-1011-89, Land Use Plan Amendment No. LUP-1011-8, be adopted, which motion was duly seconded by Councilmember Dillingham;

Items submitted for the record

- 1. Text File No. R-1011-89 dated February 8, 2011, by Doug Koscinski, Current Planning Manager
- 2. Resolution No. R-1011-89
- 3. Location map
- 4. Staff Report dated March 10, 2011, recommending approval
- 5. Pertinent excerpts from Planning Commission minutes of March 10, 2011

Participants in discussion

- 1. Mr. Tom McCaleb, SMC Consulting Engineers, P.C., 815 West Main Street, Oklahoma City, engineer representing the applicant
- 2. Ms. Susan Connors, Director of Planning and Community Development

and the question being upon adopting Resolution No. R-1011-89, Land Use Plan Amendment No. LUP-1011-8, a vote was taken with following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
-------	---

NAYES:	None
--------	------

The Mayor declared the motion carried and Resolution No. R-1011-89, Land Use Plan Amendment No. LUP-1011-8, was adopted.

\* \* \* \* \*

Item 62, being:

ORDINANCE NO. O-1011-47: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 460 OF CHAPTER 22 OF THE CODE OF THE CITY OF NORMAN SO AS TO PLACE A TRACT OF LAND LYING WITHIN PART OF THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 3, TOWNSHIP 9 NORTH, RANGE 3 WEST OF THE INDIAN MERIDIAN, TO NORMAN, CLEVELAND COUNTY, OKLAHOMA, IN THE R-1, SINGLE FAMILY DWELLING DISTRICT, AND REMOVE THE SAME FROM THE A-2, RURAL AGRICULTURAL DISTRICT, OF SAID CITY, AND TO GRANT SPECIAL USE FOR A CHURCH; AND PROVIDING FOR THE SEVERABILITY THEREOF. (SOUTH OF INDIAN HILLS ROAD AND APPROXIMATELY 980 FEET EAST OF 48TH AVENUE N.W.)

Ordinance No. O-1011-47 having been Introduced and adopted upon First Reading by title in City Council's meeting of April 12, 2011, Councilmember Dillingham moved that Ordinance No. O-1011-47 be adopted upon Second Reading section by section, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

- 1. Text File No. O-1011-47 dated February 8, 2011, by Doug Koscinski, Current Planning Manager
- 2. Ordinance No. O-1011-47 with Exhibit A, site plan
- 3. Location map
- 4. Staff Report dated March 10, 2011, recommending approval
- 5. Preliminary site plan
- 6. Norman Predevelopment Summary Case No. 10-21 dated October 28, 2010, submitted by Bridgeview United Methodist Church for property located on the south side of Indian Hills Road approximately one-half west of 36th Avenue N.W.
- 7. Pertinent excerpts from Planning Commission minutes of March 10, 2011

Item 62, continued:

and the question being upon adopting Ordinance No. O-1011-47 upon Second Reading section by section, a vote was taken with the following result:

YEAS: Councilmembers Atkins, Butler,  
Cubberley, Dillingham, Griffith,  
Kovach, Mayor Rosenthal

NAYES: None

The Mayor declared the motion carried and Ordinance No. O-1011-47 was adopted upon Second Reading section by section.

Thereupon, Councilmember Dillingham moved that Ordinance No. O-1011-47 be adopted upon Final Reading as a whole, which motion was duly seconded by Councilmember Cubberley; and the question being upon adopting Ordinance No. O-1011-47 upon Final Reading as a whole, a vote was taken with the following result:

YEAS: Councilmembers Atkins, Butler,  
Cubberley, Dillingham, Griffith,  
Kovach, Mayor Rosenthal

NAYES: None

The Mayor declared the motion carried and Ordinance No. O-1011-47 was adopted upon Final Reading as a whole.

\* \* \* \* \*

Item 63, being:

CONSIDERATION OF A PRELIMINARY PLAT FOR BRIDGEVIEW UNITED METHODIST CHURCH ADDITION.

Councilmember Griffith moved that the preliminary plat for Bridgeview United Methodist Church Addition be approved, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

1. Text File No. PP-1011-14 dated February 8, 2011, by Ken Danner, Development Manager, with attached Traffic Impact Chart and Share of Intersection Improvement Costs
2. Location map
3. Staff Report dated March 10, 2011, recommending approval
4. Preliminary plat
5. Preliminary site plan
6. Predevelopment Case No. PD10-21 dated October 28, 2011, for Bridgeview United Methodist Church for property located on the south side of Indian Hills Road approximately 1/2 mile west of 36th Avenue N.W.
7. Transportation Impacts Review Form dated February 22, 2011, conducted by David R. Riesland, P.E., Assistant City Traffic Engineer, for Bridgeview United Methodist Church
8. Pertinent excerpts from Planning Commission minutes of March 10, 2011

and the question being upon approving the preliminary plat for Bridgeview United Methodist Church Addition, a vote was taken with the following result:

YEAS: Councilmembers Atkins, Butler,  
Cubberley, Dillingham, Griffith,  
Kovach, Mayor Rosenthal

NAYES: None

The Mayor declared the motion carried and the preliminary plat for Bridgeview United Methodist Church Addition was approved.

\* \* \* \* \*

Item 64, being:

ORDINANCE NO. O-1011-46: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 460 OF CHAPTER 22 OF THE CODE OF THE CITY OF NORMAN SO AS TO PLACE THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 9 NORTH, RANGE 2 WEST OF THE INDIAN MERIDIAN, TO NORMAN, CLEVELAND COUNTY, OKLAHOMA, IN THE PUD, PLANNED UNIT DEVELOPMENT DISTRICT, AND REMOVE THE SAME FROM THE A-2, RURAL AGRICULTURAL DISTRICT, OF SAID CITY; AND PROVIDING FOR THE SEVERABILITY THEREOF. (GENERALLY LOCATED ON THE NORTH SIDE OF EAST ROCK CREEK ROAD APPROXIMATELY ONE-HALF MILE EAST OF 36TH AVENUE N.E.)

Ordinance No. O-1011-46 having been Introduced and adopted upon First Reading by title in City Council's meeting of April 12, 2011, Councilmember Cubberley moved that Ordinance No. O-1011-46 be adopted upon Second Reading section by section, which motion was duly seconded by Councilmember Butler;

Items submitted for the record

1. Text File No. O-1011-46 dated February 8, 2011, by Doug Koscinski, Current Planning Manager
2. Ordinance No. O-1011-46 with Exhibit A, site plan
3. Location map
4. Staff Report dated March 10, 2011, recommending approval
5. Preliminary plat
6. Planned Unit Development Design Statement for Tanglewoods Addition prepared by Crafton Tull with Exhibit A, Norman Land Use Plan Area Designations; Exhibit B, Preliminary Site Development Plan; Exhibit C, Topographic Map; and Exhibit D, Color Rendering
7. Protest Area Map dated March 9, 2011, containing 7.7% protest within the notification area
8. Letter of protest dated February 23, 2011, from Ken C. and Charlotte J. Crawford to Planning and Community Development Department
9. Pertinent excerpts from Planning Commission minutes of March 10, 2011
10. Location map showing 56.63 acres (80.9%) Country Residential and 13.37 acres (19.1%) Suburban Residential
11. Predevelopment map

Participants in discussion

1. Mr. Kendall Dillon, Crafton Tull, 214 East Main Street, Oklahoma City, engineer representing the applicant
2. Ms. Susan Connors, Director of Planning and Community Development
3. Mr. Jeff Bryant, City Attorney
4. Mr. Ken Komiske, Director of Utilities
5. Mr. Jim Bailey, Assistant Fire Chief

and the question being upon adopting Ordinance No. O-1011-46 upon Second Reading section by section, a vote was taken with the following result:

YEAS: Councilmembers Butler, Cubberley, Dillingham, Griffith, Mayor Rosenthal

NAYES: Councilmembers Atkins and Kovach

The Mayor declared the motion carried and Ordinance No. O-1011-46 was adopted upon Second Reading section by section.

Thereupon, Councilmember Butler moved that Ordinance No. O-1011-46 be adopted upon Final Reading as a whole, which motion was duly seconded by Councilmember Griffith; and the question being upon adopting Ordinance No. O-1011-47 upon Final Reading as a whole, a vote was taken with the following result:

YEAS: Councilmembers Butler, Cubberley, Dillingham, Griffith, Mayor Rosenthal

NAYES: Councilmembers Atkins and Kovach

The Mayor declared the motion carried and Ordinance No. O-1011-46 was adopted upon Final Reading as a whole.

Item 65, being:

CONSIDERATION OF A PRELIMINARY PLAT FOR TANGLEWOODS ADDITION, A PLANNED UNIT DEVELOPMENT.

Councilmember Butler moved that the preliminary plat for Tanglewoods Addition, a Planned Unit Development, be approved, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

1. Text File No PP-1011-13 dated February 8, 2011, by Ken Danner, Development Manager, with attached Traffic Impact Chart
2. Location map
3. Staff Report dated March 10, 2011, recommending approval
4. Preliminary site development plan
5. Preliminary plat
6. Transportation Impacts Review Form dated March 1, 2011, conducted by David R. Riesland, P.E., Assistant City Traffic Engineer, for Tanglewoods PUD
7. Predevelopment Case No. PD11-03 dated January 27, 2011, for Rock Creek Land for property located north of Rock Creek Road approximately 1/2 mile east of 36th Avenue N.E.
8. Predevelopment Case No. PD09-23 dated November 19, 2009, for Rock Creek Land, L.L.C., for property located on Rock Creek Road midway between 36th Avenue N.E. and 48th Avenue N.E.
9. Greenbelt Enhancement Statement Comments dated January 24, 2011, for Predevelopment Case No. PD11-03
10. Pertinent excerpts from Planning Commission minutes of March 10, 2011

and the question being upon approving the preliminary plat for Tanglewoods Addition, a Planned Unit Development, a vote was taken with the following result:

YEAS:	Councilmembers Butler, Cubberley, Dillingham, Griffith, Mayor Rosenthal
NAYES:	Councilmembers Atkins and Kovach

The Mayor declared the motion carried and the preliminary plat for Tanglewoods Addition, a Planned Unit Development, was approved.

\* \* \* \* \*

MISCELLANEOUS DISCUSSION

Robinson Street Construction. Mr. Gary Griffiths, 316 West Himes Street, said he met with Mr. Shawn O'Leary, Director of Public Works, after the April 12, 2011, City Council meeting regarding traffic problems in his neighborhood due to the Robinson Street Project and expressed his appreciation. He said Mr. O'Leary addressed the issue, the traffic lights had been adjusted at Flood and Robinson, and the flow of traffic is a lot better. He said traffic still backs up, but drivers travel through the light at a faster pace. He said the contractor had placed a message board at Flood and Acres directing drivers to use the alternate route which helped considerably. He said the police have been patrolling the area regularly watching out for speeders as well as any crime that might be occurring.

Mr. Roger Gallagher, 1522 East Boyd Street, said he understood that the shoofly that had been constructed had not passed inspection for weight and/or strength. He asked if new construction would need to take place causing a delay in the project.

Mr. John Clink, Capital Projects Engineer, said that it was suspected that the piles being driven for the bridge for the shoofly are out of tolerance and not a deviation that the railroad allows and the contractor is having it surveyed. If it is out of tolerance, the contractor will send this information to his engineer and the engineer will do the calculations to see if the bridge will hold the weight of the trains. He said the next step will be decided when these calculations are completed.

Mr. Gallagher asked if the City would be responsible for the construction or the costs.

Mr. Clink said the bridge was the contractor's design as a way to carry trains while the project was being completed and it would be his responsibility.

\*

Miscellaneous Discussion, continued:

Water Issues. Mr. Roger Gallagher, said he did not feel a plat should be approved unless there was a guarantee of good water especially if there were going to be septic systems. He said before more houses are allowed in east Norman, the environment and water quality should be taken into consideration.

\*

Quorums for Board Meetings. Mr. Roger Gallagher, 1522 East Boyd Street, said he attended at least three meetings where a quorum of members had not been present. He said one committee tried to take a vote by email, the others just asked general opinions although there was no formal vote. He said City Code states business cannot go forward unless a quorum is present. He said he attended a recent TIF Oversight Committee where a presentation was made and thought now it will have to be repeated when all the members were present.

Mayor Rosenthal said the TIF Oversight Committee is not a recommendatory body and only oversees the project. She said if they took a position, a quorum must be present.

\*

Lake McGee. Councilmember Kovach said during the recent rains a citizen had to be rescued from Lake McGee and residents of Lancaster Circle had to park by Whittier School.

\*

Settlements and Lawsuits. Councilmember Kovach said there were several grievances, arbitrations, and a lawsuit listed this month in the Monthly Departmental Reports. He said many of the cases involve proper procedure regarding discipline and discharge of employees. He said there are times when there are great employees and times when you have bad employees and when there is a bad employee that cannot correct their actions, they should be discharged in a manner consistent with union contracts so their discharge will not be reversed. He said these cases end up on the tax rolls and should be avoided. He said supervisors and managers should be instructed properly on how to do this.

\*

Lakeview T-Birds. Councilmember Dillingham said she wished everyone would adopt the Lakeview T-Bird philosophy which is to be "Thoughtful, Bully-Free, Respectful, Diligent, and Safe." She hoped the T-Birds would officially adopt her.

\*

East Rock Creek Road Improvements. Councilmember Griffith said this project was complete and the results were amazing. He expressed gratitude to the Oklahoma Department of Transportation, Haskell Lemon Construction Company, Shawn O'Leary, Director of Public Works, and John Clink, Capital Projects Engineer, for a job well done. He said traffic congestion has decreased dramatically and it was nice to see area residents using the new sidewalks.

\*

Griffin Park Irrigation Project. Mr. Steve Lewis, City Manager, said during the Budget Study Session this evening, the Griffin Park Irrigation Project had been discussed and he commended Parks and Recreation and the Utilities Departments for a job well done. He said this project created a new irrigation lake in Griffin Park and the up side was the City will be saving money by utilizing approximately 300,000 gallons of water from a former well taken out of service due to it having too much arsenic.

\*

Free Days at the Transfer Station. Mr. Steve Lewis, City Manager, announced that the transfer station would be open to the public free of charge on April 30, May 7, and May 14, from 8:00 a.m. to 1:00 p.m. to allow Norman residents to drop off some of their bulky non-hazardous waste.

\*

Miscellaneous Discussion, continued:

East Highway Nine Widening Project. Mr. Steve Lewis, said he and Mr. Shawn O’Leary, Director of Public Works, attended the State Highway Nine Public Meeting held Thursday, April 21, 2011, at the Postal Training Center. He said the project consists of improvements on East Highway Nine from 24th Avenue S.E. to 84th Avenue S.E. He said this meeting served as the final public hearing on the environmental assessment portion of the project and the Oklahoma Department of Transportation (ODOT) will continue to receive comments until May 6, 2011. He said at that time, the project should move forward and ODOT will begin acquiring right-of-way. The first section of road from 24th Avenue S.E. to 48th Avenue S.E. will be a four lane divided road with a landscaped median and that project will begin in 2013 and the second phase will begin in 2015.

\*

Budget Update. Mr. Steve Lewis, City Manager, provided a status update of the FYE 2011 City budget. He said there had been very little change from what had been reported at the General Fund Study Session last week. He said actual sale tax revenue to date and FYE 2009 actual including Public Safety Sales Tax were virtually identical. He said the General Fund revenue for FYE 2011 to date is \$48 million and FYE 2009 actual was approximately \$49 million which reinforces the point that our revenue growth is anemic.

\*

Weekend Activities. Mayor Rosenthal said this would be a very busy weekend in Norman which will tax some of our street crews and law enforcement. She said the 89’er Day Parade is on Saturday, May Fair begins on Friday and Norman Music Festival on Thursday along with the Lions Club Carnival. She said this was a very exciting time for a “Staycation”. She urged citizens to stay in Norman and enjoy these events. In deference to Councilmember Quinn, who was not in attendance this evening, she urged citizens to “Shop Norman” and spend tax dollars in Norman.

\* \* \* \* \*

ADJOURNMENT

There being no further business, Councilmember Kovach moved that the meeting be adjourned, which motion was duly seconded by Councilmember Atkins; and the question being upon adjournment of the meeting, a vote was taken with the following result:

YEAS: Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal

NAYES: None

The Mayor declared the motion carried and the meeting was adjourned at 8:25 p.m.

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor



# CITY COUNCIL AGENDA MAY 10, 2011

Municipal Building Council  
Chambers  
201 West Gray Street  
Norman, OK 73069

## Item No. 9

Text File Number: O-1011-07

**Introduced:** 4/18/2011 by Leah Messner, Assistant City Attorney

**Current Status:** Consent Item

**Version:** 1

**Matter Type:** Ordinance

Title

CONSIDERATION OF ORDINANCE NO. O-1011-07 UPON FIRST READING BY TITLE: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING ARTICLE III, SECTION 19-303 OF CHAPTER 19 OF THE CODE OF THE CITY OF NORMAN BY ADDING A PROVISION REGARDING THE PLACEMENT OF A DUMPSTER AND/OR COMPACTOR ON PROPERTY ZONED INDUSTRIAL, COMMERCIAL, OFFICE, OR MULTI-FAMILY; AND PROVIDING FOR THE SEVERABILITY THEREOF.

**ACTION NEEDED:** Motion to introduce and adopt Ordinance No. O-1011-07 upon First Reading by title.

**ACTION TAKEN:** \_\_\_\_\_

Body

**BACKGROUND:** In 2010, the Norman City Council was approached by a homeowner requesting that City Council consider a potential ordinance amendment to regulate the placement of dumpsters adjacent to single-family homes. The homeowner had concerns with the odor of a neighboring dumpster as it was located very near to the rear windows of her home. City Council then asked staff to review ordinances from other cities and to draft a proposed amendment for review by the Oversight Committee.

The Oversight Committee met to discuss this topic in September and October 2010 and January and April 2011. At the 2010 Oversight Committee meetings, the Committee reviewed ordinances from Ardmore, Broken Arrow, Lawton, Midwest City, Oklahoma City, and Stillwater. Other cities reviewed, Moore and Tulsa, did not have ordinances dealing with dumpster placement. At the January 5, 2011 meeting, the Oversight Committee requested that City staff draft amendments to the proposed Ordinance that would include a retroactivity clause to bring all dumpsters placed adjacent to single family zones or uses into compliance with a twenty-foot setback proposed by the Ordinance amendment. The Oversight Committee, at their April 2011 meeting, reviewed a final draft of the proposed changes and requested that draft be forwarded for consideration by the full City Council.

**DISCUSSION:** The proposed Ordinance Amendment requires any dumpster and/or compactor to be set back twenty feet from the property line where property that is zoned Industrial, Commercial, Office, or Multi-Family abuts a single-family residential zone.

The proposed amendment applies to all new construction. Existing businesses must also come into compliance with the terms of this ordinance within six months after the ordinance is adopted. However, the Director of Utilities, or his designee, shall have the authority to waive or modify this requirement as potential site limitations may dictate.

Retroactivity provisions in statutes have often been looked at critically by the courts system. In order to ensure a proper retroactivity clause, courts review whether there is evidence of a legislative intent to apply the statute retroactively. 16A C.J.S. Constitutional Law § 559. Subsequent to this review, a court must then determine if the retroactivity clause contravenes any constitutional right or prohibition. *Id.* There are four primary instances where retroactivity clauses have been forbidden as they contravene constitutional rights: the Ex Post Facto Clause prohibits retroactive application of penal legislation; Article I of the United States Constitution prohibits States from passing laws impairing contracts; the Fifth Amendment's Takings Clause prevents the Legislature (and other government actors) from depriving private persons of vested property rights except for a "public use" and upon payment of just compensation; and Article I of the United States Constitution prohibit legislatures from singling out disfavored persons and meting out summary punishment for past conduct. *Landgraf v. USI Film Products*, 511 U.S. 244, 266 (1994). The retroactivity clause in the proposed Ordinance would not contravene any of these listed rights as it does not criminalize behavior, impair contracts, deprive persons of property rights, nor does it single out disfavored persons. For that reason, a Court might find the proposed retroactive clause "simply to give comprehensive effect to a new law Congress considers salutary." *Id.* at 267-68.

Another requirement of retroactivity clauses is notice of the new regulation and time to come into compliance because "elementary considerations of fairness dictate that individuals should have an opportunity to know what the law is and to conform their conduct accordingly." *Id.* at 265. For this reason, the proposed Ordinance draft submitted for your consideration includes a six-month window for compliance to be achieved after adoption of new setback requirements. In addition, the language of the proposed Ordinance allows the Director of Utilities to waive or modify the setback requirements where site limitations dictate.

The proposed amendment also contains language that, if a developer chooses to locate dumpsters and the required enclosures within a platted utility easement, the developer assumes all responsibility for any damage to the enclosure if utility work needs to be completed in the easement. This protects the City of Norman from damage claims if an enclosure is damaged while the City of Norman, or other utility companies, performs work in a utility easement.

The proposed Ordinance will be enforced prior to placement of dumpsters at a newly constructed location. In regards to existing dumpsters, City staff, upon receipt of a complaint from a neighboring residence and after the six month window for compliance, will either contact the business owner and request relocation or relocate the dumpster into a compliant location.

**RECOMMENDATION:** Based upon the above and foregoing discussion, it is the staff recommendation that Ordinance O-1011-7 be adopted.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AMENDING ARTICLE III, SECTION 19-303 OF CHAPTER 19 OF THE CODE OF THE CITY OF NORMAN BY ADDING A PROVISION REGARDING THE PLACEMENT OF A DUMPSTER AND/OR COMPACTOR ON PROPERTY ZONED INDUSTRIAL, COMMERCIAL, OFFICE, OR MULTI-FAMILY; AND PROVIDING FOR THE SEVERABILITY THEREOF.

NOW THEREFORE, BE IT ORDAINED THAT THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

§ 1. That, Article III, Section 19-303 of Chapter 19 of the Code of the City of Norman, Oklahoma shall be amended to read as follows:

**Section 21-303. Preliminary plat: Contents**

The preliminary plat shall be drawn at a scale of not more than one hundred (100) feet to the inch, except where impractical and shall show:

\* \* \*

P. In the instance where property that is zoned Industrial, Commercial, Office, or Multi-Family abuts a single-family residential zone, the dumpster and/or compactor must be set back 20 feet from the property line that abuts the single-family zone or single-family use.

1. This standard shall apply for all new construction. Existing businesses must also come into compliance with the terms of this ordinance within six (6) months after the ordinance is adopted. However, the Director of Utilities, or his designee, shall have the authority to waive or modify this requirement as potential site limitations may dictate.
2. If a developer chooses to locate dumpsters and the required enclosures within a platted utility easement, the developer assumes all responsibility for any damage to the enclosure if utility work needs to be completed in the easement.

\* \* \*

§ 2. Severability. If any section, sentence, clause or phrase of this ordinance or any part thereof is for any reason found to be invalid by a court of competent jurisdiction, such decisions shall not affect the validity of the remainder of this ordinance or any part thereof.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2011.

NOT ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Cindy Rosenthal, Mayor

\_\_\_\_\_  
Cindy Rosenthal, Mayor

ATTEST:

\_\_\_\_\_  
Brenda Hall, City Clerk

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AMENDING ARTICLE III, SECTION 19-303 OF CHAPTER 19 OF THE CODE OF THE CITY OF NORMAN BY ADDING A PROVISION REGARDING THE PLACEMENT OF A DUMPSTER AND/OR COMPACTOR ON PROPERTY ZONED INDUSTRIAL, COMMERCIAL, OFFICE, OR MULTI-FAMILY; AND PROVIDING FOR THE SEVERABILITY THEREOF.

NOW THEREFORE, BE IT ORDAINED THAT THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

§ 1. That, Article III, Section 19-303 of Chapter 19 of the Code of the City of Norman, Oklahoma shall be amended to read as follows:

**Section 21-303. Preliminary plat: Contents**

The preliminary plat shall be drawn at a scale of not more than one hundred (100) feet to the inch, except where impractical and shall show:

\* \* \*

P. In the instance where property that is zoned Industrial, Commercial, Office, or Multi-Family abuts a single-family residential zone, the dumpster and/or compactor must be set back 20 feet from the property line that abuts the single-family zone or single-family use.

1. This standard shall apply for all new construction. Existing businesses must also come into compliance with the terms of this ordinance within six (6) months after the ordinance is adopted. However, the Director of Utilities, or his designee, shall have the authority to waive or modify this requirement as potential site limitations may dictate.

2. If a developer chooses to locate dumpsters and the required enclosures within a platted utility easement, the developer assumes all responsibility for any damage to the enclosure if utility work needs to be completed in the easement.

\* \* \*

§ 2. Severability. If any section, sentence, clause or phrase of this ordinance or any part thereof is for any reason found to be invalid by a court of competent jurisdiction, such decisions shall not affect the validity of the remainder of this ordinance or any part thereof.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2011.

NOT ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Cindy Rosenthal, Mayor

\_\_\_\_\_  
Cindy Rosenthal, Mayor

ATTEST:

\_\_\_\_\_  
Brenda Hall, City Clerk

## CITY COUNCIL OVERSIGHT COMMITTEE MINUTES

April 6, 2011

The City Council Oversight Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 5:35 p.m. in the City Council Conference Room on the 6th day of April, 2011, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray 48 hours prior to the beginning of the meeting.

PRESENT: Councilmembers Atkins, Griffith, Kovach, and Chairman Dillingham

ABSENT: None

OTHERS PRESENT: Mr. Roger Gallagher, Councilmember-Elect Ward 1  
Mr. Ken Komiske, Director of Utilities  
Mr. Doug Koscinski, Current Planning Manager  
Mr. Steve Lewis, City Manager  
Ms. Leah Messner, Assistant City Attorney  
Ms. Debra Smith, Environmental Services Coordinator  
Mr. Dave Spaulding, Councilmember-Elect Ward 5  
Ms. Kathryn Walker, Assistant City Attorney  
Mr. Scottie Williams, Utilities Superintendent  
Ms. Syndi Runyon, Administrative Assistant IV

### DISCUSSION REGARDING FOLLOW-UP ON THE PROPOSED ORDINANCE REGULATING THE PLACEMENT OF DUMPSTERS ON PROPERTY ZONED INDUSTRIAL, COMMERCIAL, OFFICE, OR MULTI-FAMILY.

Chairman Dillingham said Staff has done a great job in preparing an ordinance for the placement of commercial dumpsters near residential areas.

Ms. Leah Messner, Assistant City Attorney, said the Oversight Committee met in September and October of 2010, and January 2011, regarding an ordinance to regulate dumpster placement on non-residential properties. At the January meeting, the Committee directed Staff to draft amendments to the proposed ordinance that would include a retroactivity clause to bring all dumpsters placed adjacent to single family zones into compliance with the twenty-foot setback proposed in the ordinance. She said retroactivity provisions in statutes have often been looked at critically by the courts. She said there are four primary instances where retroactivity clauses have been forbidden as they contravene constitutional rights: the Ex Post Facto Clause prohibits retroactive application of penal legislation; Article I of the United States Constitution prohibits States from passing laws impairing contracts; the Fifth Amendment's Takings Clause prevents the Legislature (and other government actors) from depriving private persons of vested property rights except for a "public use" and upon payment of just compensation; and Article I of the United States Constitution prohibit legislatures from singling out disfavored persons and meting out summary punishment for past conduct. She said the retroactivity clause in the proposed ordinance would not contravene any of these listed rights as it does not criminalize behavior, impair contracts, deprive persons of property rights, nor does it single out disfavored persons. Chairman Dillingham asked if property should be inspected after six months or on a complaint driven basis? Councilmember Kovach said he preferred a complaint driven basis and the Committee agreed. Chairman Dillingham instructed Staff to bring the ordinance forward to Council for review.

Councilmember Griffith said if someone complains three months after the ordinance is adopted, does that mean they have a three month window to comply and Ms. Messner said they would have six months to comply.

## CITY COUNCIL OVERSIGHT COMMITTEE MINUTES

October 13, 2010

The City Council Oversight Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 5:35 p.m. in the City Council Conference Room on the 13th day of October, 2010, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray 48 hours prior to the beginning of the meeting.

PRESENT:	Councilmembers Atkins, Griffith, Kovach, and Chairman Dillingham
ABSENT:	None
OTHERS PRESENT:	Ms. Brenda Hall, City Clerk Mr. Ken Komiske, Director of Utilities Mr. Doug Koscinski, Current Planning Manager Ms. Leah Messner, Assistant City Attorney Mr. Scottie Williams, Utilities Superintendent Ms. Syndi Runyon, Administrative Assistant IV

### CONTINUED REVIEW OF PROPOSED ORDINANCE REGULATING DUMPSTER PLACEMENT.

In the September 4, 2010, meeting, Mr. Ken Komiske, Director of Utilities, said there is currently no ordinance addressing dumpster placement and while it is difficult to address past issues, it does provide an opportunity to correct future problems. Ms. Leah Messner, Assistant City Attorney, drafted an ordinance that included diagrams that need to be a part of the engineering standards. He said, currently, developers are required to have dumpster locations on a site plan, but there are no requirements stating how far the dumpster must be from a residential neighborhood. Ms. Carol Cole-Frowe previously brought forward a complaint to Council regarding an apartment dumpster just a few feet from her home, which is offensive not only in aesthetics but odor as well, and asked if the City could help with this problem.

Mr. Ken Komiske, Director of Utilities, said the commercial dumpster near Ms. Carol Cole-Frowe's home was moved two weeks ago and, so far, there have been no complaints from the new apartment complex property owners. Mr. Scottie Williams, Utilities Superintendent, said he has talked with Ms. Cole-Frowe and she is happy with the new placement.

Ms. Leah Messner, Assistant City Attorney, said language has been added to the draft ordinance giving the Director of Utilities, or his designee, the authority to waive or modify the set back requirements as potential site limitations may dictate.

Ms. Cole-Frowe asked if the ordinance only applied to preliminary plats and Ms. Messner said it would apply to new construction, which requires location of the dumpster on the plat when adjacent to single family residential property. She said the dumpster would have to be 20 feet away from the property line and it would also apply to a change in zoning or reoccupation of the property if vacant two years or more. Ms. Cole-Frowe asked if it applied to her situation and Ms. Messner said it does not.

Ms. Cole-Frowe said she has always been proud of Norman for sticking up for individual citizens and she cannot believe the City will allow a company to place a dumpster seven feet from someone's house. She said the apartment complex could move the dumpster back near her house anytime they want and there is no law to prevent this.

Ms. Cole-Frowe said she is only asking that the apartment complex be required to place the dumpster 20 feet from residential property and to install an eight foot minimum fence when they replace their current fence. Chairman Dillingham asked Ms. Messner to recap the legal issues from the last meeting and Ms. Messner said there is always difficulty in requiring a retrofit because at the time the properties were built everything was legal and to tell property owners they have to change because it is no longer legal is not something cities are usually able to do. Councilmember Kovach asked if there had been an instance where the City could impose new regulations when there is a change of ownership and Ms. Messner said yes, but it is difficult to track ownership because when property sells, the City is usually not notified. Councilmember Atkins suggested tracking new commercial owners through utility changes.

Ms. Cole-Frowe said the City passed a law that if a business replaced their sign, they had to conform to the current sign ordinance. She said she does not understand why there cannot be some provision for a minimum setback on dumpsters. Ms. Messner said the Committee could do something similar to the commercial lighting ordinance where businesses have to conform to new regulations by a certain timeframe such as five years. Councilmember Kovach asked if it could be a shorter period such as two years and Ms. Cole-Frowe asked why someone would have to live with a dumpster seven feet from their house for two years.

Chairman Dillingham felt the City had to find the most reasonable, fair way to retrofit. She asked Staff to review past retrofit requirements to see what would be a reasonable timeframe. She asked if Staff knew how many non-compliant dumpsters there might be. Ms. Cole-Frowe felt there were just a fraction of commercial dumpsters that are non-compliant and Councilmember Kovach said the Committee only needed to know the dumpsters that abutted residential property. He said if the City forced compliance on current properties, those properties that physically cannot meet the requirement, then the City would need an alternative for them such as fencing. Ms. Messner said the newer properties have masonry walls around their dumpsters, so moving those would create a greater cost, but Chairman Dillingham felt that there would not be anything built recently that would be non-compliant.

Chairman Dillingham asked Staff to gather information on how many commercial dumpsters abut residential property, how many of those are non-compliant, and how many of those could not be brought into compliance. She said the Committee will review that information at its December meeting; however, if the apartment owners asked for the dumpster to be placed back in its original spot near Ms. Cole-Frowe's house before that time, the Committee may need to review the data in its November meeting.

Chairman Dillingham moved the discussion to dumpsters/polycarts being blocked by vehicles and Mr. Komiske said the City is looking at moving the placement of polycarts out of alleyways and onto the front of the streets and each alleyway is being reviewed on an individual basis due to the number of vehicles parked along the street. Mr. Williams said he has driven each alley taking notes that he will compile into data for the Committee's review. Councilmember Atkins asked if there were a lot of alleys, where polycarts cannot be relocated, with obstacles for sanitation trucks such as low hanging utility wires or tree limbs and Mr. Komiske said Code Compliance Inspectors work with property owners to keep trees trimmed; however, it is a summer long process.

Items submitted for the record

1. Memorandum dated October 4, 2010, from Ken Komiske, Director of Utilities, and Susan Connors, Director of Planning and Community Development to City Council Oversight Committee, Councilmember Atkins, Councilmember Dillingham, Councilmember Griffith, Councilmember Kovach
2. Draft ordinance
3. Memorandum dated September 1, 2010, from Linda Price, Revitalization Manager, to City Council Oversight Committee

## CITY COUNCIL OVERSIGHT COMMITTEE MINUTES

January 5, 2011

The City Council Oversight Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 5:30 p.m. in the City Council Conference Room on the 5th day of January, 2011, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray 48 hours prior to the beginning of the meeting.

PRESENT: Councilmembers Atkins, Griffith, Kovach, and Chairman Dillingham

ABSENT: None

OTHERS PRESENT: Ms. Susan Connors, Director of Planning and Community Development  
Mr. Mark Daniels, Utility Engineer  
Ms. Brenda Hall, City Clerk  
Mr. Ken Komiske, Director of Utilities  
Mr. Doug Koscinski, Current Planning Manager  
Ms. Leah Messner, Assistant City Attorney  
Mr. Scottie Williams, Utilities Superintendent  
Ms. Syndi Runyon, Administrative Assistant IV

### FOLLOW-UP DISCUSSION REGARDING THE PROPOSED ORDINANCE REGULATING DUMPSTER PLACEMENT.

Mr. Ken Komiske, Director of Utilities, said the proposed ordinance states, "in the instance where the property that is zoned Industrial, Commercial, Office, or Multi-Family abuts a single-family residential zone, the dumpster and/or compactor must be set back 20 feet from the property line that abuts the single family zone." He said the ordinance will apply to all new construction, changes in zoning or use, or if the property has been vacant for more than two years. He said there are 2,400 commercial customers and approximately 150 of those are in areas that abut residential areas, but cannot meet the 20 foot set back. Chairman Dillingham asked if the requirements should be tied to zoning or use and thought use would give Staff more latitude for enforcement. Councilmember Kovach said most of the existing dumpsters that would be in violation were not within 20 feet of a home so he did not believe they would be a problem to anyone. Mr. Doug Koscinski, Current Planning Manager, said the awkward piece of the ordinance would be instances where businesses are mandated to place dumpsters in the alley and that would violate the proposed ordinance. He said it could be mandated that dumpsters be placed away from the residential side of the alley and Chairman Dillingham agreed and language could read "whenever possible, dumpsters be placed on the non-residential side of the alley." Mr. Komiske asked if the ordinance should be complaint driven and Chairman Dillingham said yes.

Ms. Leah Messner, Assistant City Attorney, asked if Councilmembers wanted the ordinance to be retroactive when there is a complaint and Councilmember Kovach said yes, but only enforced upon a complaint. Chairman Dillingham said in order to make retroactivity work without having to move 150 dumpsters the Committee needs to narrow the focus to the real problem, which seems to be areas where dumpsters are located very close to a single family residence or in an area not primarily commercial and someone has complained.

Mr. Koscinski suggested locating dumpsters within 20 feet of the property line abutting residential property and if a complaint is filed, mandate compliance within two years or if no complaints are received on existing dumpsters within two years make no changes. Mr. Komiske asked that the Director of Utilities be given the option of overriding the regulation if there is no other viable place for the dumpster and Councilmembers agreed. Councilmember Kovach suggested allowing compliance within six months. Mr. Koscinski suggested language that read "where reasonably practicable." He said Midway Grocery on Eufaula Avenue is a perfect example of commercial business with a dumpster abutting a residential area that would be in violation under the proposed ordinance and where there is no other viable place to locate their dumpster to be compliant. Ms. Messner suggested the language read, "dumpsters must be relocated as close as practicable to the property line in order to comply to the new requirements" and Councilmembers agreed. Chairman Dillingham asked if a six month compliance window would be a problem and Ms. Messner said she thought it would be fine, but would research and draft the ordinance to be sure there would not be any legal issues then bring the draft back to the Committee. Chairman Dillingham asked the draft ordinance be brought back to the Committee in April.

Items submitted for the record

1. PowerPoint presentation entitled, "Department of Utilities Sanitation Division Commercial Dumpster Location Review, " dated January 2011

CONTINUED DISCUSSION REGARDING PROPOSED MODIFICATION TO TEMPORARY/ MOBILE FOOD PERMIT REQUIREMENTS.

Ms. Messner said a draft of the proposed ordinance for temporary and mobile food permits was reviewed by the Committee on December 1, 2011, and changes were requested. She said there are two proposed types of temporary licenses, Fixed Temporary Food Service License and Mobile Temporary Food Service License with a definition for the Mobile Temporary Food Service License to read, "shall be for facilities that are vehicle mounted and are readily moveable." She said this was taken from the Oklahoma City ordinance. She said another change was made to Section 13-810(a) deleting the Oklahoma State Bureau of Investigation (OSBI) background check and bonding requirements and changing the insurance requirements to general liability and vehicular insurance. She said Section 13-811(b) was changed to read, "a single location or address shall include a single parking lot shared by multiple businesses." She said she also defined a public right-of-way for better clarification, which includes sidewalks and alleys as well as the street. She said the fee for a thirty day permit was changed to \$50 and \$250 for a 180 day permit.

Chairman Dillingham felt the proposed ordinance was ready to be submitted to the City Council in a Study Session for a full review along with the proposed changes to the Solicitor/Peddler ordinance and Councilmembers agreed. Councilmember Griffith asked when enforcement would begin and Ms. Hall said 30 days after Council adopts the ordinance. She said vendors that currently obtain Temporary Food Service Licenses will be notified upon adoption prior to enforcement. She said these vendors have been advised when they come in to renew their license that changes are in the pipeline, but the City Clerk's Office will follow up with a letter to each vendor with a copy of the ordinance. She said the same procedure of notification will be applied to regular stationary vendors that obtain solicitor/peddler licenses.



**CITY COUNCIL MEETING  
MAY 10, 2011**

Municipal Building Council  
Chambers  
201 West Gray Street  
Norman, OK 73069

**Item No. 10**

**Text File Number: O-1011-49**

**Introduced:** 3/22/2011 by Doug Koscinski, Current Planning Manager

**Current Status:** Consent Item

**Version:** 1

**Matter Type:** Zoning Ordinance

Title

CONSIDERATION OF ORDINANCE NO. O-1011-49 UPON FIRST READING BY TITLE: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 460 OF CHAPTER 22 OF THE CODE OF THE CITY OF NORMAN SO AS TO PLACE A TRACT OF LAND LYING IN THE NORTHWEST QUARTER OF SECTION 3, TOWNSHIP 9 NORTH, RANGE 3 WEST OF THE INDIAN MERIDIAN TO NORMAN, CLEVELAND COUNTY, OKLAHOMA, IN THE PUD, PLANNED UNIT DEVELOPMENT DISTRICT, AND REMOVE THE SAME FROM THE A-2, RURAL AGRICULTURAL DISTRICT, OF SAID CITY; AND PROVIDING FOR THE SEVERABILITY THEREOF. (GENERALLY LOCATED ON THE SOUTH SIDE OF INDIAN HILLS ROAD APPROXIMATELY 1,318 LINEAR FEET EAST OF 48TH AVENUE N.W.)

**ACTION NEEDED:** Motion to Introduce and adopt Ordinance No. O-1011-49 upon First Reading by title.

**ACTION TAKEN:** \_\_\_\_\_

Body

**BACKGROUND:** This is a companion zoning change to the requested NORMAN 2025 Land Use Plan change from Future Urban Service Area to Current Urban Service Area. The applicant owns an approximately 48-acre parcel; they are seeking permission to develop the property as a single-family gated community, Glenridge Addition. The current zoning is A-2; the applicant has requested rezoning from A-2 to Planned Unit Development (PUD) which is required in order to have a gated community with private streets.

**DISCUSSION:** One hundred fifty-four single-family dwellings are proposed as the only use within this development. Lot sizes within the development vary, with the smallest typical lot measuring 60 feet by 130 feet. The overall density is indicated at 3.17 dwelling units per acre. The development includes several open spaces scattered throughout the subdivision, totaling 6.33 acres, yielding 13% of the entire parcel for open space. The open spaces contain large detention ponds, which will allow for walking trails for the residents. All internal open areas are proposed as private park areas, which the Park Board has approved. The PUD narrative indicates that the applicant intends to install trails around all of the detention ponds, which will range from unimproved natural trails to fully paved sidewalks which will connect to the sidewalks along the subdivision streets. There will be one gated access point onto Indian Hills Road and two additional gated exit points on the southeast and southwest ends of this development. Phasing will start at the north end of the subdivision, and proceed south depending on market conditions. Phase one will include an emergency access point into the abutting Bridgeview Church Property. Future phases will

require construction of the additional egress points connected to adjacent subdivisions, at either the southeast or southwest ends of the subdivision.

**RECOMMENDATION:** The design and density of this residential subdivision is similar to nearby additions that have been recently approved. Internal pedestrian circulation and connections to abutting developments are indicated. No adverse impacts are expected from this proposal. Staff supports this request for PUD designation. At the April 14, 2011 meeting of the Planning Commission, no protests were heard and no one spoke in opposition to this request. The Planning Commission, by unanimous vote, recommended that this rezoning be approved.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 460 OF CHAPTER 22 OF THE CODE OF THE CITY OF NORMAN SO AS TO PLACE A TRACT OF LAND LYING IN THE NORTHWEST QUARTER OF SECTION 3, TOWNSHIP 9 NORTH, RANGE 3 WEST OF THE INDIAN MERIDIAN TO NORMAN, CLEVELAND COUNTY, OKLAHOMA, IN THE PUD, PLANNED UNIT DEVELOPMENT DISTRICT, AND REMOVE THE SAME FROM THE A-2, RURAL AGRICULTURAL DISTRICT, OF SAID CITY; AND PROVIDING FOR THE SEVERABILITY THEREOF. (GENERALLY LOCATED ON THE SOUTH SIDE OF INDIAN HILLS ROAD APPROXIMATELY 1,318 LINEAR FEET EAST OF 48TH AVENUE N.W.)

- § 1. WHEREAS, L & S Development II, L.L.C., the owner of the hereinafter described property, has made application to have the same placed in the PUD, Planned Unit Development District, and to have the same removed from the A-2, Rural Agricultural District; and
- § 2. WHEREAS, said application has been referred to the Planning Commission of said City and said body has, after conducting a public hearing as required by law, considered the same and recommended that the same should be granted and an ordinance adopted to effect and accomplish such rezoning; and
- § 3. WHEREAS, the City Council of the City of Norman, Oklahoma, has thereafter considered said application and has determined that said application should be granted and an ordinance adopted to effect and accomplish such rezoning.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

- § 4. That Section 460 of Chapter 22 of the Code of the City of Norman, Oklahoma, is hereby amended so as to place the following described property in the PUD, Planned Unit Development District, and to have the same removed from the A-2, Rural Agricultural District, to wit:

A tract of land lying in the Northwest Quarter (NW/4) of Section 3, Township 9 North, Range 3 West of the Indian Meridian, Cleveland County, Oklahoma, being more particularly described as follows:

COMMENCING at the NE/C of the NW/4 of said Section 3;  
THENCE South 89°43'17" West, along the north line of said NW/4, a distance of 980.00 feet to the POINT OF BEGINNING;

THENCE South 89°43'17" West, continuing along said north line, a distance of 338.72 feet to the NW/C of the NE/4 of the NW/4 of said Section 3;

THENCE South 00°30'35" East, along the west line of the NE/4 of the NW/4 of said Section 3, a distance of 2,594.35 feet to the SW/C of the NE/4 of the NW/4 of said Section 3

THENCE North 89°43'18" East, along the south line of the NE/4 of said NW/4, a distance of 1318.96 feet to the SE/C of the NE/4 of the NW/4 of said Section 3;

THENCE North 00°30'54" West, along the east line of the NE/4 of the NW/4 of said Section 3, a distance of 1,260.87 feet;

THENCE South 89°43'17" West a distance of 980.00 feet;

THENCE North 00°30'54" West a distance of 1,333.47 feet to the POINT OF BEGINNING;

Said described tract of land contains a gross area of 2,114,700 square feet or 48.546 acres and a net area (less statutory right-of-way) of 2,105,522 square feet or 48.2902 acres, more or less

§ 5. Further, pursuant to the provisions of Section 22:434.1 of the Code of the City of Norman, as amended, the following condition is hereby attached to the zoning of the tract:

- a. The site shall be developed in accordance with the PUD Narrative approved April 14, 2011, and supporting documentation submitted by the applicant and approved by the Planning Commission.

§ 6. Severability: If any section, subsection, sentence, clause, phrase or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

ADOPTED this \_\_\_\_\_ day of

NOT ADOPTED this \_\_\_\_\_ day of

\_\_\_\_\_, 2011.

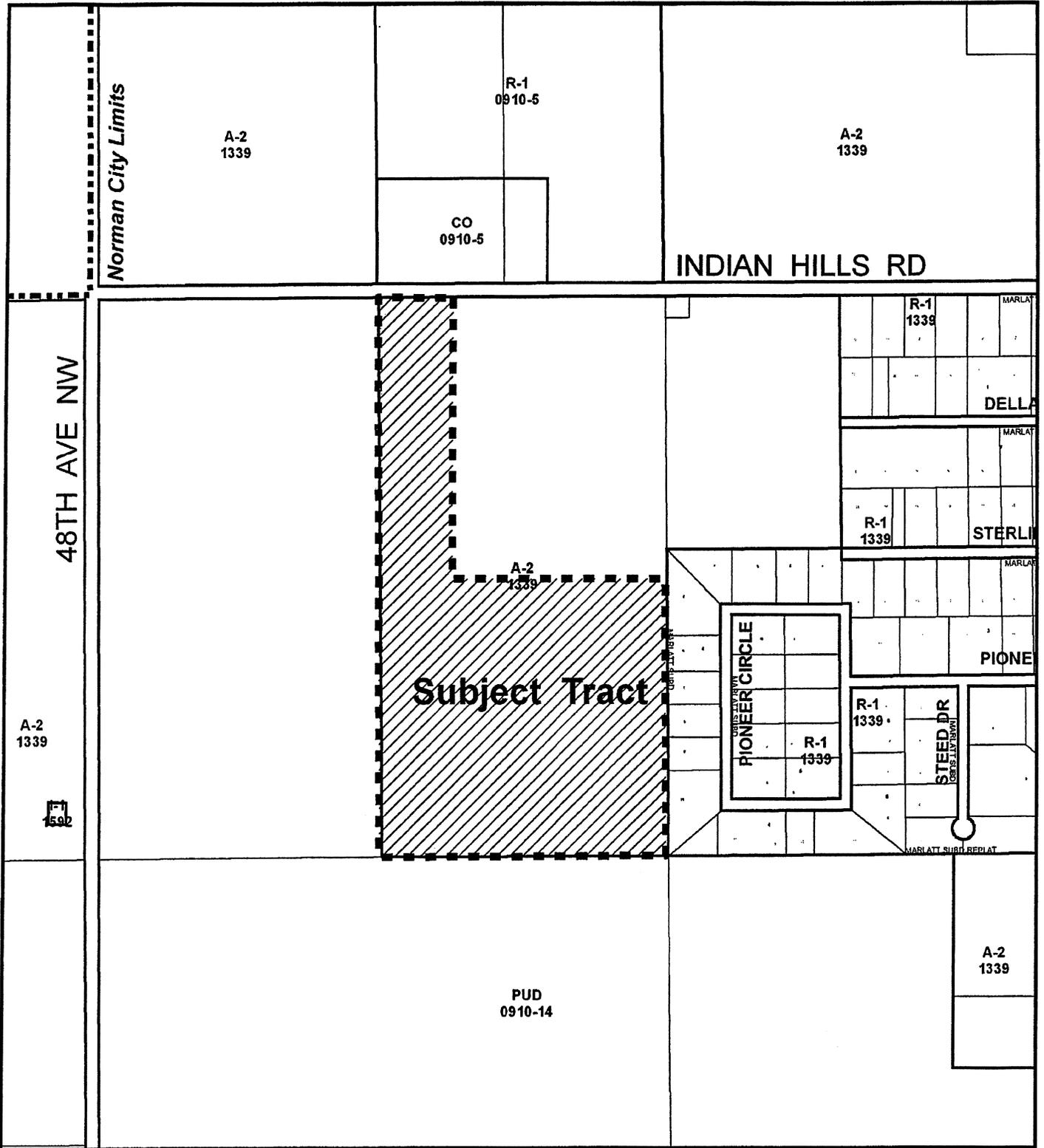
\_\_\_\_\_, 2011.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

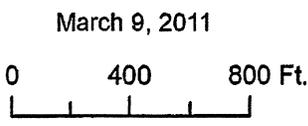


# Location Map

O-1011-49  
 Rezoning from A-2 to PUD  
 Owner: L&S Development II, L.L.C.



Map Produced by the City of Norman  
 Geographic Information System.  
 (405) 366-5316  
 The City of Norman assumes no  
 responsibility for errors or omissions  
 in the information presented.



- Subject Tract
- Zoning

---

ORDINANCE NO. O-1011-49

ITEM NO. 8b

---

**STAFF REPORT**

**GENERAL INFORMATION**

APPLICANT	L&S Development II, L.L.C.
REQUESTED ACTION	Rezoning to PUD, Planned Unit Development District
EXISTING ZONING	A-2, Rural Agricultural District
SURROUNDING ZONING	North: CO and R-1 East: R-1 South: PUD West: PUD
LOCATION	South side of Indian Hills Road and approximately 1,318 linear feet east of 48 <sup>th</sup> Avenue N.W.
SIZE	48.546 acres, more or less
PURPOSE	Single-family residential, gated community
EXISTING LAND USE	Vacant
SURROUNDING LAND USE	North: Vacant East: Proposed church & Single-family residential South: Vacant West: Vacant

**SYNOPSIS:** This is a companion zoning change to the requested NORMAN 2025 Land Use Plan change from Future Urban Service Area to Current Urban Service Area. The applicant owns a 48 acre parcel; they are requesting permission to develop the property for their future single-family gated community, Glenridge Addition. The current zoning is A-2; the applicant has requested rezoning from A-2 to PUD.

**ANALYSIS:** The particulars of this PUD include:

1. **DENSITY** One hundred fifty-four single-family dwellings are proposed as the principal use for the development. The individual lots within the development vary in size and the PUD narrative states there are approximately 3.17 dwelling units per acre.
2. **OPEN SPACE** The development includes several open spaces scattered throughout the subdivision, totaling 6.33 acres, yielding 13% of the entire parcel for open space. That amount of open space/green space meets the minimum required for a residential PUD. Large detention ponds planned in the center of the subdivision will provide walking trails for the residents. The applicant will be creating private park area within the PUD.
3. **DESIGN** There will be one gated access point and two additional exit points on the south and west ends for this development. The homes will be a minimum 1,700 square feet constructed of 50% brick and other similar materials. The design of the streets promotes traffic calming. Large open spaces located in the center of the subdivision will serve as a focal point for residents and natural trails around the detention ponds will provide an additional amenity.
4. **PARKING** Each home will have, at a minimum, a two-car garage with two spaces in front of the garage.
5. **PHASES** The applicant has indicated that phasing will start at the north end of the subdivision, Phase 1, and proceed south depending on market fluctuations. The development cannot continue into additional phases without an additional egress point completed on either the south or west end of the subdivision.

**ALTERNATIVES/ISSUES:**

- **IMPACTS** The residential design of this request is similar in density to nearby additions that have been recently approved. Therefore, no adverse impacts are expected from this proposal.
- **ACCESS** There is one ingress/egress point designated along Indian Hills Road. There are two additional designated egress points on the south and west end of the development. There is an emergency access point on the east side of the development via Bridgeview Church property.
- **CONNECTIVITY** Sidewalks will connect all lots to an internal open space as well as adjacent subdivisions.

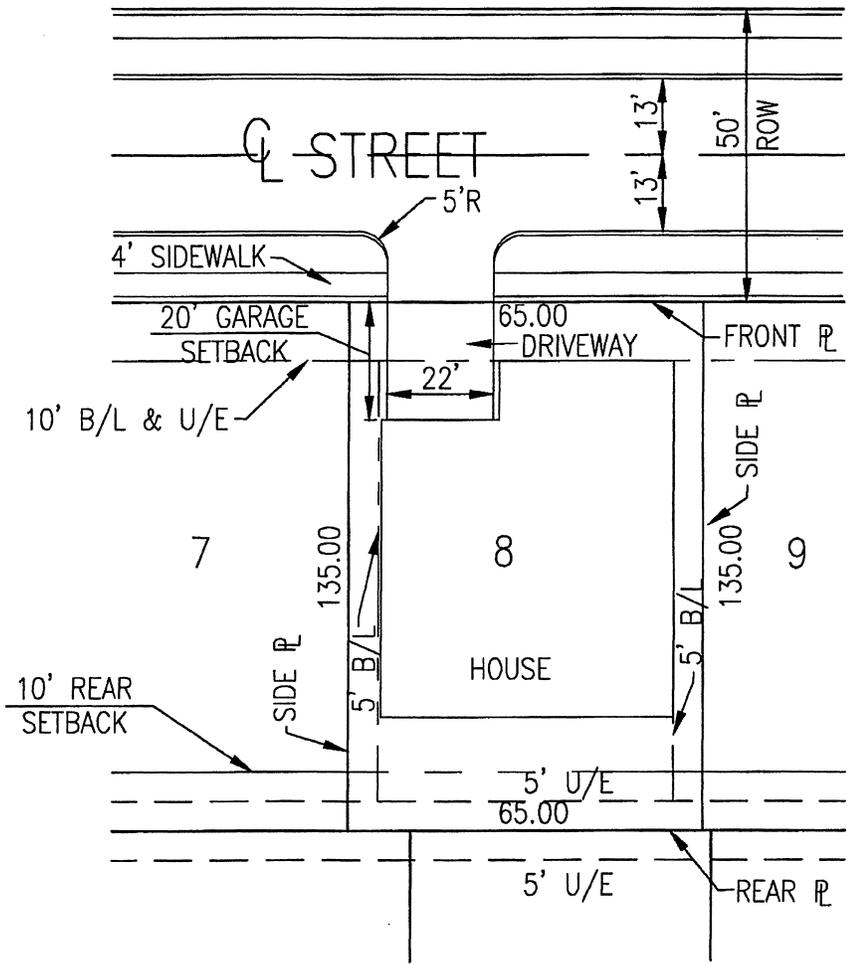
**OTHER AGENCY COMMENTS:**

- **PARK BOARD** With the open space and proposed private park the applicant has satisfied the Park Board's requirements. Therefore, there will be no fee-in-lieu of parkland required.

- **GREENBELT COMMISSION** The Greenbelt Commission determined it is apparent their intent is to align with the desires of Norman's Draft Greenway Master Plan. Although, this is a private development with no connections to the Greenbelt System there are internal trails around the proposed detention ponds for the residents.
- **PUBLIC WORKS** A major sanitary sewer line will serve multiple properties, this project being part of that group. Interior streets will be maintained by the POA as will sidewalks. However, both will be installed to City standards. As a cooperative effort between the Foxworth, Whispering Trails and Bridgeview Church Additions this development will serve as detention for those developments.

**STAFF RECOMMENDATION:** The overall density is within the range of low density developments identified in the 2025 Plan (3-6 units per acre). Several open spaces centrally located within the subdivision offer recreational opportunities for the residents. Therefore, staff supports this request for PUD designation.





TYPICAL LOT SITE PLAN  
 GLENRIDGE ADDITION

SCALE - N.T.S.

# GLENRIDGE ADDITION

Norman, Oklahoma

*SASSAN K. MOGHADAM*

Developer

A PLANNED UNIT DEVELOPMENT  
APPLICATION FOR REZONING AND  
PRELIMINARY DEVELOPMENT  
PLAN/PLAT

Submitted 14 March 2011

## TABLE OF CONTENTS

### I. INTRODUCTION

Background and Intent

### II. PROPERTY DESCRIPTION/EXISTING PROPERTY CONDITIONS

- A. Location
- B. Existing Land Use and Zoning
- C. Elevation and Topography
- D. Drainage
- E. Utility Services
- F. Fire Protection Services
- G. Traffic Circulation and Access

### III. DEVELOPMENT PLAN AND DESIGN CONCEPT

- A. Single-Family Residential Community
- B. Open Space and Green Space
- C. Traffic Access/Circulation/ Sidewalks
- D. Development Phasing

### EXHIBITS

- A. Proposed Preliminary Plat
- B. Proposed Open Space Diagram
- C. Proposed Phasing Plan
- D. Proposed Typical Lot Site Plan

## I. INTRODUCTION

This Planned Unit Development (the “**PUD**”) is being submitted for the development of the Glenridge Addition (the “**Addition**”), a gated community in the City of Norman, Oklahoma. The Addition encompasses approximately 48.55 acres located generally on the south side of Indian Hills Road and within the middle of the section bounded on the west by 48<sup>th</sup> Avenue NW and on the east by 36<sup>th</sup> Avenue NW (the “**Property**”). This PUD is intended to provide for greater flexibility in the careful design of the residential lots, homes, open space, utilities, drainage, recreational amenities, and circulation within the Addition. Upon completion, the PUD will provide more sustainable and environmentally friendly designs for open areas than would otherwise be attainable under conventional practices and regulations of the development guidelines of the City of Norman.

The PUD is intended to allow that necessary flexibility in order to create a distinctive open space and environmentally friendly development. Therefore, flexibility in the design and construction of roads and lot sizes is critical. This efficient compaction of developed areas within the property will allow for large amounts of natural open space.

This PUD will enhance the typical R-1 zoning provisions to allow for planning guidelines as further set forth herein. This PUD District will allow the necessary flexibility to create a highly desirable open-space community featuring high quality residential units, enhanced open space areas, and traffic calming circulation patterns.

In order to accomplish these goals, the applicant hereby requests a rezoning of the Property. The rezoning being requested is for a Planned Unit Development (PUD). The Applicant is submitting a Rezoning Application/Preliminary Site Development Plan and Preliminary Plat for approval.

## II. PROPERTY DESCRIPTIONS; EXISTING CONDITIONS

### A. Location

GLENRIDGE Addition is bordered on the north by Indian Hills Road and is currently raw land. To the west and to the south of the GLENRIDGE Addition is land that has been previously preliminary platted as the J&J Addition. To the east of the southern half of the Addition is the Marlatt Addition of residential homes. To the east of the northern half of the Addition is raw unplatted land that is owned by a church and likely to become a church location in the future.

### B. Existing Land Use and Zoning

The Property is currently zoned A-2 Rural Agricultural. The Property is currently unimproved and vacant and has no active uses except tilled crop land. No buildings or structures exist on the property.

The Property is currently designated low density residential future urban service area on Norman 2025. The property is eligible for 2025 amendment to current urban service area due to the ongoing installation of sanitary sewer service to this area of North Norman.

### C. Elevation and Topography

The Property primarily consists of relatively low slope raw land, and therefore presents a good opportunity to carefully design and implement sustainable development methodologies so that the historical runoff patterns can be taken advantage of within the completed development. The end result of such strategies will be additional open space and a more natural and beautified residential experience in a sustainable framework. No portion of the Property is in the 100-year flood plain.

### D. Drainage

A Drainage Impact Analysis has been prepared to better illustrate the detention requirements that are required and the solutions planned. This Addition is intended to be designed and developed substantially under the established principals of sustainable low impact development. Such strategies include minimizing sub-surface drainage systems in the design/layout to encourage maximum efficiency in filtration of runoff water and decrease in velocity of runoff as it travels through the Addition and beyond.

A primary goal of the sustainable low impact designs will be to nurture drainage areas to grow and develop into ideal filtration and drainage mechanisms – all within the Property. Such filtration will clean the runoff naturally and provide much more improved quality of water runoff than would be provided from runoff

through improved artificial surfaces. In addition, the natural systems encompassing large areas of permeable natural ground will allow the storm water to naturally filter back into the ground aquifer, rather than wash off the surface and into storm drains and sewers where City infrastructure must accommodate the volume.

Consequently, storm sewer infrastructure will be minimized using natural methods of taking advantage of the natural topography to manage, control, and direct the runoff.

Primary objectives of this sustainable low impact development is to assist our community in protecting aquatic resources, water quality, and the natural hydrology of the regional watershed as development takes place. Most rainfall infiltrates to the ground, is absorbed by vegetation, or evaporates to the atmosphere. Therefore, this PUD will use sustainable low impact strategies to treat and infiltrate storm water runoff close to where it originates. The large interior natural areas will capture much of the storm water within the Property. In order to best accomplish this, lots will be planned densely in areas of the Addition in order to protect the large natural areas, which also serve as open space for recreation.

**E. Utility Services**

Many of the required utility systems for the project (including water, gas, telephone, and electric) are currently being developed in relatively nearby proximity to the Property, as this area of Norman is experiencing multiple nearby plat proposals, including the adjacent J&J Addition. Sanitary sewer service may be located at the rear of lots where low impact design principals, and/or the location of City of Norman mains, might necessitate such a case.

**F. Fire Protection Services**

Fire protection services will be provided by the City of Norman Fire Department and by developer installed fire hydrants at locations per the City of Norman regulations for such.

**G. Traffic Circulation and Access**

The Addition is currently served with primary vehicular access to the Property by way of the adjacent Indian Hills Road right of way.

### III. DEVELOPMENT PLAN AND DESIGN CONCEPT

#### A. **Single-Family Residential Community**

The Addition will consist of residential housing with roughly 154 residential lots within 48.55 acres in the Planned Unit Development, which will result in a relatively low density development of roughly 3.17 lots per acre.

##### 1. **Housing Construction**

Homes in the PUD will be standard construction, single family, detached homes with a minimum 5-foot side yard. The minimum front yard set back requirements will be 20 feet for garages, and 10 feet for the remainder of the house structure, or as noted on the plat. The minimum rear set back requirement will be 10 feet, with the allowance for uncovered patios to extend to the rear property line, except where conflicts with utility easement. Houses will be of standard wood frame construction, and will not exceed three stories in height above grade. Garages will observe a minimum setback of twenty feet.

The minimum square foot area requirements for structures in the Addition shall be 1,700 square feet. This minimum figure is for living space and is exclusive of garages, covered and open porches, basements, detached structures, and breezeways. Each home will include at least a two car garage.

The principal exterior of any residential structure shall be at least fifty percent (50%) masonry and the other fifty percent (50%) balance of the exterior may be of frame, wood shingles or other material, which will blend together with the masonry.

Coverage on each lot of floor area of the residential dwelling structure will not exceed 60% of the lot area. Total impervious area will not exceed 80% of the lot area.

No improvements on any lot in the Addition may be issued a permit by the City of Norman unless and until all such improvements being permitted have been approved in writing by the applicable Property Owners Association "POA" architectural review committee.

##### 2. **Signage**

The entrance to the Addition as located at the section line road of Indian Hills Road may contain entryway signs and associated walls, fences and decorative features that will identify the Addition. The signs will conform to current City signage requirements (16 square feet per sign, for a total of

32 square feet). The signs may be lighted and landscaped with appropriate vegetation and planter boxes designed so as not to interfere with traffic sight lines. Vegetation may also be located in traffic-calming devices in the Addition.

**3. Fencing**

A fence will be constructed along the rear lot lines of the residential lots that abut the borders of the Addition in this gated community. Construction material may be a combination of masonry, metal/iron, and/or wood, so long as the design of all such fencing is approved by the applicable Property Owners Association "POA" architectural review committee prior to installation. Construction of fencing may be phased along with the development of the PUD.

**4. Amenities**

The Addition is planned to feature large private interior open spaces with walking and jogging trails. These trails are planned to be of varying widths and styles, from unpaved natural type with minimal artificial improvement to constructed trails of hard paved surface.

Park land will be provided as required per the City of Norman ordinances. The proposed parkland will be private park land within the Addition, containing over 6 acres.

**5. Sales Trailers**

No more than one temporary trailer (manufactured units will meet City code) will be allowed for use by sales representatives for the new homes being built in the Addition. The facility will have a reasonable parking area for customers per City specifications. The trailers will be removed 12 months from the date they are placed on the Property. The trailer will be located within 500 feet of the Addition entrance.

**B. Open space and green space**

Large open space areas are located throughout the center of the middle of the Addition. Open space totals roughly 6.33 acres in the Addition, or roughly 13% of the Addition land area.

Coverage ratio for each home lot may be as much as 80% coverage, which will allow for more open space to be provided in the common area of the Addition where the important low impact drainage principals will be featured.

A homeowners association will be formed in order to provide a tool to manage the common areas of the Addition and to provide heightened governance of the residents and construction within the Addition.

Any lighting over any common area will be shielded from adjacent single-family homes and will have 20-foot tall poles. Decorative street lights will be allowed, at the option of the Developer, within the PUD, in the common areas, and along the streets of the PUD.

**C. Traffic access/circulation/ sidewalks**

Primary vehicular access to the Property will be provided by way of the adjacent Indian Hills Road right of way. The entry at Indian Hills Road will be gated with controlled access. The gated entryway will be designed according to City of Norman standards and will accommodate turnaround space for vehicles to return to Indian Hills Road without entering the gates if necessary.

The Addition will also feature emergency and exit locations at the southern ends of the Addition, which will connect with the future J&J Addition as it develops. Finally, the Addition will have yet another emergency access point from the church property that borders the northern half of the Addition to the east.

Landscape buffers will accommodate all City of Norman traffic department sight triangle requirements. All internal streets will have adequate circulation necessary for the fire department and City Waste Management Services.

A five-foot wide City sidewalk will be provided along Indian Hills Road, constructed to City of Norman Standards.

**D. Development Phasing**

The project may be developed in approximately four phases. Market demand will be the determining factor in the number of units constructed. Additional phases beyond the first phase will require a connection to an emergency egress point.

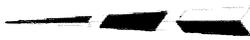


**EXHIBIT B**  
Proposed Open Space Diagram

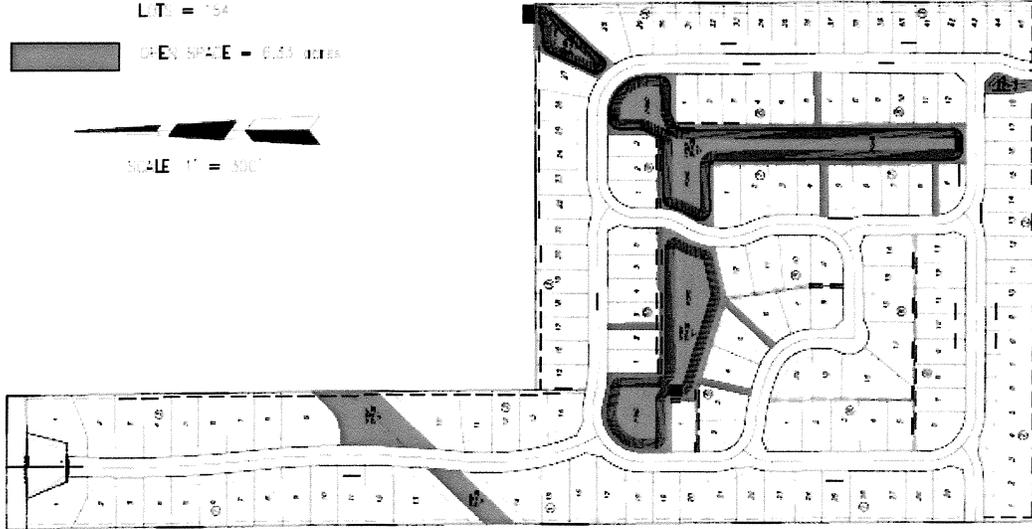
GLENRIDGE ADDITION  
OPEN SPACE EXHIBIT  
MARCH 10, 2011

AREA = 48.55 ACRES  
LOTS = 754

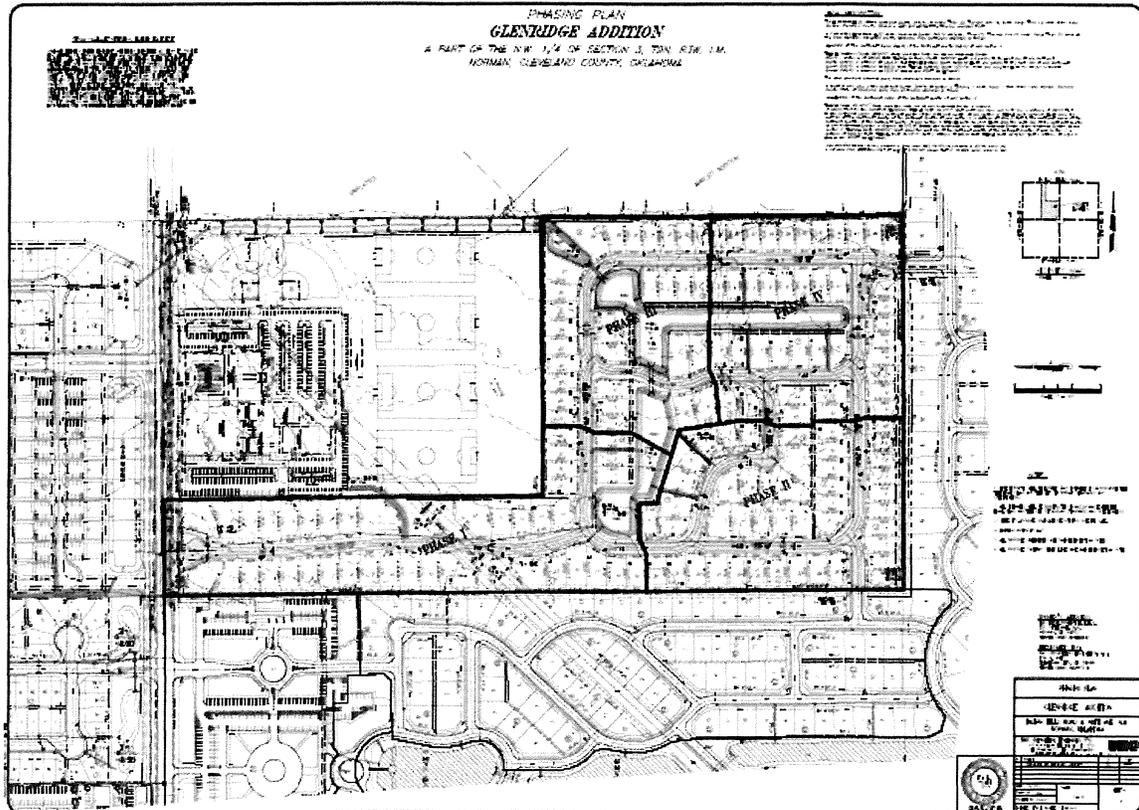
OPEN SPACE = 6.33 ACRES



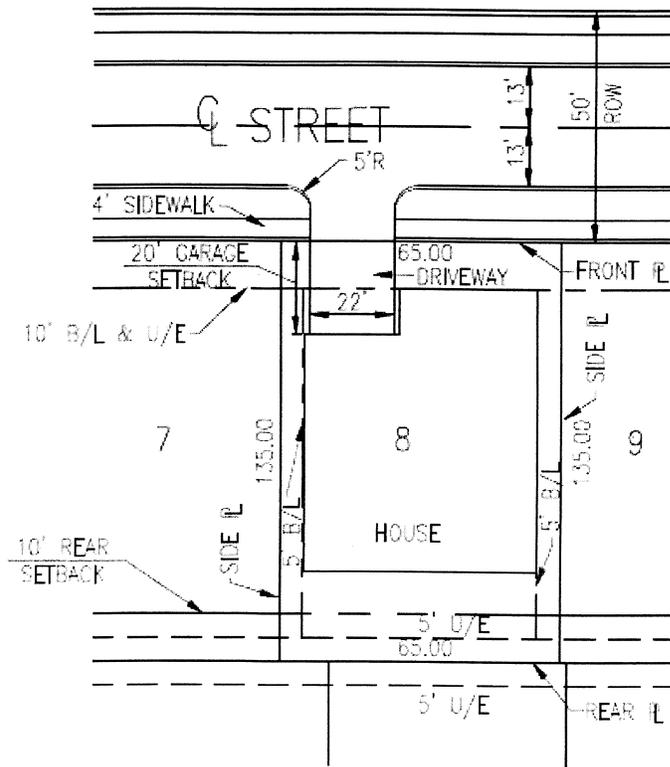
SCALE 1" = 300'



**EXHIBIT C**  
**Proposed Phasing Plan**



**EXHIBIT D**  
**Typical Lot Site Plan**



TYPICAL LOT SITE PLAN  
 GLENRIDGE ADDITION

SCALE - N.T.S.

**NORMAN PLANNING COMMISSION  
REGULAR SESSION MINUTES**

**APRIL 14, 2011**

The Planning Commission of the City of Norman, Cleveland County, State of Oklahoma, met in Regular Session in the Council Chambers of the Norman Municipal Building, 201 West Gray Street, on the 14<sup>th</sup> day of April 2011. Notice and agenda of the meeting were posted at the Norman Municipal Building twenty-four hours prior to the beginning of the meeting.

Chairman Jim Gasaway called the meeting to order at 6:30 p.m.

Item No. 1, being:

**ROLL CALL**

MEMBERS PRESENT

Cynthia Gordon (arrived after Roll Call)  
Diana Hartley  
Tom Knotts  
Chris Lewis  
Curtis McCarty  
Roberta Pailes  
Andy Sherrer (arrived at 7:38 p.m.)  
Jim Gasaway  
Zev Trachtenberg

MEMBERS ABSENT

Tom Knotts

A quorum was present.

STAFF MEMBERS PRESENT

Susan Connors, Director, Planning &  
Community Development  
Doug Koscinski, Manager, Current  
Planning Division  
Ken Danner, Development Coordinator  
Roné Tromble, Recording Secretary  
Kathryn Walker, Asst. City Attorney  
Larry Knapp, GIS Analyst  
Jane Hudson, Planner II  
Shawn O'Leary, Director, Public Works  
Department  
Bob Hanger, Storm Water Engineer

\* \* \*

Item No. 8, being:

**CONSIDERATION OF A REQUEST SUBMITTED BY L&S DEVELOPMENT II, L.L.C., FOR PROPERTY GENERALLY LOCATED ON THE SOUTH SIDE OF INDIAN HILLS ROAD AND APPROXIMATELY 1,318 LINEAR FEET EAST OF 48<sup>TH</sup> AVENUE N.W.**

**8a. RESOLUTION NO. R-1011-106**

**L&S DEVELOPMENT II, L.L.C., REQUESTS AMENDMENT OF THE NORMAN 2025 LAND USE AND TRANSPORTATION PLAN (LUP-1011-9) FROM FUTURE URBAN SERVICE AREA TO CURRENT URBAN SERVICE AREA FOR 48.29 ACRES OF PROPERTY GENERALLY LOCATED ON THE SOUTH SIDE OF INDIAN HILLS ROAD AND APPROXIMATELY 1,318 LINEAR FEET EAST OF 48<sup>TH</sup> AVENUE N.W.**

**ITEMS SUBMITTED FOR THE RECORD:**

1. Land Use Plan Map
2. Staff Report

**8b. ORDINANCE NO. O-1011-51**

**L&S DEVELOPMENT II, L.L.C., REQUESTS REZONING FROM A-2, RURAL AGRICULTURAL DISTRICT, TO PUD, PLANNED UNIT DEVELOPMENT, FOR 48.29 ACRES OF PROPERTY GENERALLY LOCATED ON THE SOUTH SIDE OF INDIAN HILLS ROAD AND APPROXIMATELY 1,318 LINEAR FEET EAST OF 48<sup>TH</sup> AVENUE N.W.**

**ITEMS SUBMITTED FOR THE RECORD:**

1. Location Map
2. Staff Report
3. PUD Narrative

**8c. PP-1011-18**

**CONSIDERATION OF A PRELIMINARY PLAT SUBMITTED BY L&S DEVELOPMENT II, L.L.C. (SMC CONSULTING ENGINEERS, P.C.) FOR GLENRIDGE ADDITION, A PLANNED UNIT DEVELOPMENT, GENERALLY LOCATED ON THE SOUTH SIDE OF INDIAN HILLS ROAD AND APPROXIMATELY 1,318 LINEAR FEET EAST OF 48<sup>TH</sup> AVENUE N.W.**

**ITEMS SUBMITTED FOR THE RECORD:**

1. Location Map
2. Preliminary Plat
3. Staff Report
4. Transportation Impacts
5. Typical Lot Site Plan
6. Pre-Development Summary
7. Greenbelt Commission Comments
8. Greenbelt Enhancement Statement

**PRESENTATION BY STAFF:**

1. Mr. Koscinski explained that this is another of the parcels that have cooperated with each other to install utility services to enable moving this into the Current Urban Service Area. This property is already designated for low-density residential. The rezoning is to a Planned Unit Development because the applicant is proposing a gated community with non-standard setbacks. It will be a single-family development with fairly large lots and a good amount of open space. Because it is a gated community, it must be a Planned Unit Development, and will have private roads. This development wraps around two sides of the Bridgeview Methodist Church site that the Commission

reviewed last month. It has only one access point onto Indian Hills Road. The area is currently all vacant land. This is consistent with the 2025 Plan. It is low-density residential. Staff supports both the Plan change and the PUD rezoning. There were no filed protests. The Pre-Development Summary indicates there were comments from people in the Marlatt Addition to the east, but they were interested in learning what was planned in the area.

**PRESENTATION BY THE APPLICANT:**

1. Sean Rieger, 136 Thompson Drive, representing the applicant – The property is currently a field with the proposed church next to it. This is really very low density; the range for single-family density is 3-6 homes per acre, and this will be 3.17 homes per acre. This development features detention areas with paved walking trails around them. This is really the last piece of a very large puzzle in this northwest area of the community, starting with J&J Addition to the west, and several additions to the north. The staff supports this, and Greenbelt Commission was also favorable. We would appreciate your support tonight.

**PARTICIPATION BY THE AUDIENCE:**

None

**DISCUSSION AND ACTION BY THE PLANNING COMMISSION:**

*Diana Hartley moved to recommend adoption of Resolution No. R-1011-106, Ordinance No. O-1011-49, the Site Development Plan and accompanying documentation, and recommend approval of the Preliminary Plat for GLENRIDGE ADDITION, A Planned Unit Development, to the City Council. Chris Lewis seconded the motion.*

There being no further discussion, a vote on the motion was taken with the following result:

YEAS	Cynthia Gordon, Diana Hartley, Chris Lewis, Curtis McCarty, Roberta Pailles, Zev Trachtenberg, Jim Gasaway
NAYES	None
ABSENT	Tom Knotts, Andy Sherrer

Recording Secretary Roné Tromble announced that the motion, to recommend adoption of Resolution No. R-1011-106, Ordinance No. O-1011-49, the Site Development Plan and accompanying documentation, and recommend approval of the Preliminary Plat for GLENRIDGE ADDITION, A Planned Unit Development, to the City Council, passed by a vote of 7-0.

\* \* \*



CITY COUNCIL AGENDA  
MAY 10, 2011

Municipal Building Council  
Chambers  
201 West Gray Street  
Norman, OK 73069

**Item No. 11**

**Text File Number: O-1011-52**

**Introduced:** 3/28/2011 by Kathryn Walker, Assistant City Attorney

**Current Status:** Consent Item

**Version:** 1

**Matter Type:** Ordinance

Title

CONSIDERATION OF ORDINANCE NO. O-1011-52 UPON FIRST READING BY TITLE: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING CHAPTER 19 OF THE CODE OF THE CITY OF NORMAN TO PROVIDE FOR STANDARDS AND REQUIREMENTS FOR A DESIGNATED WATER QUALITY PROTECTION ZONE INCLUSIVE OF THE LAKE THUNDERBIRD WATERSHED; AND PROVIDING FOR THE SEVERABILITY THEREOF.

**ACTION NEEDED:** Motion to introduce and adopt Ordinance No. O-1011-52 upon First Reading by title.

**ACTION TAKEN:** \_\_\_\_\_

Body

**BACKGROUND:** The Storm Water Master Plan (SWMP) contained several recommendations aimed at improving water quality. The recommendation that led to the ordinances before Council was set forth in the SWMP as follows:

Dedicate Stream Planning Corridors (SPC's) and/or the 100-year full buildout floodplains to the City of Norman by easement or title for streams located in the Lake Thunderbird watershed that have a drainage area greater than 40 acres.

- Prohibit development or significant land disturbance in the SPCs and/or the 100-year full buildout floodplain. Exemptions should include items such as, but not limited to, maintenance activities, greenway trails, road crossings, utilities, and stream stabilization measures.
- Require additional stream-side buffers of 15 ft to each side of streams with drainage areas greater than 40 acres that are located in the Lake Thunderbird watershed and also in Suburban Residential and Country Residential areas as defined in the Norman 2025 Plan including subsequent updates to the comprehensive plan as adopted by City Council.

*Storm Water Master Plan, Section 9.9.*

Following the acceptance of the SWMP and adoption of the SWMP Action Plan in November 2009, Staff began working towards the development of a draft ordinance that would address this recommendation from the SWMP. A variety of approaches utilized in other cities in our region were presented during a Public Forum on January 27, 2010, with

maps being provided that demonstrated how each approach would compare to the proposed SPC's. Feedback from the development community indicated that several things would be important to achieving consensus - allowing variances for unique developments and new technology, providing for density compensation, and not requiring dedication of the SPC for public access or public trails.

Using this feedback, Staff began drafting an ordinance that encompassed desirable characteristics seen in many of the regional approaches and also seen in a Model Ordinance for Stream Buffers from the Environmental Protection Agency (EPA). After developing a pair of draft ordinances, Staff met several times with the City Council sub-committee for the SWMP before presenting the ordinances to the SWMP Task Force (the "Task Force"), a group made up of developers, engineers, scientists, and other local citizens.

Staff met with the SWMP Task Force on the following dates:

- February 11, 2011
- February 21, 2011
- March 7, 2011
- March 21, 2011
- April 29, 2011

In addition to the meetings with the Task Force, Staff met with key developer representatives on February 15, 2011, Chamber representatives on February 24, 2011 and again with key developer representatives as well as the City Council sub-committee for the SWMP on March 31, 2011. The changes made to the ordinances in an effort to achieve consensus can be seen in Exhibit A, Timeline of WQPZ Ordinances.

The Norman Planning Commission was briefed on these ordinances during a Study Session on April 7, 2011. During its meeting on April 14, 2011, the Planning Commission voted 4-4 on a motion to recommend Council adoption of the attached ordinances.

One of the key recommendations from the SWMP, as quoted above, dealt with the benefits of riparian buffers. Riparian buffers, or areas of undeveloped land adjacent to streams, provide a number of benefits related to water quality, including reduction of erosion and the stabilization of stream banks, infiltration of storm water runoff, control of sedimentation, and restoration and maintenance of the chemical, physical and biological integrity of water resources. Riparian buffers also provide significant benefits for the prevention of property damage due to flooding.

**DISCUSSION:** The ordinances before City Council would require applications for preliminary plats or Norman Rural Certificates of Survey to identify the streams on the subject property and denote a buffer on either side of the stream. The ordinance calls for the buffer to be the greater of the FEMA floodplain, the Full Build-Out Floodplain, or 100 feet from the top of the bank on either side of the stream.

The FEMA floodplain encompasses the areas along both sides of streams or drainage corridors that have a drainage area greater than 640 acres and would be inundated by a 100 year rain event in any given year assuming only current development conditions. The Full Build-Out Floodplain encompasses the areas along both sides of streams or drainage corridors in the Lake Thunderbird Watershed that have a drainage area greater than 40 acres and would be inundated by a 100-year rain event in any given year assuming full build-out watershed conditions.

The designated buffer area would be called the Water Quality Protection Zone (WQPZ). The buffer is divided into three zones - streamside, middle and outer zone with uses being more restricted the closer you are to the stream. The buffer width may be increased if the stream is a 3rd order or higher stream (these are typically the larger streams), if certain slope conditions exist in the buffer, and to encompass wetland areas.

Since riparian buffers are essentially areas of undeveloped land, it is important that buffer ordinances are flexible to accommodate development conditions. In the WQPZ ordinances before City Council, several things have been incorporated to ensure flexibility. First, the buffer width discussed above can be reduced for first-order streams to 50 feet (but not less than the Full Build-Out Floodplain) with a showing that an engineered solution will provide a particular level of phosphorus and nitrogen removal (*O-1011-52, Section 19-411D*). Second, the buffer width can be reduced in all streams with no minimum width required if the Applicant seeks a variation in accordance with Section 19-601(B), also in O-1011-52.

The ordinance also explicitly allows for specifications and requirements in the Engineering Design Criteria to be modified to accommodate low impact development strategies (*O-1011-52, Section 19-411H*). The ordinance allows for the buffer to be modified to recover a lost lot as long as the average width of the buffer meets the requirements in 19-411(B). (*O-1011-52, Section 19-601B.2.*) Finally, the additions to the Zoning Ordinance allow for reduction in minimum lot size and transfers in development density to allow developers to recover lots lost because of the WQPZ.

**STAFF RECOMMENDATION:** Staff has worked diligently with the Storm Water Task Force, the Council Sub-Committee, as well as developer representatives to develop ordinances that will both protect and enhance water quality and prevent property damage due to flooding, while also striking the appropriate balance with development rights and goals.

Staff recommends Council approval of Ordinances Nos. O-1011-52 and O-1011-53 on Second Reading.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AMENDING CHAPTER 19 OF THE CODE OF THE CITY OF NORMAN TO PROVIDE FOR STANDARDS AND REQUIREMENTS FOR A DESIGNATED WATER QUALITY PROTECTION ZONE INCLUSIVE OF THE LAKE THUNDERBIRD WATERSHED; AND PROVIDING FOR THE SEVERABILITY THEREOF.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

§ 1. That Section 19-210 of Chapter 19 of the Code of the City of Norman shall be amended to read as follows:

**Sec. 19-210. Definitions.**

The following words and phrases when used in this chapter, shall for the purposes of this chapter, have the meanings respectively ascribed to them in this article, except where the context otherwise requires:

- A. *Alley*: A minor right-of-way dedicated to public use, which gives a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.
  
- B. *Best Management Practices (BMP)*: An effective integration of storm water management systems, with appropriate combinations of non-structural controls and structural controls which provide an optimum way to convey, store and release runoff, so as to reduce peak discharge, reduce pollutants, enhance water quality, assist in stream and/or stream bank stabilization, prevent property damage due to flooding, and assist in sediment reduction. BMP's include, but are not limited to, the following:
  - 1. Structural controls such as:
    - a. Sediment forebay;
    - b. Grassed swale;
    - c. Enhanced bio-swale;
    - d. Voluntary urban nutrient management;
    - e. Statutory urban nutrient management;
    - f. Wetlands;
    - g. Extended detention-enhanced;
    - h. Retention basins;

- i. Bioretention, surface sand, organic, and similar filters;
  - j. Soaking trench;
  - k. Infiltration trench;
  - l. Storm water pond;
  - m. Dry extended detention pond; and
  - n. In-channel detention.
2. Non-structural controls such as:
- a. Landscape conservation;
  - b. Reduction in impervious cover;
  - c. Schedule of maintenance activities;
  - d. Prohibition of practices;
  - e. Maintenance procedures.
  - f. Street sweeping;
  - g. Fertilizer restrictions.
- C. *Bicycle lane*: That portion of a roadway set aside and appropriately designated for the use of bicycles.
- D. *Bicycle path*: A paved facility physically separating the bicycle from motor vehicle traffic.
- E. *Block*: A parcel of land, intended to be used for urban purposes, which is entirely surrounded by public streets, highways, railroad rights-of-way, public walks, parks or greenstrips, rural land or drainage channels or a combination thereof.
- F. *Buffer*: A vegetated area, including trees, shrubs, and herbaceous vegetation that exists or is established to protect a stream system, lake or reservoir, reduce pollutants, enhance water quality, assist in stream and/or stream bank stabilization, and assist in sediment reduction.
- G. *Building line*: A line parallel to the lot or property line beyond which a structure or building cannot extend, except as specifically provided under the zoning ordinance. It is equivalent to the setback or yard line.
- H. *Cluster development*: cluster development is a method of subdividing land which allows the maximum density available within the zoning district while allowing smaller lots than those specified, provided that the land saved is reserved for permanent agricultural use or open space, ideally in common ownership for community use.

- I. *Combustible structure*: That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner and consisting of any material that, in the form in which it is used and under the conditions anticipated, will ignite and burn or will add appreciable heat to an ambient fire.
- J. *Degradation*: any condition caused by the activities of humans which result in the prolonged impairment of any constituent of the aquatic environment.
- K. *Development*: The erection, construction, or change of use of buildings; or the erection or construction of any additions to existing buildings where outer walls are added or altered as to location, but not including alterations or remodeling of buildings where said outer walls are not added or altered as to location. As it relates to water quality protection, any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling, or storage of equipment or materials.
- L. *Development committee*: The City of Norman Development Committee shall be comprised of the following staff members: The Director of Public Works (who shall be the chairman), the Director of Planning and Community Development, the Director of Utilities, the City Engineer, the Development Coordinator, and the Manager of Current Planning, or their designees.
- M. *Director of Public Works*: The Director of Public Works of the City of Norman, including his or her designee.
- N. *Easement*: A grant by the property owner to the public, a corporation, or persons, of the use of an area of land for specific purposes.
- O. *Full Build-Out Floodplain (FBF)*: the area of land along both sides of a stream or natural drainage corridor that encompasses the area projected to be inundated by the one-percent (1%) chance flood event (i.e. the 100-year floodplain) in any given year assuming full build-out watershed conditions (based upon the Norman 2025 Plan and subsequent updates) in those areas with 40 or more acres of drainage area in the Lake Thunderbird watershed.
- P. *Impervious Cover*: Roads, parking areas, buildings, pools, patios, sheds, driveways, private sidewalks, and other impermeable

construction covering the natural land surface. This shall include, but not be limited to, all streets and pavement within a subdivision. Vegetated water quality basins, vegetated swales, other vegetated conveyances for overland drainage, areas with gravel placed over pervious surfaces that are used only for landscaping or by pedestrians, and public sidewalks shall not be calculated as impervious cover.

- Q. *Lot*: A subdivision of a block or other parcel intended as a unit for the transfer of ownership or for development.
- R. *Lot, corner*: A lot which abuts two (2) intersecting streets. The front of a lot is defined by the filed plat of the subdivision, and is addressed accordingly. Although the front door of the house should face the front yard, a house may be oriented towards the side street if the plat was designed to provide two (2) front and rear yards or if there is sufficient room to provide both a new front and rear setback.
- S. *Lot, depth*: The average distance from the front property line of the lot adjacent to the street to its rear property line, measured in the general direction of side lines of the lot.
- T. *Lot, double frontage*: A lot which runs through a block from street to street and which has frontage on two (2) or more streets, but not including a corner lot.
- U. *Lot, reverse frontage*: A corner lot of such size and shape that a building erected on it might logically be designed to face on either adjoining street, thus causing the building to rear on the side line of any abutting lot.
- V. *Lot, townhouse*: A lot shown on a townhouse plat and intended as the site of a single attached dwelling unit.
- W. *Lot line adjustment*: A relocation of the lot lines of two (2) or more lots included in a plat which is filed of record, for the purpose of making necessary adjustments to building sites.
- X. *Low Impact Development (LID)*: a comprehensive land planning and engineering design approach to development that can be used to replicate or restore natural watershed functions and/or address targeted watershed goals and objectives.

- Y. *Non-degradation*: The proper use of BMP's and pollution prevention criteria in activity so as to prevent property damage due to flooding and degradation as defined herein.
- Z. *Non-structural controls*: Pollution prevention measures that focus on the management of pollutants by practices and procedures which minimize exposure to runoff, as well as preserve open space and natural systems. Non-structural controls may include riparian buffers, modified development practices, and regulations on pesticide, herbicide, and fertilizer use.
- AA. *Norman 2025 Plan*: The comprehensive development plan for the City of Norman which has been officially adopted to provide long-range development policies for the City in the foreseeable future and which includes, among other things, the plan for land use, land subdivision, traffic circulation and community facilities, utilities, and drainage facilities.
- BB. *Person*: Any natural person, corporation, partnership, joint venture, association (including homeowners or neighborhood associations), trust, or any other entity recognized by law.
- CC. *Planning Commission*: The City Planning Commission of the City of Norman.
- DD. *Plat, final*: A map of a land subdivision giving, in form suitable for filing in the office of the County Clerk, necessary affidavits, dedications, and acceptances, and delineating the layout of such subdivision as required herein.
- EE. *Plat, preliminary*: A map of a proposed subdivision showing the character and proposed layout of the tract in sufficient detail to indicate the relationship of the proposed development to topography, existing streets, drainage facilities and utilities, existing easements of record, the Norman 2025 Plan, existing urban development and zoning, and to indicate the nature of the land planning design.
- FF. *Pollution*: the contamination or other alteration of the physical, chemical or biological properties of any stream or other water source, or such discharge of any liquid, gaseous or solid substance into any stream or other water source as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural,

recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

GG. *Public improvements:* Any utility, structure, or modification of topography which is, or will be, located within, under, or over a right-of-way or easement of record and which is, or will be, owned and/or maintained by other than the individual owner(s) of developed real estate.

HH. *Raised mound septic system:* a soil absorption system that is elevated above the natural soil surface in a suitable fill material. It is a variation of the raised bed utilizing sandy fill material but not requiring a stabilization period prior to the construction of the absorption area.

II. *Raised septic system:* a wastewater absorption trench system which has been constructed in soil fill material which has been placed on top of the natural soil on a building lot.

JJ. *Reserve strip:* A strip of land located adjacent to a public easement or right-of-way which has the effect of denying access to adjacent property owners to said public easement or right-of-way.

KK. *Right-of-way:* Any street, avenue, parkway, highway, boulevard, road, alley, bicycle path or pedestrian walkway reserved and/or dedicated for public or private use chiefly by vehicular or pedestrian traffic. Its width shall be established as the shortest horizontal distance measured between lines delineating the right-of-way.

LL. *Rural and suburban area:* All that part of the incorporated area of the City of Norman which is not classified on the Norman 2025 Plan for urbanization.

MM. *Setback line:* See building line or yard line.

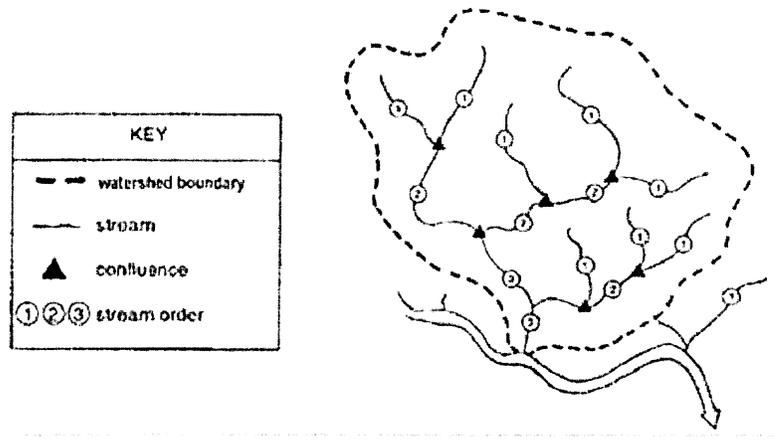
NN. *Site development plan:* A plan drawn at a scale of not less than fifty (50) feet equal one (1) inch which shows the topographic characteristics of the site not more than a one (1) foot contour interval in the urban areas and not more than two (2) feet contour intervals in the rural areas; the location and dimensions of buildings, yards, courts, landscape, pedestrian and vehicular circulation and parking, fences and screening; service areas and service courts, and other features; the use of each building and area; the height of buildings; adjacent street,

alleys, utility, drainage and other easements; and the relationship of the development to adjacent areas which it may affect.

OO. *Streams:* Watercourses that are either identified through site inspection and/or notification by the United States Army Corp of Engineers or by the United States Geological Survey (USGS) 7.5 minute series (topographic) maps drawn at a scale of 1:24,000 or 1 inch = 2000 feet. Perennial streams are those which are depicted on a USGS map with a solid blue line. Intermittent streams are those which are depicted on a USGS map with a dotted blue line.

PP. *Stream Order:* A method of numbering streams as part of a drainage basin network. Tributaries which have no branches are designated as of the first order, streams which receive two first-order tributaries are of the second order, larger branches which receive two second-order tributaries are designated third order, and so on, the main stream being always of the highest order. Designation of stream order shall be determined utilizing a USGS 7.5 minute series (topographic) map drawn at a scale of 1:24,000 or 1 inch = 2000 feet. See Figure 1 below.

Figure 1: Stream Order (Source: Schueler, 1995)



QQ. *Street:* Any public or private right-of-way which affords the primary means of access to abutting property.

RR. *Street, collector:* A minor street collecting traffic from other minor streets and serving as the most direct route to a major street or community facility.

SS. *Street, cul-de-sac:* A local street having one (1) closed end terminated by a turn-around.

- TT. *Street, estate type*: A local street in a Residential Estate (R-E) or Agricultural (A-1, A-2) zone or district.
- UU. *Street, frontage or service*: A minor street located adjacent and parallel to a major street for land service to abutting properties and access to adjacent areas and for allowing control of access to the major street.
- VV. *Street, local*: A minor street which collects and distributes traffic between parcels of land and collector or arterial streets, with the principal purpose to provide access to abutting property.
- WW. *Street, major*: A freeway, principal arterial, or minor arterial designated on the adopted Transportation Plan of the City of Norman.
- XX. *Street, minor*: Any street other than one (1) designated as a freeway, principal arterial, or minor arterial on the adopted Transportation Plan of the City of Norman, but not including alleys.
- YY. *Street, public*: Any pre-existing county road heretofore annexed by the City of Norman and which forms a part of said City by reason of such annexation, or any street or road granted or dedicated to and accepted by the City of Norman.
- ZZ. *Structural controls*: engineered solutions designed to reduce pollution in surface water runoff primarily through five basic mechanisms: infiltration, amelioration, treatment, filtration and detention. In effect, these systems attempt to counteract the opposite tendencies of decreased infiltration, filtration and detention which urbanization imposes upon the land.
- AAA. *Subdivider (developer)*: Any person, firm, partnership, corporation, or other entity acting as a unit, subdividing or proposing to subdivide or develop land as herein defined.
- BBB. *Subdivision*: The division, re-division, or delineation of land by lots, tracts, sites or parcels for the purpose of transfer of ownership, or for urban development, or for the dedication or vacation of a public or private right-of-way or easement.
- CCC. *Swale*: A natural depression or wide shallow ditch used to temporarily store, route, or filter runoff and encourage infiltration.

DDD. *Top of bank*: The point along a stream bank where abrupt change in slope is evident, and where the stream is generally able to overflow the banks and enter the adjacent floodplain. The top of bank may be identified from topography maps but must be verified through field inspection. Where no top of bank is discernable by the City Storm Water Engineer or his designee, measurements should be taken from the center line of the stream.

EEE. *Transportation Plan*: The arrangement, character, extent, and width of major streets within the City of Norman as designated on the most currently adopted Land Use and Transportation Plan document.

FFF. *Townhouse*: One (1) of a series of two (2) or more attached dwelling units, separated from one (1) another by continuous, vertical party walls without openings from basement floor to the roof deck and tight against same or through the roof and which are intended to have ownership transferred in conjunction with a platted lot.

GGG. *Urban area*: All that part of the incorporated area of the City of Norman which is designated on the Norman 2025 Plan for urbanization.

HHH. *Water Quality Protection Zone (WQPZ)*: A vegetated strip of land that lies along a stream, river or lake and its adjacent wetlands, floodplains or slopes that is comprised of the stream bed, the floodplain (FEMA or Full Build-Out Floodplain, whichever is greater) and additional buffer as may be required by this Chapter.

III. *Way*: Any street, avenue, parkway, highway, boulevard, road, alley, bicycle path or pedestrian walkway reserved and/or dedicated for public or private use chiefly by vehicular or pedestrian traffic. Its width shall be established as the shortest horizontal distance measured between lines delineating the right-of-way.

JJJ. *Wetland*: the term, as used herein, shall have the same meaning as set forth in 40 C.F.R. §230.3.

KKK. *Yard line*: An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward except as specifically provided in Chapters 18 or 22. In measuring a yard for the purpose of determining the width of the side yard, the depth of a front yard, or the depth of a

rear yard, the least horizontal distance between the lot line and the main building shall be used.

LLL. *Yard line, front.* A yard extending the full width of a lot between the side property lines and being the minimum horizontal distance between the street side property line and the main building or any projection thereof.

MMM. *Yard line, rear:* A yard extending across the rear of a lot measured between side yard lines and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections other than steps, unenclosed balconies or unenclosed porches. On corner lots the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots the rear yard shall in all cases be at the opposite end of the lot from the front yard.

NNN. *Yard line, side:* A yard between the building and the side line of the lot and extending from the front yard line to the rear lot line and being the minimum horizontal distance between a side lot line and the side of the main building or any projections other than steps.

- § 2. That Section 19-303 of Chapter 19 of the Code of the City of Norman shall be amended to read as follows:

**Sec. 19-303. Preliminary Plat: Contents.**

The preliminary plat shall be drawn at a scale of not more than one hundred (100) feet to the inch, except where impractical and shall show:

- A. The scale, north arrow, date and legend;
- B. The proposed name of the subdivision;
- C. The name and address of the owner of record, the subdivider, the owner's engineer, and the registered land surveyor preparing the plat;
- D. Legal description of the proposed subdivision, including the acreage and the number of lots proposed in the subdivision, by type;
- E. A key map showing the location of the proposed subdivision referenced to existing or proposed arterial streets or highways and to government section lines, and including the boundaries and number of acres of the drainage area of which the proposed subdivision is a part;

- F. The names, with locations of intersecting boundary lines, of adjoining subdivisions, and the location of the Norman City limits if falling within or immediately adjoining the tract;
- G. The land contours with vertical intervals of one foot in the urban areas and two (2) feet in the rural areas referenced to a United States Geological Survey datum (1988) or Coast and Geodetic Survey bench mark or monument;
- H. The location of dedicated streets at the point where they adjoin and/or are immediately adjacent; but actual measured distances shall not be required;
- I. Important features such as existing permanent buildings; large trees (a minimum eight (8) inch caliber); streams; railway lines; oil and gas line or wells as shown on the records of the Oklahoma Corporation Commission (including abandoned gas or oil wells and dry holes which remain unplugged);
- J. The location of all existing easements of record, sanitary and storm sewers, water mains, streets, culverts, power lines, and other surface or subsurface structures within the tract or immediately adjacent thereto, and the proposed location, layout, type, and size of the following structures and utilities:
  - 1. Water mains;
  - 2. Sanitary sewer mains, sub-mains and laterals;
  - 3. Storm sewers; and,
  - 4. Street improvements.
- K. The location of all drainage channels and subsurface drainage structures, and the proposed method of disposing of all run-off from the proposed subdivision, and the location and size of all drainage easements relating thereto, whether they be located within or outside of the proposed plat;
- L. The length of the boundaries of the tract, measured to the nearest foot, and the proposed location and width of streets, alleys, easements, and setback lines, and the approximate lot dimensions;

- M. The existing zoning and proposed changes of zoning in the tract and of the property immediately adjacent thereto;
- N. One hundred (100) year flood boundaries;
- O. Water Quality Protection Zone boundaries;
- P. Preliminary drawings showing compliance with the applicable requirements of this Chapter for structural controls on development;
- Q. A topographic map, drawn to a scale of one hundred (100) feet to one inch, or in an appropriate scale. The map should display, according the best information available, topographic information and features (including, but not limited to, faults and fractures along waterways, wetlands, and sinkholes), and the WQPZ. Current limits of the FEMA floodplain and the FBF shall be displayed;
- R. Location of all temporary and permanent runoff detention basins, constructed and altered waterways and other physical facilities to be installed to comply with the terms of this ordinance;
- S. Location of all existing monitoring stations, sample points or other significant devices used in measuring or assuring water quality;
- T. Any technical surveys or studies necessary to support a request for modification of WQPZ boundaries affecting the subject parcel;
- U. In the instance where there is one (1) or more active oil and/or gas well(s), lease road(s), tank batteries, flow lines, gas sales lines, dead man anchors or any other related equipment, located within a proposed preliminary plat, any and all such items shall be shown on the submitted preliminary plat. Both existing conditions and any proposed changes to the existing conditions must be indicated on the preliminary plat. The information shall include, but not be limited to well access, size of the well location, including appurtenant equipment, any change in lay out or operations of the well site such as relocation of the lease road or moving of the tank batteries and flow lines, fencing, easements for flow lines, gas sales line, communication cables, and electric power lines. The information must also stipulate the parties responsible for constructing any lease road and approach and fencing. Easements necessary to provide for flow lines, gas sales lines, power supply lines and communication cables must be designated in writing. All information required must be shown on a site plan that has been reviewed and approved for compliance with oil and gas ordinances. A

copy of the site plan shall be provided to the oil and gas inspector to become part of the well records until such time of the plugging and restoration of well location(s) has been completed. Oil well operators shall be notified by the oil and gas inspector of any predevelopment informational meeting(s) as an interested part where a preliminary plat contains a well(s), lease road, tank battery, flow line, gas sales line, dead man anchors, or any other related equipment that they operate. Notice shall be given in the same format as property owners within the required notice area.

§ 3. That Section 19-308(E) of Chapter 19 of the Code of the City of Norman shall be amended to read as follows:

E. In the case of a plat proposing the reserving or dedicating of land or amenities to be used in common by owners of lots in a single-family residential subdivision, or in the case of a plat or Norman Rural Certificate of Survey that contains any portion of the WQPZ, the applicant shall submit evidence acceptable to the City Attorney that all necessary steps have been taken for:

1. The establishment of a mandatory Property Owner's Association ("POA") or establishment of another acceptable arrangement for adequate maintenance of the common elements and any non-structural controls for storm water management. All mandatory POAs shall submit a Declaration of Covenants, Conditions and Restrictions (the "Declaration") which establishes a minimum framework that provides for the fair and effective administration of the POA and thereby assures the greater likelihood that the interests of the City and its citizens are secure and which include the following provisions:

a. A list of all common property in the plat, by legal description. A specific description of all of the common elements within the subdivision including any abutting arterial roadways, the uses allowed for each common element and a description of the person responsible for initially constructing or installing each common element and the responsibility for maintaining the common element after initial installation;

b. In those plats containing any portion of the WQPZ, a list of any non-structural controls located on the property and a list of allowable and prohibited activities within the designated zones (Zone 1, 2 and 3) of the WQPZ.

\* \* \* \* \*

- § 4. That Section 19-411 of Chapter 19 of the Code of the City of Norman shall be added to read as follows:

**Sec. 19-411. Water Quality Protection Zone Design Standards.**

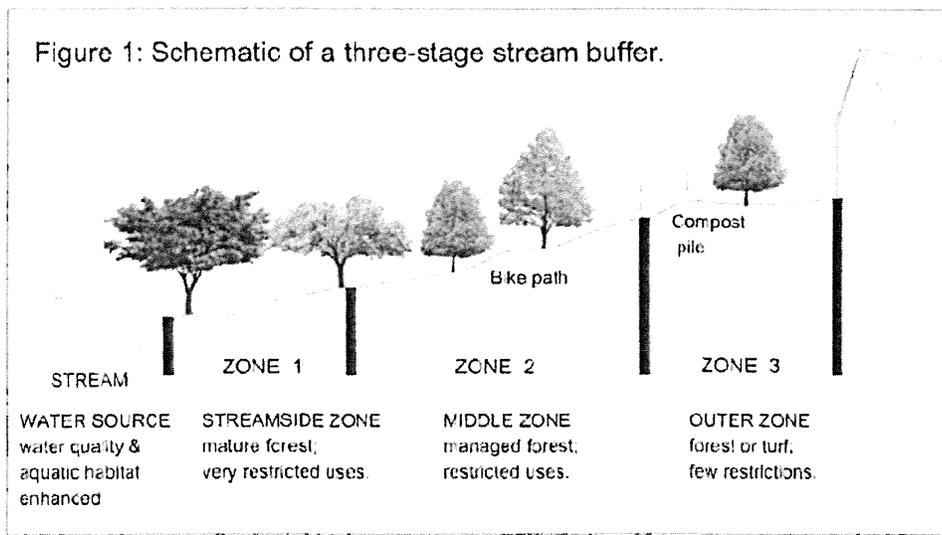
- A. The Water Quality Protection Zone (WQPZ) for a stream system shall consist of a vegetated strip of land, preferably undisturbed and natural, extending along both sides of a stream and its adjacent wetlands, floodplains, or slopes. The width shall be adjusted to include contiguous sensitive areas, such as steep slopes, where development or disturbance may adversely affect water quality, streams, wetlands, or other water bodies.
- B. The required base width for all WQPZ's shall be equal to:
1. The greater of the following:
    - a. 100 feet in width, measured from the top of the bank, on either side of the stream; OR
    - b. The designated Full Build-Out Floodplain as delineated on Exhibit 4-4 to the Storm Water Master Plan, dated October 2009 and accepted by City Council on November 10, 2009 and as available on the appropriate scale through the Public Works Department, or as indicated by the Applicant's independent engineering analysis ; OR
    - c. The FEMA Floodplain; OR
  2. An alternative width determined by an engineered process and approved pursuant to Section 19-601(B).
- C. For each portion of any 25 foot segment of the buffer, as set forth in Section 19-411(B), that has a slope over 20%, 25 feet shall be added to the width of the WQPZ. To determine the extent of steep slopes, a cross section of the topography every 100 feet shall be prepared and utilized by the Applicant.
- D. The base width of the WQPZ outlined in (B) above may be reduced for first order streams to no less than fifty (50) feet but never less than the FBF upon a showing by the Applicant that the BMP's utilized in the development will achieve the following goals:
1. A reduction in nitrogen of at least 75% and a reduction in phosphorus of at least 58%. For the purpose of determining the

applicable reduction in the base width of the buffer, the North Central Texas Council of Governments *integrated* Storm Water Management (“iSWM”) Manual, found at <http://iswm.nctcog.org/>, may be utilized to determine pollutant removal for a particular structural control.

2. As stated in iSWM, volume reduction, concentration and total load are important considerations in determining the appropriate and most effective BMP to use.
- E. In third-order and higher streams, 25 feet shall be added to the base width outlined in Section 19-411 (B) above.
  - F. When wetland areas extend beyond the edge of the required WQPZ width, the WQPZ shall be adjusted to include the extent of the wetland plus an additional 25 foot zone extending beyond the wetland edge.
  - G. A drainage easement or dedicated right of way shall be granted to the City of Norman for the entire width and length of the WQPZ on subject land unless otherwise provided herein.
  - H. For all developments, particularly those containing some portion of the WQPZ, utilization of low impact development strategies are encouraged. For plats or Norman Rural Certificates of Survey that include portions of the WQPZ, the current Engineering Design Criteria may be modified when Low Impact Development strategies are utilized in accordance with the iSWM reference in Section 19-411(D) above.
  - I. Water Pollution Hazards. The following land uses and/or activities are designated as potential water pollution hazards and must be set back from the top of the bank of any stream or waterbody by the distance indicated below:
    1. Storage of hazardous substances—(300 feet)
    2. Aboveground or underground petroleum storage facilities—(300 feet)
    3. Drainfields from onsite sewage disposal and treatment systems (i.e., septic systems)—(200 feet)
    4. Raised septic systems and raised mound septic systems—(500 feet)
    5. Solid waste landfills or junkyards—(600 feet)

6. Subsurface discharges from a wastewater treatment plant—(200 feet)
7. Land application of biosolids—(200 feet)

J. Three Zone Buffer System. The WQPZ shall be composed of three distinct zones, with each zone having its own set of allowable uses and vegetative targets as specified in Section 429.7 of the Zoning Ordinance. Each zone shall be designated on the preliminary plat and Norman Rural Certificates of Survey. (See Figure 1 below.)



1. Zone 1, Streamside Zone: The area beginning at the top of the bank of the active channel and extending horizontally the number of feet equal to 25%, but no less than 25 feet, of the overall distance of the designated WQPZ on that particular side of the stream.
  2. Zone 2, Middle Zone: The area beginning at the outer edge of Streamside Zone and extending horizontally the number of feet equal to 67% of the remainder of the distance of the designated WQPZ on that particular side of the stream.
  3. Zone 3, Outer Zone: The area beginning at the outer edge of the Middle Zone and extending horizontally the number of feet equal to 100% of the remainder of the distance of the designated WQPZ on that particular side of the stream.
- K. All applications for preliminary plats and Norman Rural Certificates of Survey that contain any portion of property within the WQPZ shall

also submit a report outlining the Best Management Practices to be employed.

- § 5. That Section 19-514 of Chapter 19 of the Code of the City of Norman shall be added to read as follows:

**Sec. 19-514. Water Quality Protection Zone Management and Maintenance.**

- A. All preliminary plats, final plats, and Norman Rural Certificates of Survey shall clearly:
1. Show the extent of any WQPZ on the subject property.
  2. Label the WQPZ.
  3. Provide a note to reference any WQPZ stating: "There shall be no clearing, grading, construction or disturbance of vegetation except as permitted by the Director of Public Works unless such disturbance is done in accordance with 19-514(E) of the Norman City Code.
  4. Provide a note to reference any protective covenants governing all WQPZ areas stating: "Any WQPZ shown hereon is subject to protective covenants that may be found in the land records and that restrict disturbance and use of these areas."
  5. All subdivisions containing a WQPZ area shall ensure maintenance of the non-structural controls/aspects in the WQPZ area by its Property Owners' Association through the filing of a protective covenant, which is required to be submitted to the City Attorney's office for approval. The covenant shall be recorded in the land records and shall run with the land and continue in perpetuity. Any changes to the covenants and restrictions shall be consistent with the provisions herein.
- B. An offer of dedication of a WQPZ to the City of Norman does not automatically convey to the general public the right of access to this area unless such a right is explicitly set forth in said dedication. Further, an offer of dedication of a WQPZ is not a mandate for a public trail system or any portion thereof.
- C. The Public Works Department shall inspect the buffer annually and following severe storms for evidence of sediment deposition, erosion, or concentrated flow channels and corrective actions taken to ensure the integrity and functions of the WQPZ.

- D. Any portion of the WQPZ that is within thirty (30) feet of a combustible structure shall be maintained as provided in Section 10-209.
- E. Portions of the WQPZ that are not within thirty (30) feet of a combustible structure may be left undisturbed and natural, and in no event, shall grassy vegetation in this area be mowed or otherwise cut down to less than six (6) inches tall.

§ 6. That Section 19-601 of Chapter 19 of the Code of the City of Norman shall be amended to read as follows:

**Sec. 19-601. Variations.**

- A. Occasionally the tract to be subdivided is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of the requirements contained in this chapter would result in substantial hardship or inequity. The City Council may vary or modify, except as otherwise indicated, such requirements of design, but not of procedure or public improvements, so that the subdivider may develop the subject property in a reasonable manner. At the same time, the public welfare and interests of the City must be protected and the general intent and spirit of this chapter are preserved by granting such variance. Such modification may be granted upon written request of the subdivider or the subdivider's engineer, stating the reason for each modification, and may be approved by vote of the regular membership of the City Council, with the recommendation of the Planning Commission, subject to the acceptance of the plat and the dedications thereon by the City Council; provided, however, that a variation based on unique condition(s) shall not be granted when the unique condition(s) was created or contributed to by the subdivider.
- B. Alternatives to the Water Quality Protection Zone requirements.
  - 1. Generally. Alternatives to the Water Quality Protection Zone requirements other than those provided for in Section 19-411 (D) may be granted by the Public Works Director or his or her designee when sufficient data is produced that shows an error in the applicable WQPZ designation, or when sufficient hydrological analysis demonstrates that an alternate engineered solution for storm water can be implemented that will substantially reduce or eliminate the effect the development has on flooding and water quality. Such alternatives should achieve the following water quality goals:

- a) A reduction in nitrogen of at least 75% and a reduction in phosphorus of at least 58%. For the purpose of determining the applicable reduction in the base width of the buffer, the North Central Texas Council of Governments *integrated* Storm Water Management (“iSWM”) Manual, found at <http://iswm.nctcog.org/> may be utilized to determine pollutant removal for a particular structural control.
  - b) As stated in iSWM, volume reduction, concentration and total load are important considerations in determining the appropriate and most effective BMP to use.
  - c) Notwithstanding any other provision, an engineered solution shall only be allowed if the streamside zone (Zone 1) is preserved undisturbed and no structures are allowed in the middle zone (Zone 2).
2. An alternative may be available, where the tract to be subdivided is of such unusual size or shape, has existing storm water infrastructure installed in the previous five (5) years subject to a previously approved preliminary plat, or is surrounded by such development or unusual conditions not created by the subdivider that the strict application of the requirements contained in this chapter would result in substantial hardship or inequity;
  3. In the granting of an alternative, the Public Works Director shall consider whether:
    - a) The public welfare and interests of the City are protected; and
    - b) The general intent and spirit of this chapter are preserved by granting such variation; and
    - c) Such variation will not substantially or permanently injure the appropriate use of adjacent land, or upstream or downstream parts of the FBF; and
    - d) The variation will not cause unreasonable disruption to the natural terrain unless the purpose of such disruption is to restore the normal functioning of the stream.
  4. WQPZ Averaging.

- a) The width of the WQPZ may be reduced in some circumstances to accommodate unusual or historical development patterns, shallow lots, stream crossings, or storm water ponds. Averaging of the WQPZ width shall be allowed as long as the streamside zone (Zone 1) is preserved undisturbed and no structures are allowed in the middle zone (Zone 2). Any averaging of the WQPZ must be done in accordance with the following:
1. An overall average WQPZ width of at least 100 feet must be achieved within the boundaries of the property to be developed. The WQPZ on adjoining properties cannot be included with buffer averaging on a separate property, even if owned by the same property owner.
  2. The average width must be calculated based upon the entire length of stream bank that is located within the boundaries of the property to be developed. When calculating the WQPZ length, the natural stream channel should be followed.
  3. WQPZ averaging shall be applied to each side of a stream independently. If the property being developed encompasses both sides of a stream, WQPZ averaging can be applied to both sides of the stream, but must be applied to both sides of the stream independently.
  4. The total width of the WQPZ shall not be less than 75 feet at any location, except at approved stream crossings. Those areas of the WQPZ having a minimum width of 75 feet (or less at approved stream crossings) can comprise no more than fifty (50) percent of the length of the WQPZ. The 75 feet shall allow for Zone 1 to have a minimum width of twenty-five (25) feet, and Zone 2 to have a minimum average width of at least fifty (50) feet.
- b) WQPZ averaging is prohibited in developments that have, or will have after development areas that have slopes greater than 15% that are located within fifty feet of the stream to be buffered.

5. Appeal from Decision of Public Works Director. If the applicant desires to appeal from the decision of the Public Works Director or his or her designee made in accordance with this subsection, the applicant may file such request, and any documentation supporting said appeal, with the City Clerk. The City Clerk will place the appeal on the agenda of the next available regular City Council meeting. The decision of the Public Works Director, or his or her designee, may be upheld or overturned by vote of the regular membership of the City Council.

§ 7. That Section 19-606 of Chapter 19 of the Code of the City of Norman shall be amended to read as follows:

**Sec. 19-606 Exception to allow Norman Rural Certificates of Survey as plats in A-1 and A-2 Zoning Districts.**

A. It is the purpose of this exception to allow lots of ten (10) acres or more to be developed and sold adjacent to public or private roadways in the A-1 and A-2 Agricultural Districts; however, private roadways should be constructed and maintained in such a manner that said roadways may be traversed and used by police, fire and other official vehicles of all municipal, county, state and federal agencies. Lots created under this process shall be designated as "Norman Rural Certificate of Survey Subdivisions" and may be permitted under the following procedures (Ord. No. O-0203-34):

\* \* \* \* \*

2. An accurate survey of the lot, prepared by a land surveyor registered in the State of Oklahoma, and the proposed subdivision thereof shall be submitted to the Public Works Department and shall show the same information required for a preliminary plat as referenced in Section 19-303 of this Code, except the ground contours may be drawn at five-foot intervals in such cases where the average ground slope is three (3) percent or greater.

\* \* \* \* \*

§ 8. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance, except that the effective date provision shall not be severable from the operative provisions of the ordinance.

ADOPTED this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Cindy Rosenthal, Mayor

NOT ADOPTED this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Cindy Rosenthal, Mayor

ATTEST:

\_\_\_\_\_  
Brenda Hall, City Clerk

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AMENDING CHAPTER 19 OF THE CODE OF THE CITY OF NORMAN TO PROVIDE FOR STANDARDS AND REQUIREMENTS FOR A DESIGNATED WATER QUALITY PROTECTION ZONE INCLUSIVE OF THE LAKE THUNDERBIRD WATERSHED; AND PROVIDING FOR THE SEVERABILITY THEREOF.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

§ 1. That Section 19-210 of Chapter 19 of the Code of the City of Norman shall be amended to read as follows:

**Sec. 19-210. Definitions.**

The following words and phrases when used in this chapter, shall for the purposes of this chapter, have the meanings respectively ascribed to them in this article, except where the context otherwise requires:

- A. *Alley*: A minor right-of-way dedicated to public use, which gives a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.
  
- B. *Best Management Practices (BMP)*: An effective integration of storm water management systems, with appropriate combinations of non-structural controls and structural controls which provide an optimum way to convey, store and release runoff, so as to reduce peak discharge, reduce pollutants, enhance water quality, assist in stream and/or stream bank stabilization, prevent property damage due to flooding, and assist in sediment reduction. BMP's include, but are not limited to, the following:
  - 1. Structural controls such as:
    - a. Sediment forebay;
    - b. Grassed swale;
    - c. Enhanced bio-swale;
    - d. Voluntary urban nutrient management;
    - e. Statutory urban nutrient management;
    - f. Wetlands;
    - g. Extended detention-enhanced;
    - h. Retention basins;

- i. Bioretention, surface sand, organic, and similar filters;
  - j. Soaking trench;
  - k. Infiltration trench;
  - l. Storm water pond;
  - m. Dry extended detention pond; and
  - n. In-channel detention.
2. Non-structural controls such as:
- a. Landscape conservation;
  - b. Reduction in impervious cover;
  - c. Schedule of maintenance activities;
  - d. Prohibition of practices;
  - e. Maintenance procedures.
  - f. Street sweeping;
  - g. Fertilizer restrictions.
- C. *Bicycle lane:* That portion of a roadway set aside and appropriately designated for the use of bicycles.
- D. *Bicycle path:* A paved facility physically separating the bicycle from motor vehicle traffic.
- E. *Block:* A parcel of land, intended to be used for urban purposes, which is entirely surrounded by public streets, highways, railroad rights-of-way, public walks, parks or greenstrips, rural land or drainage channels or a combination thereof.
- F. *Buffer:* A vegetated area, including trees, shrubs, and herbaceous vegetation that exists or is established to protect a stream system, lake or reservoir, reduce pollutants, enhance water quality, assist in stream and/or stream bank stabilization, and assist in sediment reduction.
- G. *Building line:* A line parallel to the lot or property line beyond which a structure or building cannot extend, except as specifically provided under the zoning ordinance. It is equivalent to the setback or yard line.
- H. *Cluster development:* cluster development is a method of subdividing land which allows the maximum density available within the zoning district while allowing smaller lots than those specified, provided that the land saved is reserved for permanent agricultural use or open space, ideally in common ownership for community use.

- I. Combustible structure: That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner and consisting of any material that, in the form in which it is used and under the conditions anticipated, will ignite and burn or will add appreciable heat to an ambient fire.
- J. Degradation: any condition caused by the activities of humans which result in the prolonged impairment of any constituent of the aquatic environment.
- K. Development: The erection, construction, or change of use of buildings; or the erection or construction of any additions to existing buildings where outer walls are added or altered as to location, but not including alterations or remodeling of buildings where said outer walls are not added or altered as to location. As it relates to water quality protection, any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling, or storage of equipment or materials.
- L. Development committee: The City of Norman Development Committee shall be comprised of the following staff members: The Director of Public Works (who shall be the chairman), the Director of Planning and Community Development, the Director of Utilities, the City Engineer, the Development Coordinator, and the Manager of Current Planning, or their designees.
- M. Director of Public Works: The Director of Public Works of the City of Norman, including his or her designee.
- N. Easement: A grant by the property owner to the public, a corporation, or persons, of the use of an area of land for specific purposes.
- O. Full Build-Out Floodplain (FBF): the area of land along both sides of a stream or natural drainage corridor that encompasses the area projected to be inundated by the one-percent (1%) chance flood event (i.e. the 100-year floodplain) in any given year assuming full build-out watershed conditions (based upon the Norman 2025 Plan and subsequent updates) in those areas with 40 or more acres of drainage area in the Lake Thunderbird watershed.
- P. Impervious Cover: Roads, parking areas, buildings, pools, patios, sheds, driveways, private sidewalks, and other impermeable

construction covering the natural land surface. This shall include, but not be limited to, all streets and pavement within a subdivision. Vegetated water quality basins, vegetated swales, other vegetated conveyances for overland drainage, areas with gravel placed over pervious surfaces that are used only for landscaping or by pedestrians, and public sidewalks shall not be calculated as impervious cover.

- Q. *Lot*: A subdivision of a block or other parcel intended as a unit for the transfer of ownership or for development.
- R. *Lot, corner*: A lot which abuts two (2) intersecting streets. The front of a lot is defined by the filed plat of the subdivision, and is addressed accordingly. Although the front door of the house should face the front yard, a house may be oriented towards the side street if the plat was designed to provide two (2) front and rear yards or if there is sufficient room to provide both a new front and rear setback.
- S. *Lot, depth*: The average distance from the front property line of the lot adjacent to the street to its rear property line, measured in the general direction of side lines of the lot.
- T. *Lot, double frontage*: A lot which runs through a block from street to street and which has frontage on two (2) or more streets, but not including a corner lot.
- U. *Lot, reverse frontage*: A corner lot of such size and shape that a building erected on it might logically be designed to face on either adjoining street, thus causing the building to rear on the side line of any abutting lot.
- V. *Lot, townhouse*: A lot shown on a townhouse plat and intended as the site of a single attached dwelling unit.
- W. *Lot line adjustment*: A relocation of the lot lines of two (2) or more lots included in a plat which is filed of record, for the purpose of making necessary adjustments to building sites.
- X. *Low Impact Development (LID)*: a comprehensive land planning and engineering design approach to development that can be used to replicate or restore natural watershed functions and/or address targeted watershed goals and objectives.

- Y. Non-degradation: The proper use of BMP's and pollution prevention criteria in activity so as to prevent property damage due to flooding and degradation as defined herein.
- Z. Non-structural controls: Pollution prevention measures that focus on the management of pollutants by practices and procedures which minimize exposure to runoff, as well as preserve open space and natural systems. Non-structural controls may include riparian buffers, modified development practices, and regulations on pesticide, herbicide, and fertilizer use.
- AA. *Norman 2025 Plan*: The comprehensive development plan for the City of Norman which has been officially adopted to provide long-range development policies for the City in the foreseeable future and which includes, among other things, the plan for land use, land subdivision, traffic circulation and community facilities, utilities, and drainage facilities.
- BB. Person: Any natural person, corporation, partnership, joint venture, association (including homeowners or neighborhood associations), trust, or any other entity recognized by law.
- CC. *Planning Commission*: The City Planning Commission of the City of Norman.
- DD. *Plat, final*: A map of a land subdivision giving, in form suitable for filing in the office of the County Clerk, necessary affidavits, dedications, and acceptances, and delineating the layout of such subdivision as required herein.
- EE. *Plat, preliminary*: A map of a proposed subdivision showing the character and proposed layout of the tract in sufficient detail to indicate the relationship of the proposed development to topography, existing streets, drainage facilities and utilities, existing easements of record, the Norman 2025 Plan, existing urban development and zoning, and to indicate the nature of the land planning design.
- FF. Pollution: the contamination or other alteration of the physical, chemical or biological properties of any stream or other water source, or such discharge of any liquid, gaseous or solid substance into any stream or other water source as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural,

recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

GG. *Public improvements:* Any utility, structure, or modification of topography which is, or will be, located within, under, or over a right-of-way or easement of record and which is, or will be, owned and/or maintained by other than the individual owner(s) of developed real estate.

HH. *Raised mound septic system:* a soil absorption system that is elevated above the natural soil surface in a suitable fill material. It is a variation of the raised bed utilizing sandy fill material but not requiring a stabilization period prior to the construction of the absorption area.

II. *Raised septic system:* a wastewater absorption trench system which has been constructed in soil fill material which has been placed on top of the natural soil on a building lot.

JJ. *Reserve strip:* A strip of land located adjacent to a public easement or right-of-way which has the effect of denying access to adjacent property owners to said public easement or right-of-way.

KK. *Right-of-way:* Any street, avenue, parkway, highway, boulevard, road, alley, bicycle path or pedestrian walkway reserved and/or dedicated for public or private use chiefly by vehicular or pedestrian traffic. Its width shall be established as the shortest horizontal distance measured between lines delineating the right-of-way.

LL. *Rural and suburban area:* All that part of the incorporated area of the City of Norman which is not classified on the Norman 2025 Plan for urbanization.

MM. *Setback line:* See building line or yard line.

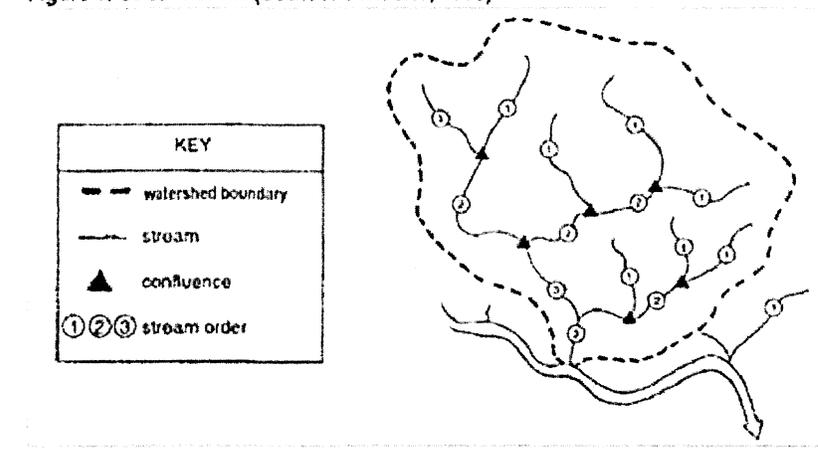
NN. *Site development plan:* A plan drawn at a scale of not less than fifty (50) feet equal one (1) inch which shows the topographic characteristics of the site not more than a one (1) foot contour interval in the urban areas and not more than two (2) feet contour intervals in the rural areas ~~at a contour interval of not less than one (1) foot;~~ the location and dimensions of buildings, yards, courts, landscape, pedestrian and vehicular circulation and parking, fences and screening; service areas and service courts, and other features; the use of each building and area; the height of buildings; adjacent street, alleys,

utility, drainage and other easements; and the relationship of the development to adjacent areas which it may affect.

OO. Streams: Watercourses that are either identified through site inspection and/or notification by the United States Army Corp of Engineers or by the United States Geological Survey (USGS) 7.5 minute series (topographic) maps drawn at a scale of 1:24,000 or 1 inch = 2000 feet. Perennial streams are those which are depicted on a USGS map with a solid blue line. Intermittent streams are those which are depicted on a USGS map with a dotted blue line.

PP. Stream Order: A method of numbering streams as part of a drainage basin network. Tributaries which have no branches are designated as of the first order, streams which receive two first-order tributaries are of the second order, larger branches which receive two second-order tributaries are designated third order, and so on, the main stream being always of the highest order. Designation of stream order shall be determined utilizing a USGS 7.5 minute series (topographic) map drawn at a scale of 1:24,000 or 1 inch = 2000 feet. See Figure 1 below.

Figure 1: Stream Order (Source: Schueler, 1995)



QQ. Street: Any public or private right-of-way which affords the primary means of access to abutting property.

RR. Street, collector: A minor street collecting traffic from other minor streets and serving as the most direct route to a major street or community facility.

SS. Street, cul-de-sac: A local street having one (1) closed end terminated by a turn-around.

TT. *Street, estate type:* A local street in a Residential Estate (R-E) or Agricultural (A-1, A-2) zone or district.

UU. *Street, frontage or service:* A minor street located adjacent and parallel to a major street for land service to abutting properties and access to adjacent areas and for allowing control of access to the major street.

VV. *Street, local:* A minor street which collects and distributes traffic between parcels of land and collector or arterial streets, with the principal purpose to provide access to abutting property.

WW. *Street, major:* A freeway, principal arterial, or minor arterial designated on the adopted Transportation Plan of the City of Norman.

XX. *Street, minor:* Any street other than one (1) designated as a freeway, principal arterial, or minor arterial on the adopted Transportation Plan of the City of Norman, but not including alleys.

YY. *Street, public:* Any pre-existing county road heretofore annexed by the City of Norman and which forms a part of said City by reason of such annexation, or any street or road granted or dedicated to and accepted by the City of Norman.

ZZ. *Structural controls:* engineered solutions designed to reduce pollution in surface water runoff primarily through five basic mechanisms: infiltration, amelioration, treatment, filtration and detention. In effect, these systems attempt to counteract the opposite tendencies of decreased infiltration, filtration and detention which urbanization imposes upon the land.

AAA. *Subdivider (developer):* Any person, firm, partnership, corporation, or other entity acting as a unit, subdividing or proposing to subdivide or develop land as herein defined.

BBB. *Subdivision:* The division, re-division, or delineation of land by lots, tracts, sites or parcels for the purpose of transfer of ownership, or for urban development, or for the dedication or vacation of a public or private right-of-way or easement.

CCC. *Swale:* A natural depression or wide shallow ditch used to temporarily store, route, or filter runoff and encourage infiltration.

DDD. Top of bank: The point along a stream bank where abrupt change in slope is evident, and where the stream is generally able to overflow the banks and enter the adjacent floodplain. The top of bank may be identified from topography maps but must be verified through field inspection. Where no top of bank is discernable by the City Storm Water Engineer or his designee, measurements should be taken from the center line of the stream.

EEE. *Transportation Plan:* The arrangement, character, extent, and width of major streets within the City of Norman as designated on the most currently adopted Land Use and Transportation Plan document.

FFF. *Townhouse:* One (1) of a series of two (2) or more attached dwelling units, separated from one (1) another by continuous, vertical party walls without openings from basement floor to the roof deck and tight against same or through the roof and which are intended to have ownership transferred in conjunction with a platted lot.

GGG. *Urban area:* All that part of the incorporated area of the City of Norman which is designated on the Norman 2025 Plan for urbanization.

HHH. Water Quality Protection Zone (WQPZ): A vegetated strip of land that lies along a stream, river or lake and its adjacent wetlands, floodplains or slopes that is comprised of the stream bed, the floodplain (FEMA or Full Build-Out Floodplain, whichever is greater) and additional buffer as may be required by this Chapter.

III. *Way:* Any street, avenue, parkway, highway, boulevard, road, alley, bicycle path or pedestrian walkway reserved and/or dedicated for public or private use chiefly by vehicular or pedestrian traffic. Its width shall be established as the shortest horizontal distance measured between lines delineating the right-of-way.

JJJ. Wetland: the term, as used herein, shall have the same meaning as set forth in 40 C.F.R. §230.3.

KKK. *Yard line:* An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward except as specifically provided in Chapters 18 or 22. In measuring a yard for the purpose of determining the width of the side yard, the depth of a front yard, or the depth of a

rear yard, the least horizontal distance between the lot line and the main building shall be used.

LLL. *Yard line, front.* A yard extending the full width of a lot between the side property lines and being the minimum horizontal distance between the street side property line and the main building or any projection thereof.

MMM. *Yard line, rear:* A yard extending across the rear of a lot measured between side yard lines and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections other than steps, unenclosed balconies or unenclosed porches. On corner lots the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots the rear yard shall in all cases be at the opposite end of the lot from the front yard.

NNN. *Yard line, side:* A yard between the building and the side line of the lot and extending from the front yard line to the rear lot line and being the minimum horizontal distance between a side lot line and the side of the main building or any projections other than steps.

- § 2. That Section 19-303 of Chapter 19 of the Code of the City of Norman shall be amended to read as follows:

**Sec. 19-303. Preliminary Plat: Contents.**

The preliminary plat shall be drawn at a scale of not more than one hundred (100) feet to the inch, except where impractical and shall show:

- A. The scale, north arrow, date and legend;
- B. The proposed name of the subdivision;
- C. The name and address of the owner of record, the subdivider, the owner's engineer, and the registered land surveyor preparing the plat;
- D. Legal description of the proposed subdivision, including the acreage and the number of lots proposed in the subdivision, by type;
- E. A key map showing the location of the proposed subdivision referenced to existing or proposed arterial streets or highways and to government section lines, and including the boundaries and number of acres of the drainage area of which the proposed subdivision is a part;

- F. The names, with locations of intersecting boundary lines, of adjoining subdivisions, and the location of the Norman City limits if falling within or immediately adjoining the tract;
- G. The land contours with vertical intervals of one foot in the urban areas and two (2) feet in the rural areas referenced to a United States Geological Survey datum (1988) or Coast and Geodetic Survey bench mark or monument;
- H. The location of dedicated streets at the point where they adjoin and/or are immediately adjacent; but actual measured distances shall not be required;
- I. Important features such as existing permanent buildings; large trees (a minimum eight (8) inch caliber); streams; railway lines; oil and gas line or wells as shown on the records of the Oklahoma Corporation Commission (including abandoned gas or oil wells and dry holes which remain unplugged);
- J. The location of all existing easements of record, sanitary and storm sewers, water mains, streets, culverts, power lines, and other surface or subsurface structures within the tract or immediately adjacent thereto, and the proposed location, layout, type, and size of the following structures and utilities:
  - 1. Water mains;
  - 2. Sanitary sewer mains, sub-mains and laterals;
  - 3. Storm sewers; and,
  - 4. Street improvements.
- K. The location of all drainage channels and subsurface drainage structures, and the proposed method of disposing of all run-off from the proposed subdivision, and the location and size of all drainage easements relating thereto, whether they be located within or outside of the proposed plat;
- L. The length of the boundaries of the tract, measured to the nearest foot, and the proposed location and width of streets, alleys, easements, and setback lines, and the approximate lot dimensions;

- M. The existing zoning and proposed changes of zoning in the tract and of the property immediately adjacent thereto;
- N. One hundred (100) year flood boundaries;
- O. Water Quality Protection Zone boundaries;
- P. Preliminary drawings showing compliance with the applicable requirements of this Chapter for structural controls on development;
- Q. A topographic map, drawn to a scale of one hundred (100) feet to one inch, or in an appropriate scale. The map should display, according to the best information available, topographic information and features (including, but not limited to, faults and fractures along waterways, wetlands, and sinkholes), and the WOPZ. Current limits of the FEMA floodplain and the FBF shall be displayed;
- R. Location of all temporary and permanent runoff detention basins, constructed and altered waterways and other physical facilities to be installed to comply with the terms of this ordinance;
- S. Location of all existing monitoring stations, sample points or other significant devices used in measuring or assuring water quality;
- T. Any technical surveys or studies necessary to support a request for modification of WOPZ boundaries affecting the subject parcel;
- U. In the instance where there is one (1) or more active oil and/or gas well(s), lease road(s), tank batteries, flow lines, gas sales lines, dead man anchors or any other related equipment, located within a proposed preliminary plat, any and all such items shall be shown on the submitted preliminary plat. Both existing conditions and any proposed changes to the existing conditions must be indicated on the preliminary plat. The information shall include, but not be limited to well access, size of the well location, including appurtenant equipment, any change in lay out or operations of the well site such as relocation of the lease road or moving of the tank batteries and flow lines, fencing, easements for flow lines, gas sales line, communication cables, and electric power lines. The information must also stipulate the parties responsible for constructing any lease road and approach and fencing. Easements necessary to provide for flow lines, gas sales lines, power supply lines and communication cables must be designated in writing. All information required must be shown on a site plan that has been reviewed and approved for compliance with oil and gas ordinances. A

copy of the site plan shall be provided to the oil and gas inspector to become part of the well records until such time of the plugging and restoration of well location(s) has been completed. Oil well operators shall be notified by the oil and gas inspector of any predevelopment informational meeting(s) as an interested part where a preliminary plat contains a well(s), lease road, tank battery, flow line, gas sales line, dead man anchors, or any other related equipment that they operate. Notice shall be given in the same format as property owners within the required notice area.

§ 3. That Section 19-308(E) of Chapter 19 of the Code of the City of Norman shall be amended to read as follows:

E. In the case of a plat proposing the reserving or dedicating of land or amenities to be used in common by owners of lots in a single-family residential subdivision, or in the case of a plat or Norman Rural Certificate of Survey that contains any portion of the WQPZ, the applicant shall submit evidence acceptable to the City Attorney that all necessary steps have been taken for:

1. The establishment of a mandatory Property Owner's Association ("POA") or establishment of another acceptable arrangement for adequate maintenance of the common elements and any non-structural controls for storm water management. All mandatory ~~single family residential~~ POAs shall submit a Declaration of Covenants, Conditions and Restrictions (the "Declaration") which establishes a minimum framework that provides for the fair and effective administration of the POA and thereby assures the greater likelihood that the interests of the City and its citizens are secure and which include the following provisions:

- a. A list of all common property in the plat, by legal description. A specific description of all of the common elements within the subdivision including any abutting arterial roadways, the uses allowed for each common element and a description of the person responsible for initially constructing or installing each common element and the responsibility for maintaining the common element after initial installation;
- b. In those plats containing any portion of the WQPZ, a list of any non-structural controls located on the property and a list of allowable and prohibited activities within the designated zones (Zone 1, 2 and 3) of the WQPZ.

\* \* \* \* \*

§ 4. That Section 19-411 of Chapter 19 of the Code of the City of Norman shall be added to read as follows:

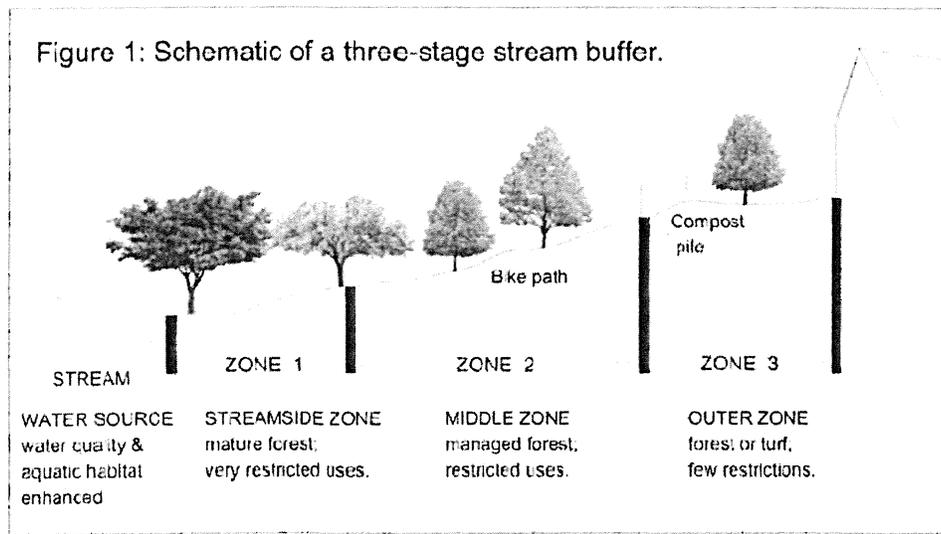
**Sec. 19-411. Water Quality Protection Zone Design Standards.**

- A. The Water Quality Protection Zone (WQPZ) for a stream system shall consist of a vegetated strip of land, preferably undisturbed and natural, extending along both sides of a stream and its adjacent wetlands, floodplains, or slopes. The width shall be adjusted to include contiguous sensitive areas, such as steep slopes, where development or disturbance may adversely affect water quality, streams, wetlands, or other water bodies.
- B. The required base width for all WQPZ's shall be equal to:
  - 1. The greater of the following:
    - a. 100 feet in width, measured from the top of the bank, on either side of the stream; OR
    - b. The designated Full Build-Out Floodplain as delineated on Exhibit 4-4 to the Storm Water Master Plan, dated October 2009 and accepted by City Council on November 10, 2009 and as available on the appropriate scale through the Public Works Department, or as indicated by the Applicant's independent engineering analysis ; OR
    - c. The FEMA Floodplain; OR
  - 2. An alternative width determined by an engineered process and approved pursuant to Section 19-601(B).
- C. For each portion of any 25 foot segment of the buffer, as set forth in Section 19-411(B), that has a slope over 20%, 25 feet shall be added to the width of the WQPZ. To determine the extent of steep slopes, a cross section of the topography every 100 feet shall be prepared and utilized by the Applicant.
- D. The base width of the WQPZ outlined in (B) above may be reduced for first order streams to no less than fifty (50) feet but never less than the FBF upon a showing by the Applicant that the BMP's utilized in the development will achieve the following goals:
  - 1. A reduction in nitrogen of at least 75% and a reduction in phosphorus of at least 58%. For the purpose of determining the

applicable reduction in the base width of the buffer, the North Central Texas Council of Governments *integrated* Storm Water Management (“iSWM”) Manual, found at <http://iswm.nctcog.org/>, may be utilized to determine pollutant removal for a particular structural control.

2. As stated in iSWM, volume reduction, concentration and total load are important considerations in determining the appropriate and most effective BMP to use.
- E. In third-order and higher streams, 25 feet shall be added to the base width outlined in Section 19-411 (B) above.
  - F. When wetland areas extend beyond the edge of the required WQPZ width, the WQPZ shall be adjusted to include the extent of the wetland plus an additional 25 foot zone extending beyond the wetland edge.
  - G. A drainage easement or dedicated right of way shall be granted to the City of Norman for the entire width and length of the WQPZ on subject land unless otherwise provided herein.
  - H. For all developments, particularly those containing some portion of the WQPZ, utilization of low impact development strategies are encouraged. For plats or Norman Rural Certificates of Survey that include portions of the WQPZ, the current Engineering Design Criteria may be modified when Low Impact Development strategies are utilized in accordance with the iSWM reference in Section 19-411(D) above.
  - I. Water Pollution Hazards. The following land uses and/or activities are designated as potential water pollution hazards and must be set back from the top of the bank of any stream or waterbody by the distance indicated below:
    1. Storage of hazardous substances—(300 feet)
    2. Aboveground or underground petroleum storage facilities—(300 feet)
    3. Drainfields from onsite sewage disposal and treatment systems (i.e., septic systems)—(200 feet)
    4. Raised septic systems and raised mound septic systems—(500 feet)
    5. Solid waste landfills or junkyards—(600 feet)

6. Subsurface discharges from a wastewater treatment plant—(200 feet)
  7. Land application of biosolids—(200 feet)
- J. Three Zone Buffer System. The WQPZ shall be composed of three distinct zones, with each zone having its own set of allowable uses and vegetative targets as specified in Section 429.7 of the Zoning Ordinance. Each zone shall be designated on the preliminary plat and Norman Rural Certificates of Survey. (See Figure 1 below.)



1. Zone 1, Streamside Zone: The area beginning at the top of the bank of the active channel and extending horizontally the number of feet equal to 25%, but no less than 25 feet, of the overall distance of the designated WQPZ on that particular side of the stream.
  2. Zone 2, Middle Zone: The area beginning at the outer edge of Streamside Zone and extending horizontally the number of feet equal to 67% of the remainder of the distance of the designated WQPZ on that particular side of the stream.
  3. Zone 3, Outer Zone: The area beginning at the outer edge of the Middle Zone and extending horizontally the number of feet equal to 100% of the remainder of the distance of the designated WQPZ on that particular side of the stream.
- K. All applications for preliminary plats and Norman Rural Certificates of Survey that contain any portion of property within the WQPZ shall

also submit a report outlining the Best Management Practices to be employed.

- § 5. That Section 19-514 of Chapter 19 of the Code of the City of Norman shall be added to read as follows:

**Sec. 19-514. Water Quality Protection Zone Management and Maintenance.**

- A. All preliminary plats, final plats, and Norman Rural Certificates of Survey shall clearly:
1. Show the extent of any WQPZ on the subject property.
  2. Label the WQPZ.
  3. Provide a note to reference any WQPZ stating: "There shall be no clearing, grading, construction or disturbance of vegetation except as permitted by the Director of Public Works unless such disturbance is done in accordance with 19-514(E) of the Norman City Code.
  4. Provide a note to reference any protective covenants governing all WQPZ areas stating: "Any WQPZ shown hereon is subject to protective covenants that may be found in the land records and that restrict disturbance and use of these areas."
  5. All subdivisions containing a WQPZ area shall ensure maintenance of the non-structural controls/aspects in the WQPZ area by its Property Owners' Association through the filing of a protective covenant, which is required to be submitted to the City Attorney's office for approval. The covenant shall be recorded in the land records and shall run with the land and continue in perpetuity. Any changes to the covenants and restrictions shall be consistent with the provisions herein.
- B. An offer of dedication of a WQPZ to the City of Norman does not automatically convey to the general public the right of access to this area unless such a right is explicitly set forth in said dedication. Further, an offer of dedication of a WQPZ is not a mandate for a public trail system or any portion thereof.
- C. The Public Works Department shall inspect the buffer annually and following severe storms for evidence of sediment deposition, erosion, or concentrated flow channels and corrective actions taken to ensure the integrity and functions of the WQPZ.

- D. Any portion of the WQPZ that is within thirty (30) feet of a combustible structure shall be maintained as provided in Section 10-209.
- E. Portions of the WQPZ that are not within thirty (30) feet of a combustible structure may be left undisturbed and natural, and in no event, shall grassy vegetation in this area be mowed or otherwise cut down to less than six (6) inches tall.

§ 6. That Section 19-601 of Chapter 19 of the Code of the City of Norman shall be amended to read as follows:

**Sec. 19-601. Variations.**

- A. Occasionally the tract to be subdivided is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of the requirements contained in this chapter would result in substantial hardship or inequity. The City Council may vary or modify, except as otherwise indicated, such requirements of design, but not of procedure or public improvements, so that the subdivider may develop the subject property in a reasonable manner. At the same time, the public welfare and interests of the City must be protected and the general intent and spirit of this chapter are preserved by granting such variance. Such modification may be granted upon written request of the subdivider or the subdivider's engineer, stating the reason for each modification, and may be approved by vote of the regular membership of the City Council, with the recommendation of the Planning Commission, subject to the acceptance of the plat and the dedications thereon by the City Council; provided, however, that a variation based on unique condition(s) shall not be granted when the unique condition(s) was created or contributed to by the subdivider.
- B. Alternatives to the Water Quality Protection Zone requirements.
  - 1. Generally. Alternatives to the Water Quality Protection Zone requirements other than those provided for in Section 19-411 (D) may be granted by the Public Works Director or his or her designee when sufficient data is produced that shows an error in the applicable WQPZ designation, or when sufficient hydrological analysis demonstrates that an alternate engineered solution for storm water can be implemented that will substantially reduce or eliminate the effect the development has on flooding and water quality. Such alternatives should achieve the following water quality goals:

- a) A reduction in nitrogen of at least 75% and a reduction in phosphorus of at least 58%. For the purpose of determining the applicable reduction in the base width of the buffer, the North Central Texas Council of Governments *integrated* Storm Water Management (“iSWM”) Manual, found at <http://iswm.nctcog.org/> may be utilized to determine pollutant removal for a particular structural control.
  - b) As stated in iSWM, volume reduction, concentration and total load are important considerations in determining the appropriate and most effective BMP to use.
  - c) Notwithstanding any other provision, an engineered solution shall only be allowed if the streamside zone (Zone 1) is preserved undisturbed and no structures are allowed in the middle zone (Zone 2).
2. An alternative may be available, where the tract to be subdivided is of such unusual size or shape, has existing storm water infrastructure installed in the previous five (5) years subject to a previously approved preliminary plat, or is surrounded by such development or unusual conditions not created by the subdivider that the strict application of the requirements contained in this chapter would result in substantial hardship or inequity;
  3. In the granting of an alternative, the Public Works Director shall consider whether:
    - a) The public welfare and interests of the City are protected; and
    - b) The general intent and spirit of this chapter are preserved by granting such variation; and
    - c) Such variation will not substantially or permanently injure the appropriate use of adjacent land, or upstream or downstream parts of the FBF; and
    - d) The variation will not cause unreasonable disruption to the natural terrain unless the purpose of such disruption is to restore the normal functioning of the stream.
  4. WQPZ Averaging.

- a) The width of the WQPZ may be reduced in some circumstances to accommodate unusual or historical development patterns, shallow lots, stream crossings, or storm water ponds. Averaging of the WQPZ width shall be allowed as long as the streamside zone (Zone 1) is preserved undisturbed and no structures are allowed in the middle zone (Zone 2). Any averaging of the WQPZ must be done in accordance with the following:
1. An overall average WQPZ width of at least 100 feet must be achieved within the boundaries of the property to be developed. The WQPZ on adjoining properties cannot be included with buffer averaging on a separate property, even if owned by the same property owner.
  2. The average width must be calculated based upon the entire length of stream bank that is located within the boundaries of the property to be developed. When calculating the WQPZ length, the natural stream channel should be followed.
  3. WQPZ averaging shall be applied to each side of a stream independently. If the property being developed encompasses both sides of a stream, WQPZ averaging can be applied to both sides of the stream, but must be applied to both sides of the stream independently.
  4. The total width of the WQPZ shall not be less than 75 feet at any location, except at approved stream crossings. Those areas of the WQPZ having a minimum width of 75 feet (or less at approved stream crossings) can comprise no more than fifty (50) percent of the length of the WQPZ. The 75 feet shall allow for Zone 1 to have a minimum width of twenty-five (25) feet, and Zone 2 to have a minimum average width of at least fifty (50) feet.
- b) WQPZ averaging is prohibited in developments that have, or will have after development areas that have slopes greater than 15% that are located within fifty feet of the stream to be buffered.

5. Appeal from Decision of Public Works Director. If the applicant desires to appeal from the decision of the Public Works Director or his or her designee made in accordance with this subsection, the applicant may file such request, and any documentation supporting said appeal, with the City Clerk. The City Clerk will place the appeal on the agenda of the next available regular City Council meeting. The decision of the Public Works Director, or his or her designee, may be upheld or overturned by vote of the regular membership of the City Council.

§ 7. That Section 19-606 of Chapter 19 of the Code of the City of Norman shall be amended to read as follows:

**Sec. 19-606 Exception to allow Norman Rural Certificates of Survey as plats in A-1 and A-2 Zoning Districts.**

A. It is the purpose of this exception to allow lots of ten (10) acres or more to be developed and sold adjacent to public or private roadways in the A-1 and A-2 Agricultural Districts; however, private roadways should be constructed and maintained in such a manner that said roadways may be traversed and used by police, fire and other official vehicles of all municipal, county, state and federal agencies. Lots created under this process shall be designated as "Norman Rural Certificate of Survey Subdivisions" and may be permitted under the following procedures (Ord. No. O-0203-34):

\* \* \* \* \*

2. An accurate survey of the lot, prepared by a land surveyor registered in the State of Oklahoma, and the proposed subdivision thereof shall be submitted to the Public Works Department and shall show the same information required for a preliminary plat as referenced in Section 19-5303, ~~article V, Chapter 19~~ of this Code, except the ground contours may be drawn at five-foot intervals in such cases where the average ground slope is three (3) percent or greater.

\* \* \* \* \*

§ 8. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance, except that the effective date provision shall not be severable from the operative provisions of the ordinance.

ADOPTED this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

NOT ADOPTED this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Cindy Rosenthal, Mayor

\_\_\_\_\_  
Cindy Rosenthal, Mayor

ATTEST:

\_\_\_\_\_  
Brenda Hall, City Clerk



# office memorandum

**DATE:** April 7, 2011  
**TO:** Chairman and Members,  
Norman Planning Commission  
**FROM:** Bob Hanger, P.E., Storm Water Engineer  
**SUBJECT:** Water Quality Protection Zones –  
Ordinance Nos. O-1011-52 and O-1011-53

**Background** The Storm Water Master Plan (SWMP) contained several recommendations aimed at improving water quality. The recommendation that led to the ordinances being discussed by Planning Commission on April 7, 2011 is as follows:

- Dedicate Stream Planning Corridors (SPC's) and/or the 100-year full buildout floodplains to the City of Norman by easement or title for streams located in the Lake Thunderbird watershed that have a drainage area greater than 40 acres.
  - Prohibit development or significant land disturbance in the SPCs and/or the 100-year full buildout floodplain. Exemptions should include items such as, but not limited to, maintenance activities, greenway trails, road crossings, utilities, and stream stabilization measures.
  - Require additional stream-side buffers of 15 ft to each side of streams with drainage areas greater than 40 acres that are located in the Lake Thunderbird watershed and also in Suburban Residential and Country Residential areas as defined in the Norman 2025 Plan including subsequent updates to the comprehensive plan as adopted by City Council.

*Storm Water Master Plan, Section 9.9.*

Following the acceptance of the SWMP and adoption of the SWMP Action Plan in November 2009, Staff began working towards the development of a draft ordinance that would address this recommendation from the SWMP. After developing a draft ordinance, Staff met several times with the City Council sub-committee for the SWMP as well as the SWMP Task Force, a group made up of developers, engineers, scientists, and other local citizens. The Norman Planning Commission was briefed on these ordinances during a Study Session on April 7, 2011.

One of the key recommendations from the SWMP, as quoted above, dealt with the benefits of riparian buffers. Riparian buffers, or areas of undeveloped land adjacent to streams, provide a number of benefits related to water quality, including

reduction of erosion and the stabilization of stream banks, infiltration of storm water runoff, control of sedimentation, and restoration and maintenance of the chemical, physical and biological integrity of water resources.<sup>1</sup>

**Discussion** The ordinances before Planning Commission would require applications for preliminary plats or Norman Rural Certificates of Survey to identify the streams on the subject property and denote a buffer on either side of the stream. The ordinance calls for the buffer to be the greater of the FEMA floodplain, the Full Build-Out Floodplain, or 100 feet.

The FEMA floodplain encompasses the areas along both sides of streams or drainage corridors that have a drainage area greater than 640 acres and would be inundated by a 100 year rain event in any given year assuming only current development conditions. The Full Build-Out Floodplain encompasses the areas along both sides of streams or drainage corridors in the Lake Thunderbird Watershed that have a drainage area greater than 40 acres and would be inundated by a 100-year rain event in any given year assuming full build-out watershed conditions.

The designated buffer area would be called the Water Quality Protection Zone (WQPZ). The buffer is divided into three zones – streamside, middle and outer zone with uses being more restricted the closer you are to the stream. The buffer width may be increased if the stream is a 3<sup>rd</sup> order or higher stream (these are typically the larger streams), if certain slope conditions exist in the buffer, and to encompass wetland areas.

Since riparian buffers are essentially areas of undeveloped land, it is important that buffer ordinances are flexible to accommodate development conditions.<sup>2</sup> In the WQPZ ordinances before Planning Commission, several things have been incorporated to insure flexibility. First, the buffer width discussed above can be reduced for first-order streams to 50 feet or the Full Build-Out Floodplain with a showing that an engineered solution will provide a particular level of phosphorus and nitrogen removal (*O-1011-52, Section 19-411D*). Second, the buffer width can be reduced in all streams with no minimum width required if the Applicant seeks a variation in accordance with Section 19-601(B), also in O-1011-52.

The ordinance also explicitly allows for specifications and requirements in the Engineering Design Criteria to be modified to accommodate low impact development strategies (*O-1011-52, Section 19-411H*). The ordinance allows for the buffer to be modified to recover a lost lot as long as the average width of the buffer meets the requirements in 19-411(B). (*O-1011-52, Section 19-601B.2.*) Finally, the additions to the Zoning Ordinance allow for reduction in minimum lot size and transfers in development density to allow developers to recover lots lost because of the WQPZ.

---

<sup>1</sup> Thomas R. Schueler, The Architecture of Urban Stream Buffers, Watershed Protection Techniques, Volume 1, No. 4, Summer 1995, pg. 155-163.

<sup>2</sup> Office of Ocean and Coastal Resource Management, Vegetated Riparian Buffers and Buffer Ordinances.

Planning Commission  
WQPZ ordinances  
April 7, 2011  
Page 3

**Conclusion and Recommendation** Staff has worked diligently with the Storm Water Task Force, the Council Sub-Committee, as well as developer representatives to develop ordinances that will both protect and enhance water quality, while also striking the appropriate balance with development rights and goals. Staff recommends the Commission recommend approval of Ordinances No. O-1011-52 and O-1011-53.

Reviewed by: Steve Lewis, City Manager  
Shawn O'Leary, Director of Public Works  
Susan Connors, Director of Planning and Community Development  
Kathryn L. Walker, Assistant City Attorney

Item No. 9, being:

**CONSIDERATION OF PROPOSED ORDINANCES**

**9a. ORDINANCE NO. O-1011-52**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING CHAPTER 19 OF THE CODE OF THE CITY OF NORMAN TO PROVIDE FOR STANDARDS AND REQUIREMENTS FOR A DESIGNATED WATER QUALITY PROTECTION ZONE INCLUSIVE OF THE LAKE THUNDERBIRD WATERSHED; AND PROVIDING FOR THE SEVERABILITY THEREOF.**

**9b. ORDINANCE NO. O-1011-53**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING CHAPTER 22 (ZONING ORDINANCE) OF THE CODE OF THE CITY OF NORMAN TO ADD A SECTION 429.7 CREATING A ZONING OVERLAY DISTRICT FOR THE WATER QUALITY PROTECTION ZONE AND AMENDING SECTION 441(11) PROVIDING FOR SUBMITTALS FOR A VARIANCE FROM THE REQUIREMENTS OF THE WATER QUALITY PROTECTION ZONING OVERLAY DISTRICT; AND PROVIDING FOR THE SEVERABILITY THEREOF.**

**ITEMS SUBMITTED FOR THE RECORD:**

1. Staff Report
2. Ordinance No. O-1011-52
3. Ordinance No. O-1011-53

**PRESENTATION BY STAFF:**

1. Mr. O'Leary went through a presentation on the process and science leading to the development of the ordinances under consideration, the areas regulated, and the provisions of the ordinances.

Mr. Sherrer arrived after the close of the presentation.

2. Mr. McCarty asked what the buffer zones have to do with low impact development. Mr. O'Leary responded that one of the things they find in all of the low impact development manuals (from Texas, South Carolina, Georgia, and Portland, Oregon) is that all have buffers in them. Buffers, whether they're called water quality protection zones or just buffers, are a way to let the stream and channel do what Mother Nature wants it to do – leaves it alone, does not constrict it, does not affect it. By doing that, you effectively have a lower impact from the development. I suspect it is also a water quality issue, as it is for us, as well as just a nuisance issue. The film that we didn't show has one of our property owners along Imhoff Creek, and the gentleman talks about the 30 years that he has lived in that home, and over the course of 30 years he has lost 20 or 30 feet of his lot to erosion. I think that would be an example that wouldn't have happened had the buffers been on Imhoff Creek. Mr. McCarty commented that when he reads the Planning Magazine, it talks about low impact development quite often. Most often it is talking about gardening or areas in the curb and gutter that will filter the water. It doesn't talk about buffer zones along creeks. It talks more about how to clean the water and have areas that do that before it goes into channels and lakes. Mr. Hanger added that the ordinance from the North Central Texas Council of Governments lists about 29 methods of keeping the development as natural as possible. Buffers are one of those 29 methods, which also include rain gardens, biofilters, etc.

3. Mr. McCarty asked about the impact changes to the North Central Texas document would have on our ordinance. Mr. O'Leary said he is never a fan of adopting someone else's standard. It does require a license agreement to adopt the North Central Texas manual. It was developed by the Council of Governments in Dallas/Fort Worth for 65 cities, of which about 24 have adopted it. It looks really close to the South Carolina manual. The manual in North Texas is not anything that would be very different from what we would do if we were doing it on our own. We are currently researching what would happen if they change their manual; we don't want them to be able to dictate anything to us. Ms. Walker added that the City adopts manuals like this quite frequently, with the Building Code and things like that. If there is a portion that we're not happy about bringing into our code, we would take that out. What we are attempting to do with the licensing is to get control of the document so we can modify it as times goes on to meet our needs. We're not looking to be governed by another agency. The way the manual is referenced in Section 19-411(D) it says that the manual may be utilized to determine pollutant removal for a particular structural control. It saves developers from having to calculate it on their own. We have that in the Storm Water Master Plan, but that was criticized because it was data from 2003, and this is more recent.

4. Mr. Lewis said one of the things that concerns him, as a director of a POA, is the responsibility for maintaining the buffer zones. Slide 38 shows the example of Summit Valley. Section 19-514(E) talks about the height of vegetation in the buffer zones. He was concerned about the potential for fires. If the POA is mandated with maintaining the buffers, they are probably liable for any fire damage to surrounding properties. Mr. O'Leary indicated this section is a compromise between what exists naturally in some of the streams, and something that is a little more reasonable but not quite to the degree of a groomed soccer field or golf course. Ms. Walker explained that this issue was not really addressed by other communities, but as time went on and we got drier in Norman, it became more in the forefront of our minds. She met with our Fire Marshall and the Fire Chief to discuss the issue. We want to get the water quality cleansing benefits, but not create a fire hazard. They provided documents about how they look at three zones around a house in terms of fire risk. This is an attempt to marry those two things. It is a work in progress and may be modified before it goes to City Council. It started with a minimum height of vegetation, and it will probably have minimum and maximum heights.

5. Mr. Lewis asked about impacts on affordable housing in Norman due to the amount of land that is lost to these buffer zones. He has been made aware that there is a development coming forward that, without WQPZs, there would have been about 400 lots in the development, and after WQPZs came into place about 104 of those lots were lost. Mr. O'Leary responded that he is not familiar with that particular case or those numbers, and he doesn't know whether they considered all of the elements of the ordinance, e.g., clustering and averaging. He referred to Slide 23. One way to look at the cost issue would be the cost of the land that would be dedicated. We are talking about 325 acres out of 10,500 acres of developable property in the current and future urban service area. Those are the most likely places that conventional subdivisions are going to occur. We don't think it will be much of a stretch to get the buffers on the country residential and suburban residential; they're ten-acre and two-acre lots. I suppose you could apply a number per acre cost to the 325 acres, and that

would be one simple answer to your question. I would say, too, in our discussions with the Task Force this has been a subject of great discussion and debate. There are those who would say, and have said, that this will increase the value of those subdivisions because now we have buffers and open space and natural stream and channel corridors which are much more favorable to home owners, particularly young home owners, than the concrete-lined channels 15 feet wide. I think another way to look at that is to take a look at Imhoff Creek and the gentleman that was on the video who said over the course of 30-35 years living in his home, he has lost 20 to 30 feet of his lot. So there's a loss to that owner that he never anticipated when he bought that home 30 years ago. Again, there's so many ways to look at this and I appreciate your question. Another thing to consider is the cost of maintenance. As a POA president you can really appreciate that. As we've looked at the current proposal, we really think that, done properly, the maintenance should decrease, not increase; there should be less to do. The example of Summit Valley is a good example, where they're not doing much there as you can see, and I don't think they probably ever will, unless we made them do that. That's probably okay, because we want it to be natural; we want it to be in that condition. It's a tough question and I don't know that anyone has a really great answer.

6. Mr. Lewis noted that we keep referencing back to the 2025 Plan. The 2025 Plan was adopted by Norman City Council effective December 16, 2004. For some reason, in the back of my mind, I'm thinking this type of land use plans are to be updated every five years. So if we add five years to 2004, we're still about a year and a half behind, but we're modeling an ordinance going forward that's going to affect numerous land owners and the future of the City off of an outdated land use plan. Ms. Connors responded that the 2025 Plan was adopted and it is indicated that we should update that plan every five years. Last year City Council chose to wait until the census came out this year, so that we would have new census numbers, because it doesn't make sense to try and look at land uses on old census numbers. Now they have chosen that we're going to look at trying to do a transportation plan first, because we do not have a complete transportation plan for the City. They have budgeted the beginning of that process. We don't have the funds to do both at the same time right now. As long as this is the adopted plan with no update, this is the official plan, as amended. We are still working with this and it is not out of compliance. Mr. Lewis commented that he wouldn't characterize it as out of compliance, but outdated. When you look at the 2020 plan versus the 2025 plan, we had significant land changes. We're trying to overlay something onto a plan that who knows what the change will be for the 2030 plan or the 2035 plan, and I think it would be prudent of us to slow down a little bit. That's the one thing that has somewhat concerned me about this flying through – I received a copy of the ordinance a week ago at 6:30 and we went into a study session. So really to have ample time to get my hands around this, even though I was listed as one of the people on the original storm water master plan then moved over to the Reapportionment Commission, it still was a volume of information to get a grasp on. As I shared with some in City government, I am just now getting to a point where I feel like I'm on somewhat of a solid footing and understanding what's going on, but yet I'm being asked to make a recommendation to City Council for approval or disapproval based on a very quick piece of information. And that's concerning to me, because I have a responsibility to the City of Norman, which ultimately is the citizens of the City of Norman. Ms. Walker pointed out that the 2025 map that he has is not actually the most

updated map. As amendments come through the Planning Commission and City Council we have the updated map on our GIS system, so it is constantly being updated. We were careful, in the ordinance, because where the Land Use Plan really has the most effect is with what determines the full build-out floodplain. The way full build-out floodplain is defined in the ordinance actually references the 2025 Plan and any updates to that plan. That would encompass the 2030 plan or, if you had a land use plan amendment go through tonight, that would encompass that update as well. Mr. O'Leary added that the other thing that's in our plan is the engineered solution variance, and this is one of the reasons why you have to have that. Let's say the Land Use Plan did change, as it always will change, and that engineer felt as a result of those changes our full build-out floodplain as shown was too large and should be reduced. They can study that in detail and submit that as a variance to this ordinance, and they do that today. That's built into the plan for that option to address any changes to the land use and the impervious area.

7. Mr. McCarty asked how many miles of creeks and streams this is talking about. Mr. O'Leary indicated it is 330 miles. Mr. McCarty asked how many structural controls are in those areas. Mr. O'Leary said very few. Most of these 330 miles of streams and channels are in the undeveloped areas. Mr. McCarty asked who in the City will be doing the inspections and how those will be done and how they will be funded. Mr. O'Leary explained that the Public Works Department will be responsible. It will be inspected by their staff members; there is a Storm Water Division that is made up of about 32 people today. The financing to do more and hire more people, provide more resources for them, would probably be through the storm water utility fee structure, which is item 2 on the work plan.

8. Mr. McCarty said Mr. O'Leary made a comment that he will have to disagree with. You said that these buffer areas, the way that they're maintained currently, that this ordinance would cost less maintenance to the POAs. If what I'm hearing from Kathryn is potentially that the Fire Department may want these cut to 8 or 10 inches, the majority of these areas are never mowed or cut down at all through a summer, as you can see in that picture. You're talking about weed eaters and something to get them to those requirements if we're really looking at that, and that's rather expensive to send a crew down through a creek in a POA to do. I'm not sure that I can agree that it would be less expensive. Mr. O'Leary responded that those are some of the unknowns. The general thinking behind that comment is that there would be very little time that you would have to do that. It would depend, of course, on the grasses and trees. I think Summit Valley is sort of a typical scenario; there wasn't much of that really to mow. Mr. McCarty pointed out that the picture we saw showed 3-4 foot high brush along the bottom of the trees that potentially would need to be cut down, and that can't be done with a brush hog in those area typically. Mr. O'Leary commented that is a work in progress; we're trying to get our arms around the range of heights and maintenance standards. We had very little help in that area. There was very little definition. In fact, Bob Hanger has referenced several times Portland, Oregon or Seattle where he was researching a case where this had been done in a subdivision, and the problem they were having was the residents were coming in and mowing it down to an inch and using it as soccer fields, which really defeated the whole purpose behind their water quality protection zones. So they were having to re-educate their residents to not do more, but to do less. It's really from that that we derived that

thought it would be less expensive. Mr. McCarty commented that brings up an interesting point. Most of these areas that are flood zones around the country are used for soccer fields, baseball fields, low detention areas, etc. What I have found quite often through some of the research I've done – I was actually on the Task Force and so I've been looking at this – is that the majority of buffer zones that I see throughout the country are used for quality of life issues, like you just mentioned, and not for riparian or filtering areas. That's a concern of mine. These are no-touch no-build kind of zones, and it can't even really be a quality of life zone. Mr. O'Leary said he was in a meeting earlier in the day with some folks from the City of Tulsa, and we were talking about how Tulsa, for almost 20 years, has had full build-out floodplains and 40-acre floodplain maps. They're a model in the country. They did that because they were flooding and people were dying. It was a very serious situation in Tulsa many years ago. They did that for flood control purposes; they did not do it for water quality control. We didn't really talk in terms of water quality 20 years ago. But the inquiry the gentleman had – he's the stormwater manager for the city – he said we're really trying to redefine that because we want to do more water quality, but we really defined it as floodplain management. He also indicated what you just said, is that those areas have been very favorable, but they have been used for recreational purposes and they're trying to strike that balance in Tulsa, Oklahoma as we speak, just as you're describing.

9. Ms. Gordon asked if the outer zone (Zone 3) would be the part that mainly would be maintained by POAs, so we're not talking about them going down and mowing the streambed or brush hogging that area in Zone 2 or Zone 1. Mr. O'Leary indicated that is exactly right. It is our hope that these would be left in a very natural state, just as the picture in Summit Valley Addition indicated. Parts of Zone 2 might be maintained; each condition is going to be different. Closer to the homes is the area that would be maintained.

10. Ms. Pailes commented that she attended, off and on, the public meetings for this, but missed the information about the phosphorous and nitrogen removal. If your starting point is water quality at Lake Thunderbird, and you think of the problems it has, one of which is algal blooms, and think of the solution to that – reduce phosphorous and nitrogen – that seems like an admirable, straight forward solution. I didn't think to look up other cities' regulations, but I looked for stream management guides for other states and 100 feet seems to be consistently recommended. It might not be optimum, but it's what one can hope for and it doesn't remove 90% but it seems a relatively rational solution. Does this apply to only residential, or would it apply to things like golf courses, which are big offenders in the phosphorous/nitrogen area? Mr. O'Leary indicated it would be all private property. It would depend on whether a golf course was required to be platted. The thing we didn't talk about here that's really the discussion of a lot of the concerns at Lake Thunderbird is the content of chlorophyll A, which is the basic ingredient to algae. As an expert with ODEQ said, algae is good – we want algae in lakes. Too much algae is bad, and we have too much algae in Lake Thunderbird now and it's rapidly increasing. To put that in terms of numbers, the State standard for chlorophyll-A is 10 micrograms per liter. When Dr. Vieux did his study in 2007, the amount of chlorophyll-A in Lake Thunderbird was 30 micrograms per liter, so three times the allowable amount. Recent tests in the lake have indicated 60 and 70 micrograms per liter, and he projected closer to 40 and 50. So, if anything, we think as

great as Dr. Vieux's report was, he might have under-estimated the impact of these issues.

11. Mr. Trachtenberg asked the burden on staff of this, as well as the burden on applicants to show a lot more on their plats. A lot of the mapping is done by our GIS staff. What is the status of that information? Does that belong to the public? Is that available to applicants who want to work things out? How is that information made available? Mr. O'Leary responded that the development of the full build-out floodplain, or what was called then stream planning corridors, made up about 25-30% of our Stormwater Master Plan; we paid the consultant about \$300,000 to develop that set of maps. So we have quite an investment in this, and it was the baseline for this discussion. Once we knew what they were and what they looked like and how big they were, we would know if we wanted to regulate them or not. It is a product of the public, just like our GIS system is today. One of the theories in developing that was that was something we wanted to give to the development community. If they didn't want to develop their own, just like they don't want to develop FEMA maps – that's a product of the public, as well – we hand it to them. The beauty of that is today we have all that in digital format – in electronic format – so we can actually give them electronic GIS-based data – very, very accurate data – that they can just insert into their development plans. It is a product that, if adopted, would be offered to every developer or any homeowner that walks in the door.

12. Ms. Hartley asked about the amount of water contributed to the watershed by Oklahoma City and by Moore, and whether they are looking at any kind of an ordinance. Mr. O'Leary said he doesn't know that they are specifically looking at buffer ordinances. They are regulated by the State of Oklahoma, as we are. We are what they call a Phase 2 city, which was a city less than 100,000 population when the program was adopted. Moore is a Phase 2 city. Oklahoma City is a Phase 1 city, so their stormwater regulation started in 1990 and they are regulated by the State much more stringently than we are. Right now this watershed plan that is being developed by ODEQ, and we hope will be out soon but probably is a year away, will be the baseline for additional regulations. We think our buffer ordinance is a great first step in getting ahead of that and it's a good thing to do now, but we think that regulation when it's released will require Oklahoma City and Moore to do much more than they're doing today. That could be buffers. That could be a number of other methods. We think buffers will be one of their choices because it is by far the cheapest of all the alternatives that are out there. But I don't think they're doing it today. I will also say one of our items – the 30 work items – is to coordinate with the cities of Moore and Oklahoma City, ODEQ, OCC and develop methods and procedures to address the pollution of Lake Thunderbird. Much of the discussion I've heard from the Council and the subcommittee and the Task Force is Norman wants to lead the way on this, and this buffer ordinance is one of the ways we're going to lead the way. This is the words of our leadership. Ms. Hartley asked if there is a role that the Central Oklahoma Water Conservancy District plays in this. Mr. O'Leary responded very much so. In fact, the City of Oklahoma City and ODOT were sued in 2007 because they felt that their Phase 1 permit was not adequate to address pollution. In settlement of that suit, ODEQ and OCC agreed to develop this watershed plan and, when developed, Oklahoma City agreed to comply with it. The only thing keeping us from getting to that is the completion of that report.

13. Mr. Lewis asked if the amount of pollutants (nitrogen, phosphorous, etc.) that Norman contributes has been measured, versus what Oklahoma City and other areas contribute. Mr. O'Leary responded that we are just beginning to measure; that is not part of our requirement. Oklahoma City is required to measure some of their discharges; Moore is not. Mr. Hanger added that he doesn't have the numbers memorized, but we have taken samples in Little River right at the city limits with Moore. We also have samples from Hog Creek, coming from Oklahoma City. Lake Thunderbird has been declared by the State of Oklahoma an impaired body of water based on chlorophyll-A and turbidity and dissolved oxygen. Usually when you have high algae content, it lessens the dissolved oxygen. Mr. Lewis said his question was more whether we have specific data about whether Norman is contributing more or less contaminants into Lake Thunderbird than the other areas. Mr. Hanger indicated that we have the data and he can provide that. Mr. O'Leary suggested that Dr. Vieux might be willing to speak to that; it was in his report.

14. Baxter Vieux commented that they did a modeling study, and it's about 50/50 in terms of the watershed area and also in terms of the loading. There are hot spots here and there that are more or less, but we don't have specific measurements per se. As a part of the watershed plan that's being developed, they did take samples on the major tributaries in the Little River and in Hog Creek. When that becomes known from ODEQ, then we'll have some hard numbers for that. But it's roughly about 50/50 and it's tied mainly to how much area is draining from Norman versus the other communities.

15. Mr. McCarty commented that he was a member of the Task Force and was there for all of the meetings except the first one. He doesn't recall any vote that the Task Force ever took or any type of consensus on anything. He is surprised the Planning Commission is discussing it, because he felt like the Task Force never finished. He feels like it is a work in progress and there are a lot of unknowns. Mr. O'Leary indicated what he intended to say was they had met with the Task Force numerous times with a set of draft ordinances, and with each meeting they challenged it and suggested changes and asked for more research. What the Commission is seeing is the culmination of those series of meetings. It has never gone to a vote of the Task Force. The last meeting was a bit tense. I think we had reached maybe a point of frustration on both sides of the issue. There were some folks who wanted zero dimension and others who wanted 350. I think the Mayor, who chairs that group, concluded that it was time to move on and bring it to the Planning Commission because we probably weren't going to find a full consensus there.

16. Mr. Trachtenberg commented that recently the Planning Commission was charged by the City Council to develop an ordinance on commercial lighting. What was the official mandate for the development of the language in this ordinance? Mr. O'Leary responded that the Master Plan had clear guidance that we wanted a stream planning corridor ordinance and water quality controls in Lake Thunderbird. Literally within a week of the acceptance by Council on November 10, 2009, the staff was charged with developing that ordinance. That was the first thing we wanted and at that time the Council subcommittee, made up of Mayor Rosenthal, Councilmembers Quinn, Butler, and Dillingham, wanted to bring that back quickly. The direction from the Council subcommittee was to bring that back, re-engage the citizen Task Force,

and develop an ordinance, which now has become two ordinances, and then take it through the appropriate approval process. It went from Council, to staff, back to the Council subcommittee and the Task Force. We have met off and on for about a year and a half and the Council subcommittee met after the last Task Force meeting and said we've gone far enough, go forward to the Planning Commission because it takes Planning Commission action to adopt any changes to the Zoning Ordinance.

17. Mr. McCarty asked, if we implement the buffer zones today, how much of an improvement we will see to the lake. Mr. O'Leary responded that we believe that of all the best management practices that are out there, that buffers are by far the most effective of all of them – detention basins, bio-engineered channels, etc. We have said consistently throughout our discussions that these buffers will not address the full pollution control that we need. In fact, one of the tougher things to do is going to be to go back and address the runoff from Oklahoma City and Moore and other developed areas. I believe that the buffers, having studied all of this for many months and years, will be the most effective of all the methods that we use. To give you an example, Dr. Vieux's report talks about fertilizer controls. When you talk about nitrogen and phosphorous you think let's just stop fertilizing; let's get all our homeowners to stop making their lawns green. That's difficult to do. I think Dr. Vieux's report said if you did that, and did that really really well, you might get about 10% reduction in nitrogen and phosphorous. I think buffers, if done properly, could be much more effective than fertilizer controls and other methods. I believe his reference was more to developed area, and mine was as well.

18. Ms. Pailles commented that the missing piece is the South Canadian watershed. Imhoff, Brookhaven, and Bishop Creeks were addressed in the study sessions and hearings, but they're not addressed in this ordinance. Mr. O'Leary responded that there is a whole section of the Master Plan that addresses the Canadian River. We're not ignoring it. We have a very aggressive plan for storm water Phase 2 regulations. In fact, the water quality protection zones were proposed originally for the Canadian basin as well. As the Task Force went forward, they concluded that they should not do that in the Canadian basin, but to focus on Lake Thunderbird because of the water quality and the use of the domestic water. At the same time, they recommended a great deal of storm water improvements in the Canadian reservoir. And I would tell you the majority of the dollars spent, if we go forward and implement all of that, will be spent in the Canadian reservoir, not in Lake Thunderbird.

RECESS – 8:24 to 8:33 p.m.

**PARTICIPATION BY THE AUDIENCE:**

1. Richard McKown, Green Earth Land Design, 4409 Cannon Drive – Normally I wouldn't want to go first. I think you're in for a long evening. There are a lot of issues here and there are a tremendous amount of concerns by my fellow colleagues in the professional land use industry, otherwise known as the development industry. But I have to go first because I need to get to dance practice for the parent dance at Sooner Theatre and I'm waiting for a text saying hurry and get down there. So I'll try and be brief.

We all want the exact same thing. We want clean, safe storm water now and in the future for our children. That is absolutely paramount to everyone in our industry,

and it starts right in the communities we develop – whether it's an office park or neighborhood. The algae starts growing; it's growing in my back yard. I have a crazy neighbor that feels like his yard should be deep dark green all year long, and he fertilizes the sidewalk. I'm really struggling finding a way to talk to him about it, because he doesn't like my yard that's allowed to be quite natural. This is a complicated set of issues.

Since we've been here, I received an email from Dr. Kaufman from the University of Oklahoma. We've been doing research together in storm water cleansing techniques for the past nearly five years, and he sent me this great email that says we're receiving a research award at the Regional Landscape Architecture Conference May 5 in Des Moines, Iowa, and he wanted to see if I would go up there with him to get it on behalf of Terra Verde and Carrington Place community.

I think it is a huge issue and is incredibly complex. I've been studying it intensely for the past ten years. I moved down here in 2001 with the specific goal to make our land development company as green as the home building company that Ideal Homes is. Ideal Homes is remarkable in terms of what it does in energy efficiency. And at the time I moved down here, the reputation was for just bulldozing all the trees down, straightening the stream, putting in a concrete-lined ditch, and we've in great degree quit doing that. But we've discovered many things along the way. I hate to just take complete issue with the comments that have been made about the buffers being the most effective way to clean storm water. But in the condition where we're going to urbanize a situation – an example that's been used many times tonight has been Summit Valley. Go out and visit Summit Valley. Go for a walk up that buffer zone. The storm water comes off the roof tops, across the yards, washes the excess fertilizer down into the curbs and gutters, goes into drop inlets, and then is piped to the flowline of the channel. That's our current drainage ordinance. Look at this slide that's up right now (Slide 27) – 85% of the time the rain falls the water stays inside that little U-shaped stream channel. It's being piped underneath this riparian zone. That's our drainage ordinance. That's how it works. You've got to get up early in the morning and you've got to hang out with guys like Reid Kaufman, and work at this all day, and you've got to go stand in the rain when it's raining and look at what's happening to come up with systems where you actually can get the water into a situation where it is being filtered. We're being put in a situation where we have to come and say we're being put in a hardship, which is very hard to define in any municipality, and we have to seek a variance. That's not ideal for urbanizing and filtering and cleaning storm water, and actually improving the water quality at Lake Thunderbird. We need to put together the mechanics of a treatment train. We're deeply invested in this. We've spent a fortune. We've done things, they've blown apart, we've gone back in and rebuilt them and it's amazing what we've learned. It's why we're winning a research grant, because this type of thing has been going on in the coastal areas of the country where it rains a little bit every week, but they don't get flash floods and they also don't have our tight clay soils. So they have soil conditions that allow infiltration. We've had to invent all new technology to do filtration with our exploded clay media, various different recipes. We're still up in the air about whether we have fly ash; it does bind up nitrogen. It's also potentially causing some other problems, so we're not doing it that way at the moment. But the research is very much in its infancy here in the entire Great Plains area. Central Texas – I'm excited they're working on things, because they have similar rainfall patterns and they have similar soil conditions, but truly these things don't easily

always translate. But the important point I'd like to make is we want to solve the problem with the lake.

When I was a little kid – I was born in this town – it was called Lake Dirty Bird. It was red. Anything you had on that was white would be pink. As a little boy, you're not crazy about having pink clothes. Your T-shirts would always turn pink. It's not that way anymore, in large part due to improvements in controlling silt and runoff. When I was a kid – my family has been here 42 years in the construction industry – we didn't have any erosion control; we didn't have any silt fences. We didn't have anything way back when the lake was red. We can solve this. We can solve it with good common sense measures that actually filter the water at the top of the stream – the water that actually fills up that little stream channel at the most common rain occurrences – 85% of the time. And we can do an amazing job at it. We've got a development community here in this town that's willing to do those things – willing to adopt new measures that allow us to have not just low-impact techniques, but treatment train systems. But this ordinance puts us over in the position of having to make that extraordinary – or a variance requirement.

You approved last year the J&J property. It has very few stream channels on it, but the stream channels that are on it are under the control of the Army Corps of Engineers. I screwed part of it up. I wanted to move a stream channel. The guys came down from Tulsa and they said you have a wetland condition here. You've got the soil, you've got the plant species – I wanted to move the pond over to the edge of the road because it would look a lot nicer and you could see it and more of the public could walk up and down it. It wasn't a big deal. It's only about five foot of difference, and basically there's this big wide swale and he said I don't want you working in here. I want you to go back and redesign things and stay out of this zone. So we are already under the regulation of the Army Corps of Engineers through their 404 permitting process to stay out of the very sensitive areas along our streams. The J&J property also had a huge swath of land that, because it's so flat, fell into this storm water quality protection zone. And there was no way to get the water into that. It would be like dumping water on this table – just spread out. It was one foot of fall for every 150 feet of land – unbelievably flat – less than ½% of grade. We went through and put together a system of a treatment train where you go from wet detention structures to riparian zones that we're actually constructing over into some of the 404 stream channels and then back out into some other detention areas where they made sense. And we pulled together some of the best and brightest minds in the region on the subject. We have developed some incredible knowledge here in our community. I want us to get there together. I am so tired of fighting about this.

I didn't know we were done as a Task Force. I've been working on this and never missed a meeting of the Task Force. I'm one of the original members. Every community we develop, all throughout central Oklahoma, we employ all these techniques. One of our most recent designs will be featured in Oklahoma City's mayor's development roundtable next month, and it's about all of these things that we constantly have developed and experimented with and figured out for our local soil and weather conditions and for our environment, and they're working. And they're working very well and we're making progress. We need to put the changes to our subdivision regs together with this so we can actually draw through the implications of this to make sure it's a total system that works and we can get there. We can't get there – it's not a panacea to just say buffers, they do a great job. That's just not true. They do a great job in specific situations and in some of our neighborhoods we've

gone back, cut out huge amounts of land that have been disconnected from the stream, and reconnected them with the stream so you have a floodplain that actually functions 85% of the time when it rains, and all of a sudden we have a buffer that does what it's meant to do in an urban condition. But it took a lot of doing and a lot of dirt had to be moved to restore a stream channel to its original condition. Anyway, that said, thank you for all your hard work on this. And best of luck.

2. Harold Heiple, 218 East Eufaula, representing the Norman Developers Council and I'm also on the Stakeholders Committee – I brought with me tonight a map of the Lake Thunderbird watershed. We used to have a camera up there that could get down fairly low and let you see – I don't know if it can do that. The reason I brought this side is because it shows the FEMA floodplain and it shows all of the SPCs – the stream planning corridors – that were developed by the consultant and came out in his report in 2009, and in addition some red lines that Mr. Hanger drew on there where streams may continue beyond the end of the SPCs, or full build-out floodplain, as they've been referred to.

By way of history, in 2009 when the consultant's report was released, it featured SPCs – these stream planning corridors – and they are outside the FEMA 100-year floodplain. The consultant said that the SPCs should be given or dedicated to the City without any compensation and also that they should be areas of no-build. Now this was from the very outset in their report. Well, the minute that position was voiced, the entire development community – the property owners – all said no deal. It's been no secret – we've been adamantly opposed to SPCs since the inception and there are instances showing that these things are not necessarily accurate because of the way they were put together. The scale on here is 1 inch is 4,000 feet. Try to figure a metes and bounds legal description off something that is down at that scale. And even if our GPS system can say we can bring it down to a foot, you know – garbage in, garbage out. So we're not at all prepared – then or now – to have anything to do with SPCS or, as they have now been relabeled – full build-out floodplains.

The two ordinances that are before you tonight incorporate these SPCs under the name of full build-out floodplains. Here is what these ordinances will do. They will take valuable and developable acres away from an owner without compensation and they will prevent any houses or other buildings from being built anywhere in those areas. And remember we're talking about full build-out plus 100 feet on either side. Now if you're a no builder or a no growther, that's delightful. If you've got investments in land that you've made in good faith in an urbanized area, that's disastrous. Here's what these ordinances will not do, and I think you've got to realize this, because nobody said this really up til now. These ordinances will not reduce pollution that's currently going into Lake Thunderbird from the houses and the buildings and the streets which currently exist in Norman, Oklahoma. The lake is impaired and will continue to be impaired. This administration, in the last four years, has done nothing to address any of those problems. These ordinances will not – and this is critical – reduce the pollution of the storm water that's coming off the houses that the owner is allowed to build, for that very example that Richard just cited. You say the SPC is an area of no build, so the owner says fine, I won't touch it. I'll just build on everything that's outside it. And he builds on everything that's outside it and he follows the current ordinances and he puts it in a pipe and sends it underground and it never goes through this buffer. It ends up down there in that little valley in the stream. So all of the new houses are polluting that stream just like the existing houses are polluting the streams and, yet, these big buffers

that have been taken without compensation and not allowed to develop, they're not doing any good. The ordinances will not provide any increase in drainage control of the storm water that's coming off the houses that the owner is allowed to build. So for all of the talk about the wonders of these buffers, these won't get you there. We want to get there.

I had proposed a substitute ordinance to the Stakeholders Committee. I'm going to provide you a substitute ordinance that will reduce pollution. Now my ordinance has not been fully vetted by any group, and it certainly should be. I've asked for equal time to present my ordinance whenever the City staff is presenting their two ordinances to various groups, and the Mayor has not seen fit to allow us equal time to present our side and our position and the ordinances that we say will solve the problem that is supposedly the goal behind all these. The Mayor is intent on getting these two land-grab ordinances on the books by May 24<sup>th</sup>. That's the rush. That's why, as finally was revealed tonight publicly, that the four members of the City Council who constitute this committee just wired right around the Stakeholders Committee and said get it on the road – take it to the Planning Commission. If they've got a problem with it, they still can bring it back and they've got time before our May 24<sup>th</sup> meeting, in the hopes that they can get five votes out of the Planning Commission to kind of stamp it. And what you have to know is that their failure to engage in meaningful dialogue is why your approval is not appropriate tonight. Because you need to schedule a debate or a study session, or whatever format you want to, that will give you the details that will let you make an informed decision about what this ordinance or any ordinance will or will not truly do. Because you've only been hearing one side of it from the staff.

What I'm about to say is something that I didn't have in any prepared remarks, but what you did tonight certainly was right on point. Item 8 that you just approved earlier tonight has a stream planning corridor in it – fairly large one. Now, the proponents of these two ordinances insist that a buffer is absolutely essential – that it's the backbone of any pollution control system. As Richard said, it's not necessary. And Item 8's design tonight, which was recommended by staff, approved without question, and approved unanimously by you people has reduced pollution for the entire tract that was contained within the plat without any buffer whatsoever – without any. So don't tell me that buffers are really the best way to protect an urbanized area, because that ain't going to hold up, friends. And what we are trying to do desperately is to get an acceptable ordinance that makes sense and that everybody can get behind and support and not have this end up in litigation. Because, as night follows day, if you're going to take 100 lots away on a 400-lot subdivision without compensation, somebody can't afford to do that. And they don't want to go to litigation. And Richard McKown and Trey Bates and Sean Rieger and I have been working very hard to get an acceptable ordinance. All we want is reasonable constructive dialogue by all the players and we haven't been given that. So all we can do is make a matter of public record to you tonight that the two ordinances that you have before you do not do what they are purported to do. And I hope you will take some time to look over the substitutes, schedule whatever is appropriate for your own edification, and let's all arrive in a reasonable time – whether we get this on the books by May 24<sup>th</sup> or not – it may be good for somebody that's going off the Council, but from the standpoint of the benefit of the community, whether it's May or June or July – it doesn't make any difference, as long as what we get on the books is for the good of the community. And that's what we're trying to come up with.

3. John Woods, President and CEO of the Norman Chamber of Commerce, 115 East Gray Street – It's a pleasure to be with citizens giving their time to figure out very difficult decisions. I appreciate your time and efforts volunteering to wade through difficult issues that are in front of you. I want to let you know for the record I am not a developer. And, for the record, I am not a business owner. I am a dad of a 7-year old daughter who frequently drinks out of the tap and the water that she drinks comes from Lake Thunderbird. And so the actions of our city, the actions of this particular Commission concern me as a father. And the future of our city, when it relates to our water quality. I am a homeowner that is concerned about the price of a home when I purchase it. I am someone that is concerned about the environment that I surround my home with – what it looks like aesthetically. I am someone that is concerned about the price of goods and services in my community, and I can say after hearing, over the course of not as much time as our staff has put into this – not as much time as you, as a Planning Commission, may have put into this, or those of you who have served on the working group – as someone that is new to the process, but I have spent several hours trying to catch up to speed and become familiar with this issue.

I can tell you that as I read more of this work product, I come up with more questions than I have answers. So my request to you may not be the same request that you would have from some others that come and speak before you today. I can truly and honestly say from my perspective I do not have the opportunity to tell you unequivocally that there is a situation in which you should absolutely not recommend some type of water quality protection zones. I personally cannot do that. There may become a point in time where the Norman Chamber of Commerce has an official position – and we will be meeting and we have met unofficially to look through this information. I certainly doubt there will be a situation in which we will recommend as it is currently constituted because I think there are serious concerns with the ordinance that is in front of you today. But what I can ask you to do, unequivocally, is to ask the City to take a deep breath and slow down – to take an opportunity to let a working group and committee continue their work and try to reach consensus. I do not believe that's an unreasonable request from the business community of this city to ask upon volunteers and City staff to spend more time looking through these problems. It is a fact that the way we currently develop property by an urban code standards is absolutely the opposite of the way that you would flow water in a method to treat it through a buffer zone. It's undisputed. Water flows to detention facilities from your urbanized settings and flows through pipe systems into a stream bed. It does not flow through any kind of a buffer system. In fact, if one of your major concerns is storm and flood issues, then you would not want a situation in which water, in an uncontrolled format, was flowing through a buffer zone into a stream bed. The very way that we design through a detention pond type facility is to slow the water down. So if we were to redesign – if you admit, or if you can believe, or you can come up with the scientific evidence that a buffer zone is the best way to have a water quality control, then by that very same logic you're admitting that water needs to flow through this buffer zone and not through a slow drain process, thereby creating a higher propensity for flooding in these very areas. So they are in many ways mutually exclusive issues that this particular ordinance causes you to create a serious problem. So, from my position, and from I think the Chamber's position as a whole, we're simply asking you to slow this train down. And it really has been a train over the past month. I have taken a look at the documents. I've taken a look at the very slow and methodical time that staff, that

volunteers, that planning groups have taken to study this issue, and then suddenly in a very short period of time we've sped it up rapidly through the process. I can't really explain why and I don't understand why. But I do know that these citizens sitting on this dias tonight have the opportunity to ask the City let's just take a time out and slow this down a little bit. And let's take a look and see if what those that are speaking tonight are saying are true – that this is not the best method – that this is not the best way to treat your water quality based upon current design standards and how we view detention pond facilities and other mechanisms surrounding our development. Let's take the opportunity to allow the business community to take a look at the true costs of this, because I can tell you right now, as the Chamber President, and as for someone that's interested in the business community, we look at our sales tax revenue dollars. People will spend sales tax dollars within typically a 15-minute drive of where they live. We need citizens, we need individuals living in Norman. You don't need them living in Moore. You don't need them living in south Oklahoma City. If you want to drive sales tax dollars to Norman, you need more residents in this community. You can talk about shifting residences and compacting residences and that may be all legitimate and fine but the end of the day there will be fewer opportunities for housing units in this community which at the end of the day means fewer residents long-term and will mean fewer individuals spending their dollars in this community and that's plain and simple fact. It is plain and simple fact that if you do this – and you may say that the cost versus the quality is worth it. Maybe it is. I don't believe that that would be shown to be the case, but maybe it is. But you need to realize if you do that, you will be increasing the housing costs in the City of Norman, making housing developments outside of this city much more economically feasible for someone to choose to call their home. Plain and simple. No question. Cannot be disputed. And I can tell you one other thing, as someone that has been a former housing association president. There is absolutely no doubt in my mind if you have this type of zone with this kind of growth you will create a potential for fire. I've seen it firsthand and how we experience what a housing association has to do in relation to maintenance of that property. And, second of all, you are going to create a more expensive per house fee in relation to those housing developments. We charged, for example, where I lived at the time \$100 and we had very small areas that we had to maintain. You start to talk about this type of area and you relate that per residence and you could see easily, I think, double or triple the housing maintenance fees annually to those consumers – again giving someone one less reason to want to call Norman home. That, to me, just doesn't make sense. At the end of the day, perhaps the study group will find that this is the way to go. I tend to think not. But all I can ask you to do is wait and weigh these considerations of cost versus the benefits that I don't think have really been undertaken in this process today. So that's what I would ask you to do, is to ask this staff, ask this City, ask that working group to spend more time really digging into these numbers, this data, this distance for its true necessity. Other ways we can compromise and find a way to have water quality be important, but to make sure that we're maintaining cost competitiveness with our neighbors and neighboring communities. And I thank you so much for your time and for your efforts on this commission.

4. Sean Rieger, 136 Thompson Drive, representing the Builders Association of Southcentral Oklahoma – Gosh, we were just here not long ago with another ordinance, weren't we? I think back to that experience where we went through that for over a year. That lighting ordinance was probably less cumbersome in some ways

than this will be on the future of Norman. And now this is being thrust through in a very fast-paced process. We were all stunned tonight, literally, with the revelation that we had never heard that the Task Force was finished. That was news tonight. We had no idea that was the case. I'm not on that Task Force, but several of the people in this room are and that was news to them, I understand. It was nothing we were aware of. There was still very intense discussion in that Task Force right up to last week, and I guess suddenly the plug has been pulled on them. I'm not sure why that was the case. But we have significant concerns about this proposal. I want to talk through just about seven points in general.

First of all, you heard Mr. O'Leary tell you that cities like Norman, Moore, and Oklahoma City are governed by the State of Oklahoma Department of Environmental Quality in their storm water permit process – Phase 2 cities – Phase 1 cities. And what you've heard is the same thing that we've heard for the last two months from Mr. O'Leary is that there is a permit forthcoming from the State that, as he told you tonight, will tell Moore, Oklahoma City, and Norman what to do. That permit, as he told you, is months or maybe about a year away. We've heard July. We've heard this fall. We've heard December. But it is forthcoming and it's soon to be here. It will tell us what to do from the State's perspective. As importantly, it will tell Moore and Oklahoma City what to do. Then we can go forward with those recommendations, and if we want to be higher than that level, certainly we can do that. But it seems imprudent to adopt standards that maybe are not even what the State is recommending we do and maybe are not what the State recommends our neighbors to do, putting us at a different plane. We should wait for the storm water permit to come out from the State to tell us all what we should be doing, and then we should tailor our ordinances to be as such. If we want to be a leader at that point, we still have the opportunity.

I think the next really important point here is how do we build this. You've heard a lot about that tonight, and Harold brought up a development – Richard talked about J&J. I'm going to show them to you on the screen, because it just so happens they were in front of you tonight, and there they are. How do we build this? We're thoroughly perplexed as to how we do this. You've heard it a lot tonight. The concept here is very simple. What you're being told is these buffer zones are going to be put into place so that all the storm water can be taken through these zones and cleansed before it gets into the creeks. Well, look at these subdivisions right here. Take a look at that screen. There is J&J right there. You see these detention ponds right there. That is the treatment train that Richard was telling you about. That's how they do it. They take the water down into these detention ponds, they treat it, release it to the next pond, and there it goes. It works. It's been successful. But if you're going to take this ordinance and apply it to that, then I want you to look at that very closely. You're going to take an extra 100 feet on each side of those ponds. Those lots are 100 and some feet. Let's just say, on average, you're going to take an entire lot on all sides of every one of those ponds. That's a lot of lots. That's a lot of revenue and income stream to that developer. How does he do that? How does he do that and keep the same pricing that you were told earlier it's not going to have an affect on? I don't know how you do that. I have no idea how you do that. Let's look at the one you just approved earlier. Here's the one, and Harold brought this one up. You see right there are the detention ponds – again, the treatment train. Well, if we're going to take an extra 100 feet on each side, those lots right there are 130 feet. You've wiped out huge numbers of lots in that development. For what purpose? Because now look at this again and think about this. You've been told that all the water is going to go through

the buffer zones, but that's not how we develop. That's not how our subdivision regulations require us to develop. Look at this area over here. How are you going to get the storm water in that part of the subdivision to go through buffer zones to these ponds? I guess you could take it through somebody else's lots – through their property and their side yards and back yards. I don't know how you do that. The water goes into the street and goes into pipes and then the pipe takes it subgrade into the pond. It never goes through a buffer – ever. And I don't know how you're going to make it go through a buffer, because to do that you're going to have to take it through lots – through people's back yards. You're going to have to sheet flow it across a wide expanse. Now, if you could do that, maybe you could cleanse the water. But just think common sense wise – just look at that drawing. How do you physically do that? And the answer you heard tonight is the staff doesn't know, either. We're basically going to go with the guidance of the North Texas subdivision regulation that nobody even heard about until about a week ago. We don't know. We don't know how we're going to build this. So there's significant questions left to figure out before we go forward.

There's an engineered option. What they've told us in response to that discussion is don't worry about it, we'll let you do the engineered option and so you don't have to do the buffer zones. The problem with the engineered option is it's through a variance process. And you saw tonight you have to show error. You have to prove that. Somehow they made an error. You have to show that there's no unreasonable disruption to the natural terrain. Well, if we build treatment train ponds, we're going to disrupt the terrain. You have to dig it up and build it. You're going to have to show that you didn't interfere with the full build-out floodplain. In essence, you still have to have the full build-out floodplain. So the variance process is so severe that it will never happen. I don't know how you'll ever get that approved, basically. And how would you get that approved on every development that you would have to do, since you can't really use the buffers?

A homeowners association point is important. I don't think they have a clue right now – the existing homeowners – of what this is saying. We've heard for the past year, since the storm water came out, homeowners associations have begged the City to bring forth some sort of a funding mechanism to help them maintain the common areas. We've heard that repeatedly. This answers what's going to happen in the future on that. This says they will actually maintain those areas very clearly. We've asked for clarity. Well, does that mean the City is going to do the dredging of these ponds when they get over-sedimented? We don't know. Does that mean the homeowners association is going to do it? We know they have large areas that they're going to have to maintain. We know this ordinance actually mentions things about water monitoring and remediation required by the homeowners association. We know this says the developer has to prepare a report for best management practices. Well, every time a developer puts forth a report of what's going to happen on that subdivision in terms of long-term maintenance that means the HOA is going to do that. It's not the developers that are going to do that. So all of this is adding tremendous cost to the HOAs and I think it answers their question as to ever will they see any funding from the City to do these things for them – probably not. Because I don't think the City is going to treat future HOAs differently than they would the existing.

No funding in place. Very important. We just heard Mr. O'Leary tell you that the City will have a very large responsibility in this. They have to go out at least once a year and after every storm to inspect these drainage areas. Another thing that we've learned in this process is that almost all of these other ordinances that you've been told

about in other cities that have anything like this – and there's not much of anything like this – but they have funding mechanisms in place to help pay for the cities' responsibilities in these efforts. We don't have that in place yet. That needs to come in place with this if we're going to mandate the City to have a function as far as maintenance.

Dramatically increases costs. We talked about that. You're going to lose huge numbers of lots. That increases cost. No question about it.

And I think the last point that I want to leave with you is the Moore and Oklahoma City angle. I think that's been brushed over. We are in a competitive market. The developers have to compete in Moore, Oklahoma City, Edmond. They don't compete in Austin. They don't compete in Scottsdale, Arizona. They don't compete in South Carolina or San Antonio. They compete in central Oklahoma. We can be proud to be the leader if you want. I understand that and I believe that concept is genuine, too. But if you're proud to be the leader and you do something that nobody else in your area is doing and you added in tremendous cost in doing so, ahead of before the State has told the other cities to do it through storm water 2, then you've put your community at a severe disadvantage economically. Why would you do that? If the State comes forward and says Moore and Oklahoma City, you will do this and Norman you will do this – no problem. We're on an even playing field. We know we all have to do it. We go forward. But if Norman says we're going to do this, and the State comes out in a year and doesn't make anybody else do it, oh, my gosh. We've just put ourselves in a sling. We can't do that. We can't do that any more in Norman, Oklahoma. We can't do that when Moore is giving \$2 million for Imax theaters and Oklahoma City is going out with its corporate representatives and getting Whole Foods and anything else it wants. We can't do that anymore. We have to watch where we're at in the competitive market.

I urge you to let the Task Force continue its work. I urge you to wait until the State makes it an even playing field and tells us what we should be doing. I urge you to caution this forward with restraint. Thank you very much for your time. I appreciate it very much.

5. Trey Bates, 3720 Timberridge Drive – I'd like to start by kind of setting a stage here that I think sometimes gets turned around a little bit and I'm real sensitive to it and that's this perception I think sometimes that there are these two sides warring against each other. Mr. O'Leary, in his discussion at one point, talked about the last meeting we had as a stakeholders meeting and how contentious it was. And I'll agree that it was somewhat contentious, but it wasn't contentious over one thing and that was the central thing for which we were all there, in that we recognize that we have a problem with Lake Thunderbird and that we need to come up with the solution for Lake Thunderbird. The only area where contention arose was the interpretation and the understanding of the facts as they were being presented to us and the best way to go about resolving the problem that we all recognize that we have with our drinking water. You know, another thing that's really interesting is you look around the table and there's all these people, and at any point in time they could get a job somewhere else and, while they might have fond memories of Norman, Oklahoma, they're going to go on to their other job and they're going to maybe check the newspaper every once in a while or have relationships with some past friends or family that are still here, but they're gone. The people in my industry are married to this town. We can't pack our stuff up and leave. We have to make sure that in order to be successful we have a

great community to live in, that the quality of life goals are achieved, one of which, of course, is that we have great and ample supplies of drinking water, because otherwise who would want to move here? The background that I want to try to lay down here is that in that meeting, while there was a lot of tension, there was no tension – there was no separation in the direction that we all wanted to go with regard to protecting our drinking water.

Now let me tell you a couple of things that were stated that we learned in that group that you haven't been told about. First of all, you saw a slide that showed – and I don't want to quote Mr. O'Leary exactly, but I think he said something like all these other communities are already doing this or are doing it. My first thought is, well, they have all these water quality things in place. Right? They're dealing with water quality. Well, I spent a lot of time looking at it and I can tell you that there isn't a single city in Oklahoma that is doing anything close to this in terms of trying to protect water quality by identifying zones that are 40-acre drainage basins, putting in buffer strips, and calling that a water quality program. Not one. Tahlequah is the closest. They have a 50 foot strip that they've outlawed fertilizer on on their scenic tributaries where water is running all the time. Tulsa – it's all about flooding. And, strangely enough, in Broken Arrow they have a voluntary program where they have worked with the development community to try to develop low impact standards and give them bonuses from their standard if they add these buffer strips. So it's not a mandatory – it's a purely voluntary program that they put in place. My point is, there is not another community that has done anything close to what is being proposed here.

Secondly, what every other community has done, we aren't proposing. Every other community has a funded storm water program. You know, there are costs associated with this. I was part of the original group. Actually, Commissioner Trachtenberg and I were on the first Greenbelt Commission and we worked through that and I was there when we voted to bring on the greenbelt master plan study and include that as part of the storm water plan. I was there through that whole process. And my point is there was never a point where we got off on something so drastically focused on one group of people that wasn't funded. A big part of that was always coming up with a funding mechanism to make sure that we had a complete storm water plan, and that's been lost in this.

Another thing that wasn't told to you today that was brought up and proven in our group was that the graph that showed that 100 foot or whatever it was – 23 meters – the graph that showed the effectiveness of these buffer zones. It was asked and it was proven or stated on the part of staff that these did not apply to urban areas. In fact, I'll give credit to Mr. Hanger. He actually went through various subdivisions in Norman and tried to come up with a calculation of the effectiveness of buffer zones in urbanized areas, and he showed where there was maybe a 20-30% effectiveness in terms of the overall amount of water in a development that would go into a buffer zone. So, in other words, 70-80% of the water in a typical development in Norman, Oklahoma would never reach one of these buffer zones. And I'm kind of doing a little back of the envelope math, and I'm thinking, okay, if 80% of the water never gets to the buffer zones, and the buffer zones are 50-70% effective, then you've got 20% times 70% effectiveness – in other words, a relatively small amount of nitrates and phosphates are removed from buffer zones in urbanized areas, compared, quite honestly, to a great education program on better use of fertilizers. I mean, the point is that we learned in that meeting that the graph was not applicable in urbanized settings.

Another thing we learned – there is no EPA guidance for 100 foot buffer zones. There is an EPA model ordinance, and in the instructions of the EPA model ordinance it says where there's this little water drop you should look at your own community. And, in fact, it's kind of interesting – that's titled forested areas. And if you get in a little bit deeper, they start talking about these real heavily forested areas on the East Coast and they've got these big trees and these canopies hang out over the creeks. And if you get closer than 100 feet, you start disturbing the root structures. And when you start disturbing the roots of the trees, then you compromise the entire channel. And that's where 100 feet makes sense. If you read the EPA model ordinance, it says when you're talking about areas that are grassy or unforested look at the Napa, California ordinance. The Napa, California ordinance is 50 feet. So even if you want to follow the EPA model, it's not 100 feet as a recommendation and, in fact, if you read the instructions it says look at your own community for what makes sense. They weren't specifically recommending 100 feet.

The culmination of all of these meetings is another representation that I take a little bit of issue with. You know, if you're ever asked to serve on a jury and you got two days through the jury deliberations, and they said, okay, you're done – you never reached a culmination. You may not have a unanimous vote, but the culmination occurs where everybody has finally said we've debated all we can debate, we've worked together all we can work together, and now it's time to see where we stand. And I am testifying before you today that event never happened. So there has been no culmination of the Task Force. There is a lot of information that you guys honestly, in my opinion, haven't seen, and I would hope that you would take that into account and help our community move forward with a storm water quality program that makes sense. Thank you.

6. Dan Butler, 4000 Hammer Drive – I've heard a couple of things I just wanted to disagree with a little bit, but then I'll get on to what I want to say. One thing, there are a couple big cities in Oklahoma that are using buffer zones. They're using the buffer zones around their water supply – watersheds – not in their towns. Oklahoma City gets their water from the North Canadian River flowing into Lake Hefner and Lake Overholser and currently buffer zones are being put along the North Canadian River and its tributaries between El Reno and Canton Lake. They're using 300 foot buffer zones. They're also doing a lot of other things, such as getting farmers to go to no-till farming and changing animal practices and things like that.

The second city is Tulsa. They get their water from Lake Oologah and Lake Eucha. Lake Eucha has had terrible algal problems and they're putting buffer zones in the streams that flow into Lake Eucha. The State of Arkansas is doing that also under threat of a lawsuit from the City of Tulsa, but they're doing it. So we have two cities that are putting in buffer zones in areas where it affects their drinking water lakes. Two big cities.

Second point I want to disagree with is these detention basins in subdivisions – they don't do a very good job of taking nutrients out of the water. They do a very poor job, much as farm ponds do a very poor job of taking nutrients out of the water where cattle stand upstream of them. They get loaded up with nutrients in the first couple of years and after that they put out as much as they're taking in. That's well-established research.

Finally, having worked with buffer zones and water quality for the past – well, I retired two years ago, but I worked in that area 28 years and have something to say

about it. I haven't worked in development and the people that have development issues have good points. I take their word for that. But I do have expertise with buffer zones and other practices. I can tell you that the idea that buffer zones are going to solve the problem in Lake Thunderbird is wrong. Much as the low impact development along the houses and in the neighborhoods aren't going to solve the problem in Lake Thunderbird. It takes all of that put together, and even then you don't solve it – you reduce the algae in Lake Thunderbird when all of that is put together. But it takes all those pieces. You can't pull out a piece and expect the rest of it to work. So we need the buffer zones, but we also need the things going on in the homes and the lots in the developments, and you just can't take out one of those pieces and expect success. So people are talking about buffer zones tonight as if they're going to do it, and, no, they're not, but they're needed. They're needed as part of the whole.

Secondly, to use an analogy that might make more sense to everybody, we'll talk about sewage treatment plants. When the first sewage treatment plants came online about the turn of the century, they were very simple. People weren't waiting until it was perfected to put them in. They knew they had to do something and they went ahead and acted with what they knew how to do at that time. Science and engineering has come up over the years with more and better ways to do it, and as those more and better ways are discovered and introduced, sewage treatment plants have changed in their designs so that a sewage treatment plant of the 21<sup>st</sup> century would not even be recognizable to a man that worked in a sewage plant of the early 20<sup>th</sup> century. But you still have to start. You don't say I'm going to wait for the next 100 years or the next 10 years or the next 5 years to see if new science comes along. You make your start and as new science comes along you adjust to it, much as we do with homebuilding or anything else. We're not building homes and conserving energy right now like we did 50 years ago, either. You adapt to the new science that comes along. That's it. Thank you.

There being no further public comment, Chairman Gasaway closed the public hearing and turned discussion over to the Planning Commission.

**DISCUSSION AND ACTION BY THE PLANNING COMMISSION:**

1. Mr. Sherrer said he feels like he's drinking from a fire hose. There are a lot of different opinions being presented. It is a struggle to get a full grasp on all these things within a week. Mr. Butler mentioned that Oklahoma City and Tulsa have done buffer zones at the river or lake level. He asked if that was ever considered as an option. It sounds like we're looking at this as an individual development plan, rather than as a more comprehensive look at going closer to Lake Thunderbird and looking at a way of filtering. Mr. Butler explained that Tulsa and Oklahoma City are doing it at the river and the stream level; they're not doing anything around the lakes. They are going out to individual farm fields, in most cases less than 40 acres, and doing it at that level, all the way up to the first order streams where you don't even have a defined channel. So they're putting in buffers on all these things, not just the streams that have water in them. They are doing a number of other things, too, as they recognize it takes a complete program.

2. Mr. Sherrer is also struggling with what Mr. Rieger mentioned, that the State has some plans to do something in the near future. It seems a little bit odd why we feel that need to do something before then, especially with some of the facts he heard from

members of the Task Force. I don't understand the urgency quite as much, given the comments from the Task Force. I do think there are some things that put you in a competitive disadvantage potentially, and we have to at least consider those things. It seems like there's a lot to digest here.

3. Ms. Pailes commented that Norman is the only city in Oklahoma that has the "most livable" category; we're doing things that no other city in Oklahoma has done. I don't find it a persuasive argument to say that it hasn't been done in Oklahoma before. The example Mr. Rieger gave is true; the property he was talking about has been farmed for many years and it's plowed flat, there is no native vegetation, and whatever the original drainage was it is not clear. In the Lake Thunderbird drainage area most of the streams are channelized and surrounded by natural forest. In that area the buffers make perfect sense. The comment that it probably would make land more expensive is probably accurate; certainly some homes would have greater expense in response to this, but that wouldn't prevent developers from providing lower cost housing in other areas. The main thing is we have a problem with four qualities of Lake Thunderbird and the buffers would address three of them. It seems like a good solution based on science. If you want to provide another solution, you have to provide equal information on a scientific basis. One of the people that has been here forever that's been to all of the meetings was commenting that, basically, the people who came into the room seven years ago kind of opposed to it are still opposed, and the people who came into the room seven years ago more or less in favor of dealing with water problems through environmental best practices are still pro. That's kind of discouraging; basically, nobody has changed anybody's minds. Ms. Connors clarified that the Glenridge Addition is in the Lake Thunderbird watershed.

4. Mr. McCarty said he was on the storm water master plan as well as the recent Task Force that started several years ago. Everybody agrees that we want to improve our water quality; the disagreement is how we do it, because there's more than one way to address this issue, like Mr. Butler said. It is not any one item that can fix this problem and we're not sure what the best way is to fix the problem. It has been quite a learning experience and has been a great process. The process has been going very quickly, there has been a lot of pertinent information that has been provided, there has been a lot of studying done, there have been disputes about how some of the data was provided. I have spent quite a bit of time learning about phosphorous and nitrogen – it's very complex. The work I have read is that primarily buffers work best in areas that are not urbanized – in other words, vacant farm fields that we have that are flat land and mostly in east Norman that feed into these areas. What this ordinance doesn't do today as we build and as we live in Norman is change one thing about the water going into the lake. It's going to put buffers in areas primarily that are going to be vacant land for a long time. One house per ten acres – everything east of 48<sup>th</sup> Avenue is what our current 2025 plan is and where there's current urban utilities. There's no water or sewer beyond those points. I'm having a hard time with this ordinance and why we're in such a hurry to try and write an ordinance that affects a lot of people in a lot of different ways and why we're not concerned about the Canadian River. So this is only addressing water that goes into our drinking water and not to anybody else's rivers downstream, and that kind of concerns me as well. We've asked those questions; why aren't we doing something to talk about how you can fertilize your yards? That would be an immediate impact. We know that ODEQ has

been doing a study that has been pushed back, I'm sure because of budgeting purposes or what have you, that I think is going to probably help us in this ordinance or a future ordinance. I think that it's something that we need to at least have a grasp around the direction that they're going before we start writing an ordinance that we may have to change or adapt in the next year and be back talking about this. The buffers I see more as a quality of life issue to the city than it is nutrient and phosphorous. We already have the backbone, which is the creeks, and we have the FEMA floodplain which is the area outside of the creeks. So in a 1% rain event, water gets to those areas. That's your buffers. What is this land beyond that ever going to do? I'm really struggling. Tonight we heard from Mr. Butler. I wish we had known about what Oklahoma City and I looked at Lake Oologah – I looked at what they're doing. I think the buffers are just around the immediate lake; I don't think it gets into tributaries or creeks from what I could find – I could be wrong. I wish we would have had the information to see what Oklahoma City was doing before tonight to know exactly how they're addressing this, because that's the first I've heard of it. I think that the Task Force could reach a consensus, and I wish that we had more time to work on that to try and do that, just because how big of an ordinance this is and how it's going to affect everything that we do into the Little River and into Lake Thunderbird. There was even a statement made, and I know it's been challenged, at our last public meeting that was here there was a lady that stood up and she said she was with the Thunderbird Water Conservation District and made a comment that the water quality in Thunderbird in the last two years has improved. So some of the things that the developers are doing – it's working, from what we can tell, if that statement is true. Now, I don't know where her data is coming from, but there's other people out there telling us different things than what we're being told. And I have no doubt that we have a potential water problem. It's just how we're approaching it and what the ordinance is before us to fix it. I'm a green certified builder and a LEED certified builder, so I understand the green aspects of what we do and how it affects what we do and our future and our kids and their future and grandkids, and I could go on. I just don't see how this ordinance, the way it is drafted currently, helps us.

5. Chairman Gasaway commented that he was a member of the Storm Water Master Plan committee. Like many issues, and the lighting ordinance is a good example, you can talk things to death. We spent well over a year on the lighting ordinance and I'm not sure that we had any better product after a year than we did after two or three months. We talked a lot about it. We took some things off, put some on, but essentially after a couple of months we were in the same direction as we ended up at the end. I think this issue, as far as the committee itself, has probably reached that point. There's not much more we can learn. There're not many more facts that we can have. I think we've reached a point where it comes down to some people disagree, some people agree. I don't know what else we can present. I missed a meeting or two, unfortunately. I did miss the last meeting. But the meetings that I attended we discussed essentially the same topics at least at two of the meetings. Whether we resolved anything or not, I don't know. But I think we have studied everything that there is to study and I think it's time to decide whether we like the product or we don't like the product. But saying let's study it for another six months – I don't know what else we could study honestly. I think, to that extent, it's detrimental, and I think you can see in the committee that they're starting to feel that, too.

Another comment that was made was let's wait for the State. I've never heard of when the State or the federal government comes in and you sit around and wait for something that you get anything that you want. Usually you get told something that doesn't benefit – it's not tailor made for our area. It's made for the entire state. Some of it we might benefit from; some of it will be drastically different than anything that will benefit Norman. Norman is different. We're not talking about our storm water that runs into the river. We should, at some point, absolutely, and we've bounced around that a little bit tonight. We're talking about our drinking water. We have to do something about our drinking water and that's what makes Norman different. We're not drinking out of the river. We're drinking out of Lake Thunderbird and it's time to do something about it. We should have done this thirty years ago; we're late. We can't repair the damage that's been done. We can't repair the development in areas that should have not been put there thirty years ago. But we can start now and make a difference. We hope Moore and Oklahoma City will participate to some extent, but we can't fix them. We can fix Norman, Oklahoma to the best extent that we know how.

6. Mr. Sherrer felt it would be helpful to have some sort of recommendation from the Task Force, even if it were not a unanimous decision.

7. Mr. McCarty stated that he completely agrees with Mr. Gasaway in some aspects. I'm on several other technical committees throughout the State, and we take a completely different approach to how we want to write an ordinance. We get the people involved that it's going to affect and we all work together as a team to come up with some type of recommendation to fix a problem. If you would get other stakeholders involved in these from the very beginning, I can promise you we would be sitting here tonight with an ordinance that we all could approve and be happy with. I see it done in other states, other cities throughout Oklahoma, and it works. But when you just take an ordinance and you throw it out there and there's a lot of moving parts and a lot of really deep detail and study that goes into it, you end up in the battles in those task force meetings and there is disagreement because of everybody's opinion. But if we started from scratch from the very beginning and we had other engineers and we had Dr. Vieux in there and he helped us with the information he's got, and Harold Heiple and other people that are stakeholders, it works. And that's where I have a real problem with the way that we are doing things – like the lighting ordinance. I truly believe that if we would take a proactive approach in our city to identify the problems, the people that are involved in it, the stakeholders, that we would be here discussing something completely different right now.

8. Mr. Trachtenberg said we've been talking about this issue for seven years. Mr. Heiple said in his presentation that the idea of buffers was a no-go for the point of view that he represents from the very beginning. To be perfectly honest, I was jealous of people like Trey who got picked for that great and deeply important committee – I wanted to be on that group, because I think this is the most fundamentally important thing for this town. It seems to me that the City has been exploring this question with tremendous energy, with tremendous vigor, and with tremendous intellectual capacities represented by people like Dr. Vieux for a long, long time. What I'm a little puzzled by is that the process produced a master plan, that master plan essentially had this concept in it, it was contentious, it was opposed, but it was passed – it was

accepted, I guess, technically, by the City. And what we're doing – and forgive me, Harold, if I use a term that you often invoke here – it seems to me that we're being asked to be kind of ministerial here, which is that there's a policy, it was approved by the legitimate authority in our community – the City Council. The City Council has a process for developing ordinances – or it has a variety of processes for developing ordinances. In this particular case it did not ask a task force to develop an ordinance; it asked the staff to develop an ordinance and to touch base with people who had been stakeholders in this. It did not set up a jury situation. And now that entirely legitimate process has come forward. We've been given a decision to make. Let's make it. There may be very good reasons to disapprove of this ordinance. I support it, but I can totally respect people who don't and think that this ought to go down in flames. Fine. Let's vote on that.

Now, let me just close with one thing, and I'm going to refer to Baxter. I want to say this. Many, many times, in my capacity as a Planning Commissioner, I've been asked to deal with things that I had no clue about. And the lighting ordinance, frankly, was one of those. I happen to know about water, in large part because of Baxter. I've been studying water for seventeen years – pretty much since I got to OU. And I can tell you one thing, that in all the reading, all the study that I've done, I have gone to – I've presented at meetings of the American Water Resources Association – and there is one constant when people talk about water quality and flood control, and as a bonus – as the icing on a cake – recreational opportunities and quality of life issues. Those are the icing on the cake. The one thing that's a constant in all of those discussions is buffers – whether it's 50 feet, 100 feet. I don't know. That's a technical issue. But the one thing that I can just assure everybody in this room that is the constant in discussions of water management, water quality, and flood control is buffers. That's what it is. We've known this as a society for as long as people have studied it, and that's not going to change. It's not going to change in a month; it's not going to change in a year; it's not going to change in 20 years. That's the truth. So I'm behind this. I support this. I've given you my reasons. But we're all very intelligent, thoughtful people here. We've got to bring our values to bear on the facts, and that combination might lead you to think this is a bad idea. Then vote against it.

*Zev Trachtenberg moved to recommend adoption of Ordinance No. O-1011-52 and Ordinance No. O-1011-53 to the City Council. Roberta Pailles seconded the motion.*

9. Mr. Lewis said he intends to make a motion to postpone this item, because he appreciates the time that Commissioners and staff have invested in this, and appreciates the comments by Mr. Vieux, Mr. McKown, Mr. Wood, Mr. Heiple, Mr. Bates, Mr. Rieger, and Mr. Butler. I think it brings a wealth of knowledge to the table. What I'm concerned about, and I will echo exactly what Andy said – if you've ever been sitting at a railroad crossing watching a train go by, you have train cars going past and you can't even see what's on them, they're going so fast. When I look up the track and down the track, I can read what's on the car because it slows down and I can see that. When something comes to my desk a week ago, and a few hours – something I've never seen before that's as comprehensive as this ordinance is and affects as many people as this ordinance does, I have to question in my mind why this ordinance is moving so fast through the Planning Commission. After hearing comments tonight that the Task Force never actually came to a decision, that they didn't even know they were completed, and again for this ordinance to be on the table in front of the

Planning Commission is very shocking to me. I have been going at 100 miles an hour trying to get my hands around this ordinance, knowing that I have to make a decision of either approving or disapproving to send on to City Council. I have to know that, as Mr. Wood said, the decision I make will affect many generations to come within this city, because it's a recommendation to City Council as to what they do. Do they take our recommendation as a Planning Commission or do they do something else? So, respectfully to my colleague Mr. Trachtenberg, I think the only thing that really this Commission can do is table this ordinance – give it back to the Task Force until they come up with a decision or a recommendation and then let it come through the Planning Commission at a very prudent pace, where the Commissioners will have time to evaluate it, to thoroughly understand it. And I don't make my comments lightly. Resolution by the Planning Commission 9899-1, which was adopted May 13, 1999, and amended June 13, 2002, clearly says when something can be tabled or postponed, and it says "It further is resolved by the Planning Commission agenda items for a public hearing maybe be tabled in the event of the following circumstances: when a request has been amended" and I think we definitely heard from Ms. Walker that there is going to be amendments coming forward. There's going to be minimum and maximum amendments on the height of the vegetation in the buffer zones coming forward. Unquestionable. It also says "when the Planning Commission determines that circumstances warrant further study." I've been waiting all night for somebody to tell me that, indeed, buffer zones work. I haven't quite got that yet. I've been waiting all night for someone to say I understand this ordinance backward and forward that sits on this Planning Commission, and I get the sense – and certainly I don't want to speak for every Commissioner; I can only speak for myself – but I get the sense that many of this Commission are as blind-sided by the technicality and the depth of this ordinance as I am. Some may not be, and I respect them greatly for having a grasp and a depth of knowledge about something that will be moving forward. But I would recommend and potentially make the motion that we table this item, give it back to the Task Force, let them make a recommendation, and let it come through at a prudent pace. That is the responsible thing to do, not only tonight, but for the entire future of Norman going forward.

*Chris Lewis moved to postpone Ordinance No. O-1011-52 and Ordinance No. O-1011-53 indefinitely. Curtis McCarty seconded the motion.*

Ms. Walker cited Robert's Rules of Order and indicated that a motion to postpone indefinitely does not take precedence over a motion on the floor.

10. Ms. Gordon stated that she didn't feel blind-sided and did understand most of the ordinance. She didn't find it particularly heavy. She agrees with most of the comments in favor of the ordinances. While it's not perfect, sometimes you have to go ahead because it's not always possible to reach consensus.

*Curtis McCarty moved to postpone Ordinance No. O-1011-52 and Ordinance No. O-1011-53 until June, or until the Task Force can reach a consensus and bring something forward. Chris Lewis seconded the motion.*

Ms. Walker explained that a motion to postpone to a certain time takes precedence over a motion to postpone indefinitely, to amend, and to commit. Ms. Connors noted

that the motion was either/or. Ms. Walker indicated that it would need to include a specific date.

*Curtis McCarty moved to postpone Ordinance No. O-1011-52 and Ordinance No. O-1011-53 until June 9. Chris Lewis seconded the motion.*

There being no further discussion, a vote on the motion to postpone was taken with the following result:

YEAS	Diana Hartley, Chris Lewis, Curtis McCarty, Andy Sherrer,
NAYES	Cynthia Gordon, Roberta Pailes, Zev Trachtenberg, Jim Gasaway
ABSENT	Tom Knotts

Recording Secretary Roné Tromble announced that the motion to postpone Ordinance No. O-1011-52 and Ordinance No. O-1011-53 until June 9 failed by a vote of 4-4.

There being no further discussion, a vote on the motion to recommend adoption of the two ordinances was taken with the following result:

YEAS	Cynthia Gordon, Roberta Pailes, Zev Trachtenberg, Jim Gasaway
NAYES	Diana Hartley, Chris Lewis, Curtis McCarty, Andy Sherrer,
ABSENT	Tom Knotts

Recording Secretary Roné Tromble announced that the motion to recommend adoption of Ordinance No. O-1011-52 and Ordinance No. O-1011-53 to the City Council failed by a vote of 4-4.

Chairman Gasaway asked for clarification of the result of these votes. Ms. Walker explained that the ordinances will go forward to City Council without an affirmative recommendation, and we will send detailed minutes forward.

\* \* \*

CITY COUNCIL  
PLANNING AND COMMUNITY DEVELOPMENT  
COMMITTEE MINUTES  
April 8, 2011

The City Council Planning and Community Development Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 8:00 a.m. in the Conference Room on the 8th day of April, 2011, and notice and agenda of the meeting were posted in 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 Atkins, Cubberley, and Chairman Butler

ABSENT: Councilmember Griffith

OTHERS PRESENT: Mayor Cindy Rosenthal  
Councilmember Carol Dillingham  
Councilmember-Elect Roger Gallagher  
Ms. Susan Connors, Planning and Community Development Director  
Mr. Ken Danner, Development Manager  
Mr. Bob Hanger, Storm Water Engineer  
Mr. Doug Koscinski, Current Planning Manager  
Mr. Steve Lewis, City Manager  
Mr. Shawn O'Leary, Director of Public Works  
Ms. Kathryn Walker, Assistant City Attorney  
Mr. Tom Knotts, Planning Commission Liaison  
Mr. Geoff Canty, Storm Water Task Force  
Mr. Russ Dutnell, Storm Water Task Force  
Mr. Harold Heiple, Attorney for Norman Developers Council  
Ms. Karla Chapman, Administrative Technician

UPDATE ON THE WATER QUALITY PROTECTION ZONE (WQPZ) ORDINANCES.

Ms. Susan Connors, Planning and Community Development Director, provided an update from the Planning Commission (PC) meeting held April 7, 2011, and said all but three Planning Commissioners were present and no other citizens were in attendance. She said Staff provided a presentation on the Storm Water Master Plan Draft Water Quality Protection Zone Ordinances and gave background information on the Storm Water Master Plan (SWMP). Ms. Connors said Staff addressed questions from the PC Commissioners and felt the discussion regarding the proposed ordinances was excellent and very helpful. She felt there was no total dissent from any of the PC Commissioners on the entire proposed WQPZ ordinances but there were a few concerns.

Mr. Shawn O'Leary, Director of Public Works, agreed the PC meeting was very beneficial and contained valuable and engaging discussion. He felt the PC Commissioners understood the key issues and requirements of the proposed ordinances, including the three options developers can choose from when creating a development, which are: 100 feet in width, measured from the top of the bank, on either side of the stream; designated Full Build-Out Floodplain (FBF); or the Federal Emergency Management Association (FEMA) Floodplain. Mr. O'Leary said Staff provided examples and illustrations for the three options.

Mr. Tom Knotts, Planning Commission Liaison, agreed the PC meeting was very constructive but concerns of whether the City or a Homeowners Association (HOA) would provide maintenance for a WQPZ buffer and fire prospects did surface.

Mayor Rosenthal asked Staff to provide the key changes to the proposed ordinances since the Committee last discussed this issue at the February 11, 2011, PCDC meeting and Ms. Kathryn Walker, Assistant City Attorney,

said most changes occurred in the Subdivision Regulations, Section 19-411, of the Code of the City of Norman. She said the following language has been added to the proposed ordinance:

**Sec 19-411(B)(2):** “An alternative width determined by an engineered process and approved pursuant to Section 19-601(B)”, making it more clear that variations are allowed for the required width for all the WQPZ’s.

**Sec 19-411(D):** “The base width of the WQPZ outlined in (B) above may be reduced for first order streams to no less than fifty (50) feet but never less than the FBF...”, which streamlined reduction on first order streams as long as the applicant(s) show other methods used to reduce nitrogen of at least 75% and phosphorus of at least 58%. Ms. Walker said this would typically be the more urban areas where streams are a little harder to identify and it would make good sense to have this option.

**Section 19-411(H):** “For all developments, particularly those containing some portion of the WQPZ, utilization of low impact development strategies are encouraged...” Ms. Walker said the City does not currently have a low impact development manual but when plats or Norman Rural Certificates of Survey (COS) include portions of the WQPZ, the current Engineering Design Criteria may be modified when low impact development strategies are utilized in accordance with the North Central Texas Council of Governments (NCTCOG) Integrated Storm Water Management Manual found at <http://iswm.nctcog.org/> and also on file in the Public Works Department. Staff’s hopes are the NCTCOG Integrated Storm Water Manual will be well received, particularly by the development community, since it is from the same region. Ms. Walker said the Citizen’s Storm Water Task Force has pointed out that Norman’s typical “curb and gutter” subdivision will not achieve the best benefit out of the WQPZ buffer and other options, such as the NCTCOG Integrated Storm Water Manual, are needed to accommodate and make the WQPZ buffers work well.

Mr. Shawn O’Leary, Public Works Director, said the NCTCOG took over three (3) years to develop the manual and it would be an excellent tool for Norman to use in the interim. He asked Mr. Bob Hanger, Storm Water Engineer, to highlight some of the examples of the NCTCOG Integrated Storm Water Manual and how it can be used relevant to the proposed WQPZ ordinance(s). Mr. Hanger said the main focus of the Integrated Storm Water Manual is water quality, stream bank protection, and flood mitigation and conveyance. He provided excerpts and examples featuring design practices to preserve riparian buffers, reduce roadway lengths and width, reduce building footprints, using vegetated swales instead of curb and gutter, and drain runoff to pervious areas.

Councilmember Butler said questions have been asked whether language should be added to the draft WQPZ ordinance(s) referencing the Corps of Engineers (Corps) 404 Floodplain Permit process, blue-line streams, etc., and Mayor Rosenthal said the development community has raised concerns that the City’s requirements should not conflict with the Corps 404 Floodplain Permit requirements, thus creating a no-win situation when trying to comply with both. Mr. O’Leary said Corps’ intentions on the 404 regulations (on blue-lines) are to stay away from the stream(s), and they even feel the untouched stream(s) should not be cleaned up. He said the City’s issue has more to do with getting the stream(s) so that they can actually function to receive the storm water run-off when located near or adjacent to a development. He said the feedback he has received is that the Corps likes Norman’s proposed WQPZ “buffer” ordinance very much and the proposed requirements are exactly what the Corps would like to see Norman, as well as other cities, achieve.

Councilmember Dillingham said her understanding of the 404 Floodplain Permit process is the concept of “no net loss of stream” and since the 404 Floodplain Permit is an on-going and changing federal program, she wondered if Norman was creating any issues in reference to the blue-line versus going from the edge of the bank. Mr. Geoff Canty, Storm Water Task Force (SWTF) Member, gave his perspective and felt the “edge of the bank” is a relevant area where change in elevation would probably be well outside of the Corps’ jurisdiction. Mr. O’Leary agreed stating the Corps is mainly concerned with bank to bank, inside the stream more so than bank to bank, outside of the stream. Councilmember Dillingham felt the City will always be outside the blue-line when dealing with the “no net loss of stream” concept and therefore the 404 Floodplain Permit regulations should not conflict with the proposed ordinance(s). Mr. Canty said just because a stream shows up as a blue-line on a United States Geological Survey (USGS) map does not mean it is a 100% guarantee that the stream is a jurisdictional body of water the Corps has control over. He said a process is available to remove a jurisdictional body of water, i.e., first order streams, that is no longer functioning as an intermittent stream. The Corps also allows for a self permitting process (General Permits), to remove certain lengths of streams, where permits would not be required but adhering strictly

to Corps's language would be a requirement, i.e., Storm Water General Permit, Linear Transportation General Permit, etc. Mr. Canty said the Corps only regulates fill and redistribution fill of a stream therefore if a bridge or box (under a certain size) needed to be built, a permit independent of the City can be applied for and obtained. Mr. Canty said up to 300 linear feet of a stream can be affected, i.e., install a concrete pipe, etc., therefore making it a contradiction of the proposed WQPZ ordinance. He said the 404 Floodplain Permits change every five (5) years and depending on the intentions and directives in Washington, D.C., the 404 Floodplain Permits can become more or less stringent. He said there is also a possibility that the individual Corps General Permits, enabling an entity to perform work within the Corps' purview, may not ultimately be the City's desire and Mr. O'Leary stated the Corps is the federally regulatory body and the City of Norman is secondary to the Corps.

Councilmember Dillingham said, based on Mr. Canty's remarks, she wondered how difficult it will be if and when a stream is declared non-jurisdictional, specifically how it will dovetail with first order stream(s). She felt that this issue will be the most conflicting and suggested Staff make certain the City's variance procedure(s) does not interfere with the non-jurisdictional process and vice versa. Mayor Rosenthal said the local developers have raised the issue of the blue-line stream and asked Mr. Harold Heiple, Attorney for Norman Developers Council, if he had any follow-up questions or remarks. Mr. Heiple thanked Mayor Rosenthal but said he was not familiar enough with Corps's regulations to comment.

Mr. Russ Dutnell, SWTF Member, said the Corps has three basic priorities: avoidance, minimization, and mitigation. He said the individual General Permit will suggest first to avoid the stream completely, the next step would be to minimize damage to the stream, and thirdly to mitigate or restore any damage to the stream. Mr. Canty said when looking at the removal of jurisdictional determination, the Environmental Protection Agency (EPA) simply has to concur with the decision. Mayor Rosenthal felt tying the City's proposed WQPZ ordinance to the blue-line(s) might be problematic since the 404 Floodplain Permit/blue-line(s) change every five (5) years, making procedures more and/or less stringent. Mr. Canty said the blue-line(s) on the USGS map are purely for reference and the maps can be accessed and verified by the public. He said the Corps will state the blue-line(s) are their first screening step and not what they base their final decision on, however when a stream is located on a blue-line map, more than likely the Corps will determine they have jurisdiction. Mr. Canty felt simply because a blue-line is tied to a stream on a USGS map does not necessarily make it an unfavorable standard for the City.

Mr. O'Leary said discussions on the proposed WQPZ ordinances always involve the issue of maintenance, specifically whether the HOA's or the City should maintain the WQPZ buffers and are the WQPZ buffers creating a fire hazard. He felt a lot of excellent debate was accomplished at the April 7, 2001, PC meeting which quickly evolved into the larger discussion of the Storm Water Master Plan (SWMP), the proposed utility fee, and the City performing enhanced maintenance services, etc. Mr. O'Leary said the proposed WQPZ ordinances addresses maintenance issues and assumes that most of the maintenance will be done by the adjacent property owners as well as the maintenance remains fairly natural, making the maintenance less instead of more to maintain.

Staff said a recent change in the draft ordinance was Section. 19-514(D) and (E) addressing the minimum grass height standards for Zone 1, Streamline Zone; Zone 2, Middle Zone; and Zone 3, any portion within 30 feet of a primary structure. Councilmember Atkins said if WQPZ buffers are to be exempt in accordance with Section 10-209, they could possibly have six foot high weeds/grass growing in or near them. He said he was very concerned about the minimum grass height standards versus maximum ordinance standards for Zones 1 and 2, because of the recent fires in Ward 1, specifically on Beaumont Street near the Campus Lodge Apartments. Ms. Walker said she may need to tweak this section a little and said she has discussed this issue with the City Fire Marshall. She said the Fire Marshall explained their direct authority is the National Fire Protection Association (NFPA) which recommends three zones around a house, i.e., closest to the home is turf and the further away from the home can have higher grass/vegetation because it is less risk to the home. She said the NFPA Zone 1, closest to a home, is similar to what the WQPZ Zone 3, Outer Zone could be in subdivisions. Basically, Zone 3 would allow for shorter grass or similar vegetation within 30 feet of a primary structure(s) to be maintained in accordance to Section 10-209, because it would be less fuel for a fire if a fire

was to occur. Zone 2 would allow grass or vegetation to be mowed and/or maintained to a height below six (6) inches and Zone 1 would allow any grass or similar vegetation to be mowed and/or maintained to a height below eight (8) inches.

Councilmember Dillingham said in reference to City maintenance of WQPZ, she suggested Staff keep in mind that the Zone(s) are merely one piece of a lot of ordinances and discussions will be needed to determine an appropriate application/entry if the proposed WQPZ is adopted. She said Staff will need to discuss how long a development may take to come forward that would be regulated by the proposed WQPZ ordinance and make certain the City will be ready to undergo the extra effort it will take in order to maintain a WQPZ buffer. Mr. O'Leary agreed and said this is exactly the direction the discussions have been going, i.e., should the WQPZ issue be ahead (or behind) the WQPZ maintenance issue. He said in many ways the example of the Summit Valley Addition, which is near a second and third order stream, has been a great tool and Staff is researching in order to locate examples of an existing Norman subdivision that are near a first order streams.

Mr. O'Leary said Staff will provide a full presentation on the proposed WQPZ ordinance(s) at the PC Public hearing scheduled for April, 14, 2011, and will include the calculation tables for the areas consumed around a FBF for the current urban as well as the country suburban. Councilmember Butler requested Staff forward the latest proposed draft WQPZ ordinance(s) and calculation tables to the SWTF and Mr. O'Leary answered in the affirmative.

Councilmember Dillingham asked Staff if a policy goal was included in the proposed WQPZ ordinance encouraging low impact development and Ms. Walker said Section 19-411(H) states..."For all developments, particularly those containing some portion of the WQPZ, utilization of low impact development strategies are encouraged...".

#### DISCUSSION REGARDING LOW IMPACT DEVELOPMENT STRATEGIES FROM THE NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS INTEGRATED STORM WATER MANAGEMENT MANUAL FOR WHICH ENGINEERING DESIGN CRITERIA COULD BE MODIFIED UNDER THE WQPZ ORDINANCE.

Ms. Kathryn Walker, Assistant City Attorney, said the NCTCOG Integrated Storm Water Manual consists of a lot of cities in the Texas metroplex area, including Dallas and Fort Worth, and incorporates specifications for low impact developments. Councilmember Atkins felt the City should obtain a license agreement from NCTCOG, rather than linking Norman's regulation to a North Texas Storm Water Management Plan. He said if NCTCOG amends the Integrated Storm Water Manual then Norman would have to abide to the changes as well. Mayor Rosenthal felt Norman would merely be referencing the NCTCOG in order to provide design criteria that Norman, or any other city in Oklahoma, currently does not have and she felt a major concern of the development community was to know some of the low impact alternatives. She said Staff looked at many alternatives that Norman can use and take advantage of the work that already has been completed, adopt the alternatives, and modify as needed to meet Norman's desires. The Committee agreed and Ms. Walker said she has contacted NCTCOG and it is possible for Norman to get a license. She said NCTCOG has created a process for cities to obtain a license to the Integrated Storm Water Manual and cities can then modify and/or adopt as needed. She felt the City should acquire a license and once attained, the Integrated Storm Water Manual would be received in a word format so that it can be modified to fit Norman's needs and become Norman's regulations.

#### MISCELLANEOUS DISCUSSION.

Councilmember Atkins said Staff provided information to Council stating an additional 5300 units will be built in the near future, adding to the City's water demand. He asked if Norman has a Strategic Water Plan (SWP) and Staff answered in the affirmative. Councilmember Atkins felt a review of the SWP was needed and Mr. Steve Lewis, City Manager, said the Chromium Six Committee discussions have included updating the SWP, which was approved in 2003. Mr. Lewis said the proposed FY2012 Budget includes a \$300,000 update to the SWP. Mayor Rosenthal said the Oklahoma Municipal League (OML) has placed an initial/interim report for the State Water Plan on line which includes significant municipal water implications.

Mr. Lewis said the Weekly Report to Council will provide a link to obtain this information including information on 13 forums that will be taking place around the state over the next couple of months.

Items submitted for record

1. Memorandum dated April 4, 2011, from Ms. Susan Connors, Director of Planning and Community Development, to Chairman and Members, Norman Planning Commission.
2. Draft Ordinance O-1011-52, to Provide for Standards and Requirements for a Designated Water Quality Protection Zone Inclusive of the Lake Thunderbird Watershed, Chapter 19, of the Code of the City of Norman
3. Draft Ordinance O-1011-53, for Water Quality Protection Zoning Overlay District, Section 429.7, of Chapter 22, of the Code of the City of Norman
4. ISWM Technical Manual – Planning, integrated Site Design Practice #2: Preserve Riparian Buffers, submitted by Mr. Bob Hanger, Storm Water Engineer.

The meeting adjourned at 8:51 a.m.

---

City Clerk

---

Mayor

## COUNCIL CONFERENCE MINUTES

March 8, 2011

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a conference at 5:30 p.m. in the Municipal Building Conference Room on the 8th day of March, 2011, 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 Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal

ABSENT: Councilmembers Ezzell and Quinn

### DISCUSSION REGARDING THE STORM WATER MASTER PLAN – DRAFT WATER QUALITY PROTECTION ZONE ORDINANCES.

Mr. Shawn O’Leary, Director of Public Works, reviewed the past history for the Storm Water Master Plan (SWMP). He said the goals and objectives were to obtain public input; public education; consensus building throughout the community; water quality; merging stormwater with recreation; and funding solutions. He said the goals and objectives have been met throughout the planning process and water quality, particularly the focus on Lake Thunderbird and Norman’s drinking water supply, has been a common theme throughout discussions. He said the Canadian River Watershed, Bishop Creek, Imhoff Creek, Brookhaven Creek, etc., were all considered in the discussions as well and flooding and drainage are also important pieces of the SWMP process.

Mr. O’Leary said several public forums have been held to discuss the SWMP as well as task force meetings, ward meetings, Council study sessions, multiple Greenbelt Commission meetings, and multiple civic group presentations.

Mr. O’Leary described key issues for the SWMP as follows:

- Stream Planning Corridors (also known as the Full Build-Out Floodplain (FBF) and additional buffer strips
- Structural and nonstructural storm water quality controls
- Acquisition of drainage easements and rights-of-way
- Enhanced maintenance of creeks and detention facilities
- Dam safety

Mr. O’Leary said the SWMP incorporated the concept of stream planning corridors or FBF. He said Post, Buckley, Schuh, and Jernigan, Inc., (PBS&J) developed a set of local floodplain maps that surpass the Federal Emergency Management Agency (FEMA) floodplain maps. He said the City’s current floodplain maps were developed and adopted in 1970 and the FEMA floodplain maps are based on existing conditions only. The local floodplain maps are based on future FBF conditions, or stream planning corridors and FBF are the basis of the maps developed in the SWMP.

Mr. O’Leary said, during public meetings, water quality was the key regional issue. He said other public comments included questions regarding stormwater utility fee variances and/or exceptions; how enhanced maintenance needs will be met; invasion of privacy issues where recreation trails are near back yards when merging the SWMP with the Greenway Master Plan (GMP); the need for low impact development standards; availability of state /federal funds; the term limit for a utility fee system; and the idea of separating the GMP from the SWMP instead of merging them together.

Mr. O'Leary said early discussion of the SWMP included an Oklahoma Department of Environmental Quality (ODEQ) Watershed Plan Development; Oklahoma Conservation Commission (OCC) Water Quality Modeling results, and the Central Oklahoma Master Conservancy District (COMCD) Rock Creek Watershed Study. He said the Oklahoma Water Resources Board (OWRB) had declared Lake Thunderbird an impaired water body in the areas of turbidity, dissolved oxygen, and Chlorophyll-A levels. He said Chlorophyll-A is the major ingredient in algae growth and the increased Chlorophyll-A levels have become an alarming trend over the last ten years.

Mr. Randy Worden, Executive Director of COMCD, said the COMCD had filed a lawsuit against the OWRB, ODEQ, the City of Oklahoma City (OKC), and the Oklahoma Department of Transportation (ODOT) because of a permit application submitted by ODOT and OKC to discharge storm water into the Lake Thunderbird Watershed. He said, at that time, Lake Thunderbird was having problems with nutrients and dissolved oxygen and if ODEQ had approved the application, it would have made the problems worse. Mr. Worden said OKC, ODOT, and the Oklahoma Turnpike Authority (OTA) entered into an agreement to conduct a total maximum daily load (TMDL) study to coordinate a Watershed Management Plan. He said this was to be completed by April, 2010; however, that has been extended to later this summer. A reservoir modeling effort will be completed by the end of the year with a final report submitted in the summer of 2012. He said turbidity is causing the problem in Lake Thunderbird, not only to water quality standards, but capacity too. He said a report prepared in 2001 indicated 54% more sedimentation in Lake Thunderbird than originally planned. He said the problem with that is the sedimentation is reducing the capacity of the lake, which is critical since it is a major water supply to three cities. He said Norman is taking a very proactive approach with the SWMP.

Mr. O'Leary talked about buffer width a/k/a water quality protection zone and said 100 feet of greenspace buffer actually removes 70% to 75% of nitrogen and phosphorous from the water. Mr. Baxter Vieux of Vieux and Associates, said his company worked with the OCC on a study to target best management practices for the watershed. He said Norman, as mentioned before, is on the impaired water list. He said storm water becomes drinking water so the nature of the water supply is critical for other purposes than just aesthetics. His company analyzed the watershed to understand where the loading of various nutrients and sediment was coming from. He said phosphorus comes from urban runoff of fertilizer that finds its way into the lake, which is already doubled from 2003 projections, which is six times over the water quality standard.

Mayor Rosenthal asked if phosphorous levels can be solved by voluntary controls of fertilizers and teaching the public about what to spread on their lawns. Mr. Vieux said if everyone in Norman joined under voluntary fertilizer reduction, it would only be 15% effective and needs to be 60%.

Mr. O'Leary said the stream planning corridors have been a high priority as an effective method to address water quality issues. He said when Council adopted the resolution on November 10, 2009, accepting the SWMP they basically recognized the following underlying values:

- 2025 Land Use Plan guides all land development
- Preservation of water quality
- Protection of private property from flooding
- Accepted key guiding principle of the GMP
- Adopted the SWMP Action Plan

Mr. O'Leary said the resolution did not commit the City to any funding strategy, enact any new regulation, or require any additional dedication of land, which could come up in the water quality protection zone ordinance.

Mr. O'Leary said the FBF is an area of land along both sides of a drainage corridor that encompasses the areas projected to be inundated by the 1% chance flood event in any given year assuming full build-out watershed conditions in those areas with 40 or more acres of drainage in the Lake Thunderbird watershed. He said Summit Valley Addition is an example of FBF. He said the subdivision was platted ten years ago and has a tributary of Dave Blue Creek that runs through the center of the development and discharges into Lake Thunderbird. He said the development was not designed to comply with the water quality protection zone ordinance because the ordinance did not exist at that time; however, the development complies almost completely, if not over complies with the water quality protection zone concept making it a model development.

Mr. Bob Hanger, City Engineer, said the water quality protection zone would be approximately 100 feet on each side of the FBF or the FEMA floodplains, whichever is the widest. He said the width of the water quality protection zone is decided by stream order, which is a method of numbering streams as part of a drainage basin network. He said the streams used are depicted on the United States Geological Survey (USGS) map and presented examples of water quality protection zone boundaries in Norman. Mr. O'Leary said the issue of the water quality protection zone, up to this point, only applies to the Lake Thunderbird Watershed. He said urban Norman would not be affected by the water quality protection zone as currently developed.

Mr. O'Leary said there are two versions of the ordinance. One is a Zoning Overlay District for Lake Thunderbird watershed and the other ordinance is for subdivision regulations to be used during the platting process. He said Staff has utilized studies from other towns and cities in Oklahoma that have or are working towards water quality protection.

Mr. Hanger said the City would use a three buffer zone system as follows;

- Zone 1 – streamside zone will have very restricted uses
- Zone 2 – midway from the stream with managed forest and restricted uses
- Zone 3 – farthest area from the stream with forest or turf and less restrictions

Mr. O'Leary said the buffer width would be measured from the top of the stream bank, not the FBF, with 100 feet being the standard. He said the ordinances are not retroactive, but new developments would be impacted. He said the ordinances include variance provisions; engineering solutions; buffer averaging; slope standards; stream order; and also allow for clustering of lots. He said there has been discussion and questions regarding Property Owner Association (POA) maintenance and what that would entail. Mr. O'Leary said the City would like the buffer zone to be left as natural as possible and would probably not require maintenance by property owners.

Mayor Rosenthal said the information presented to Council tonight should be presented to the public for feedback prior to the public forum scheduled for March 21, 2011. Councilmember Kovach suggested the information be placed on the City's website as soon as possible for citizens to review. Councilmember Dillingham asked if Staff will have the answer to how many more acres the FBF will require than the FEMA Floodplain maps by the time of the public meeting and Mr. O'Leary said yes, Staff is working on that now.

Councilmember Kovach asked Staff to estimate the cost to treat the Chlorophyll-A levels.

Items submitted for the record

1. PowerPoint presentation entitled, "Storm Water Master Plan Draft Water Quality Protection Zone Ordinances," City of Norman, Cleveland County, Oklahoma, City Council Conference, March 8, 2011
2. Draft ordinance for standards and requirements for a designated water quality protection zone inclusive of the Lake Thunderbird watershed
3. Draft ordinance for a Water Quality Protection Zoning Overlay District
4. Agreement by and among the Central Oklahoma Master Conservancy District and the Oklahoma Department of Environmental Quality effective June 1, 2007
5. Map of the Lake Thunderbird Watershed

The meeting adjourned at 6:27 p.m.

ATTEST:

---

City Clerk

---

Mayor

CITY COUNCIL  
PLANNING AND COMMUNITY DEVELOPMENT  
COMMITTEE MINUTES  
February 11, 2011

The City Council Planning and Community Development Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 8:02 a.m. in the Conference Room on the 11th day of February, 2011, and notice and agenda of the meeting were posted in 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 Atkins, Cubberley, Griffith, and  
Chairman Butler

ABSENT: None

OTHERS PRESENT: Mayor Cindy Rosenthal  
Councilmember Carol Dillingham  
Councilmember Dan Quinn  
Mr. Jeff Bryant, City Attorney  
Ms. Susan Connors, Planning and Community  
Development Director  
Mr. Ken Danner, Development Manager  
Mr. Bob Hanger, Storm Water Engineer  
Mr. Doug Koscinski, Current Planning Manager  
Mr. Steve Lewis, City Manager  
Mr. Shawn O'Leary, Director of Public Works  
Ms. Kathryn Walker, Assistant City Attorney  
Mr. Tom Knotts, Planning Commission Liaison  
Ms. Robin Allen, Chamber of Commerce Interim Director  
Mr. Harold Heiple, Attorney for Norman Developers Council  
Mr. Sean Rieger, Attorney for Builders Association of South  
Central Oklahoma  
Mr. Tom Sherman, Chamber of Commerce Officer  
Ms. Karla Chapman, Administrative Technician

STATUS UPDATE ON THE STORM WATER MASTER PLAN IMPLEMENTATION PLAN.

Mr. Shawn O'Leary, Director of Public Works, said a great deal of work has been accomplished since Council adopted the Storm Water Master Plan (SWMP) Action Plan on November 10, 2009. He said Staff developed a 20 year implementation plan with the 30 "key" recommendations dealing with storm water improvements to storm water quality. He said Staff then took each recommendation and set out milestones, gave a description and category, responsible party and/or Staff leader, and status for each.

Mr. O'Leary said the SWMP Task Force consists of 12 citizens representing all aspects of the community and storm water interest groups, as well as Planning and Park Board Commissioners, City Developers, and Oklahoma University (OU) representatives. He said Staff and the SWMP Task Force knew one of the more controversial and challenging issues of the SWMP was the concept of stream planning corridors and the Water Quality Protection Zone (WQPZ) has been the main focus.

Mr. O'Leary said Staff researched other cities in Oklahoma and across the country, as well as the model Environmental Protection Agency (EPA) ordinances in order to develop an ordinance to "fit" Norman. He said Staff prepared two ordinances, the first draft WQPZ Overlay District (WQPZOD) would be an amendment to the Zoning Ordinance Regulations and create an overlay district having boundaries that would *only* apply to the Lake Thunderbird Water Shed. The SWMP Task Force felt the City's primary goal should be to protect Lake Thunderbird – Norman's drinking water supply. He said the City must also comply with storm water quality

requirements to include the Municipal Separate Storm Sewer System (MS4) Program, Canadian River and Bishop Creek Bacteria Total Maximum Daily Load (TMDL), and the future Oklahoma Department of Environmental Quality (ODEQ) Lake Thunderbird Watershed Plan. Mr. O'Leary said the WQPZOD would not include Brookhaven Creek, Imhoff Creek, Ten Mile Creek, or Bishop Creek and would not be retro-active for existing developments. The second draft WQPZ ordinance would be an amendment to the Subdivision Regulations and the flooding and drainage goals include providing public safety, protect public and private property, and integrate recreational opportunities.

The SWMP Task Force is scheduled to meet later today to review the SWMP Action Plan and draft WQPZ ordinances. Mr. O'Leary highlighted the proposed process and schedule for final approval of the WQPZ ordinance(s) is as follows:

- ❖ March 8, 2011 – City Council Study Session
- ❖ March 14, 2011 – Public Forum
- ❖ March 15, 2011 – SWMP Sub-Committee
- ❖ March 25, 2011 – SWMP Task Force
- ❖ April 14, 2011 – Planning Commission
- ❖ May 10, 2011 – City Council

A key point of the SWMP is the concept of stream planning corridors, or Full-Build Out Floodplain (FBF). Post, Buckley, Schuh, and Jernigan, Inc., (PBS&J) developed a set of *local* floodplain maps that surpass the Federal Emergency Management Agency (FEMA) floodplain maps. Mr. O'Leary said the City's current floodplain maps were developed and adopted in 1970 and the FEMA floodplain maps are based on existing conditions. The *local* floodplain maps are based on future FBF conditions. FBF, or stream planning corridor, was the basis of the maps developed in the SWMP.

Mr. O'Leary said the Water Quality Protection Zone (WQPZ) is the FBF with a buffer and the concept of WQPZ is promoted in all of the researched model ordinances around the country. He said the Summit Valley Addition, located on Highway 9 East in Norman and developed by Don Cies, is a fascinating example of a WQPZ. He said Staff compared the FEMA Floodplain maps, the FBF maps, and the floodplain maps developed by Clour Engineering for Summit Valley Addition. Mr. O'Leary said it was very interesting to see how close all the floodplain maps harmonized with one another and stated Staff did not even know the WQPZ terminology eight – ten years ago when Summit Valley Addition was developed, yet it is a wonderful example of a WQPZ the ordinance is proposing.

In order to provide flexibility, Mr. O'Leary said developers will have three (3) options to choose from as they decide to map the WQPZ in their proposed developments. 1) Use the FEMA floodplain map, if available/exists for the proposed area, plus 100 feet; 2) Use the United States Geological Survey (USGS) "Blue Line" map, plus 100 feet *either* side of the "Blue Line"; or 3) Use the City's developed FBF maps. Staff currently requires U.S. Army Corps of Engineers 404 Permits on all developments that touch the "Blue Line" streams as shown on the USGS Quadrangle maps and currently requires development to provide erosion protection per the ODEQ Phase II Permit. Mr. O'Leary said Staff is very comfortable with the developed FBF maps, but should a developer(s) feel the FBF maps are not accurate, they can choose to use the FEMA or USGS maps instead. He said the 100 feet dimensions may get tweaked as the process moves forward and variances/variations have been included in the proposed WQPZ ordinances. He said variances can be requested in the Zoning Ordinance and would go before the Board of Adjustment.

Mr. O'Leary said some interesting variations have been developed for the subdivision regulations. Staff will introduce the concept of buffer averaging, allowing developers to take a larger buffer in one area and use a smaller buffer in another area, i.e., downstream, upstream, etc., as long as the total buffer is the same. He said developers will be asked to meet the "spirit of the ordinance" but there are opportunities for variations and developers can use different design mechanisms in order to accomplish the WQPZ goal.

Mayor Rosenthal asked Staff to speak about the density shifting provision and Ms. Kathryn Walker, Assistant City Attorney, said the proposed WQPZOD ordinance includes a provision allowing for transfer of permitted development density, i.e., if a parcel/lot is totally located in a WQPZ, the City will allow some transfer of density to permit the developer to make up for the lost parcel/lot. Mr. O'Leary said the term "clustering" is already utilized in

the current zoning ordinance and is used to cluster developments, leaving other open areas within the development. He said there are many other elements to the proposed WQPZ ordinances, but today's update only references the highpoints. Mr. O'Leary felt the proposed ordinances may need modification but they are very unique to Norman and were developed with the help of many people, i.e., Staff, interest groups, SWMP Sub-Committee and Task Force, etc. Mayor Rosenthal asked if the proposed ordinances required trails and Staff replied in the negative.

Councilmember Butler asked how the Floodplain Ordinance adopted several years ago (O-0607-39) would correspond with the proposed WQPZ ordinances and Mr. O'Leary said the Floodplain Ordinance coincides with the FEMA Floodplain maps and will continue to be used in the same fashion. He said the Floodplain Ordinance and the proposed WQPZ ordinances are similar in many respects as both deal with flood control and reduce flooding, but the proposed WQPZ ordinances are much more focused on the water quality aspect.

Mr. O'Leary said to date the majority of work done in SWMP Action Plan has been developing the WQPZ ordinances but Staff continues to do good work on other action items. He said in the spring, Norman will meet with the Cities of Moore and Oklahoma City to compare storm water regulations, establish Minimum Control Measures (MCM) for EPA compliance, and develop Memorandums of Understanding (MOU). He said a large part of the Lake Thunderbird Water Shed is located in Moore, Oklahoma City, and Cleveland County and even with Norman's best effort, the ultimate goal of the Lake Thunderbird water quality will not be met unless Moore and Oklahoma City agree to the same water quality conditions. Staff will also meet with Oklahoma Department of Environmental Quality, Oklahoma Water Resources Board, and Central Oklahoma Master Conservancy District, in the Spring 2011, to discuss the extent of pollution for Bishop Creek, and continue dialog as for continuing efforts in being consistent with the water quality regulations and interest in the region.

Mayor Rosenthal asked for a status update on ODEQ's TMDL study for Lake Thunderbird Water Shed. Mr. O'Leary felt ODEQ is a little behind schedule because they have not issued Norman a Phase II Storm Water Permit (Phase II Permit) – which is a requirement and/or regulation a city must follow for five year period. He said Norman's initial Storm Water Permit (SWP) expired December 2010, and the projected issue date for the Phase II Permit is May or June 2011. He said ODEQ has been assessing the initial SWP information and he felt one issue holding up the issuance of the Phase II permit is ODEQ is still processing TMDL data. ODEQ has evaluated Norman as doing very well in comparison to other cities in the state, but the theory is the Phase II Permit will probably have a "new" set of regulations and be more stringent than the first SWP. Councilmember Butler asked how specific ODEQ will be with the new regulations and Mr. O'Leary said the regulations are based on best management practices but the goal is to have as specific standards as possible for each city's water shed. Therefore, the Phase II Permit for Norman may look very different than the Phase II Permit for the City of Lawton, City of Oklahoma City, etc.

Councilmember Cubberley asked Staff if ODEQ will begin concentrating on the water quality of the Canadian River in the future and Mr. O'Leary said ODEQ is already regulating storm water/water quality for the Canadian River through the Norman Utilities Department. He said the Phase II Permit will be for all Norman water sheds, not just Lake Thunderbird, and requires Norman to use best management practices throughout the city which ultimately assists with the water quality for the Canadian River. He said Staff is aware of pollution issues in Bishop Creek which discharges to the Canadian River and felt interest would focus more on the Canadian River in the future, but will probably not be addressed a great deal in the Phase II Permit. Just as Lake Thunderbird is Norman's domestic water supply, the Canadian River is a domestic water supply for many other cities and/or towns.

Mr. O'Leary said the Finance Department met with Staff on September 13, 2010, to determine current status of a strategic work plan for Storm Water Utility, i.e., administration and billing process, and Mr. Anthony Francisco, Finance Director, felt this would be very easy to accomplish. A Storm Water Utility (SWU) fee election is expected to occur in late 2011 or early 2012, and, if and when, the SWU fee election passes, Staff will establish a master account file, determine key billing logistics, and provide web-based account information. Some issues to be resolved include deciding whether a renter or the owner pays the storm water utility fee, how disputes will be handled, and Council discussion for a tier system billing.

The next step would be a strategic work plan for a General Obligation (GO) Bond and pending Council direction, Staff would begin working on a GO Bond, i.e., establish bond issue language, determine the amount (\$30 million, \$38.5 million, or \$40 million), and forecast debt service. The City's Geographic Information System (GIS) has already incorporated digital/reference data for the SWMP into the City's GIS, i.e., geo references field photo locations and developed a GIS Map Overlay System.

Mr. O'Leary said the Street Division is inspecting and monitoring stream erosion and is approximately 75% complete. A detention/retention inspection form has been developed and stream photos will be updated in Spring 2011. A public outreach campaign will be accomplished immediately before the SWU fee election to include forming a Citizen Committee and public education. Mr. O'Leary said Staff continues to develop a Staff Team from multiple City departments and hired Mr. Bob Hanger for the Storm Water Engineer position. He said an inventory and inspection of City-owned dams has been performed.

Mayor Rosenthal said it would be helpful to have all the Storm Water related expenses identified in the budget and Mr. Steve Lewis, City Manager, said Staff will do so for the proposed 2012 budget. Mr. O'Leary said last year's budget reflected the Street Division and Storm Water Division as separate line items and future budgets will be more detailed to show the Storm Water related expenses.

Ms. Susan Connors, Planning and Community Development Director, provided a brief update on the 2009 Greenway Master Plan (GMP) Action Plan, which is Item 31 of the SWMP Action Plan and said the Greenbelt Commission (GC) has put together a sub-committee to continue working on the GMP. She said the sub-committee met in January 2011, and discussed having an appendix detailing the different stream corridors. She said the GMP will have the principles of the plan and ideas how to achieve a greenbelt system and an appendix will include the specifics of how each stream corridor can be achieved individually. Council could adopt the GMP as an overall principle document while the appendix could be a separate implementation technique to the GMP and could be amended as needed. She felt this would move the process forward in a more methodic manner instead of worrying about issues with the various Norman creeks/stream corridors. Ms. Connors said the sub-committee is scheduled to meet February 15, 2011, and the GC will meet February 21, 2011, to discuss and finalize the proposed GMP Action Plan and appendix before bringing back to Council.

The GC officially began using the GB Enhancement Statement review in December 2010 and Staff prepared reports to focus and understand all the information.

Items submitted for record

1. Storm Water Master Plan (SWMP) Task Force Meeting Agenda, dated Friday, February 11, 2011
2. Draft Ordinance to Provide for Standards and Requirements for a Designated Water Quality Protection Zone Inclusive of the Lake Thunderbird Watershed, Section 19, of the Code of the City of Norman
3. Draft Ordinance for Water Quality Protection Zoning Overlay District, Section 429.7, of Chapter 22, of the Code of the City of Norman
4. February 11, 2011, Status Report/SWMP Action Plan (by milestone)
5. City of Norman, Storm Water Master Plan Recommendations and Implementation Plan submitted by Post, Buckley, Schuh, and Jernigan, Inc.

The meeting adjourned at 8:56 a.m.

---

City Clerk

---

Mayor



**CITY COUNCIL AGENDA  
MAY 10, 2011**

Municipal Building Council  
Chambers  
201 West Gray Street  
Norman, OK 73069

**Item No. 12**

**Text File Number: O-1011-53**

**Introduced:** 3/28/2011 by Kathryn Walker, Assistant City Attorney

**Current Status:** Consent Item

**Version:** 1

**Matter Type:** Zoning Ordinance

Title

CONSIDERATION OF ORDINANCE NO. O-1011-53 UPON FIRST READING BY TITLE: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING CHAPTER 22 (ZONING ORDINANCE) OF THE CODE OF THE CITY OF NORMAN TO ADD SECTION 429.7 CREATING A ZONING OVERLAY DISTRICT FOR THE WATER QUALITY PROTECTION ZONE AND AMENDING SECTION 441(11) PROVIDING FOR SUBMITTALS FOR A VARIANCE FROM THE REQUIREMENTS OF THE WATER QUALITY PROTECTION ZONING OVERLAY DISTRICT; AND PROVIDING FOR THE SEVERABILITY THEREOF.

**ACTION NEEDED:** Motion to introduce and adopt Ordinance No. O-1011-53 upon First Reading by title.

**ACTION TAKEN:** \_\_\_\_\_

Body

**BACKGROUND:** The Storm Water Master Plan (SWMP) contained several recommendations aimed at improving water quality. The recommendation that led to the ordinances before Council was set forth in the SWMP as follows:

Dedicate Stream Planning Corridors (SPC's) and/or the 100-year full buildout floodplains to the City of Norman by easement or title for streams located in the Lake Thunderbird watershed that have a drainage area greater than 40 acres.

- Prohibit development or significant land disturbance in the SPCs and/or the 100-year full buildout floodplain. Exemptions should include items such as, but not limited to, maintenance activities, greenway trails, road crossings, utilities, and stream stabilization measures.
- Require additional stream-side buffers of 15 ft to each side of streams with drainage areas greater than 40 acres that are located in the Lake Thunderbird watershed and also in Suburban Residential and Country Residential areas as defined in the Norman 2025 Plan including subsequent updates to the comprehensive plan as adopted by City Council.

*Storm Water Master Plan, Section 9.9.*

Following the acceptance of the SWMP and adoption of the SWMP Action Plan in November 2009, Staff began working towards the development of a draft ordinance that would address this recommendation from the SWMP. A variety of approaches utilized in other cities in our region were presented during a Public Forum on January 27, 2010, with

maps being provided that demonstrated how each approach would compare to the proposed SPC's. Feedback from the development community indicated that several things would be important to achieving consensus - allowing variances for unique developments and new technology, providing for density compensation, and not requiring dedication of the SPC for public access or public trails.

Using this feedback, Staff began drafting an ordinance that encompassed desirable characteristics seen in many of the regional approaches and also seen in a Model Ordinance for Stream Buffers from the Environmental Protection Agency (EPA). After developing a pair of draft ordinances, Staff met several times with the City Council sub-committee for the SWMP before presenting the ordinances to the SWMP Task Force (the "Task Force"), a group made up of developers, engineers, scientists, and other local citizens.

Staff met with the SWMP Task Force on the following dates:

- February 11, 2011
- February 21, 2011
- March 7, 2011
- March 21, 2011
- April 29, 2011

In addition to the meetings with the Task Force, Staff met with key developer representatives on February 15, 2011, Chamber representatives on February 24, 2011 and again with key developer representatives as well as the City Council sub-committee for the SWMP on March 31, 2011. The changes made to the ordinances in an effort to achieve consensus can be seen in Exhibit A, Timeline of WQPZ Ordinances.

The Norman Planning Commission was briefed on these ordinances during a Study Session on April 7, 2011. During its meeting on April 14, 2011, the Planning Commission voted 4-4 on a motion to recommend Council adoption of the attached ordinances.

One of the key recommendations from the SWMP, as quoted above, dealt with the benefits of riparian buffers. Riparian buffers, or areas of undeveloped land adjacent to streams, provide a number of benefits related to water quality, including reduction of erosion and the stabilization of stream banks, infiltration of storm water runoff, control of sedimentation, and restoration and maintenance of the chemical, physical and biological integrity of water resources. Riparian buffers also provide significant benefits for the prevention of property damage due to flooding.

**DISCUSSION:** The ordinances before City Council would require applications for preliminary plats or Norman Rural Certificates of Survey to identify the streams on the subject property and denote a buffer on either side of the stream. The ordinance calls for the buffer to be the greater of the FEMA floodplain, the Full Build-Out Floodplain, or 100 feet from the top of the bank on either side of the stream.

The FEMA floodplain encompasses the areas along both sides of streams or drainage corridors that have a drainage area greater than 640 acres and would be inundated by a 100 year rain event in any given year assuming only current development conditions. The Full Build-Out Floodplain encompasses the areas along both sides of streams or drainage corridors in the Lake Thunderbird Watershed that have a drainage area greater than 40 acres and would be inundated by a 100-year rain event in any given year assuming full build-out watershed conditions.

The designated buffer area would be called the Water Quality Protection Zone (WQPZ). The buffer is divided into three zones - streamside, middle and outer zone with uses being more restricted the closer you are to the stream. The buffer width may be increased if the stream is a 3rd order or higher stream (these are typically the larger streams), if certain slope conditions exist in the buffer, and to encompass wetland areas.

Since riparian buffers are essentially areas of undeveloped land, it is important that buffer ordinances are flexible to accommodate development conditions. In the WQPZ ordinances before City Council, several things have been incorporated to ensure flexibility. First, the buffer width discussed above can be reduced for first-order streams to 50 feet (but not less than the Full Build-Out Floodplain) with a showing that an engineered solution will provide a particular level of phosphorus and nitrogen removal (*O-1011-52, Section 19-411D*). Second, the buffer width can be reduced in all streams with no minimum width required if the Applicant seeks a variation in accordance with Section 19-601(B), also in O-1011-52.

The ordinance also explicitly allows for specifications and requirements in the Engineering Design Criteria to be modified to accommodate low impact development strategies (*O-1011-52, Section 19-411H*). The ordinance allows for the buffer to be modified to recover a lost lot as long as the average width of the buffer meets the requirements in 19-411(B). (*O-1011-52, Section 19-601B.2.*) Finally, the additions to the Zoning Ordinance allow for reduction in minimum lot size and transfers in development density to allow developers to recover lots lost because of the WQPZ.

**STAFF RECOMMENDATION:** Staff has worked diligently with the Storm Water Task Force, the Council Sub-Committee, as well as developer representatives to develop ordinances that will both protect and enhance water quality and prevent property damage due to flooding, while also striking the appropriate balance with development rights and goals.

Staff recommends Council approval of Ordinances No. O-1011-52 and O-1011-53 on Second Reading.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AMENDING CHAPTER 22 (ZONING ORDINANCE) OF THE CODE OF THE CITY OF NORMAN TO ADD A SECTION 429.7 CREATING A ZONING OVERLAY DISTRICT FOR THE WATER QUALITY PROTECTION ZONE AND AMENDING SECTION 441(11) PROVIDING FOR SUBMITTALS FOR A VARIANCE FROM THE REQUIREMENTS OF THE WATER QUALITY PROTECTION ZONING OVERLAY DISTRICT; AND PROVIDING FOR THE SEVERABILITY THEREOF.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

§ 1. That Section 429.7 of Chapter 22 of the Code of the City of Norman, Oklahoma, shall be and is hereby adopted to read as follows:

**SEC. 429.7 WQPZOD, WATER QUALITY PROTECTION ZONING OVERLAY DISTRICT.**

1. Purpose. The City of Norman adopts a goal of non-degradation which maintains or improves the quality of water entering the various waterways, while preventing property damage due to flooding in Norman. Pollution will be diminished by requiring best management practices and development criteria for point and non-point sources, including an emphasis on passive measures, supplemented by the use of structural controls, where appropriate. Land uses which could adversely affect the water supply are generally prohibited, unless acceptable alternate methods are used that can be shown to substantially reduce or eliminate its affect on the water supply, thereby preventing the risk of contaminants entering the water reservoir, and posing a risk to the public health.
2. Identification and Establishment of District. The Water Quality Protection Zoning District (“WQPZOD”) is hereby created within the City of Norman as depicted on the Water Quality Protection Zone Map attached hereto as Exhibit A and includes any subsequent updates.
3. Applicability: The Standards of this Section shall be evaluated for applicability to all new construction and/or new development in the Water Quality Protection Zone defined herein. This section shall not apply to approved preliminary plats, final plats, filed Norman Rural Certificates of Survey, or lots of record.
4. Definitions:
  - a. *Best Management Practices (BMP)*: An effective integration of storm water management systems, with appropriate combinations of non-structural controls and structural controls which provide an optimum way to convey, store and release runoff, so as to reduce peak discharge, reduce pollutants, enhance water quality, assist in stream and/or stream bank stabilization,

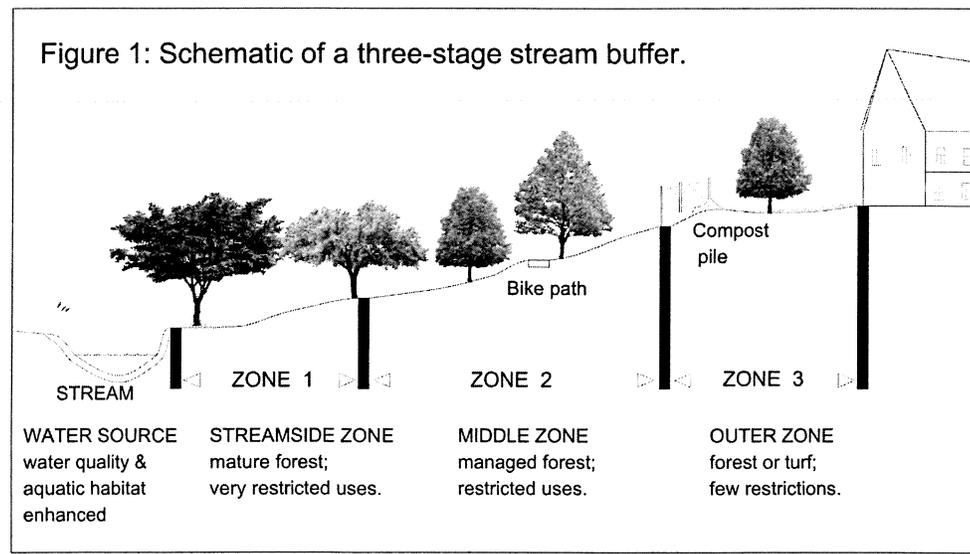
prevent property damage due to flooding, and assist in sediment reduction. BMP's include, but are not limited to, the following:

- i. Structural controls such as:
    - a. Sediment forebay;
    - b. Grassed swale;
    - c. Enhanced bio-swale;
    - d. Voluntary urban nutrient management;
    - e. Statutory urban nutrient management;
    - f. Wetlands;
    - g. Extended detention-enhanced;
    - h. Retention basins;
    - i. Bioretention, surface sand, organic, and similar filters;
    - j. Soaking trench;
    - k. Infiltration trench;
    - l. Storm water pond;
    - m. Dry extended detention pond; and
    - n. In-channel detention.
  - ii. Non-structural controls such as:
    - a. Landscape conservation;
    - b. Reduction in impervious cover;
    - c. Schedule of maintenance activities;
    - d. Prohibition of practices;
    - e. Maintenance procedures.
    - f. Street sweeping;
    - g. Fertilizer restrictions.
- b. *Buffer*: A vegetated area, including trees, shrubs, and herbaceous vegetation that exists or is established to protect a stream system, lake or reservoir, reduce pollutants, enhance water quality, assist in stream and/or stream bank stabilization, and assist in sediment reduction.
- c. *Building Envelope*: an area of land within a buildable parcel or lot within which all site structures, buildings, other hardscape elements, and on-site waste disposal systems shall be contained, except driveways. The building envelope also includes any building overhangs, eaves, protruding architectural features (e.g. chimneys), and similar elements.
- d. *Degradation*: any condition caused by the activities of humans which result in the prolonged impairment of any constituent of the aquatic environment.

- e. *Full Build-Out Floodplain (FBF)*: the area of land along both sides of a stream or natural drainage corridor that encompasses the area projected to be inundated by the one-percent (1%) chance flood event (i.e. the 100-year floodplain) in any given year assuming full build-out watershed conditions (based upon the Norman 2025 Plan and subsequent updates) in those areas with 40 or more acres of drainage area in the Lake Thunderbird watershed.
- f. *Impervious Cover*: Roads, parking areas, buildings, pools, patios, sheds, driveways, private sidewalks, and other impermeable construction covering the natural land surface. This shall include, but not be limited to, all streets and pavement within a subdivision. Vegetated water quality basins, vegetated swales, other vegetated conveyances for overland drainage, areas with gravel placed over pervious surfaces that are used only for landscaping or by pedestrians, and public sidewalks shall not be calculated as impervious cover.
- g. *Non-degradation*: The proper use of BMP's and pollution prevention criteria in activity so as to prevent property damage due to flooding and degradation as defined herein.
- h. *Pollution*: the contamination or other alteration of the physical, chemical or biological properties of any stream or other water source, or such discharge of any liquid, gaseous or solid substance into any stream or other water source as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.
- i. *Streams*: Watercourses that are either identified through site inspection and/or notification by the United States Army Corp of Engineers or by the United States Geological Survey (USGS) 7.5 minute series (topographic) maps drawn at a scale of 1:24,000 or 1 inch = 2000 feet. Perennial streams are those which are depicted on a USGS map with a solid blue line. Intermittent streams are those which are depicted on a USGS map with a dotted blue line.
- j. *Structural controls*: engineered solutions designed to reduce pollution in surface water runoff primarily through five basic mechanisms: infiltration, amelioration, treatment, filtration and detention. In effect, these systems attempt to counteract the opposite tendencies of decreased infiltration, filtration and detention which urbanization imposes upon the land.
- k. *Top of bank*: The point along a stream bank where abrupt change in slope is evident, and where the stream is generally able to overflow the banks and enter the adjacent floodplain. The top of bank may be identified from topography maps but must be verified through field inspection. Where no top

of bank is discernable by the City's Storm Water Engineer or his designee, measurements should be taken from the center line of the stream.

1. *Uplands Zone*: all land and waters outside of the Water Quality Protection Zone.
  
  - m. *Water Quality Protection Zone (WQPZ)*: A vegetated strip of land that lies along a stream, river or lake and its adjacent wetlands, floodplains or slopes that is comprised of the stream bed, the floodplain (FEMA or Full Build-Out, whichever is greater) and additional buffer as may be required by this Chapter.
5. **Three Buffer Zone System**: The WQPZ shall be composed of three distinct zones on each side of the stream, with each zone having its own set of allowable uses and vegetative targets as specified herein. (See Figure 1 below)
- a. **Zone 1, Streamside Zone**: The area beginning at the top of the bank of the active channel and extending horizontally the number of feet equal to 25%, but no less than 25 feet, of the overall distance of the designated WQPZ on that particular side of the stream.
  - b. **Zone 2, Middle Zone**: The area beginning at the outer edge of Streamside Zone and extending horizontally the number of feet equal to 67% of the remainder of the distance of the designated WQPZ on that particular side of the stream.
  - c. **Zone 3, Outer Zone**: The area beginning at the outer edge of the Middle Zone and extending horizontally the number of feet equal to 100% of the remainder of the distance of the designated WQPZ on that particular side of the stream.



## 6. Buffer Zone Uses.

### a. Zone 1, Streamside Zone

- i. Uses Permitted.
  - a. Flood control structures
  - b. In channel detention ponds not located in the FEMA floodplain
  - c. Utility rights of way and/or easements
  - d. Agricultural operations or structures existing at the time this ordinance is adopted.
- ii. Uses and Practices Prohibited (unless otherwise approved).
  - a. All uses not listed in (i) above are prohibited.
- iii. Special Use: the following uses may be permitted, after review, in accordance with Section 434.1:
  - a. Road and bridges provided that:
    - a. No economically feasible alternative is available;
    - b. The right-of-way is the minimum width needed to allow for maintenance access and installation; and
    - c. Only the minimum number of road crossings are being utilized (where applicable)

### b. Zone 2, Middle Zone

- i. Uses Permitted.
  - a. All uses permitted in Zone 1 above.
  - b. Foot and bike paths, trails, and access ramps or entries.

- c. Recreational playing fields as approved by City Council.
- ii. Uses and Practices Prohibited.
    - a. All uses prohibited in Zone 3 below.
    - b. Clearing of existing vegetation except that limited tree clearing may be allowed with approval by the Director of Public Works.
    - c. Soil disturbance by grading, stripping or other practices
    - d. Filling or dumping
    - e. Use or storage of pesticides.
    - f. Storage or operation of motorized vehicles, except for maintenance and emergency use
    - g. Buildings and accessory structures
- iii. Special Use: the following uses may be permitted, after review, in accordance with Section 434.1:
    - a. Road and bridges provided that:
      - a. No economically feasible alternative is available;
      - b. The right-of-way is the minimum width needed to allow for maintenance access and installation; and
      - c. Only the minimum number of road crossings are being utilized (where applicable)
- c. Zone 3, Outer Zone
    - i. Uses Permitted.
      - a. All uses permitted in Zones 1 and 2 above.
      - b. All uses permitted by the underlying zoning district designation except those uses prohibited below.
      - c. Septic system spray irrigation heads may spray chlorinated effluent onto the property in Zone 3, provided the sprinkler head is located outside of the WQPZ.
    - ii. Uses Prohibited.
      - a. Septic systems
      - b. Permanent structures
      - c. Impervious cover, with the exception of paths
      - d. Animal feedlot operations.
    - iii. Special Use: the following uses may be permitted, after review, in accordance with Section 434.1:
      - a. Road and bridges provided that:
        - a. No economically feasible alternative is available;
        - b. The right-of-way is the minimum width needed to allow for maintenance access and installation; and

- c. Only the minimum number of road crossings are being utilized (where applicable)

7. Transfer of Permitted Development Density.

- a. **Parcels and Lots Located Within the WQPZ:** Any development resulting in the construction of buildings or other structures on a parcel partially located in the WQPZ shall be located wholly in the upland zone of the parcel outside of the WQPZ. This will not result in a change of density permitted in an underlying zoning district.
- b. **Reduction in Minimum Lot Size:** To accommodate transfers of permissible residential density as provided above, the minimum lot size in land zone A-2, Rural Agricultural District, may be reduced from ten (10) acres to a minimum of two (2) acres. The process to be followed to effect this transfer is through a Norman Rural Certificate of Survey to ensure proper restrictions are put in place at the time of development.
- c. **Lot Configuration and Building Envelopes –** To the maximum extent feasible, lots shall be configured so that they lie entirely out of the WQPZ with any remainder parcel being preserved as provided in subsection (d)(iii) below. As an alternative, lots may be configured so that portions are located within the WQPZ. However, building envelopes of such lots shall be delineated to lie to the maximum extent feasible outside the WQPZ. If no other option for access is practicable, driveways may be located within the WQPZ.

8. Variances and appeals. Variances to the requirements of this section may be granted where a literal enforcement of the provisions of this ordinance result in an unnecessary hardship, when sufficient data is produced that shows an error in the applicable WQPZOD designation, or when sufficient hydrological analysis demonstrates that an alternate engineered solution for storm water can be implemented that will substantially reduce or eliminate the effect the development has on flooding and water quality. Variances or appeals from any Administrative Official decision pursuant to this section shall be to the Board of Adjustment in accordance with Sec. 441.

- § 2. That Section 441(11) of Chapter 22 of the Code of the City of Norman, Oklahoma, shall be and is hereby adopted to read as follows:

11. Procedure for Application for Variances. The Board of Adjustment shall have the power to authorize, upon appeal in specific cases, such variances from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions would result in an unnecessary hardship. A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until:

(a) An application shall submit to the Board of Adjustment a written application indicating:

- (1) That special conditions and circumstances exist that are peculiar to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same district;
- (2) That the literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
- (3) That the special conditions and circumstances do not result from the actions of the applicant;
- (4) That granting the variances requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structure, or buildings in the same district;
- (5) In the WQPZOD, that granting the variance requested will not substantially or permanently injure the appropriate use of adjacent land or upstream or downstream parts of the Full Build-out Floodplain, that the variance will not substantially weaken the general purposes of WQPZOD, that the variance will not cause unreasonable disruption to the natural terrain, and that the variance is limited in scope of relief to only that which is necessary to relieve the hardship condition.

\* \* \* \* \*

§ 3. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance, except that the effective date provision shall not be severable from the operative provisions of the ordinance.

ADOPTED this \_\_\_\_\_ day

NOT ADOPTED this \_\_\_\_\_ day

of \_\_\_\_\_, 2011.

of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Cindy Rosenthal, Mayor

\_\_\_\_\_  
Cindy Rosenthal, Mayor

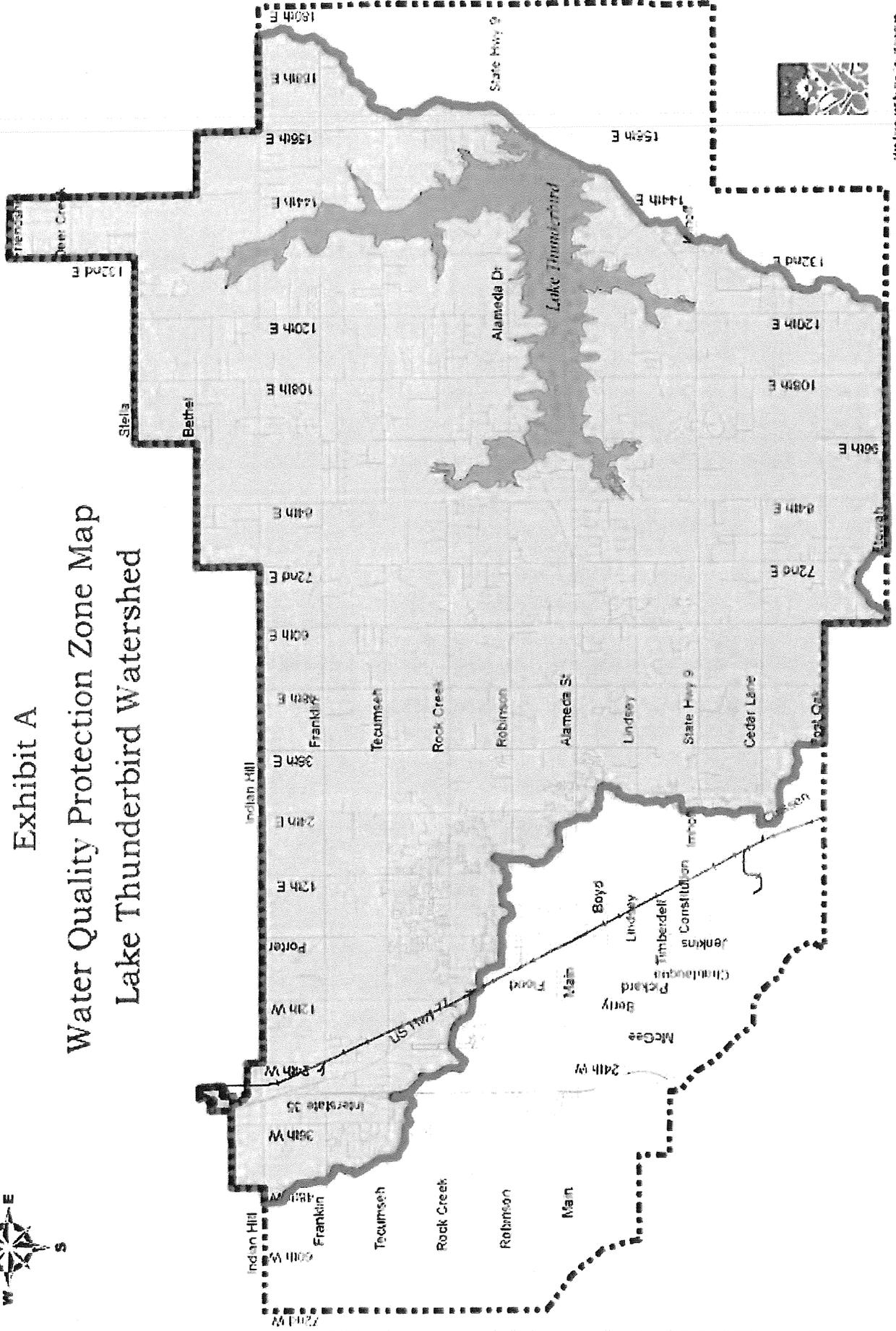
ATTEST:

\_\_\_\_\_  
Brenda Hall, City Clerk

# Exhibit A

## Water Quality Protection Zone Map

### Lake Thunderbird Watershed



Map prepared by: Bureau of Planning and  
 Land Use, Grand Haven, Michigan  
 Date of publication: 2/9/2011  
 Prepared by: [Name obscured]

February 9, 2011

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AMENDING CHAPTER 22 (ZONING ORDINANCE) OF THE CODE OF THE CITY OF NORMAN TO ADD A SECTION 429.7 CREATING A ZONING OVERLAY DISTRICT FOR THE WATER QUALITY PROTECTION ZONE AND AMENDING SECTION 441(11) PROVIDING FOR SUBMITTALS FOR A VARIANCE FROM THE REQUIREMENTS OF THE WATER QUALITY PROTECTION ZONING OVERLAY DISTRICT; AND PROVIDING FOR THE SEVERABILITY THEREOF.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

- § 1. That Section 429.7 of Chapter 22 of the Code of the City of Norman, Oklahoma, shall be and is hereby adopted to read as follows:

**SEC. 429.7 WQPZOD, WATER QUALITY PROTECTION ZONING OVERLAY DISTRICT.**

1. Purpose. The City of Norman adopts a goal of non-degradation which maintains or improves the quality of water entering the various waterways, while preventing property damage due to flooding in Norman. Pollution will be diminished by requiring best management practices and development criteria for point and non-point sources, including an emphasis on passive measures, supplemented by the use of structural controls, where appropriate. Land uses which could adversely affect the water supply are generally prohibited, unless acceptable alternate methods are used that can be shown to substantially reduce or eliminate its affect on the water supply, thereby preventing the risk of contaminants entering the water reservoir, and posing a risk to the public health.
2. Identification and Establishment of District. The Water Quality Protection Zoning District (“WQPZOD”) is hereby created within the City of Norman as depicted on the Water Quality Protection Zone Map attached hereto as Exhibit A and includes any subsequent updates.
3. Applicability: The Standards of this Section shall be evaluated for applicability to all new construction and/or new development in the Water Quality Protection Zone defined herein. This section shall not apply to approved preliminary plats, final plats, filed Norman Rural Certificates of Survey, or lots of record.
4. Definitions:
  - a. Best Management Practices (BMP): An effective integration of storm water management systems, with appropriate combinations of non-structural controls and structural controls which provide an optimum way to convey, store and release runoff, so as to reduce peak discharge, reduce pollutants, enhance water quality, assist in stream and/or stream bank stabilization,

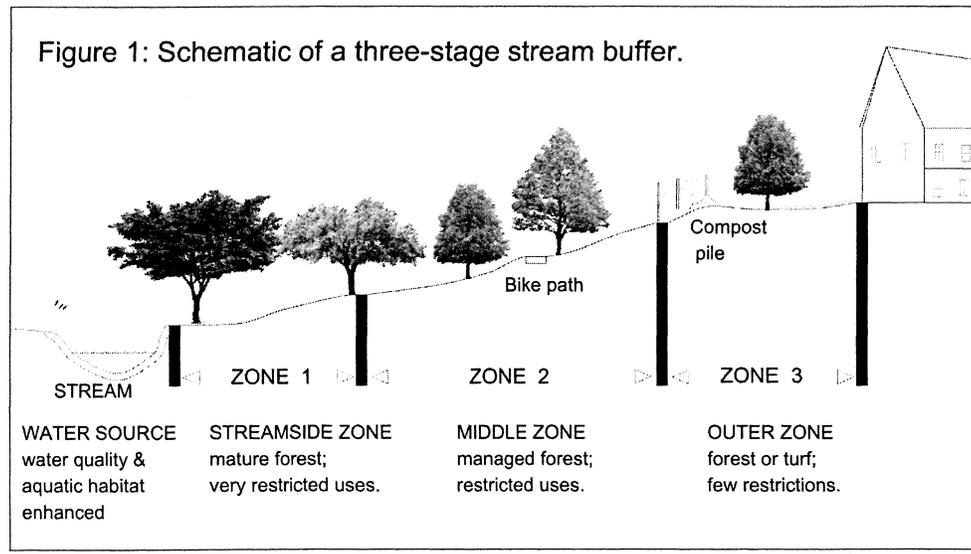
prevent property damage due to flooding, and assist in sediment reduction. BMP's include, but are not limited to, the following:

- i. Structural controls such as:
    - a. Sediment forebay;
    - b. Grassed swale;
    - c. Enhanced bio-swale;
    - d. Voluntary urban nutrient management;
    - e. Statutory urban nutrient management;
    - f. Wetlands;
    - g. Extended detention-enhanced;
    - h. Retention basins;
    - i. Bioretention, surface sand, organic, and similar filters;
    - j. Soaking trench;
    - k. Infiltration trench;
    - l. Storm water pond;
    - m. Dry extended detention pond; and
    - n. In-channel detention.
  - ii. Non-structural controls such as:
    - a. Landscape conservation;
    - b. Reduction in impervious cover;
    - c. Schedule of maintenance activities;
    - d. Prohibition of practices;
    - e. Maintenance procedures.
    - f. Street sweeping;
    - g. Fertilizer restrictions.
- b. Buffer: A vegetated area, including trees, shrubs, and herbaceous vegetation that exists or is established to protect a stream system, lake or reservoir, reduce pollutants, enhance water quality, assist in stream and/or stream bank stabilization, and assist in sediment reduction.
  - c. Building Envelope: an area of land within a buildable parcel or lot within which all site structures, buildings, other hardscape elements, and on-site waste disposal systems shall be contained, except driveways. The building envelope also includes any building overhangs, eaves, protruding architectural features (e.g. chimneys), and similar elements.
  - d. Degradation: any condition caused by the activities of humans which result in the prolonged impairment of any constituent of the aquatic environment.

- e. Full Build-Out Floodplain (FBF): the area of land along both sides of a stream or natural drainage corridor that encompasses the area projected to be inundated by the one-percent (1%) chance flood event (i.e. the 100-year floodplain) in any given year assuming full build-out watershed conditions (based upon the Norman 2025 Plan and subsequent updates) in those areas with 40 or more acres of drainage area in the Lake Thunderbird watershed.
- f. Impervious Cover: Roads, parking areas, buildings, pools, patios, sheds, driveways, private sidewalks, and other impermeable construction covering the natural land surface. This shall include, but not be limited to, all streets and pavement within a subdivision. Vegetated water quality basins, vegetated swales, other vegetated conveyances for overland drainage, areas with gravel placed over pervious surfaces that are used only for landscaping or by pedestrians, and public sidewalks shall not be calculated as impervious cover.
- g. Non-degradation: The proper use of BMP's and pollution prevention criteria in activity so as to prevent property damage due to flooding and degradation as defined herein.
- h. Pollution: the contamination or other alteration of the physical, chemical or biological properties of any stream or other water source, or such discharge of any liquid, gaseous or solid substance into any stream or other water source as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.
- i. Streams: Watercourses that are either identified through site inspection and/or notification by the United States Army Corp of Engineers or by the United States Geological Survey (USGS) 7.5 minute series (topographic) maps drawn at a scale of 1:24,000 or 1 inch = 2000 feet. Perennial streams are those which are depicted on a USGS map with a solid blue line. Intermittent streams are those which are depicted on a USGS map with a dotted blue line.
- j. Structural controls: engineered solutions designed to reduce pollution in surface water runoff primarily through five basic mechanisms: infiltration, amelioration, treatment, filtration and detention. In effect, these systems attempt to counteract the opposite tendencies of decreased infiltration, filtration and detention which urbanization imposes upon the land.
- k. Top of bank: The point along a stream bank where abrupt change in slope is evident, and where the stream is generally able to overflow the banks and enter the adjacent floodplain. The top of bank may be identified from topography maps but must be verified through field inspection. Where no top

of bank is discernable by the City's Storm Water Engineer or his designee, measurements should be taken from the center line of the stream.

1. *Uplands Zone*: all land and waters outside of the Water Quality Protection Zone.
  - m. *Water Quality Protection Zone (WQPZ)*: A vegetated strip of land that lies along a stream, river or lake and its adjacent wetlands, floodplains or slopes that is comprised of the stream bed, the floodplain (FEMA or Full Build-Out, whichever is greater) and additional buffer as may be required by this Chapter.
5. Three Buffer Zone System: The WQPZ shall be composed of three distinct zones on each side of the stream, with each zone having its own set of allowable uses and vegetative targets as specified herein. (See Figure 1 below)
- a. Zone 1, Streamside Zone: The area beginning at the top of the bank of the active channel and extending horizontally the number of feet equal to 25%, but no less than 25 feet, of the overall distance of the designated WQPZ on that particular side of the stream.
  - b. Zone 2, Middle Zone: The area beginning at the outer edge of Streamside Zone and extending horizontally the number of feet equal to 67% of the remainder of the distance of the designated WQPZ on that particular side of the stream.
  - c. Zone 3, Outer Zone: The area beginning at the outer edge of the Middle Zone and extending horizontally the number of feet equal to 100% of the remainder of the distance of the designated WQPZ on that particular side of the stream.



## 6. Buffer Zone Uses.

### a. Zone 1, Streamside Zone

#### i. Uses Permitted.

- a. Flood control structures
- b. In channel detention ponds not located in the FEMA floodplain
- c. Utility rights of way and/or easements
- d. Agricultural operations or structures existing at the time this ordinance is adopted.

#### ii. Uses and Practices Prohibited (unless otherwise approved).

- a. All uses not listed in (i) above are prohibited.

#### iii. Special Use: the following uses may be permitted, after review, in accordance with Section 434.1:

##### a. Road and bridges provided that:

- a. No economically feasible alternative is available;
- b. The right-of-way is the minimum width needed to allow for maintenance access and installation; and
- c. Only the minimum number of road crossings are being utilized (where applicable)

### b. Zone 2, Middle Zone

#### i. Uses Permitted.

- a. All uses permitted in Zone 1 above.
- b. Foot and bike paths, trails, and access ramps or entries.

- c. Recreational playing fields as approved by City Council.
  - ii. Uses and Practices Prohibited.
    - a. All uses prohibited in Zone 3 below.
    - b. Clearing of existing vegetation except that limited tree clearing may be allowed with approval by the Director of Public Works.
    - c. Soil disturbance by grading, stripping or other practices
    - d. Filling or dumping
    - e. Use or storage of pesticides.
    - f. Storage or operation of motorized vehicles, except for maintenance and emergency use
    - g. Buildings and accessory structures
  - iii. Special Use: the following uses may be permitted, after review, in accordance with Section 434.1:
    - a. Road and bridges provided that:
      - a. No economically feasible alternative is available;
      - b. The right-of-way is the minimum width needed to allow for maintenance access and installation; and
      - c. Only the minimum number of road crossings are being utilized (where applicable)
- c. Zone 3, Outer Zone
- i. Uses Permitted.
    - a. All uses permitted in Zones 1 and 2 above.
    - b. All uses permitted by the underlying zoning district designation except those uses prohibited below.
    - c. Septic system spray irrigation heads may spray chlorinated effluent onto the property in Zone 3, provided the sprinkler head is located outside of the WQPZ.
  - ii. Uses Prohibited.
    - a. Septic systems
    - b. Permanent structures
    - c. Impervious cover, with the exception of paths
    - d. Animal feedlot operations.
  - iii. Special Use: the following uses may be permitted, after review, in accordance with Section 434.1:
    - a. Road and bridges provided that:
      - a. No economically feasible alternative is available;
      - b. The right-of-way is the minimum width needed to allow for maintenance access and installation; and

- c. Only the minimum number of road crossings are being utilized (where applicable)

7. Transfer of Permitted Development Density.

- a. Parcels and Lots Located Within the WQPZ: Any development resulting in the construction of buildings or other structures on a parcel partially located in the WQPZ shall be located wholly in the upland zone of the parcel outside of the WQPZ. This will not result in a change of density permitted in an underlying zoning district.
- b. Reduction in Minimum Lot Size: To accommodate transfers of permissible residential density as provided above, the minimum lot size in land zone A-2, Rural Agricultural District, may be reduced from ten (10) acres to a minimum of two (2) acres. The process to be followed to effect this transfer is through a Norman Rural Certificate of Survey to ensure proper restrictions are put in place at the time of development.
- c. Lot Configuration and Building Envelopes – To the maximum extent feasible, lots shall be configured so that they lie entirely out of the WQPZ with any remainder parcel being preserved as provided in subsection (d)(iii) below. As an alternative, lots may be configured so that portions are located within the WQPZ. However, building envelopes of such lots shall be delineated to lie to the maximum extent feasible outside the WQPZ. If no other option for access is practicable, driveways may be located within the WQPZ.

8. Variances and appeals. Variances to the requirements of this section may be granted where a literal enforcement of the provisions of this ordinance result in an unnecessary hardship, when sufficient data is produced that shows an error in the applicable WQPZOD designation, or when sufficient hydrological analysis demonstrates that an alternate engineered solution for storm water can be implemented that will substantially reduce or eliminate the effect the development has on flooding and water quality. Variances or appeals from any Administrative Official decision pursuant to this section shall be to the Board of Adjustment in accordance with Sec. 441.

- § 2. That Section 441(11) of Chapter 22 of the Code of the City of Norman, Oklahoma, shall be and is hereby adopted to read as follows:

11. Procedure for Application for Variances. The Board of Adjustment shall have the power to authorize, upon appeal in specific cases, such variances from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions would result in an unnecessary hardship. A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until:

(a) An application shall submit to the Board of Adjustment a written application indicating:

- (1) That special conditions and circumstances exist that are peculiar to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same district;
- (2) That the literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
- (3) That the special conditions and circumstances do not result from the actions of the applicant;
- (4) That granting the variances requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structure, or buildings in the same district;
- (5) In the WQPZOD, that granting the variance requested will not substantially or permanently injure the appropriate use of adjacent land or upstream or downstream parts of the Full Build-out Floodplain, that the variance will not substantially weaken the general purposes of WQPZOD, that the variance will not cause unreasonable disruption to the natural terrain, and that the variance is limited in scope of relief to only that which is necessary to relieve the hardship condition.

\* \* \* \* \*

§ 3. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance, except that the effective date provision shall not be severable from the operative provisions of the ordinance.

ADOPTED this \_\_\_\_\_ day

NOT ADOPTED this \_\_\_\_\_ day

of \_\_\_\_\_, 2011.

of \_\_\_\_\_, 2011.

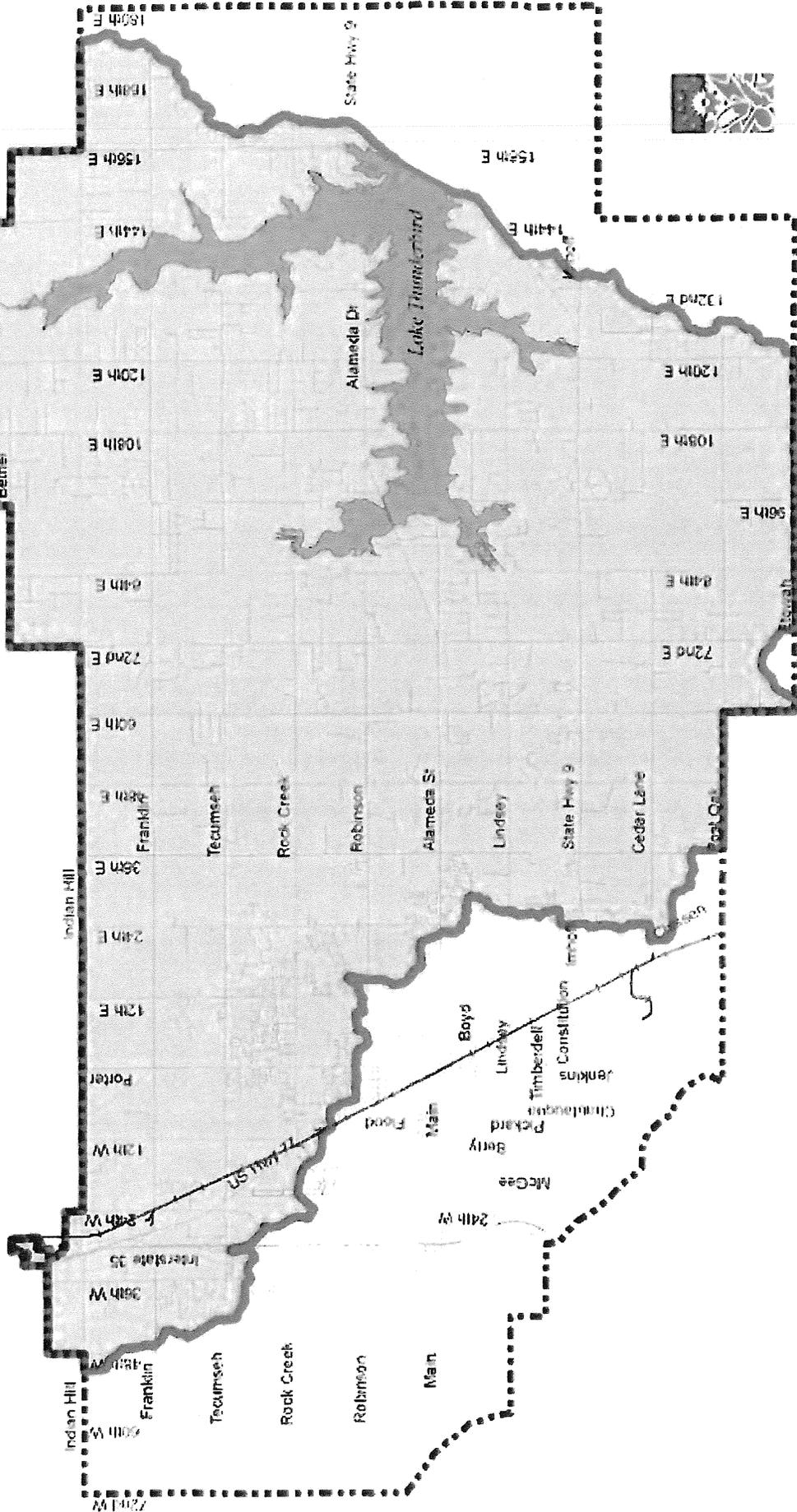
\_\_\_\_\_  
Cindy Rosenthal, Mayor

\_\_\_\_\_  
Cindy Rosenthal, Mayor

ATTEST:

\_\_\_\_\_  
Brenda Hall, City Clerk

# Exhibit A Water Quality Protection Zone Map Lake Thunderbird Watershed



This map was prepared by the City of Lincoln, Nebraska, in cooperation with the Lincoln Metropolitan Council of Governments. The City of Lincoln assumes no responsibility for the accuracy or completeness of the information presented.

February 9, 2011

Item No. 9, being:

**CONSIDERATION OF PROPOSED ORDINANCES**

**9a. ORDINANCE NO. O-1011-52**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING CHAPTER 19 OF THE CODE OF THE CITY OF NORMAN TO PROVIDE FOR STANDARDS AND REQUIREMENTS FOR A DESIGNATED WATER QUALITY PROTECTION ZONE INCLUSIVE OF THE LAKE THUNDERBIRD WATERSHED; AND PROVIDING FOR THE SEVERABILITY THEREOF.**

**9b. ORDINANCE NO. O-1011-53**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING CHAPTER 22 (ZONING ORDINANCE) OF THE CODE OF THE CITY OF NORMAN TO ADD A SECTION 429.7 CREATING A ZONING OVERLAY DISTRICT FOR THE WATER QUALITY PROTECTION ZONE AND AMENDING SECTION 441(11) PROVIDING FOR SUBMITTALS FOR A VARIANCE FROM THE REQUIREMENTS OF THE WATER QUALITY PROTECTION ZONING OVERLAY DISTRICT; AND PROVIDING FOR THE SEVERABILITY THEREOF.**

**ITEMS SUBMITTED FOR THE RECORD:**

1. Staff Report
2. Ordinance No. O-1011-52
3. Ordinance No. O-1011-53

**PRESENTATION BY STAFF:**

1. Mr. O'Leary went through a presentation on the process and science leading to the development of the ordinances under consideration, the areas regulated, and the provisions of the ordinances.

Mr. Sherrer arrived after the close of the presentation.

2. Mr. McCarty asked what the buffer zones have to do with low impact development. Mr. O'Leary responded that one of the things they find in all of the low impact development manuals (from Texas, South Carolina, Georgia, and Portland, Oregon) is that all have buffers in them. Buffers, whether they're called water quality protection zones or just buffers, are a way to let the stream and channel do what Mother Nature wants it to do – leaves it alone, does not constrict it, does not affect it. By doing that, you effectively have a lower impact from the development. I suspect it is also a water quality issue, as it is for us, as well as just a nuisance issue. The film that we didn't show has one of our property owners along Imhoff Creek, and the gentleman talks about the 30 years that he has lived in that home, and over the course of 30 years he has lost 20 or 30 feet of his lot to erosion. I think that would be an example that wouldn't have happened had the buffers been on Imhoff Creek. Mr. McCarty commented that when he reads the Planning Magazine, it talks about low impact development quite often. Most often it is talking about gardening or areas in the curb and gutter that will filter the water. It doesn't talk about buffer zones along creeks. It talks more about how to clean the water and have areas that do that before it goes into channels and lakes. Mr. Hanger added that the ordinance from the North Central Texas Council of Governments lists about 29 methods of keeping the development as natural as possible. Buffers are one of those 29 methods, which also include rain gardens, biofilters, etc.

3. Mr. McCarty asked about the impact changes to the North Central Texas document would have on our ordinance. Mr. O'Leary said he is never a fan of adopting someone else's standard. It does require a license agreement to adopt the North Central Texas manual. It was developed by the Council of Governments in Dallas/Fort Worth for 65 cities, of which about 24 have adopted it. It looks really close to the South Carolina manual. The manual in North Texas is not anything that would be very different from what we would do if we were doing it on our own. We are currently researching what would happen if they change their manual; we don't want them to be able to dictate anything to us. Ms. Walker added that the City adopts manuals like this quite frequently, with the Building Code and things like that. If there is a portion that we're not happy about bringing into our code, we would take that out. What we are attempting to do with the licensing is to get control of the document so we can modify it as times goes on to meet our needs. We're not looking to be governed by another agency. The way the manual is referenced in Section 19-411(D) it says that the manual may be utilized to determine pollutant removal for a particular structural control. It saves developers from having to calculate it on their own. We have that in the Storm Water Master Plan, but that was criticized because it was data from 2003, and this is more recent.

4. Mr. Lewis said one of the things that concerns him, as a director of a POA, is the responsibility for maintaining the buffer zones. Slide 38 shows the example of Summit Valley. Section 19-514(E) talks about the height of vegetation in the buffer zones. He was concerned about the potential for fires. If the POA is mandated with maintaining the buffers, they are probably liable for any fire damage to surrounding properties. Mr. O'Leary indicated this section is a compromise between what exists naturally in some of the streams, and something that is a little more reasonable but not quite to the degree of a groomed soccer field or golf course. Ms. Walker explained that this issue was not really addressed by other communities, but as time went on and we got drier in Norman, it became more in the forefront of our minds. She met with our Fire Marshall and the Fire Chief to discuss the issue. We want to get the water quality cleansing benefits, but not create a fire hazard. They provided documents about how they look at three zones around a house in terms of fire risk. This is an attempt to marry those two things. It is a work in progress and may be modified before it goes to City Council. It started with a minimum height of vegetation, and it will probably have minimum and maximum heights.

5. Mr. Lewis asked about impacts on affordable housing in Norman due to the amount of land that is lost to these buffer zones. He has been made aware that there is a development coming forward that, without WQPZs, there would have been about 400 lots in the development, and after WQPZs came into place about 104 of those lots were lost. Mr. O'Leary responded that he is not familiar with that particular case or those numbers, and he doesn't know whether they considered all of the elements of the ordinance, e.g., clustering and averaging. He referred to Slide 23. One way to look at the cost issue would be the cost of the land that would be dedicated. We are talking about 325 acres out of 10,500 acres of developable property in the current and future urban service area. Those are the most likely places that conventional subdivisions are going to occur. We don't think it will be much of a stretch to get the buffers on the country residential and suburban residential; they're ten-acre and two-acre lots. I suppose you could apply a number per acre cost to the 325 acres, and that

would be one simple answer to your question. I would say, too, in our discussions with the Task Force this has been a subject of great discussion and debate. There are those who would say, and have said, that this will increase the value of those subdivisions because now we have buffers and open space and natural stream and channel corridors which are much more favorable to home owners, particularly young home owners, than the concrete-lined channels 15 feet wide. I think another way to look at that is to take a look at Imhoff Creek and the gentleman that was on the video who said over the course of 30-35 years living in his home, he has lost 20 to 30 feet of his lot. So there's a loss to that owner that he never anticipated when he bought that home 30 years ago. Again, there's so many ways to look at this and I appreciate your question. Another thing to consider is the cost of maintenance. As a POA president you can really appreciate that. As we've looked at the current proposal, we really think that, done properly, the maintenance should decrease, not increase; there should be less to do. The example of Summit Valley is a good example, where they're not doing much there as you can see, and I don't think they probably ever will, unless we made them do that. That's probably okay, because we want it to be natural; we want it to be in that condition. It's a tough question and I don't know that anyone has a really great answer.

6. Mr. Lewis noted that we keep referencing back to the 2025 Plan. The 2025 Plan was adopted by Norman City Council effective December 16, 2004. For some reason, in the back of my mind, I'm thinking this type of land use plans are to be updated every five years. So if we add five years to 2004, we're still about a year and a half behind, but we're modeling an ordinance going forward that's going to affect numerous land owners and the future of the City off of an outdated land use plan. Ms. Connors responded that the 2025 Plan was adopted and it is indicated that we should update that plan every five years. Last year City Council chose to wait until the census came out this year, so that we would have new census numbers, because it doesn't make sense to try and look at land uses on old census numbers. Now they have chosen that we're going to look at trying to do a transportation plan first, because we do not have a complete transportation plan for the City. They have budgeted the beginning of that process. We don't have the funds to do both at the same time right now. As long as this is the adopted plan with no update, this is the official plan, as amended. We are still working with this and it is not out of compliance. Mr. Lewis commented that he wouldn't characterize it as out of compliance, but outdated. When you look at the 2020 plan versus the 2025 plan, we had significant land changes. We're trying to overlay something onto a plan that who knows what the change will be for the 2030 plan or the 2035 plan, and I think it would be prudent of us to slow down a little bit. That's the one thing that has somewhat concerned me about this flying through – I received a copy of the ordinance a week ago at 6:30 and we went into a study session. So really to have ample time to get my hands around this, even though I was listed as one of the people on the original storm water master plan then moved over to the Reapportionment Commission, it still was a volume of information to get a grasp on. As I shared with some in City government, I am just now getting to a point where I feel like I'm on somewhat of a solid footing and understanding what's going on, but yet I'm being asked to make a recommendation to City Council for approval or disapproval based on a very quick piece of information. And that's concerning to me, because I have a responsibility to the City of Norman, which ultimately is the citizens of the City of Norman. Ms. Walker pointed out that the 2025 map that he has is not actually the most

updated map. As amendments come through the Planning Commission and City Council we have the updated map on our GIS system, so it is constantly being updated. We were careful, in the ordinance, because where the Land Use Plan really has the most effect is with what determines the full build-out floodplain. The way full build-out floodplain is defined in the ordinance actually references the 2025 Plan and any updates to that plan. That would encompass the 2030 plan or, if you had a land use plan amendment go through tonight, that would encompass that update as well. Mr. O'Leary added that the other thing that's in our plan is the engineered solution variance, and this is one of the reasons why you have to have that. Let's say the Land Use Plan did change, as it always will change, and that engineer felt as a result of those changes our full build-out floodplain as shown was too large and should be reduced. They can study that in detail and submit that as a variance to this ordinance, and they do that today. That's built into the plan for that option to address any changes to the land use and the impervious area.

7. Mr. McCarty asked how many miles of creeks and streams this is talking about. Mr. O'Leary indicated it is 330 miles. Mr. McCarty asked how many structural controls are in those areas. Mr. O'Leary said very few. Most of these 330 miles of streams and channels are in the undeveloped areas. Mr. McCarty asked who in the City will be doing the inspections and how those will be done and how they will be funded. Mr. O'Leary explained that the Public Works Department will be responsible. It will be inspected by their staff members; there is a Storm Water Division that is made up of about 32 people today. The financing to do more and hire more people, provide more resources for them, would probably be through the storm water utility fee structure, which is item 2 on the work plan.

8. Mr. McCarty said Mr. O'Leary made a comment that he will have to disagree with. You said that these buffer areas, the way that they're maintained currently, that this ordinance would cost less maintenance to the POAs. If what I'm hearing from Kathryn is potentially that the Fire Department may want these cut to 8 or 10 inches, the majority of these areas are never mowed or cut down at all through a summer, as you can see in that picture. You're talking about weed eaters and something to get them to those requirements if we're really looking at that, and that's rather expensive to send a crew down through a creek in a POA to do. I'm not sure that I can agree that it would be less expensive. Mr. O'Leary responded that those are some of the unknowns. The general thinking behind that comment is that there would be very little time that you would have to do that. It would depend, of course, on the grasses and trees. I think Summit Valley is sort of a typical scenario; there wasn't much of that really to mow. Mr. McCarty pointed out that the picture we saw showed 3-4 foot high brush along the bottom of the trees that potentially would need to be cut down, and that can't be done with a brush hog in those area typically. Mr. O'Leary commented that is a work in progress; we're trying to get our arms around the range of heights and maintenance standards. We had very little help in that area. There was very little definition. In fact, Bob Hanger has referenced several times Portland, Oregon or Seattle where he was researching a case where this had been done in a subdivision, and the problem they were having was the residents were coming in and mowing it down to an inch and using it as soccer fields, which really defeated the whole purpose behind their water quality protection zones. So they were having to re-educate their residents to not do more, but to do less. It's really from that that we derived that

thought it would be less expensive. Mr. McCarty commented that brings up an interesting point. Most of these areas that are flood zones around the country are used for soccer fields, baseball fields, low detention areas, etc. What I have found quite often through some of the research I've done – I was actually on the Task Force and so I've been looking at this – is that the majority of buffer zones that I see throughout the country are used for quality of life issues, like you just mentioned, and not for riparian or filtering areas. That's a concern of mine. These are no-touch no-build kind of zones, and it can't even really be a quality of life zone. Mr. O'Leary said he was in a meeting earlier in the day with some folks from the City of Tulsa, and we were talking about how Tulsa, for almost 20 years, has had full build-out floodplains and 40-acre floodplain maps. They're a model in the country. They did that because they were flooding and people were dying. It was a very serious situation in Tulsa many years ago. They did that for flood control purposes; they did not do it for water quality control. We didn't really talk in terms of water quality 20 years ago. But the inquiry the gentleman had – he's the stormwater manager for the city – he said we're really trying to redefine that because we want to do more water quality, but we really defined it as floodplain management. He also indicated what you just said, is that those areas have been very favorable, but they have been used for recreational purposes and they're trying to strike that balance in Tulsa, Oklahoma as we speak, just as you're describing.

9. Ms. Gordon asked if the outer zone (Zone 3) would be the part that mainly would be maintained by POAs, so we're not talking about them going down and mowing the streambed or brush hogging that area in Zone 2 or Zone 1. Mr. O'Leary indicated that is exactly right. It is our hope that these would be left in a very natural state, just as the picture in Summit Valley Addition indicated. Parts of Zone 2 might be maintained; each condition is going to be different. Closer to the homes is the area that would be maintained.

10. Ms. Pailles commented that she attended, off and on, the public meetings for this, but missed the information about the phosphorous and nitrogen removal. If your starting point is water quality at Lake Thunderbird, and you think of the problems it has, one of which is algal blooms, and think of the solution to that – reduce phosphorous and nitrogen – that seems like an admirable, straight forward solution. I didn't think to look up other cities' regulations, but I looked for stream management guides for other states and 100 feet seems to be consistently recommended. It might not be optimum, but it's what one can hope for and it doesn't remove 90% but it seems a relatively rational solution. Does this apply to only residential, or would it apply to things like golf courses, which are big offenders in the phosphorous/nitrogen area? Mr. O'Leary indicated it would be all private property. It would depend on whether a golf course was required to be platted. The thing we didn't talk about here that's really the discussion of a lot of the concerns at Lake Thunderbird is the content of chlorophyll A, which is the basic ingredient to algae. As an expert with ODEQ said, algae is good – we want algae in lakes. Too much algae is bad, and we have too much algae in Lake Thunderbird now and it's rapidly increasing. To put that in terms of numbers, the State standard for chlorophyll-A is 10 micrograms per liter. When Dr. Vieux did his study in 2007, the amount of chlorophyll-A in Lake Thunderbird was 30 micrograms per liter, so three times the allowable amount. Recent tests in the lake have indicated 60 and 70 micrograms per liter, and he projected closer to 40 and 50. So, if anything, we think as

great as Dr. Vieux's report was, he might have under-estimated the impact of these issues.

11. Mr. Trachtenberg asked the burden on staff of this, as well as the burden on applicants to show a lot more on their plats. A lot of the mapping is done by our GIS staff. What is the status of that information? Does that belong to the public? Is that available to applicants who want to work things out? How is that information made available? Mr. O'Leary responded that the development of the full build-out floodplain, or what was called then stream planning corridors, made up about 25-30% of our Stormwater Master Plan; we paid the consultant about \$300,000 to develop that set of maps. So we have quite an investment in this, and it was the baseline for this discussion. Once we knew what they were and what they looked like and how big they were, we would know if we wanted to regulate them or not. It is a product of the public, just like our GIS system is today. One of the theories in developing that was that was something we wanted to give to the development community. If they didn't want to develop their own, just like they don't want to develop FEMA maps – that's a product of the public, as well – we hand it to them. The beauty of that is today we have all that in digital format – in electronic format – so we can actually give them electronic GIS-based data – very, very accurate data – that they can just insert into their development plans. It is a product that, if adopted, would be offered to every developer or any homeowner that walks in the door.

12. Ms. Hartley asked about the amount of water contributed to the watershed by Oklahoma City and by Moore, and whether they are looking at any kind of an ordinance. Mr. O'Leary said he doesn't know that they are specifically looking at buffer ordinances. They are regulated by the State of Oklahoma, as we are. We are what they call a Phase 2 city, which was a city less than 100,000 population when the program was adopted. Moore is a Phase 2 city. Oklahoma City is a Phase 1 city, so their stormwater regulation started in 1990 and they are regulated by the State much more stringently than we are. Right now this watershed plan that is being developed by ODEQ, and we hope will be out soon but probably is a year away, will be the baseline for additional regulations. We think our buffer ordinance is a great first step in getting ahead of that and it's a good thing to do now, but we think that regulation when it's released will require Oklahoma City and Moore to do much more than they're doing today. That could be buffers. That could be a number of other methods. We think buffers will be one of their choices because it is by far the cheapest of all the alternatives that are out there. But I don't think they're doing it today. I will also say one of our items – the 30 work items – is to coordinate with the cities of Moore and Oklahoma City, ODEQ, OCC and develop methods and procedures to address the pollution of Lake Thunderbird. Much of the discussion I've heard from the Council and the subcommittee and the Task Force is Norman wants to lead the way on this, and this buffer ordinance is one of the ways we're going to lead the way. This is the words of our leadership. Ms. Hartley asked if there is a role that the Central Oklahoma Water Conservancy District plays in this. Mr. O'Leary responded very much so. In fact, the City of Oklahoma City and ODOT were sued in 2007 because they felt that their Phase 1 permit was not adequate to address pollution. In settlement of that suit, ODEQ and OCC agreed to develop this watershed plan and, when developed, Oklahoma City agreed to comply with it. The only thing keeping us from getting to that is the completion of that report.

13. Mr. Lewis asked if the amount of pollutants (nitrogen, phosphorous, etc.) that Norman contributes has been measured, versus what Oklahoma City and other areas contribute. Mr. O'Leary responded that we are just beginning to measure; that is not part of our requirement. Oklahoma City is required to measure some of their discharges; Moore is not. Mr. Hanger added that he doesn't have the numbers memorized, but we have taken samples in Little River right at the city limits with Moore. We also have samples from Hog Creek, coming from Oklahoma City. Lake Thunderbird has been declared by the State of Oklahoma an impaired body of water based on chlorophyll-A and turbidity and dissolved oxygen. Usually when you have high algae content, it lessens the dissolved oxygen. Mr. Lewis said his question was more whether we have specific data about whether Norman is contributing more or less contaminants into Lake Thunderbird than the other areas. Mr. Hanger indicated that we have the data and he can provide that. Mr. O'Leary suggested that Dr. Vieux might be willing to speak to that; it was in his report.

14. Baxter Vieux commented that they did a modeling study, and it's about 50/50 in terms of the watershed area and also in terms of the loading. There are hot spots here and there that are more or less, but we don't have specific measurements per se. As a part of the watershed plan that's being developed, they did take samples on the major tributaries in the Little River and in Hog Creek. When that becomes known from ODEQ, then we'll have some hard numbers for that. But it's roughly about 50/50 and it's tied mainly to how much area is draining from Norman versus the other communities.

15. Mr. McCarty commented that he was a member of the Task Force and was there for all of the meetings except the first one. He doesn't recall any vote that the Task Force ever took or any type of consensus on anything. He is surprised the Planning Commission is discussing it, because he felt like the Task Force never finished. He feels like it is a work in progress and there are a lot of unknowns. Mr. O'Leary indicated what he intended to say was they had met with the Task Force numerous times with a set of draft ordinances, and with each meeting they challenged it and suggested changes and asked for more research. What the Commission is seeing is the culmination of those series of meetings. It has never gone to a vote of the Task Force. The last meeting was a bit tense. I think we had reached maybe a point of frustration on both sides of the issue. There were some folks who wanted zero dimension and others who wanted 350. I think the Mayor, who chairs that group, concluded that it was time to move on and bring it to the Planning Commission because we probably weren't going to find a full consensus there.

16. Mr. Trachtenberg commented that recently the Planning Commission was charged by the City Council to develop an ordinance on commercial lighting. What was the official mandate for the development of the language in this ordinance? Mr. O'Leary responded that the Master Plan had clear guidance that we wanted a stream planning corridor ordinance and water quality controls in Lake Thunderbird. Literally within a week of the acceptance by Council on November 10, 2009, the staff was charged with developing that ordinance. That was the first thing we wanted and at that time the Council subcommittee, made up of Mayor Rosenthal, Councilmembers Quinn, Butler, and Dillingham, wanted to bring that back quickly. The direction from the Council subcommittee was to bring that back, re-engage the citizen Task Force,

and develop an ordinance, which now has become two ordinances, and then take it through the appropriate approval process. It went from Council, to staff, back to the Council subcommittee and the Task Force. We have met off and on for about a year and a half and the Council subcommittee met after the last Task Force meeting and said we've gone far enough, go forward to the Planning Commission because it takes Planning Commission action to adopt any changes to the Zoning Ordinance.

17. Mr. McCarty asked, if we implement the buffer zones today, how much of an improvement we will see to the lake. Mr. O'Leary responded that we believe that of all the best management practices that are out there, that buffers are by far the most effective of all of them – detention basins, bio-engineered channels, etc. We have said consistently throughout our discussions that these buffers will not address the full pollution control that we need. In fact, one of the tougher things to do is going to be to go back and address the runoff from Oklahoma City and Moore and other developed areas. I believe that the buffers, having studied all of this for many months and years, will be the most effective of all the methods that we use. To give you an example, Dr. Vieux's report talks about fertilizer controls. When you talk about nitrogen and phosphorous you think let's just stop fertilizing; let's get all our homeowners to stop making their lawns green. That's difficult to do. I think Dr. Vieux's report said if you did that, and did that really really well, you might get about 10% reduction in nitrogen and phosphorous. I think buffers, if done properly, could be much more effective than fertilizer controls and other methods. I believe his reference was more to developed area, and mine was as well.

18. Ms. Pailles commented that the missing piece is the South Canadian watershed. Imhoff, Brookhaven, and Bishop Creeks were addressed in the study sessions and hearings, but they're not addressed in this ordinance. Mr. O'Leary responded that there is a whole section of the Master Plan that addresses the Canadian River. We're not ignoring it. We have a very aggressive plan for storm water Phase 2 regulations. In fact, the water quality protection zones were proposed originally for the Canadian basin as well. As the Task Force went forward, they concluded that they should not do that in the Canadian basin, but to focus on Lake Thunderbird because of the water quality and the use of the domestic water. At the same time, they recommended a great deal of storm water improvements in the Canadian reservoir. And I would tell you the majority of the dollars spent, if we go forward and implement all of that, will be spent in the Canadian reservoir, not in Lake Thunderbird.

RECESS – 8:24 to 8:33 p.m.

**PARTICIPATION BY THE AUDIENCE:**

1. Richard McKown, Green Earth Land Design, 4409 Cannon Drive – Normally I wouldn't want to go first. I think you're in for a long evening. There are a lot of issues here and there are a tremendous amount of concerns by my fellow colleagues in the professional land use industry, otherwise known as the development industry. But I have to go first because I need to get to dance practice for the parent dance at Sooner Theatre and I'm waiting for a text saying hurry and get down there. So I'll try and be brief.

We all want the exact same thing. We want clean, safe storm water now and in the future for our children. That is absolutely paramount to everyone in our industry,

and it starts right in the communities we develop – whether it's an office park or neighborhood. The algae starts growing; it's growing in my back yard. I have a crazy neighbor that feels like his yard should be deep dark green all year long, and he fertilizes the sidewalk. I'm really struggling finding a way to talk to him about it, because he doesn't like my yard that's allowed to be quite natural. This is a complicated set of issues.

Since we've been here, I received an email from Dr. Kaufman from the University of Oklahoma. We've been doing research together in storm water cleansing techniques for the past nearly five years, and he sent me this great email that says we're receiving a research award at the Regional Landscape Architecture Conference May 5 in Des Moines, Iowa, and he wanted to see if I would go up there with him to get it on behalf of Terra Verde and Carrington Place community.

I think it is a huge issue and is incredibly complex. I've been studying it intensely for the past ten years. I moved down here in 2001 with the specific goal to make our land development company as green as the home building company that Ideal Homes is. Ideal Homes is remarkable in terms of what it does in energy efficiency. And at the time I moved down here, the reputation was for just bulldozing all the trees down, straightening the stream, putting in a concrete-lined ditch, and we've in great degree quit doing that. But we've discovered many things along the way. I hate to just take complete issue with the comments that have been made about the buffers being the most effective way to clean storm water. But in the condition where we're going to urbanize a situation – an example that's been used many times tonight has been Summit Valley. Go out and visit Summit Valley. Go for a walk up that buffer zone. The storm water comes off the roof tops, across the yards, washes the excess fertilizer down into the curbs and gutters, goes into drop inlets, and then is piped to the flowline of the channel. That's our current drainage ordinance. Look at this slide that's up right now (Slide 27) – 85% of the time the rain falls the water stays inside that little U-shaped stream channel. It's being piped underneath this riparian zone. That's our drainage ordinance. That's how it works. You've got to get up early in the morning and you've got to hang out with guys like Reid Kaufman, and work at this all day, and you've got to go stand in the rain when it's raining and look at what's happening to come up with systems where you actually can get the water into a situation where it is being filtered. We're being put in a situation where we have to come and say we're being put in a hardship, which is very hard to define in any municipality, and we have to seek a variance. That's not ideal for urbanizing and filtering and cleaning storm water, and actually improving the water quality at Lake Thunderbird. We need to put together the mechanics of a treatment train. We're deeply invested in this. We've spent a fortune. We've done things, they've blown apart, we've gone back in and rebuilt them and it's amazing what we've learned. It's why we're winning a research grant, because this type of thing has been going on in the coastal areas of the country where it rains a little bit every week, but they don't get flash floods and they also don't have our tight clay soils. So they have soil conditions that allow infiltration. We've had to invent all new technology to do filtration with our exploded clay media, various different recipes. We're still up in the air about whether we have fly ash; it does bind up nitrogen. It's also potentially causing some other problems, so we're not doing it that way at the moment. But the research is very much in its infancy here in the entire Great Plains area. Central Texas – I'm excited they're working on things, because they have similar rainfall patterns and they have similar soil conditions, but truly these things don't easily

always translate. But the important point I'd like to make is we want to solve the problem with the lake.

When I was a little kid – I was born in this town – it was called Lake Dirty Bird. It was red. Anything you had on that was white would be pink. As a little boy, you're not crazy about having pink clothes. Your T-shirts would always turn pink. It's not that way anymore, in large part due to improvements in controlling silt and runoff. When I was a kid – my family has been here 42 years in the construction industry – we didn't have any erosion control; we didn't have any silt fences. We didn't have anything way back when the lake was red. We can solve this. We can solve it with good common sense measures that actually filter the water at the top of the stream – the water that actually fills up that little stream channel at the most common rain occurrences – 85% of the time. And we can do an amazing job at it. We've got a development community here in this town that's willing to do those things – willing to adopt new measures that allow us to have not just low-impact techniques, but treatment train systems. But this ordinance puts us over in the position of having to make that extraordinary – or a variance requirement.

You approved last year the J&J property. It has very few stream channels on it, but the stream channels that are on it are under the control of the Army Corps of Engineers. I screwed part of it up. I wanted to move a stream channel. The guys came down from Tulsa and they said you have a wetland condition here. You've got the soil, you've got the plant species – I wanted to move the pond over to the edge of the road because it would look a lot nicer and you could see it and more of the public could walk up and down it. It wasn't a big deal. It's only about five foot of difference, and basically there's this big wide swale and he said I don't want you working in here. I want you to go back and redesign things and stay out of this zone. So we are already under the regulation of the Army Corps of Engineers through their 404 permitting process to stay out of the very sensitive areas along our streams. The J&J property also had a huge swath of land that, because it's so flat, fell into this storm water quality protection zone. And there was no way to get the water into that. It would be like dumping water on this table – just spread out. It was one foot of fall for every 150 feet of land – unbelievably flat – less than ½% of grade. We went through and put together a system of a treatment train where you go from wet detention structures to riparian zones that we're actually constructing over into some of the 404 stream channels and then back out into some other detention areas where they made sense. And we pulled together some of the best and brightest minds in the region on the subject. We have developed some incredible knowledge here in our community. I want us to get there together. I am so tired of fighting about this.

I didn't know we were done as a Task Force. I've been working on this and never missed a meeting of the Task Force. I'm one of the original members. Every community we develop, all throughout central Oklahoma, we employ all these techniques. One of our most recent designs will be featured in Oklahoma City's mayor's development roundtable next month, and it's about all of these things that we constantly have developed and experimented with and figured out for our local soil and weather conditions and for our environment, and they're working. And they're working very well and we're making progress. We need to put the changes to our subdivision regs together with this so we can actually draw through the implications of this to make sure it's a total system that works and we can get there. We can't get there – it's not a panacea to just say buffers, they do a great job. That's just not true. They do a great job in specific situations and in some of our neighborhoods we've

gone back, cut out huge amounts of land that have been disconnected from the stream, and reconnected them with the stream so you have a floodplain that actually functions 85% of the time when it rains, and all of a sudden we have a buffer that does what it's meant to do in an urban condition. But it took a lot of doing and a lot of dirt had to be moved to restore a stream channel to its original condition. Anyway, that said, thank you for all your hard work on this. And best of luck.

2. Harold Heiple, 218 East Eufaula, representing the Norman Developers Council and I'm also on the Stakeholders Committee – I brought with me tonight a map of the Lake Thunderbird watershed. We used to have a camera up there that could get down fairly low and let you see – I don't know if it can do that. The reason I brought this side is because it shows the FEMA floodplain and it shows all of the SPCs – the stream planning corridors – that were developed by the consultant and came out in his report in 2009, and in addition some red lines that Mr. Hanger drew on there where streams may continue beyond the end of the SPCs, or full build-out floodplain, as they've been referred to.

By way of history, in 2009 when the consultant's report was released, it featured SPCs – these stream planning corridors – and they are outside the FEMA 100-year floodplain. The consultant said that the SPCs should be given or dedicated to the City without any compensation and also that they should be areas of no-build. Now this was from the very outset in their report. Well, the minute that position was voiced, the entire development community – the property owners – all said no deal. It's been no secret – we've been adamantly opposed to SPCs since the inception and there are instances showing that these things are not necessarily accurate because of the way they were put together. The scale on here is 1 inch is 4,000 feet. Try to figure a metes and bounds legal description off something that is down at that scale. And even if our GPS system can say we can bring it down to a foot, you know – garbage in, garbage out. So we're not at all prepared – then or now – to have anything to do with SPCS or, as they have now been relabeled – full build-out floodplains.

The two ordinances that are before you tonight incorporate these SPCs under the name of full build-out floodplains. Here is what these ordinances will do. They will take valuable and developable acres away from an owner without compensation and they will prevent any houses or other buildings from being built anywhere in those areas. And remember we're talking about full build-out plus 100 feet on either side. Now if you're a no builder or a no growther, that's delightful. If you've got investments in land that you've made in good faith in an urbanized area, that's disastrous. Here's what these ordinances will not do, and I think you've got to realize this, because nobody said this really up til now. These ordinances will not reduce pollution that's currently going into Lake Thunderbird from the houses and the buildings and the streets which currently exist in Norman, Oklahoma. The lake is impaired and will continue to be impaired. This administration, in the last four years, has done nothing to address any of those problems. These ordinances will not – and this is critical – reduce the pollution of the storm water that's coming off the houses that the owner is allowed to build, for that very example that Richard just cited. You say the SPC is an area of no build, so the owner says fine, I won't touch it. I'll just build on everything that's outside it. And he builds on everything that's outside it and he follows the current ordinances and he puts it in a pipe and sends it underground and it never goes through this buffer. It ends up down there in that little valley in the stream. So all of the new houses are polluting that stream just like the existing houses are polluting the streams and, yet, these big buffers

that have been taken without compensation and not allowed to develop, they're not doing any good. The ordinances will not provide any increase in drainage control of the storm water that's coming off the houses that the owner is allowed to build. So for all of the talk about the wonders of these buffers, these won't get you there. We want to get there.

I had proposed a substitute ordinance to the Stakeholders Committee. I'm going to provide you a substitute ordinance that will reduce pollution. Now my ordinance has not been fully vetted by any group, and it certainly should be. I've asked for equal time to present my ordinance whenever the City staff is presenting their two ordinances to various groups, and the Mayor has not seen fit to allow us equal time to present our side and our position and the ordinances that we say will solve the problem that is supposedly the goal behind all these. The Mayor is intent on getting these two land-grab ordinances on the books by May 24<sup>th</sup>. That's the rush. That's why, as finally was revealed tonight publicly, that the four members of the City Council who constitute this committee just wired right around the Stakeholders Committee and said get it on the road – take it to the Planning Commission. If they've got a problem with it, they still can bring it back and they've got time before our May 24<sup>th</sup> meeting, in the hopes that they can get five votes out of the Planning Commission to kind of stamp it. And what you have to know is that their failure to engage in meaningful dialogue is why your approval is not appropriate tonight. Because you need to schedule a debate or a study session, or whatever format you want to, that will give you the details that will let you make an informed decision about what this ordinance or any ordinance will or will not truly do. Because you've only been hearing one side of it from the staff.

What I'm about to say is something that I didn't have in any prepared remarks, but what you did tonight certainly was right on point. Item 8 that you just approved earlier tonight has a stream planning corridor in it – fairly large one. Now, the proponents of these two ordinances insist that a buffer is absolutely essential – that it's the backbone of any pollution control system. As Richard said, it's not necessary. And Item 8's design tonight, which was recommended by staff, approved without question, and approved unanimously by you people has reduced pollution for the entire tract that was contained within the plat without any buffer whatsoever – without any. So don't tell me that buffers are really the best way to protect an urbanized area, because that ain't going to hold up, friends. And what we are trying to do desperately is to get an acceptable ordinance that makes sense and that everybody can get behind and support and not have this end up in litigation. Because, as night follows day, if you're going to take 100 lots away on a 400-lot subdivision without compensation, somebody can't afford to do that. And they don't want to go to litigation. And Richard McKown and Trey Bates and Sean Rieger and I have been working very hard to get an acceptable ordinance. All we want is reasonable constructive dialogue by all the players and we haven't been given that. So all we can do is make a matter of public record to you tonight that the two ordinances that you have before you do not do what they are purported to do. And I hope you will take some time to look over the substitutes, schedule whatever is appropriate for your own edification, and let's all arrive in a reasonable time – whether we get this on the books by May 24<sup>th</sup> or not – it may be good for somebody that's going off the Council, but from the standpoint of the benefit of the community, whether it's May or June or July – it doesn't make any difference, as long as what we get on the books is for the good of the community. And that's what we're trying to come up with.

3. John Woods, President and CEO of the Norman Chamber of Commerce, 115 East Gray Street – It's a pleasure to be with citizens giving their time to figure out very difficult decisions. I appreciate your time and efforts volunteering to wade through difficult issues that are in front of you. I want to let you know for the record I am not a developer. And, for the record, I am not a business owner. I am a dad of a 7-year old daughter who frequently drinks out of the tap and the water that she drinks comes from Lake Thunderbird. And so the actions of our city, the actions of this particular Commission concern me as a father. And the future of our city, when it relates to our water quality. I am a homeowner that is concerned about the price of a home when I purchase it. I am someone that is concerned about the environment that I surround my home with – what it looks like aesthetically. I am someone that is concerned about the price of goods and services in my community, and I can say after hearing, over the course of not as much time as our staff has put into this – not as much time as you, as a Planning Commission, may have put into this, or those of you who have served on the working group – as someone that is new to the process, but I have spent several hours trying to catch up to speed and become familiar with this issue.

I can tell you that as I read more of this work product, I come up with more questions than I have answers. So my request to you may not be the same request that you would have from some others that come and speak before you today. I can truly and honestly say from my perspective I do not have the opportunity to tell you unequivocally that there is a situation in which you should absolutely not recommend some type of water quality protection zones. I personally cannot do that. There may become a point in time where the Norman Chamber of Commerce has an official position – and we will be meeting and we have met unofficially to look through this information. I certainly doubt there will be a situation in which we will recommend as it is currently constituted because I think there are serious concerns with the ordinance that is in front of you today. But what I can ask you to do, unequivocally, is to ask the City to take a deep breath and slow down – to take an opportunity to let a working group and committee continue their work and try to reach consensus. I do not believe that's an unreasonable request from the business community of this city to ask upon volunteers and City staff to spend more time looking through these problems. It is a fact that the way we currently develop property by an urban code standards is absolutely the opposite of the way that you would flow water in a method to treat it through a buffer zone. It's undisputed. Water flows to detention facilities from your urbanized settings and flows through pipe systems into a stream bed. It does not flow through any kind of a buffer system. In fact, if one of your major concerns is storm and flood issues, then you would not want a situation in which water, in an uncontrolled format, was flowing through a buffer zone into a stream bed. The very way that we design through a detention pond type facility is to slow the water down. So if we were to redesign – if you admit, or if you can believe, or you can come up with the scientific evidence that a buffer zone is the best way to have a water quality control, then by that very same logic you're admitting that water needs to flow through this buffer zone and not through a slow drain process, thereby creating a higher propensity for flooding in these very areas. So they are in many ways mutually exclusive issues that this particular ordinance causes you to create a serious problem. So, from my position, and from I think the Chamber's position as a whole, we're simply asking you to slow this train down. And it really has been a train over the past month. I have taken a look at the documents. I've taken a look at the very slow and methodical time that staff, that

volunteers, that planning groups have taken to study this issue, and then suddenly in a very short period of time we've sped it up rapidly through the process. I can't really explain why and I don't understand why. But I do know that these citizens sitting on this dias tonight have the opportunity to ask the City let's just take a time out and slow this down a little bit. And let's take a look and see if what those that are speaking tonight are saying are true – that this is not the best method – that this is not the best way to treat your water quality based upon current design standards and how we view detention pond facilities and other mechanisms surrounding our development. Let's take the opportunity to allow the business community to take a look at the true costs of this, because I can tell you right now, as the Chamber President, and as for someone that's interested in the business community, we look at our sales tax revenue dollars. People will spend sales tax dollars within typically a 15-minute drive of where they live. We need citizens, we need individuals living in Norman. You don't need them living in Moore. You don't need them living in south Oklahoma City. If you want to drive sales tax dollars to Norman, you need more residents in this community. You can talk about shifting residences and compacting residences and that may be all legitimate and fine but the end of the day there will be fewer opportunities for housing units in this community which at the end of the day means fewer residents long-term and will mean fewer individuals spending their dollars in this community and that's plain and simple fact. It is plain and simple fact that if you do this – and you may say that the cost versus the quality is worth it. Maybe it is. I don't believe that that would be shown to be the case, but maybe it is. But you need to realize if you do that, you will be increasing the housing costs in the City of Norman, making housing developments outside of this city much more economically feasible for someone to choose to call their home. Plain and simple. No question. Cannot be disputed. And I can tell you one other thing, as someone that has been a former housing association president. There is absolutely no doubt in my mind if you have this type of zone with this kind of growth you will create a potential for fire. I've seen it firsthand and how we experience what a housing association has to do in relation to maintenance of that property. And, second of all, you are going to create a more expensive per house fee in relation to those housing developments. We charged, for example, where I lived at the time \$100 and we had very small areas that we had to maintain. You start to talk about this type of area and you relate that per residence and you could see easily, I think, double or triple the housing maintenance fees annually to those consumers – again giving someone one less reason to want to call Norman home. That, to me, just doesn't make sense. At the end of the day, perhaps the study group will find that this is the way to go. I tend to think not. But all I can ask you to do is wait and weigh these considerations of cost versus the benefits that I don't think have really been undertaken in this process today. So that's what I would ask you to do, is to ask this staff, ask this City, ask that working group to spend more time really digging into these numbers, this data, this distance for its true necessity. Other ways we can compromise and find a way to have water quality be important, but to make sure that we're maintaining cost competitiveness with our neighbors and neighboring communities. And I thank you so much for your time and for your efforts on this commission.

4. Sean Rieger, 136 Thompson Drive, representing the Builders Association of Southcentral Oklahoma – Gosh, we were just here not long ago with another ordinance, weren't we? I think back to that experience where we went through that for over a year. That lighting ordinance was probably less cumbersome in some ways

than this will be on the future of Norman. And now this is being thrust through in a very fast-paced process. We were all stunned tonight, literally, with the revelation that we had never heard that the Task Force was finished. That was news tonight. We had no idea that was the case. I'm not on that Task Force, but several of the people in this room are and that was news to them, I understand. It was nothing we were aware of. There was still very intense discussion in that Task Force right up to last week, and I guess suddenly the plug has been pulled on them. I'm not sure why that was the case. But we have significant concerns about this proposal. I want to talk through just about seven points in general.

First of all, you heard Mr. O'Leary tell you that cities like Norman, Moore, and Oklahoma City are governed by the State of Oklahoma Department of Environmental Quality in their storm water permit process – Phase 2 cities – Phase 1 cities. And what you've heard is the same thing that we've heard for the last two months from Mr. O'Leary is that there is a permit forthcoming from the State that, as he told you tonight, will tell Moore, Oklahoma City, and Norman what to do. That permit, as he told you, is months or maybe about a year away. We've heard July. We've heard this fall. We've heard December. But it is forthcoming and it's soon to be here. It will tell us what to do from the State's perspective. As importantly, it will tell Moore and Oklahoma City what to do. Then we can go forward with those recommendations, and if we want to be higher than that level, certainly we can do that. But it seems imprudent to adopt standards that maybe are not even what the State is recommending we do and maybe are not what the State recommends our neighbors to do, putting us at a different plane. We should wait for the storm water permit to come out from the State to tell us all what we should be doing, and then we should tailor our ordinances to be as such. If we want to be a leader at that point, we still have the opportunity.

I think the next really important point here is how do we build this. You've heard a lot about that tonight, and Harold brought up a development – Richard talked about J&J. I'm going to show them to you on the screen, because it just so happens they were in front of you tonight, and there they are. How do we build this? We're thoroughly perplexed as to how we do this. You've heard it a lot tonight. The concept here is very simple. What you're being told is these buffer zones are going to be put into place so that all the storm water can be taken through these zones and cleansed before it gets into the creeks. Well, look at these subdivisions right here. Take a look at that screen. There is J&J right there. You see these detention ponds right there. That is the treatment train that Richard was telling you about. That's how they do it. They take the water down into these detention ponds, they treat it, release it to the next pond, and there it goes. It works. It's been successful. But if you're going to take this ordinance and apply it to that, then I want you to look at that very closely. You're going to take an extra 100 feet on each side of those ponds. Those lots are 100 and some feet. Let's just say, on average, you're going to take an entire lot on all sides of every one of those ponds. That's a lot of lots. That's a lot of revenue and income stream to that developer. How does he do that? How does he do that and keep the same pricing that you were told earlier it's not going to have an affect on? I don't know how you do that. I have no idea how you do that. Let's look at the one you just approved earlier. Here's the one, and Harold brought this one up. You see right there are the detention ponds – again, the treatment train. Well, if we're going to take an extra 100 feet on each side, those lots right there are 130 feet. You've wiped out huge numbers of lots in that development. For what purpose? Because now look at this again and think about this. You've been told that all the water is going to go through

the buffer zones, but that's not how we develop. That's not how our subdivision regulations require us to develop. Look at this area over here. How are you going to get the storm water in that part of the subdivision to go through buffer zones to these ponds? I guess you could take it through somebody else's lots – through their property and their side yards and back yards. I don't know how you do that. The water goes into the street and goes into pipes and then the pipe takes it subgrade into the pond. It never goes through a buffer – ever. And I don't know how you're going to make it go through a buffer, because to do that you're going to have to take it through lots – through people's back yards. You're going to have to sheet flow it across a wide expanse. Now, if you could do that, maybe you could cleanse the water. But just think common sense wise – just look at that drawing. How do you physically do that? And the answer you heard tonight is the staff doesn't know, either. We're basically going to go with the guidance of the North Texas subdivision regulation that nobody even heard about until about a week ago. We don't know. We don't know how we're going to build this. So there's significant questions left to figure out before we go forward.

There's an engineered option. What they've told us in response to that discussion is don't worry about it, we'll let you do the engineered option and so you don't have to do the buffer zones. The problem with the engineered option is it's through a variance process. And you saw tonight you have to show error. You have to prove that. Somehow they made an error. You have to show that there's no unreasonable disruption to the natural terrain. Well, if we build treatment train ponds, we're going to disrupt the terrain. You have to dig it up and build it. You're going to have to show that you didn't interfere with the full build-out floodplain. In essence, you still have to have the full build-out floodplain. So the variance process is so severe that it will never happen. I don't know how you'll ever get that approved, basically. And how would you get that approved on every development that you would have to do, since you can't really use the buffers?

A homeowners association point is important. I don't think they have a clue right now – the existing homeowners – of what this is saying. We've heard for the past year, since the storm water came out, homeowners associations have begged the City to bring forth some sort of a funding mechanism to help them maintain the common areas. We've heard that repeatedly. This answers what's going to happen in the future on that. This says they will actually maintain those areas very clearly. We've asked for clarity. Well, does that mean the City is going to do the dredging of these ponds when they get over-sedimented? We don't know. Does that mean the homeowners association is going to do it? We know they have large areas that they're going to have to maintain. We know this ordinance actually mentions things about water monitoring and remediation required by the homeowners association. We know this says the developer has to prepare a report for best management practices. Well, every time a developer puts forth a report of what's going to happen on that subdivision in terms of long-term maintenance that means the HOA is going to do that. It's not the developers that are going to do that. So all of this is adding tremendous cost to the HOAs and I think it answers their question as to ever will they see any funding from the City to do these things for them – probably not. Because I don't think the City is going to treat future HOAs differently than they would the existing.

No funding in place. Very important. We just heard Mr. O'Leary tell you that the City will have a very large responsibility in this. They have to go out at least once a year and after every storm to inspect these drainage areas. Another thing that we've learned in this process is that almost all of these other ordinances that you've been told

about in other cities that have anything like this – and there's not much of anything like this – but they have funding mechanisms in place to help pay for the cities' responsibilities in these efforts. We don't have that in place yet. That needs to come in place with this if we're going to mandate the City to have a function as far as maintenance.

Dramatically increases costs. We talked about that. You're going to lose huge numbers of lots. That increases cost. No question about it.

And I think the last point that I want to leave with you is the Moore and Oklahoma City angle. I think that's been brushed over. We are in a competitive market. The developers have to compete in Moore, Oklahoma City, Edmond. They don't compete in Austin. They don't compete in Scottsdale, Arizona. They don't compete in South Carolina or San Antonio. They compete in central Oklahoma. We can be proud to be the leader if you want. I understand that and I believe that concept is genuine, too. But if you're proud to be the leader and you do something that nobody else in your area is doing and you added in tremendous cost in doing so, ahead of before the State has told the other cities to do it through storm water 2, then you've put your community at a severe disadvantage economically. Why would you do that? If the State comes forward and says Moore and Oklahoma City, you will do this and Norman you will do this – no problem. We're on an even playing field. We know we all have to do it. We go forward. But if Norman says we're going to do this, and the State comes out in a year and doesn't make anybody else do it, oh, my gosh. We've just put ourselves in a sling. We can't do that. We can't do that any more in Norman, Oklahoma. We can't do that when Moore is giving \$2 million for Imax theaters and Oklahoma City is going out with its corporate representatives and getting Whole Foods and anything else it wants. We can't do that anymore. We have to watch where we're at in the competitive market.

I urge you to let the Task Force continue its work. I urge you to wait until the State makes it an even playing field and tells us what we should be doing. I urge you to caution this forward with restraint. Thank you very much for your time. I appreciate it very much.

5. Trey Bates, 3720 Timberridge Drive – I'd like to start by kind of setting a stage here that I think sometimes gets turned around a little bit and I'm real sensitive to it and that's this perception I think sometimes that there are these two sides warring against each other. Mr. O'Leary, in his discussion at one point, talked about the last meeting we had as a stakeholders meeting and how contentious it was. And I'll agree that it was somewhat contentious, but it wasn't contentious over one thing and that was the central thing for which we were all there, in that we recognize that we have a problem with Lake Thunderbird and that we need to come up with the solution for Lake Thunderbird. The only area where contention arose was the interpretation and the understanding of the facts as they were being presented to us and the best way to go about resolving the problem that we all recognize that we have with our drinking water. You know, another thing that's really interesting is you look around the table and there's all these people, and at any point in time they could get a job somewhere else and, while they might have fond memories of Norman, Oklahoma, they're going to go on to their other job and they're going to maybe check the newspaper every once in a while or have relationships with some past friends or family that are still here, but they're gone. The people in my industry are married to this town. We can't pack our stuff up and leave. We have to make sure that in order to be successful we have a

great community to live in, that the quality of life goals are achieved, one of which, of course, is that we have great and ample supplies of drinking water, because otherwise who would want to move here? The background that I want to try to lay down here is that in that meeting, while there was a lot of tension, there was no tension – there was no separation in the direction that we all wanted to go with regard to protecting our drinking water.

Now let me tell you a couple of things that were stated that we learned in that group that you haven't been told about. First of all, you saw a slide that showed – and I don't want to quote Mr. O'Leary exactly, but I think he said something like all these other communities are already doing this or are doing it. My first thought is, well, they have all these water quality things in place. Right? They're dealing with water quality. Well, I spent a lot of time looking at it and I can tell you that there isn't a single city in Oklahoma that is doing anything close to this in terms of trying to protect water quality by identifying zones that are 40-acre drainage basins, putting in buffer strips, and calling that a water quality program. Not one. Tahlequah is the closest. They have a 50 foot strip that they've outlawed fertilizer on on their scenic tributaries where water is running all the time. Tulsa – it's all about flooding. And, strangely enough, in Broken Arrow they have a voluntary program where they have worked with the development community to try to develop low impact standards and give them bonuses from their standard if they add these buffer strips. So it's not a mandatory – it's a purely voluntary program that they put in place. My point is, there is not another community that has done anything close to what is being proposed here.

Secondly, what every other community has done, we aren't proposing. Every other community has a funded storm water program. You know, there are costs associated with this. I was part of the original group. Actually, Commissioner Trachtenberg and I were on the first Greenbelt Commission and we worked through that and I was there when we voted to bring on the greenbelt master plan study and include that as part of the storm water plan. I was there through that whole process. And my point is there was never a point where we got off on something so drastically focused on one group of people that wasn't funded. A big part of that was always coming up with a funding mechanism to make sure that we had a complete storm water plan, and that's been lost in this.

Another thing that wasn't told to you today that was brought up and proven in our group was that the graph that showed that 100 foot or whatever it was – 23 meters – the graph that showed the effectiveness of these buffer zones. It was asked and it was proven or stated on the part of staff that these did not apply to urban areas. In fact, I'll give credit to Mr. Hanger. He actually went through various subdivisions in Norman and tried to come up with a calculation of the effectiveness of buffer zones in urbanized areas, and he showed where there was maybe a 20-30% effectiveness in terms of the overall amount of water in a development that would go into a buffer zone. So, in other words, 70-80% of the water in a typical development in Norman, Oklahoma would never reach one of these buffer zones. And I'm kind of doing a little back of the envelope math, and I'm thinking, okay, if 80% of the water never gets to the buffer zones, and the buffer zones are 50-70% effective, then you've got 20% times 70% effectiveness – in other words, a relatively small amount of nitrates and phosphates are removed from buffer zones in urbanized areas, compared, quite honestly, to a great education program on better use of fertilizers. I mean, the point is that we learned in that meeting that the graph was not applicable in urbanized settings.

Another thing we learned – there is no EPA guidance for 100 foot buffer zones. There is an EPA model ordinance, and in the instructions of the EPA model ordinance it says where there's this little water drop you should look at your own community. And, in fact, it's kind of interesting – that's titled forested areas. And if you get in a little bit deeper, they start talking about these real heavily forested areas on the East Coast and they've got these big trees and these canopies hang out over the creeks. And if you get closer than 100 feet, you start disturbing the root structures. And when you start disturbing the roots of the trees, then you compromise the entire channel. And that's where 100 feet makes sense. If you read the EPA model ordinance, it says when you're talking about areas that are grassy or unforested look at the Napa, California ordinance. The Napa, California ordinance is 50 feet. So even if you want to follow the EPA model, it's not 100 feet as a recommendation and, in fact, if you read the instructions it says look at your own community for what makes sense. They weren't specifically recommending 100 feet.

The culmination of all of these meetings is another representation that I take a little bit of issue with. You know, if you're ever asked to serve on a jury and you got two days through the jury deliberations, and they said, okay, you're done – you never reached a culmination. You may not have a unanimous vote, but the culmination occurs where everybody has finally said we've debated all we can debate, we've worked together all we can work together, and now it's time to see where we stand. And I am testifying before you today that event never happened. So there has been no culmination of the Task Force. There is a lot of information that you guys honestly, in my opinion, haven't seen, and I would hope that you would take that into account and help our community move forward with a storm water quality program that makes sense. Thank you.

6. Dan Butler, 4000 Hammer Drive – I've heard a couple of things I just wanted to disagree with a little bit, but then I'll get on to what I want to say. One thing, there are a couple big cities in Oklahoma that are using buffer zones. They're using the buffer zones around their water supply – watersheds – not in their towns. Oklahoma City gets their water from the North Canadian River flowing into Lake Hefner and Lake Overholser and currently buffer zones are being put along the North Canadian River and its tributaries between El Reno and Canton Lake. They're using 300 foot buffer zones. They're also doing a lot of other things, such as getting farmers to go to no-till farming and changing animal practices and things like that.

The second city is Tulsa. They get their water from Lake Oologah and Lake Eucha. Lake Eucha has had terrible algal problems and they're putting buffer zones in the streams that flow into Lake Eucha. The State of Arkansas is doing that also under threat of a lawsuit from the City of Tulsa, but they're doing it. So we have two cities that are putting in buffer zones in areas where it affects their drinking water lakes. Two big cities.

Second point I want to disagree with is these detention basins in subdivisions – they don't do a very good job of taking nutrients out of the water. They do a very poor job, much as farm ponds do a very poor job of taking nutrients out of the water where cattle stand upstream of them. They get loaded up with nutrients in the first couple of years and after that they put out as much as they're taking in. That's well-established research.

Finally, having worked with buffer zones and water quality for the past – well, I retired two years ago, but I worked in that area 28 years and have something to say

about it. I haven't worked in development and the people that have development issues have good points. I take their word for that. But I do have expertise with buffer zones and other practices. I can tell you that the idea that buffer zones are going to solve the problem in Lake Thunderbird is wrong. Much as the low impact development along the houses and in the neighborhoods aren't going to solve the problem in Lake Thunderbird. It takes all of that put together, and even then you don't solve it – you reduce the algae in Lake Thunderbird when all of that is put together. But it takes all those pieces. You can't pull out a piece and expect the rest of it to work. So we need the buffer zones, but we also need the things going on in the homes and the lots in the developments, and you just can't take out one of those pieces and expect success. So people are talking about buffer zones tonight as if they're going to do it, and, no, they're not, but they're needed. They're needed as part of the whole.

Secondly, to use an analogy that might make more sense to everybody, we'll talk about sewage treatment plants. When the first sewage treatment plants came online about the turn of the century, they were very simple. People weren't waiting until it was perfected to put them in. They knew they had to do something and they went ahead and acted with what they knew how to do at that time. Science and engineering has come up over the years with more and better ways to do it, and as those more and better ways are discovered and introduced, sewage treatment plants have changed in their designs so that a sewage treatment plant of the 21<sup>st</sup> century would not even be recognizable to a man that worked in a sewage plant of the early 20<sup>th</sup> century. But you still have to start. You don't say I'm going to wait for the next 100 years or the next 10 years or the next 5 years to see if new science comes along. You make your start and as new science comes along you adjust to it, much as we do with homebuilding or anything else. We're not building homes and conserving energy right now like we did 50 years ago, either. You adapt to the new science that comes along. That's it. Thank you.

There being no further public comment, Chairman Gasaway closed the public hearing and turned discussion over to the Planning Commission.

**DISCUSSION AND ACTION BY THE PLANNING COMMISSION:**

1. Mr. Sherrer said he feels like he's drinking from a fire hose. There are a lot of different opinions being presented. It is a struggle to get a full grasp on all these things within a week. Mr. Butler mentioned that Oklahoma City and Tulsa have done buffer zones at the river or lake level. He asked if that was ever considered as an option. It sounds like we're looking at this as an individual development plan, rather than as a more comprehensive look at going closer to Lake Thunderbird and looking at a way of filtering. Mr. Butler explained that Tulsa and Oklahoma City are doing it at the river and the stream level; they're not doing anything around the lakes. They are going out to individual farm fields, in most cases less than 40 acres, and doing it at that level, all the way up to the first order streams where you don't even have a defined channel. So they're putting in buffers on all these things, not just the streams that have water in them. They are doing a number of other things, too, as they recognize it takes a complete program.

2. Mr. Sherrer is also struggling with what Mr. Rieger mentioned, that the State has some plans to do something in the near future. It seems a little bit odd why we feel that need to do something before then, especially with some of the facts he heard from

members of the Task Force. I don't understand the urgency quite as much, given the comments from the Task Force. I do think there are some things that put you in a competitive disadvantage potentially, and we have to at least consider those things. It seems like there's a lot to digest here.

3. Ms. Pailles commented that Norman is the only city in Oklahoma that has the "most livable" category; we're doing things that no other city in Oklahoma has done. I don't find it a persuasive argument to say that it hasn't been done in Oklahoma before. The example Mr. Rieger gave is true; the property he was talking about has been farmed for many years and it's plowed flat, there is no native vegetation, and whatever the original drainage was it is not clear. In the Lake Thunderbird drainage area most of the streams are channelized and surrounded by natural forest. In that area the buffers make perfect sense. The comment that it probably would make land more expensive is probably accurate; certainly some homes would have greater expense in response to this, but that wouldn't prevent developers from providing lower cost housing in other areas. The main thing is we have a problem with four qualities of Lake Thunderbird and the buffers would address three of them. It seems like a good solution based on science. If you want to provide another solution, you have to provide equal information on a scientific basis. One of the people that has been here forever that's been to all of the meetings was commenting that, basically, the people who came into the room seven years ago kind of opposed to it are still opposed, and the people who came into the room seven years ago more or less in favor of dealing with water problems through environmental best practices are still pro. That's kind of discouraging; basically, nobody has changed anybody's minds. Ms. Connors clarified that the Glenridge Addition is in the Lake Thunderbird watershed.

4. Mr. McCarty said he was on the storm water master plan as well as the recent Task Force that started several years ago. Everybody agrees that we want to improve our water quality; the disagreement is how we do it, because there's more than one way to address this issue, like Mr. Butler said. It is not any one item that can fix this problem and we're not sure what the best way is to fix the problem. It has been quite a learning experience and has been a great process. The process has been going very quickly, there has been a lot of pertinent information that has been provided, there has been a lot of studying done, there have been disputes about how some of the data was provided. I have spent quite a bit of time learning about phosphorous and nitrogen – it's very complex. The work I have read is that primarily buffers work best in areas that are not urbanized – in other words, vacant farm fields that we have that are flat land and mostly in east Norman that feed into these areas. What this ordinance doesn't do today as we build and as we live in Norman is change one thing about the water going into the lake. It's going to put buffers in areas primarily that are going to be vacant land for a long time. One house per ten acres – everything east of 48<sup>th</sup> Avenue is what our current 2025 plan is and where there's current urban utilities. There's no water or sewer beyond those points. I'm having a hard time with this ordinance and why we're in such a hurry to try and write an ordinance that affects a lot of people in a lot of different ways and why we're not concerned about the Canadian River. So this is only addressing water that goes into our drinking water and not to anybody else's rivers downstream, and that kind of concerns me as well. We've asked those questions; why aren't we doing something to talk about how you can fertilize your yards? That would be an immediate impact. We know that ODEQ has

been doing a study that has been pushed back, I'm sure because of budgeting purposes or what have you, that I think is going to probably help us in this ordinance or a future ordinance. I think that it's something that we need to at least have a grasp around the direction that they're going before we start writing an ordinance that we may have to change or adapt in the next year and be back talking about this. The buffers I see more as a quality of life issue to the city than it is nutrient and phosphorous. We already have the backbone, which is the creeks, and we have the FEMA floodplain which is the area outside of the creeks. So in a 1% rain event, water gets to those areas. That's your buffers. What is this land beyond that ever going to do? I'm really struggling. Tonight we heard from Mr. Butler. I wish we had known about what Oklahoma City and I looked at Lake Oologah – I looked at what they're doing. I think the buffers are just around the immediate lake; I don't think it gets into tributaries or creeks from what I could find – I could be wrong. I wish we would have had the information to see what Oklahoma City was doing before tonight to know exactly how they're addressing this, because that's the first I've heard of it. I think that the Task Force could reach a consensus, and I wish that we had more time to work on that to try and do that, just because how big of an ordinance this is and how it's going to affect everything that we do into the Little River and into Lake Thunderbird. There was even a statement made, and I know it's been challenged, at our last public meeting that was here there was a lady that stood up and she said she was with the Thunderbird Water Conservation District and made a comment that the water quality in Thunderbird in the last two years has improved. So some of the things that the developers are doing – it's working, from what we can tell, if that statement is true. Now, I don't know where her data is coming from, but there's other people out there telling us different things than what we're being told. And I have no doubt that we have a potential water problem. It's just how we're approaching it and what the ordinance is before us to fix it. I'm a green certified builder and a LEED certified builder, so I understand the green aspects of what we do and how it affects what we do and our future and our kids and their future and grandkids, and I could go on. I just don't see how this ordinance, the way it is drafted currently, helps us.

5. Chairman Gasaway commented that he was a member of the Storm Water Master Plan committee. Like many issues, and the lighting ordinance is a good example, you can talk things to death. We spent well over a year on the lighting ordinance and I'm not sure that we had any better product after a year than we did after two or three months. We talked a lot about it. We took some things off, put some on, but essentially after a couple of months we were in the same direction as we ended up at the end. I think this issue, as far as the committee itself, has probably reached that point. There's not much more we can learn. There're not many more facts that we can have. I think we've reached a point where it comes down to some people disagree, some people agree. I don't know what else we can present. I missed a meeting or two, unfortunately. I did miss the last meeting. But the meetings that I attended we discussed essentially the same topics at least at two of the meetings. Whether we resolved anything or not, I don't know. But I think we have studied everything that there is to study and I think it's time to decide whether we like the product or we don't like the product. But saying let's study it for another six months – I don't know what else we could study honestly. I think, to that extent, it's detrimental, and I think you can see in the committee that they're starting to feel that, too.

Another comment that was made was let's wait for the State. I've never heard of when the State or the federal government comes in and you sit around and wait for something that you get anything that you want. Usually you get told something that doesn't benefit – it's not tailor made for our area. It's made for the entire state. Some of it we might benefit from; some of it will be drastically different than anything that will benefit Norman. Norman is different. We're not talking about our storm water that runs into the river. We should, at some point, absolutely, and we've bounced around that a little bit tonight. We're talking about our drinking water. We have to do something about our drinking water and that's what makes Norman different. We're not drinking out of the river. We're drinking out of Lake Thunderbird and it's time to do something about it. We should have done this thirty years ago; we're late. We can't repair the damage that's been done. We can't repair the development in areas that should have not been put there thirty years ago. But we can start now and make a difference. We hope Moore and Oklahoma City will participate to some extent, but we can't fix them. We can fix Norman, Oklahoma to the best extent that we know how.

6. Mr. Sherrer felt it would be helpful to have some sort of recommendation from the Task Force, even if it were not a unanimous decision.

7. Mr. McCarty stated that he completely agrees with Mr. Gasaway in some aspects. I'm on several other technical committees throughout the State, and we take a completely different approach to how we want to write an ordinance. We get the people involved that it's going to affect and we all work together as a team to come up with some type of recommendation to fix a problem. If you would get other stakeholders involved in these from the very beginning, I can promise you we would be sitting here tonight with an ordinance that we all could approve and be happy with. I see it done in other states, other cities throughout Oklahoma, and it works. But when you just take an ordinance and you throw it out there and there's a lot of moving parts and a lot of really deep detail and study that goes into it, you end up in the battles in those task force meetings and there is disagreement because of everybody's opinion. But if we started from scratch from the very beginning and we had other engineers and we had Dr. Vieux in there and he helped us with the information he's got, and Harold Heiple and other people that are stakeholders, it works. And that's where I have a real problem with the way that we are doing things – like the lighting ordinance. I truly believe that if we would take a proactive approach in our city to identify the problems, the people that are involved in it, the stakeholders, that we would be here discussing something completely different right now.

8. Mr. Trachtenberg said we've been talking about this issue for seven years. Mr. Heiple said in his presentation that the idea of buffers was a no-go for the point of view that he represents from the very beginning. To be perfectly honest, I was jealous of people like Trey who got picked for that great and deeply important committee – I wanted to be on that group, because I think this is the most fundamentally important thing for this town. It seems to me that the City has been exploring this question with tremendous energy, with tremendous vigor, and with tremendous intellectual capacities represented by people like Dr. Vieux for a long, long time. What I'm a little puzzled by is that the process produced a master plan, that master plan essentially had this concept in it, it was contentious, it was opposed, but it was passed – it was

accepted, I guess, technically, by the City. And what we're doing – and forgive me, Harold, if I use a term that you often invoke here – it seems to me that we're being asked to be kind of ministerial here, which is that there's a policy, it was approved by the legitimate authority in our community – the City Council. The City Council has a process for developing ordinances – or it has a variety of processes for developing ordinances. In this particular case it did not ask a task force to develop an ordinance; it asked the staff to develop an ordinance and to touch base with people who had been stakeholders in this. It did not set up a jury situation. And now that entirely legitimate process has come forward. We've been given a decision to make. Let's make it. There may be very good reasons to disapprove of this ordinance. I support it, but I can totally respect people who don't and think that this ought to go down in flames. Fine. Let's vote on that.

Now, let me just close with one thing, and I'm going to refer to Baxter. I want to say this. Many, many times, in my capacity as a Planning Commissioner, I've been asked to deal with things that I had no clue about. And the lighting ordinance, frankly, was one of those. I happen to know about water, in large part because of Baxter. I've been studying water for seventeen years – pretty much since I got to OU. And I can tell you one thing, that in all the reading, all the study that I've done, I have gone to – I've presented at meetings of the American Water Resources Association – and there is one constant when people talk about water quality and flood control, and as a bonus – as the icing on a cake – recreational opportunities and quality of life issues. Those are the icing on the cake. The one thing that's a constant in all of those discussions is buffers – whether it's 50 feet, 100 feet. I don't know. That's a technical issue. But the one thing that I can just assure everybody in this room that is the constant in discussions of water management, water quality, and flood control is buffers. That's what it is. We've known this as a society for as long as people have studied it, and that's not going to change. It's not going to change in a month; it's not going to change in a year; it's not going to change in 20 years. That's the truth. So I'm behind this. I support this. I've given you my reasons. But we're all very intelligent, thoughtful people here. We've got to bring our values to bear on the facts, and that combination might lead you to think this is a bad idea. Then vote against it.

*Zev Trachtenberg moved to recommend adoption of Ordinance No. O-1011-52 and Ordinance No. O-1011-53 to the City Council. Roberta Pailes seconded the motion.*

9. Mr. Lewis said he intends to make a motion to postpone this item, because he appreciates the time that Commissioners and staff have invested in this, and appreciates the comments by Mr. Vieux, Mr. McKown, Mr. Wood, Mr. Heiple, Mr. Bates, Mr. Rieger, and Mr. Butler. I think it brings a wealth of knowledge to the table. What I'm concerned about, and I will echo exactly what Andy said – if you've ever been sitting at a railroad crossing watching a train go by, you have train cars going past and you can't even see what's on them, they're going so fast. When I look up the track and down the track, I can read what's on the car because it slows down and I can see that. When something comes to my desk a week ago, and a few hours – something I've never seen before that's as comprehensive as this ordinance is and affects as many people as this ordinance does, I have to question in my mind why this ordinance is moving so fast through the Planning Commission. After hearing comments tonight that the Task Force never actually came to a decision, that they didn't even know they were completed, and again for this ordinance to be on the table in front of the

Planning Commission is very shocking to me. I have been going at 100 miles an hour trying to get my hands around this ordinance, knowing that I have to make a decision of either approving or disapproving to send on to City Council. I have to know that, as Mr. Wood said, the decision I make will affect many generations to come within this city, because it's a recommendation to City Council as to what they do. Do they take our recommendation as a Planning Commission or do they do something else? So, respectfully to my colleague Mr. Trachtenberg, I think the only thing that really this Commission can do is table this ordinance – give it back to the Task Force until they come up with a decision or a recommendation and then let it come through the Planning Commission at a very prudent pace, where the Commissioners will have time to evaluate it, to thoroughly understand it. And I don't make my comments lightly. Resolution by the Planning Commission 9899-1, which was adopted May 13, 1999, and amended June 13, 2002, clearly says when something can be tabled or postponed, and it says "It further is resolved by the Planning Commission agenda items for a public hearing maybe be tabled in the event of the following circumstances: when a request has been amended" and I think we definitely heard from Ms. Walker that there is going to be amendments coming forward. There's going to be minimum and maximum amendments on the height of the vegetation in the buffer zones coming forward. Unquestionable. It also says "when the Planning Commission determines that circumstances warrant further study." I've been waiting all night for somebody to tell me that, indeed, buffer zones work. I haven't quite got that yet. I've been waiting all night for someone to say I understand this ordinance backward and forward that sits on this Planning Commission, and I get the sense – and certainly I don't want to speak for every Commissioner; I can only speak for myself – but I get the sense that many of this Commission are as blind-sided by the technicality and the depth of this ordinance as I am. Some may not be, and I respect them greatly for having a grasp and a depth of knowledge about something that will be moving forward. But I would recommend and potentially make the motion that we table this item, give it back to the Task Force, let them make a recommendation, and let it come through at a prudent pace. That is the responsible thing to do, not only tonight, but for the entire future of Norman going forward.

*Chris Lewis moved to postpone Ordinance No. O-1011-52 and Ordinance No. O-1011-53 indefinitely. Curtis McCarty seconded the motion.*

Ms. Walker cited Robert's Rules of Order and indicated that a motion to postpone indefinitely does not take precedence over a motion on the floor.

10. Ms. Gordon stated that she didn't feel blind-sided and did understand most of the ordinance. She didn't find it particularly heavy. She agrees with most of the comments in favor of the ordinances. While it's not perfect, sometimes you have to go ahead because it's not always possible to reach consensus.

*Curtis McCarty moved to postpone Ordinance No. O-1011-52 and Ordinance No. O-1011-53 until June, or until the Task Force can reach a consensus and bring something forward. Chris Lewis seconded the motion.*

Ms. Walker explained that a motion to postpone to a certain time takes precedence over a motion to postpone indefinitely, to amend, and to commit. Ms. Connors noted

that the motion was either/or. Ms. Walker indicated that it would need to include a specific date.

*Curtis McCarty moved to postpone Ordinance No. O-1011-52 and Ordinance No. O-1011-53 until June 9. Chris Lewis seconded the motion.*

There being no further discussion, a vote on the motion to postpone was taken with the following result:

YEAS	Diana Hartley, Chris Lewis, Curtis McCarty, Andy Sherrer,
NAYES	Cynthia Gordon, Roberta Pailles, Zev Trachtenberg, Jim Gasaway
ABSENT	Tom Knotts

Recording Secretary Roné Tromble announced that the motion to postpone Ordinance No. O-1011-52 and Ordinance No. O-1011-53 until June 9 failed by a vote of 4-4.

There being no further discussion, a vote on the motion to recommend adoption of the two ordinances was taken with the following result:

YEAS	Cynthia Gordon, Roberta Pailles, Zev Trachtenberg, Jim Gasaway
NAYES	Diana Hartley, Chris Lewis, Curtis McCarty, Andy Sherrer,
ABSENT	Tom Knotts

Recording Secretary Roné Tromble announced that the motion to recommend adoption of Ordinance No. O-1011-52 and Ordinance No. O-1011-53 to the City Council failed by a vote of 4-4.

Chairman Gasaway asked for clarification of the result of these votes. Ms. Walker explained that the ordinances will go forward to City Council without an affirmative recommendation, and we will send detailed minutes forward.

\* \* \*

CITY COUNCIL  
PLANNING AND COMMUNITY DEVELOPMENT  
COMMITTEE MINUTES  
April 8, 2011

The City Council Planning and Community Development Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 8:00 a.m. in the Conference Room on the 8th day of April, 2011, and notice and agenda of the meeting were posted in 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 Atkins, Cubberley, and Chairman Butler

ABSENT: Councilmember Griffith

OTHERS PRESENT: Mayor Cindy Rosenthal  
Councilmember Carol Dillingham  
Councilmember-Elect Roger Gallagher  
Ms. Susan Connors, Planning and Community Development Director  
Mr. Ken Danner, Development Manager  
Mr. Bob Hanger, Storm Water Engineer  
Mr. Doug Kosciński, Current Planning Manager  
Mr. Steve Lewis, City Manager  
Mr. Shawn O’Leary, Director of Public Works  
Ms. Kathryn Walker, Assistant City Attorney  
Mr. Tom Knotts, Planning Commission Liaison  
Mr. Geoff Canty, Storm Water Task Force  
Mr. Russ Dutnell, Storm Water Task Force  
Mr. Harold Heiple, Attorney for Norman Developers Council  
Ms. Karla Chapman, Administrative Technician

UPDATE ON THE WATER QUALITY PROTECTION ZONE (WQPZ) ORDINANCES.

Ms. Susan Connors, Planning and Community Development Director, provided an update from the Planning Commission (PC) meeting held April 7, 2011, and said all but three Planning Commissioners were present and no other citizens were in attendance. She said Staff provided a presentation on the Storm Water Master Plan Draft Water Quality Protection Zone Ordinances and gave background information on the Storm Water Master Plan (SWMP). Ms. Connors said Staff addressed questions from the PC Commissioners and felt the discussion regarding the proposed ordinances was excellent and very helpful. She felt there was no total dissent from any of the PC Commissioners on the entire proposed WQPZ ordinances but there were a few concerns.

Mr. Shawn O’Leary, Director of Public Works, agreed the PC meeting was very beneficial and contained valuable and engaging discussion. He felt the PC Commissioners understood the key issues and requirements of the proposed ordinances, including the three options developers can choose from when creating a development, which are: 100 feet in width, measured from the top of the bank, on either side of the stream; designated Full Build-Out Floodplain (FBF); or the Federal Emergency Management Association (FEMA) Floodplain. Mr. O’Leary said Staff provided examples and illustrations for the three options.

Mr. Tom Knotts, Planning Commission Liaison, agreed the PC meeting was very constructive but concerns of whether the City or a Homeowners Association (HOA) would provide maintenance for a WQPZ buffer and fire prospects did surface.

Mayor Rosenthal asked Staff to provide the key changes to the proposed ordinances since the Committee last discussed this issue at the February 11, 2011, PCDC meeting and Ms. Kathryn Walker, Assistant City Attorney,

said most changes occurred in the Subdivision Regulations, Section 19-411, of the Code of the City of Norman. She said the following language has been added to the proposed ordinance:

**Sec 19-411(B)(2):** “An alternative width determined by an engineered process and approved pursuant to Section 19-601(B)”, making it more clear that variations are allowed for the required width for all the WQPZ’s.

**Sec 19-411(D):** “The base width of the WQPZ outlined in (B) above may be reduced for first order streams to no less than fifty (50) feet but never less than the FBF...”, which streamlined reduction on first order streams as long as the applicant(s) show other methods used to reduce nitrogen of at least 75% and phosphorus of at least 58%. Ms. Walker said this would typically be the more urban areas where streams are a little harder to identify and it would make good sense to have this option.

**Section 19-411(H):** “For all developments, particularly those containing some portion of the WQPZ, utilization of low impact development strategies are encouraged...” Ms. Walker said the City does not currently have a low impact development manual but when plats or Norman Rural Certificates of Survey (COS) include portions of the WQPZ, the current Engineering Design Criteria may be modified when low impact development strategies are utilized in accordance with the North Central Texas Council of Governments (NCTCOG) Integrated Storm Water Management Manual found at <http://iswm.nctcog.org/> and also on file in the Public Works Department. Staff’s hopes are the NCTCOG Integrated Storm Water Manual will be well received, particularly by the development community, since it is from the same region. Ms. Walker said the Citizen’s Storm Water Task Force has pointed out that Norman’s typical “curb and gutter” subdivision will not achieve the best benefit out of the WQPZ buffer and other options, such as the NCTCOG Integrated Storm Water Manual, are needed to accommodate and make the WQPZ buffers work well.

Mr. Shawn O’Leary, Public Works Director, said the NCTCOG took over three (3) years to develop the manual and it would be an excellent tool for Norman to use in the interim. He asked Mr. Bob Hanger, Storm Water Engineer, to highlight some of the examples of the NCTCOG Integrated Storm Water Manual and how it can be used relevant to the proposed WQPZ ordinance(s). Mr. Hanger said the main focus of the Integrated Storm Water Manual is water quality, stream bank protection, and flood mitigation and conveyance. He provided excerpts and examples featuring design practices to preserve riparian buffers, reduce roadway lengths and width, reduce building footprints, using vegetated swales instead of curb and gutter, and drain runoff to pervious areas.

Councilmember Butler said questions have been asked whether language should be added to the draft WQPZ ordinance(s) referencing the Corps of Engineers (Corps) 404 Floodplain Permit process, blue-line streams, etc., and Mayor Rosenthal said the development community has raised concerns that the City’s requirements should not conflict with the Corps 404 Floodplain Permit requirements, thus creating a no-win situation when trying to comply with both. Mr. O’Leary said Corps’ intentions on the 404 regulations (on blue-lines) are to stay away from the stream(s), and they even feel the untouched stream(s) should not be cleaned up. He said the City’s issue has more to do with getting the stream(s) so that they can actually function to receive the storm water run-off when located near or adjacent to a development. He said the feedback he has received is that the Corps likes Norman’s proposed WQPZ “buffer” ordinance very much and the proposed requirements are exactly what the Corps would like to see Norman, as well as other cities, achieve.

Councilmember Dillingham said her understanding of the 404 Floodplain Permit process is the concept of “no net loss of stream” and since the 404 Floodplain Permit is an on-going and changing federal program, she wondered if Norman was creating any issues in reference to the blue-line versus going from the edge of the bank. Mr. Geoff Canty, Storm Water Task Force (SWTF) Member, gave his perspective and felt the “edge of the bank” is a relevant area where change in elevation would probably be well outside of the Corps’ jurisdiction. Mr. O’Leary agreed stating the Corps is mainly concerned with bank to bank, inside the stream more so than bank to bank, outside of the stream. Councilmember Dillingham felt the City will always be outside the blue-line when dealing with the “no net loss of stream” concept and therefore the 404 Floodplain Permit regulations should not conflict with the proposed ordinance(s). Mr. Canty said just because a stream shows up as a blue-line on a United States Geological Survey (USGS) map does not mean it is a 100% guarantee that the stream is a jurisdictional body of water the Corps has control over. He said a process is available to remove a jurisdictional body of water, i.e., first order streams, that is no longer functioning as an intermittent stream. The Corps also allows for a self permitting process (General Permits), to remove certain lengths of streams, where permits would not be required but adhering strictly

to Corps's language would be a requirement, i.e., Storm Water General Permit, Linear Transportation General Permit, etc. Mr. Canty said the Corps only regulates fill and redistribution fill of a stream therefore if a bridge or box (under a certain size) needed to be built, a permit independent of the City can be applied for and obtained. Mr. Canty said up to 300 linear feet of a stream can be affected, i.e., install a concrete pipe, etc., therefore making it a contradiction of the proposed WQPZ ordinance. He said the 404 Floodplain Permits change every five (5) years and depending on the intentions and directives in Washington, D.C., the 404 Floodplain Permits can become more or less stringent. He said there is also a possibility that the individual Corps General Permits, enabling an entity to perform work within the Corps' purview, may not ultimately be the City's desire and Mr. O'Leary stated the Corps is the federally regulatory body and the City of Norman is secondary to the Corps.

Councilmember Dillingham said, based on Mr. Canty's remarks, she wondered how difficult it will be if and when a stream is declared non-jurisdictional, specifically how it will dovetail with first order stream(s). She felt that this issue will be the most conflicting and suggested Staff make certain the City's variance procedure(s) does not interfere with the non-jurisdictional process and vice versa. Mayor Rosenthal said the local developers have raised the issue of the blue-line stream and asked Mr. Harold Heiple, Attorney for Norman Developers Council, if he had any follow-up questions or remarks. Mr. Heiple thanked Mayor Rosenthal but said he was not familiar enough with Corps's regulations to comment.

Mr. Russ Dutnell, SWTF Member, said the Corps has three basic priorities: avoidance, minimization, and mitigation. He said the individual General Permit will suggest first to avoid the stream completely, the next step would be to minimize damage to the stream, and thirdly to mitigate or restore any damage to the stream. Mr. Canty said when looking at the removal of jurisdictional determination, the Environmental Protection Agency (EPA) simply has to concur with the decision. Mayor Rosenthal felt tying the City's proposed WQPZ ordinance to the blue-line(s) might be problematic since the 404 Floodplain Permit/blue-line(s) change every five (5) years, making procedures more and/or less stringent. Mr. Canty said the blue-line(s) on the USGS map are purely for reference and the maps can be accessed and verified by the public. He said the Corps will state the blue-line(s) are their first screening step and not what they base their final decision on, however when a stream is located on a blue-line map, more than likely the Corps will determine they have jurisdiction. Mr. Canty felt simply because a blue-line is tied to a stream on a USGS map does not necessarily make it an unfavorable standard for the City.

Mr. O'Leary said discussions on the proposed WQPZ ordinances always involve the issue of maintenance, specifically whether the HOA's or the City should maintain the WQPZ buffers and are the WQPZ buffers creating a fire hazard. He felt a lot of excellent debate was accomplished at the April 7, 2011, PC meeting which quickly evolved into the larger discussion of the Storm Water Master Plan (SWMP), the proposed utility fee, and the City performing enhanced maintenance services, etc. Mr. O'Leary said the proposed WQPZ ordinances addresses maintenance issues and assumes that most of the maintenance will be done by the adjacent property owners as well as the maintenance remains fairly natural, making the maintenance less instead of more to maintain.

Staff said a recent change in the draft ordinance was Section. 19-514(D) and (E) addressing the minimum grass height standards for Zone 1, Streamline Zone; Zone 2, Middle Zone; and Zone 3, any portion within 30 feet of a primary structure. Councilmember Atkins said if WQPZ buffers are to be exempt in accordance with Section 10-209, they could possibly have six foot high weeds/grass growing in or near them. He said he was very concerned about the minimum grass height standards versus maximum ordinance standards for Zones 1 and 2, because of the recent fires in Ward 1, specifically on Beaumont Street near the Campus Lodge Apartments. Ms. Walker said she may need to tweak this section a little and said she has discussed this issue with the City Fire Marshall. She said the Fire Marshall explained their direct authority is the National Fire Protection Association (NFPA) which recommends three zones around a house, i.e., closest to the home is turf and the further away from the home can have higher grass/vegetation because it is less risk to the home. She said the NFPA Zone 1, closest to a home, is similar to what the WQPZ Zone 3, Outer Zone could be in subdivisions. Basically, Zone 3 would allow for shorter grass or similar vegetation within 30 feet of a primary structure(s) to be maintained in accordance to Section 10-209, because it would be less fuel for a fire. <sup>if fire</sup>  
12-49

was to occur. Zone 2 would allow grass or vegetation to be mowed and/or maintained to a height below six (6) inches and Zone 1 would allow any grass or similar vegetation to be mowed and/or maintained to a height below eight (8) inches.

Councilmember Dillingham said in reference to City maintenance of WQPZ, she suggested Staff keep in mind that the Zone(s) are merely one piece of a lot of ordinances and discussions will be needed to determine an appropriate application/entry if the proposed WQPZ is adopted. She said Staff will need to discuss how long a development may take to come forward that would be regulated by the proposed WQPZ ordinance and make certain the City will be ready to undergo the extra effort it will take in order to maintain a WQPZ buffer. Mr. O'Leary agreed and said this is exactly the direction the discussions have been going, i.e., should the WQPZ issue be ahead (or behind) the WQPZ maintenance issue. He said in many ways the example of the Summit Valley Addition, which is near a second and third order stream, has been a great tool and Staff is researching in order to locate examples of an existing Norman subdivision that are near a first order streams.

Mr. O'Leary said Staff will provide a full presentation on the proposed WQPZ ordinance(s) at the PC Public hearing scheduled for April, 14, 2011, and will include the calculation tables for the areas consumed around a FBF for the current urban as well as the country suburban. Councilmember Butler requested Staff forward the latest proposed draft WQPZ ordinance(s) and calculation tables to the SWTF and Mr. O'Leary answered in the affirmative.

Councilmember Dillingham asked Staff if a policy goal was included in the proposed WQPZ ordinance encouraging low impact development and Ms. Walker said Section 19-411(H) states...."For all developments, particularly those containing some portion of the WQPZ, utilization of low impact development strategies are encouraged...".

#### DISCUSSION REGARDING LOW IMPACT DEVELOPMENT STRATEGIES FROM THE NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS INTEGRATED STORM WATER MANAGEMENT MANUAL FOR WHICH ENGINEERING DESIGN CRITERIA COULD BE MODIFIED UNDER THE WQPZ ORDINANCE.

Ms. Kathryn Walker, Assistant City Attorney, said the NCTCOG Integrated Storm Water Manual consists of a lot of cities in the Texas metroplex area, including Dallas and Fort Worth, and incorporates specifications for low impact developments. Councilmember Atkins felt the City should obtain a license agreement from NCTCOG, rather than linking Norman's regulation to a North Texas Storm Water Management Plan. He said if NCTCOG amends the Integrated Storm Water Manual then Norman would have to abide to the changes as well. Mayor Rosenthal felt Norman would merely be referencing the NCTCOG in order to provide design criteria that Norman, or any other city in Oklahoma, currently does not have and she felt a major concern of the development community was to know some of the low impact alternatives. She said Staff looked at many alternatives that Norman can use and take advantage of the work that already has been completed, adopt the alternatives, and modify as needed to meet Norman's desires. The Committee agreed and Ms. Walker said she has contacted NCTCOG and it is possible for Norman to get a license. She said NCTCOG has created a process for cities to obtain a license to the Integrated Storm Water Manual and cities can then modify and/or adopt as needed. She felt the City should acquire a license and once attained, the Integrated Storm Water Manual would be received in a word format so that it can be modified to fit Norman's needs and become Norman's regulations.

#### MISCELLANEOUS DISCUSSION.

Councilmember Atkins said Staff provided information to Council stating an additional 5300 units will be built in the near future, adding to the City's water demand. He asked if Norman has a Strategic Water Plan (SWP) and Staff answered in the affirmative. Councilmember Atkins felt a review of the SWP was needed and Mr. Steve Lewis, City Manager, said the Chromium Six Committee discussions have included updating the SWP, which was approved in 2003. Mr. Lewis said the proposed FY2012 Budget includes a \$300,000 update to the SWP. Mayor Rosenthal said the Oklahoma Municipal League (OML) has placed an initial/interim report for the State Water Plan on line which includes significant municipal water implications.

Mr. Lewis said the Weekly Report to Council will provide a link to obtain this information including information on 13 forums that will be taking place around the state over the next couple of months.

Items submitted for record

1. Memorandum dated April 4, 2011, from Ms. Susan Connors, Director of Planning and Community Development, to Chairman and Members, Norman Planning Commission.
2. Draft Ordinance O-1011-52, to Provide for Standards and Requirements for a Designated Water Quality Protection Zone Inclusive of the Lake Thunderbird Watershed, Chapter 19, of the Code of the City of Norman
3. Draft Ordinance O-1011-53, for Water Quality Protection Zoning Overlay District, Section 429.7, of Chapter 22, of the Code of the City of Norman
4. ISWM Technical Manual – Planning, integrated Site Design Practice #2: Preserve Riparian Buffers, submitted by Mr. Bob Hanger, Storm Water Engineer.

The meeting adjourned at 8:51 a.m.

---

City Clerk

---

Mayor

## COUNCIL CONFERENCE MINUTES

March 8, 2011

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a conference at 5:30 p.m. in the Municipal Building Conference Room on the 8th day of March, 2011, 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 Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal

ABSENT: Councilmembers Ezzell and Quinn

### DISCUSSION REGARDING THE STORM WATER MASTER PLAN – DRAFT WATER QUALITY PROTECTION ZONE ORDINANCES.

Mr. Shawn O’Leary, Director of Public Works, reviewed the past history for the Storm Water Master Plan (SWMP). He said the goals and objectives were to obtain public input; public education; consensus building throughout the community; water quality; merging stormwater with recreation; and funding solutions. He said the goals and objectives have been met throughout the planning process and water quality, particularly the focus on Lake Thunderbird and Norman’s drinking water supply, has been a common theme throughout discussions. He said the Canadian River Watershed, Bishop Creek, Imhoff Creek, Brookhaven Creek, etc., were all considered in the discussions as well and flooding and drainage are also important pieces of the SWMP process.

Mr. O’Leary said several public forums have been held to discuss the SWMP as well as task force meetings, ward meetings, Council study sessions, multiple Greenbelt Commission meetings, and multiple civic group presentations.

Mr. O’Leary described key issues for the SWMP as follows:

- Stream Planning Corridors (also known as the Full Build-Out Floodplain (FBF) and additional buffer strips
- Structural and nonstructural storm water quality controls
- Acquisition of drainage easements and rights-of-way
- Enhanced maintenance of creeks and detention facilities
- Dam safety

Mr. O’Leary said the SWMP incorporated the concept of stream planning corridors or FBF. He said Post, Buckley, Schuh, and Jernigan, Inc., (PBS&J) developed a set of local floodplain maps that surpass the Federal Emergency Management Agency (FEMA) floodplain maps. He said the City’s current floodplain maps were developed and adopted in 1970 and the FEMA floodplain maps are based on existing conditions only. The local floodplain maps are based on future FBF conditions, or stream planning corridors and FBF are the basis of the maps developed in the SWMP.

Mr. O’Leary said, during public meetings, water quality was the key regional issue. He said other public comments included questions regarding stormwater utility fee variances and/or exceptions; how enhanced maintenance needs will be met; invasion of privacy issues where recreation trails are near back yards when merging the SWMP with the Greenway Master Plan (GMP); the need for low impact development standards; availability of state /federal funds; the term limit for a utility fee system; and the idea of separating the GMP from the SWMP instead of merging them together.

Mr. O'Leary said early discussion of the SWMP included an Oklahoma Department of Environmental Quality (ODEQ) Watershed Plan Development; Oklahoma Conservation Commission (OCC) Water Quality Modeling results, and the Central Oklahoma Master Conservancy District (COMCD) Rock Creek Watershed Study. He said the Oklahoma Water Resources Board (OWRB) had declared Lake Thunderbird an impaired water body in the areas of turbidity, dissolved oxygen, and Chlorophyll-A levels. He said Chlorophyll-A is the major ingredient in algae growth and the increased Chlorophyll-A levels have become an alarming trend over the last ten years.

Mr. Randy Worden, Executive Director of COMCD, said the COMCD had filed a lawsuit against the OWRB, ODEQ, the City of Oklahoma City (OKC), and the Oklahoma Department of Transportation (ODOT) because of a permit application submitted by ODOT and OKC to discharge storm water into the Lake Thunderbird Watershed. He said, at that time, Lake Thunderbird was having problems with nutrients and dissolved oxygen and if ODEQ had approved the application, it would have made the problems worse. Mr. Worden said OKC, ODOT, and the Oklahoma Turnpike Authority (OTA) entered into an agreement to conduct a total maximum daily load (TMDL) study to coordinate a Watershed Management Plan. He said this was to be completed by April, 2010; however, that has been extended to later this summer. A reservoir modeling effort will be completed by the end of the year with a final report submitted in the summer of 2012. He said turbidity is causing the problem in Lake Thunderbird, not only to water quality standards, but capacity too. He said a report prepared in 2001 indicated 54% more sedimentation in Lake Thunderbird than originally planned. He said the problem with that is the sedimentation is reducing the capacity of the lake, which is critical since it is a major water supply to three cities. He said Norman is taking a very proactive approach with the SWMP.

Mr. O'Leary talked about buffer width a/k/a water quality protection zone and said 100 feet of greenspace buffer actually removes 70% to 75% of nitrogen and phosphorous from the water. Mr. Baxter Vieux of Vieux and Associates, said his company worked with the OCC on a study to target best management practices for the watershed. He said Norman, as mentioned before, is on the impaired water list. He said storm water becomes drinking water so the nature of the water supply is critical for other purposes than just aesthetics. His company analyzed the watershed to understand where the loading of various nutrients and sediment was coming from. He said phosphorus comes from urban runoff of fertilizer that finds its way into the lake, which is already doubled from 2003 projections, which is six times over the water quality standard.

Mayor Rosenthal asked if phosphorous levels can be solved by voluntary controls of fertilizers and teaching the public about what to spread on their lawns. Mr. Vieux said if everyone in Norman joined under voluntary fertilizer reduction, it would only be 15% effective and needs to be 60%.

Mr. O'Leary said the stream planning corridors have been a high priority as an effective method to address water quality issues. He said when Council adopted the resolution on November 10, 2009, accepting the SWMP they basically recognized the following underlying values:

- 2025 Land Use Plan guides all land development
- Preservation of water quality
- Protection of private property from flooding
- Accepted key guiding principle of the GMP
- Adopted the SWMP Action Plan

Mr. O'Leary said the resolution did not commit the City to any funding strategy, enact any new regulation, or require any additional dedication of land, which could come up in the water quality protection zone ordinance.

Mr. O'Leary said the FBF is an area of land along both sides of a drainage corridor that encompasses the areas projected to be inundated by the 1% chance flood event in any given year assuming full build-out watershed conditions in those areas with 40 or more acres of drainage in the Lake Thunderbird watershed. He said Summit Valley Addition is an example of FBF. He said the subdivision was platted ten years ago and has a tributary of Dave Blue Creek that runs through the center of the development and discharges into Lake Thunderbird. He said the development was not designed to comply with the water quality protection zone ordinance because the ordinance did not exist at that time; however, the development complies almost completely, if not over complies with the water quality protection zone concept making it a model development.

Mr. Bob Hanger, City Engineer, said the water quality protection zone would be approximately 100 feet on each side of the FBF or the FEMA floodplains, whichever is the widest. He said the width of the water quality protection zone is decided by stream order, which is a method of numbering streams as part of a drainage basin network. He said the streams used are depicted on the United States Geological Survey (USGS) map and presented examples of water quality protection zone boundaries in Norman. Mr. O'Leary said the issue of the water quality protection zone, up to this point, only applies to the Lake Thunderbird Watershed. He said urban Norman would not be affected by the water quality protection zone as currently developed.

Mr. O'Leary said there are two versions of the ordinance. One is a Zoning Overlay District for Lake Thunderbird watershed and the other ordinance is for subdivision regulations to be used during the platting process. He said Staff has utilized studies from other towns and cities in Oklahoma that have or are working towards water quality protection.

Mr. Hanger said the City would use a three buffer zone system as follows;

- Zone 1 – streamside zone will have very restricted uses
- Zone 2 – midway from the stream with managed forest and restricted uses
- Zone 3 – farthest area from the stream with forest or turf and less restrictions

Mr. O'Leary said the buffer width would be measured from the top of the stream bank, not the FBF, with 100 feet being the standard. He said the ordinances are not retroactive, but new developments would be impacted. He said the ordinances include variance provisions; engineering solutions; buffer averaging; slope standards; stream order; and also allow for clustering of lots. He said there has been discussion and questions regarding Property Owner Association (POA) maintenance and what that would entail. Mr. O'Leary said the City would like the buffer zone to be left as natural as possible and would probably not require maintenance by property owners.

Mayor Rosenthal said the information presented to Council tonight should be presented to the public for feedback prior to the public forum scheduled for March 21, 2011. Councilmember Kovach suggested the information be placed on the City's website as soon as possible for citizens to review. Councilmember Dillingham asked if Staff will have the answer to how many more acres the FBF will require than the FEMA Floodplain maps by the time of the public meeting and Mr. O'Leary said yes, Staff is working on that now.

Councilmember Kovach asked Staff to estimate the cost to treat the Chlorophyll–A levels.

Items submitted for the record

1. PowerPoint presentation entitled, "Storm Water Master Plan Draft Water Quality Protection Zone Ordinances," City of Norman, Cleveland County, Oklahoma, City Council Conference, March 8, 2011
2. Draft ordinance for standards and requirements for a designated water quality protection zone inclusive of the Lake Thunderbird watershed
3. Draft ordinance for a Water Quality Protection Zoning Overlay District
4. Agreement by and among the Central Oklahoma Master Conservancy District and the Oklahoma Department of Environmental Quality effective June 1, 2007
5. Map of the Lake Thunderbird Watershed

The meeting adjourned at 6:27 p.m.

ATTEST:

---

City Clerk

---

Mayor

CITY COUNCIL  
PLANNING AND COMMUNITY DEVELOPMENT  
COMMITTEE MINUTES  
February 11, 2011

The City Council Planning and Community Development Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 8:02 a.m. in the Conference Room on the 11th day of February, 2011, and notice and agenda of the meeting were posted in 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 Atkins, Cubberley, Griffith, and  
Chairman Butler

ABSENT: None

OTHERS PRESENT: Mayor Cindy Rosenthal  
Councilmember Carol Dillingham  
Councilmember Dan Quinn  
Mr. Jeff Bryant, City Attorney  
Ms. Susan Connors, Planning and Community  
Development Director  
Mr. Ken Danner, Development Manager  
Mr. Bob Hanger, Storm Water Engineer  
Mr. Doug Koscinski, Current Planning Manager  
Mr. Steve Lewis, City Manager  
Mr. Shawn O’Leary, Director of Public Works  
Ms. Kathryn Walker, Assistant City Attorney  
Mr. Tom Knotts, Planning Commission Liaison  
Ms. Robin Allen, Chamber of Commerce Interim Director  
Mr. Harold Heiple, Attorney for Norman Developers Council  
Mr. Sean Rieger, Attorney for Builders Association of South  
Central Oklahoma  
Mr. Tom Sherman, Chamber of Commerce Officer  
Ms. Karla Chapman, Administrative Technician

STATUS UPDATE ON THE STORM WATER MASTER PLAN IMPLEMENTATION PLAN.

Mr. Shawn O’Leary, Director of Public Works, said a great deal of work has been accomplished since Council adopted the Storm Water Master Plan (SWMP) Action Plan on November 10, 2009. He said Staff developed a 20 year implementation plan with the 30 “key” recommendations dealing with storm water improvements to storm water quality. He said Staff then took each recommendation and set out milestones, gave a description and category, responsible party and/or Staff leader, and status for each.

Mr. O’Leary said the SWMP Task Force consists of 12 citizens representing all aspects of the community and storm water interest groups, as well as Planning and Park Board Commissioners, City Developers, and Oklahoma University (OU) representatives. He said Staff and the SWMP Task Force knew one of the more controversial and challenging issues of the SWMP was the concept of stream planning corridors and the Water Quality Protection Zone (WQPZ) has been the main focus.

Mr. O’Leary said Staff researched other cities in Oklahoma and across the country, as well as the model Environmental Protection Agency (EPA) ordinances in order to develop an ordinance to “fit” Norman. He said Staff prepared two ordinances, the first draft WQPZ Overlay District (WQPZOD) would be an amendment to the Zoning Ordinance Regulations and create an overlay district having boundaries that would *only* apply to the Lake Thunderbird Water Shed. The SWMP Task Force felt the City’s primary goal should be to protect Lake Thunderbird – Norman’s drinking water supply. He said the City must also comply with storm water quality

requirements to include the Municipal Separate Storm Sewer System (MS4) Program, Canadian River and Bishop Creek Bacteria Total Maximum Daily Load (TMDL), and the future Oklahoma Department of Environmental Quality (ODEQ) Lake Thunderbird Watershed Plan. Mr. O'Leary said the WQPZOD would not include Brookhaven Creek, Imhoff Creek, Ten Mile Creek, or Bishop Creek and would not be retro-active for existing developments. The second draft WQPZ ordinance would be an amendment to the Subdivision Regulations and the flooding and drainage goals include providing public safety, protect public and private property, and integrate recreational opportunities.

The SWMP Task Force is scheduled to meet later today to review the SWMP Action Plan and draft WQPZ ordinances. Mr. O'Leary highlighted the proposed process and schedule for final approval of the WQPZ ordinance(s) is as follows:

- ❖ March 8, 2011 – City Council Study Session
- ❖ March 14, 2011 – Public Forum
- ❖ March 15, 2011 – SWMP Sub-Committee
- ❖ March 25, 2011 – SWMP Task Force
- ❖ April 14, 2011 – Planning Commission
- ❖ May 10, 2011 – City Council

A key point of the SWMP is the concept of stream planning corridors, or Full-Build Out Floodplain (FBF). Post, Buckley, Schuh, and Jernigan, Inc., (PBS&J) developed a set of *local* floodplain maps that surpass the Federal Emergency Management Agency (FEMA) floodplain maps. Mr. O'Leary said the City's current floodplain maps were developed and adopted in 1970 and the FEMA floodplain maps are based on existing conditions. The *local* floodplain maps are based on future FBF conditions. FBF, or stream planning corridor, was the basis of the maps developed in the SWMP.

Mr. O'Leary said the Water Quality Protection Zone (WQPZ) is the FBF with a buffer and the concept of WQPZ is promoted in all of the researched model ordinances around the country. He said the Summit Valley Addition, located on Highway 9 East in Norman and developed by Don Cies, is a fascinating example of a WQPZ. He said Staff compared the FEMA Floodplain maps, the FBF maps, and the floodplain maps developed by Clour Engineering for Summit Valley Addition. Mr. O'Leary said it was very interesting to see how close all the floodplain maps harmonized with one another and stated Staff did not even know the WQPZ terminology eight – ten years ago when Summit Valley Addition was developed, yet it is a wonderful example of a WQPZ the ordinance is proposing.

In order to provide flexibility, Mr. O'Leary said developers will have three (3) options to choose from as they decide to map the WQPZ in their proposed developments. 1) Use the FEMA floodplain map, if available/exists for the proposed area, plus 100 feet; 2) Use the United States Geological Survey (USGS) "Blue Line" map, plus 100 feet *either* side of the "Blue Line"; or 3) Use the City's developed FBF maps. Staff currently requires U.S. Army Corps of Engineers 404 Permits on all developments that touch the "Blue Line" streams as shown on the USGS Quadrangle maps and currently requires development to provide erosion protection per the ODEQ Phase II Permit. Mr. O'Leary said Staff is very comfortable with the developed FBF maps, but should a developer(s) feel the FBF maps are not accurate, they can choose to use the FEMA or USGS maps instead. He said the 100 feet dimensions may get tweaked as the process moves forward and variances/variations have been included in the proposed WQPZ ordinances. He said variances can be requested in the Zoning Ordinance and would go before the Board of Adjustment.

Mr. O'Leary said some interesting variations have been developed for the subdivision regulations. Staff will introduce the concept of buffer averaging, allowing developers to take a larger buffer in one area and use a smaller buffer in another area, i.e., downstream, upstream, etc., as long as the total buffer is the same. He said developers will be asked to meet the "spirit of the ordinance" but there are opportunities for variations and developers can use different design mechanisms in order to accomplish the WQPZ goal.

Mayor Rosenthal asked Staff to speak about the density shifting provision and Ms. Kathryn Walker, Assistant City Attorney, said the proposed WQPZOD ordinance includes a provision allowing for transfer of permitted development density, i.e., if a parcel/lot is totally located in a WQPZ, the City will allow some transfer of density to permit the developer to make up for the lost parcel/lot. Mr. O'Leary said the term "clustering" is already utilized in

the current zoning ordinance and is used to cluster developments, leaving other open areas within the development. He said there are many other elements to the proposed WQPZ ordinances, but today's update only references the highpoints. Mr. O'Leary felt the proposed ordinances may need modification but they are very unique to Norman and were developed with the help of many people, i.e., Staff, interest groups, SWMP Sub-Committee and Task Force, etc. Mayor Rosenthal asked if the proposed ordinances required trails and Staff replied in the negative.

Councilmember Butler asked how the Floodplain Ordinance adopted several years ago (O-0607-39) would correspond with the proposed WQPZ ordinances and Mr. O'Leary said the Floodplain Ordinance coincides with the FEMA Floodplain maps and will continue to be used in the same fashion. He said the Floodplain Ordinance and the proposed WQPZ ordinances are similar in many respects as both deal with flood control and reduce flooding, but the proposed WQPZ ordinances are much more focused on the water quality aspect.

Mr. O'Leary said to date the majority of work done in SWMP Action Plan has been developing the WQPZ ordinances but Staff continues to do good work on other action items. He said in the spring, Norman will meet with the Cities of Moore and Oklahoma City to compare storm water regulations, establish Minimum Control Measures (MCM) for EPA compliance, and develop Memorandums of Understanding (MOU). He said a large part of the Lake Thunderbird Water Shed is located in Moore, Oklahoma City, and Cleveland County and even with Norman's best effort, the ultimate goal of the Lake Thunderbird water quality will not be met unless Moore and Oklahoma City agree to the same water quality conditions. Staff will also meet with Oklahoma Department of Environmental Quality, Oklahoma Water Resources Board, and Central Oklahoma Master Conservancy District, in the Spring 2011, to discuss the extent of pollution for Bishop Creek, and continue dialog as for continuing efforts in being consistent with the water quality regulations and interest in the region.

Mayor Rosenthal asked for a status update on ODEQ's TMDL study for Lake Thunderbird Water Shed. Mr. O'Leary felt ODEQ is a little behind schedule because they have not issued Norman a Phase II Storm Water Permit (Phase II Permit) – which is a requirement and/or regulation a city must follow for five year period. He said Norman's initial Storm Water Permit (SWP) expired December 2010, and the projected issue date for the Phase II Permit is May or June 2011. He said ODEQ has been assessing the initial SWP information and he felt one issue holding up the issuance of the Phase II permit is ODEQ is still processing TMDL data. ODEQ has evaluated Norman as doing very well in comparison to other cities in the state, but the theory is the Phase II Permit will probably have a "new" set of regulations and be more stringent than the first SWP. Councilmember Butler asked how specific ODEQ will be with the new regulations and Mr. O'Leary said the regulations are based on best management practices but the goal is to have as specific standards as possible for each city's water shed. Therefore, the Phase II Permit for Norman may look very different than the Phase II Permit for the City of Lawton, City of Oklahoma City, etc.

Councilmember Cubberley asked Staff if ODEQ will begin concentrating on the water quality of the Canadian River in the future and Mr. O'Leary said ODEQ is already regulating storm water/water quality for the Canadian River through the Norman Utilities Department. He said the Phase II Permit will be for all Norman water sheds, not just Lake Thunderbird, and requires Norman to use best management practices throughout the city which ultimately assists with the water quality for the Canadian River. He said Staff is aware of pollution issues in Bishop Creek which discharges to the Canadian River and felt interest would focus more on the Canadian River in the future, but will probably not be addressed a great deal in the Phase II Permit. Just as Lake Thunderbird is Norman's domestic water supply, the Canadian River is a domestic water supply for many other cities and/or towns.

Mr. O'Leary said the Finance Department met with Staff on September 13, 2010, to determine current status of a strategic work plan for Storm Water Utility, i.e., administration and billing process, and Mr. Anthony Francisco, Finance Director, felt this would be very easy to accomplish. A Storm Water Utility (SWU) fee election is expected to occur in late 2011 or early 2012, and, if and when, the SWU fee election passes, Staff will establish a master account file, determine key billing logistics, and provide web-based account information. Some issues to be resolved include deciding whether a renter or the owner pays the storm water utility fee, how disputes will be handled, and Council discussion for a tier system billing.

The next step would be a strategic work plan for a General Obligation (GO) Bond and pending Council direction, Staff would begin working on a GO Bond, i.e., establish bond issue language, determine the amount (\$30 million, \$38.5 million, or \$40 million), and forecast debt service. The City's Geographic Information System (GIS) has already incorporated digital/reference data for the SWMP into the City's GIS, i.e., geo references field photo locations and developed a GIS Map Overlay System.

Mr. O'Leary said the Street Division is inspecting and monitoring stream erosion and is approximately 75% complete. A detention/retention inspection form has been developed and stream photos will be updated in Spring 2011. A public outreach campaign will be accomplished immediately before the SWU fee election to include forming a Citizen Committee and public education. Mr. O'Leary said Staff continues to develop a Staff Team from multiple City departments and hired Mr. Bob Hanger for the Storm Water Engineer position. He said an inventory and inspection of City-owned dams has been performed.

Mayor Rosenthal said it would be helpful to have all the Storm Water related expenses identified in the budget and Mr. Steve Lewis, City Manager, said Staff will do so for the proposed 2012 budget. Mr. O'Leary said last year's budget reflected the Street Division and Storm Water Division as separate line items and future budgets will be more detailed to show the Storm Water related expenses.

Ms. Susan Connors, Planning and Community Development Director, provided a brief update on the 2009 Greenway Master Plan (GMP) Action Plan, which is Item 31 of the SWMP Action Plan and said the Greenbelt Commission (GC) has put together a sub-committee to continue working on the GMP. She said the sub-committee met in January 2011, and discussed having an appendix detailing the different stream corridors. She said the GMP will have the principles of the plan and ideas how to achieve a greenbelt system and an appendix will include the specifics of how each stream corridor can be achieved individually. Council could adopt the GMP as an overall principle document while the appendix could be a separate implementation technique to the GMP and could be amended as needed. She felt this would move the process forward in a more methodic manner instead of worrying about issues with the various Norman creeks/stream corridors. Ms. Connors said the sub-committee is scheduled to meet February 15, 2011, and the GC will meet February 21, 2011, to discuss and finalize the proposed GMP Action Plan and appendix before bringing back to Council.

The GC officially began using the GB Enhancement Statement review in December 2010 and Staff prepared reports to focus and understand all the information.

Items submitted for record

1. Storm Water Master Plan (SWMP) Task Force Meeting Agenda, dated Friday, February 11, 2011
2. Draft Ordinance to Provide for Standards and Requirements for a Designated Water Quality Protection Zone Inclusive of the Lake Thunderbird Watershed, Section 19, of the Code of the City of Norman
3. Draft Ordinance for Water Quality Protection Zoning Overlay District, Section 429.7, of Chapter 22, of the Code of the City of Norman
4. February 11, 2011, Status Report/SWMP Action Plan (by milestone)
5. City of Norman, Storm Water Master Plan Recommendations and Implementation Plan submitted by Post, Buckley, Schuh, and Jernigan, Inc.

The meeting adjourned at 8:56 a.m.

---

City Clerk

---

Mayor



# CITY COUNCIL AGENDA MAY 10, 2011

Municipal Building Council  
Chambers  
201 West Gray Street  
Norman, OK 73069

## Item No. 13

Text File Number: K-1011-156

**Introduced:** 4/26/2011 by Jim Speck, Capital Projects Engineer

**Current Status:** Consent Item

**Version:** 2

**Matter Type:** Contract

Title

CONSIDERATION OF AWARDING OF BID NO. 1011-68; CONTRACT NO. K-1011-156 WITH CENTRAL CONTRACTING SERVICES, INC., IN THE AMOUNT OF \$1,181,068.04, PERFORMANCE BOND NO. B-1011-93; STATUTORY BOND NO. B-1011-94; AND MAINTENANCE BOND NO. MB-1011-92 FOR THE PHASE 2A, WELL FIELD DEVELOPMENT WATER LINE CONSTRUCTION PROJECT AND BUDGET TRANSFER.

**ACTION NEEDED:** Acting as the Norman Utilities Authority, motion to accept or reject all bids meeting specifications; and, if accepted, award the bid in the amount of \$1,181,068.04 to Central Contracting Services, Inc., as the lowest and best bidder meeting specifications; approve Contract No. K-1011-156 and the performance, statutory, and maintenance bonds; direct the filing of the bonds; authorize the execution of the contract and the Norman Utilities Authority as part of the contract to pay subcontractors for equipment and supplies at prices agreed to by Central Contracting Services; and transfer \$150,000 from Project No. WB0141, FYE 08 16" Water Line Bond Project, Construction (031-9345-462.61-01) to Project No. WB0186, FYE 10 16" Water Line Bond Project, Construction (031-9345-462.61-01).

**ACTION TAKEN:** \_\_\_\_\_

Body

**BACKGROUND:** The Phase 2A Waterline Construction project will install water supply lines to deliver groundwater from three new water wells (51, 52, and 58) into the Norman Utilities Authority (NUA) distribution system. This project will also replace the 8-inch waterline along 36th Avenue between Rock Creek and Tecumseh. The project area is generally bounded between Rock Creek and Robinson and between 36th Avenue NE and 84th Avenue NE as depicted in the attached map. The project (WB0185, WB0186, and WA292) includes construction of approximately 10,205 feet of 16-inch, 15,415 feet of 12-inch, and 110 feet of 6-inch waterline in northeastern Norman. The 16-inch portion will provide a southern loop from the well field to the distribution system and also provide the infrastructure to deliver water from the well field to the water treatment plant should it become necessary.

On August 25, 2009, the NUA approved Contract No. K-0910-55 with Lemke Land Surveying (Lemke) to provide surveying and drafting assistance. Utilities Administration staff designed this project with the assistance of Lemke.

**DESCRIPTION:** On February 8, 2011, NUA awarded bid and signed contract to construct Phase 2B Waterlines to Red Cliff, Inc. in the amount of \$1,472,742. The advertisement for NUA Bid No. 1011-68 for construction of the Phase 2A Waterlines was published in the Norman Transcript on March 17th and March 24th, 2011 and in several trade publications. Five bidders submitted bids for this project on April 7, 2011. As shown on the attached bid tabulation, Central Contracting Services, Inc. of Norman, Oklahoma was the low bidder at \$1,181,068.04 with other bids ranging between \$1,350,227.10 and \$2,039,944.05. Staff estimated the construction cost to be \$1,553,380. Staff has reviewed the bids and recommends the NUA award the bid to Central Contracting Services, Inc. in the amount of \$1,181,068.04.

The Phase 2A Waterline Construction Project is funded through three projects: WB0185, FYE10 12-inch Waterline; WB0186, FYE 10 16-inch Waterlines, and WA0292; Segment F Waterline. Funding for WB0185 and WB0186 is contained in Construction Account 031-9345-462.61-01 and funding for WA0292 is contained in Construction Account 031-9360-462.61-01.

The Fiscal Year Ending (FYE) 2011 budget does not currently have adequate funding for one of the projects. However, there are adequate funds available with excess funds in the Phase 2B project WB0141. Funds in the amount of \$150,000 will need to be transferred within Construction Account 031-9345-462.61-01 from the WB0141 16 inch Phase 2B Waterline Project to WB0186 to provide an unencumbered balance in the amount of \$597,045.00. The project can then be funded as described in the attached table.

The City of Norman is exempt from the payment of any sales or use taxes. Pursuant to Title 68 O.S., Section 1356 (10) and as allowed by Oklahoma Tax Commission Rules Part 27 Trust Authority 710:65-13-140, direct vendors to the City of Norman are also exempt from those taxes. A bidder and his subcontractors may exclude from their bid sales taxes on appropriate equipment, materials, and supplies that will not have to be paid while acting on behalf of the City of Norman. To minimize project costs, the NUA will make payment directly to vendors supplying equipment and materials for incorporation into the project.

**RECOMMENDATION NO. 1:** Recommend the NUA accept the bids received in response to Bid No. 1011-68 and authorize award of the bid to Central Contracting Services, Inc. of Norman, OK.

**RECOMMENDATION NO. 2:** Recommend the NUA authorize the transfer of funds in the amount of \$150,000 from Project WB0141 to Project WB0186 within Construction Account 031-9345-462.61-01.

**RECOMMENDATION NO. 3:** Recommend the NUA approve Contract No. K-1011-156, Performance Bond No. B-1011-93, Statutory Bond No. B-1011-94, and Maintenance Bond No. MB-1011-92.

**RECOMMENDATION NO. 4:** Recommend the NUA allow the Utilities Director to approve the purchase of equipment and materials directly from vendors at prices agreed to

Attachment 1  
Phase 2A Water Supply Lines

<u>Project No.</u>	<u>Project Name</u>	<u>Account No.</u>	<u>Category</u>	<u>Unencumbered Balance</u>	<u>Transfer Amount</u>	<u>Revised Balance</u>	<u>Proposed Encumbrance</u>
WB0185	FYE10 12-inch Water Supply Lines	031-9345-462.61-01	Construction	\$447,044.00	\$0.00	\$447,044.00	\$444,117.00
WB0186	FYE10 16-inch Water Supply Lines	031-9345-462.61-01	Construction	\$447,045.00	\$150,000.00	\$597,045.00	\$582,028.35
WA0292	Segment F Water Line	031-9360-462.61-01	Construction	\$156,000.00	\$0.00	\$156,000.00	\$154,922.69
WB0141	FYE08 16-inch Water Supply Lines	031-9345-462.61-01	Construction	\$338,023.00	-\$150,000.00	\$188,023.00	\$0.00
							\$1,181,068.04

## BID SUMMARY

Contractor	Base Bid	Base Bid + Alternate
Associated Environmental Industries, Corp. P.O. Box 5300 Norman, OK 73070	\$ 968,950.50	\$ 1,607,652.90
BRB Contractors, Inc. 3805 NW 25th Street Topeka, KS 66618	\$ 1,266,424.00	\$ 2,039,994.05
Central Contracting Services, Inc. 17301 S Sunnyslane Norman, OK 73701	\$ 728,824.65	\$ 1,181,068.04
Pittard Construction Company 718 Hwy 82E #269 Sherman, TX 75090	\$ 800,869.00	\$ 1,350,227.10
Red Cliff, Inc 3800 Doniphan Drive El Paso, TX 79922	\$ 846,900.00	\$ 1,367,051.00
Engineer's Estimate	\$ 939,027.00	\$ 1,553,380.00



- the Construction Drawings, Specifications, and Provisions; and
- the Bonds thereto; all of which documents are on file in the Office of the Purchasing Department of the NORMAN UTILITIES AUTHORITY, and are made a part of this CONTRACT as fully as if the same were set out at length, with the following additions and/or exceptions:

---



---



---



---

2) The AUTHORITY shall make payments, minus a retainage as stipulated in the CONTRACT Documents, to the CONTRACTOR in the following manner: On or about the first day of each month, the project manager, or other appropriate person, will make accurate estimates of the value, based on CONTRACT prices, of work done, and materials incorporated in the work and of materials suitably stored at the site thereof during the preceding calendar month. The CONTRACTOR shall furnish to the project manager, or other appropriate person, such detailed information as he may request to aid him as a guide in the preparation of the monthly estimates.

Each monthly estimate for payment must contain or have attached an affidavit in accordance with the Constitution of the State of Oklahoma, Title 74, Section 3109-3110, and Title 62, Section 310.09.

On completion of the work, but prior to the acceptance thereof by the AUTHORITY, it shall be the duty of the project manager, or other appropriate person, to determine that said work has been completely and fully performed in accordance with said CONTRACT Documents; and upon making such determinations said official shall make his final certificate to the AUTHORITY.

The CONTRACTOR shall furnish proof that all claims and obligations incurred by him in connection with the performance of said work have been fully paid and settled; said information shall be in the form of an affidavit, which shall bear the approval of the surety on the CONTRACT Bonds for payment of the final estimate to the CONTRACTOR; thereupon, the final estimate (including retainage) will be approved and paid.

3) It is further agreed that the CONTRACTOR will commence said work within ten (10) calendar days following receipt of a NOTICE-TO-PROCEED, and prosecute the same vigorously and continuously, and complete the same within two-hundred and forty (240) calendar days following receipt of said NOTICE-TO-PROCEED.

- 4) That the AUTHORITY shall pay the CONTRACTOR for the work performed as follows:
- a) Payment for unit price items shall be at the unit price bid for actual construction quantities. (or) Payment for the lump sum price items shall be at the price bid for actual construction complete in place.

- b) Construction items specified but not included as bid items shall be considered incidental and shall not be paid for directly, but shall be included in the bid price for any or all of the pay quantities. Should any defective work or materials be discovered or should a reasonable doubt arise as to the quality of any work completed, there will be deducted from the next estimate an amount equal to the value of the defective or questionable work and shall not be paid until the defects are remedied. And that the CONTRACTOR'S bid is hereby made a part of this CONTRACT.
- 5) That the AUTHORITY reserves the right to add to or subtract from the estimated quantities or amount of work to be performed up to a maximum of 15% of the total bid price. The work to be performed or deducted shall be at the unit price bid.
- 6) That the CONTRACTOR will not undertake to furnish any materials or to perform any work not specifically authorized under the terms of this Agreement unless additional materials or work are authorized by written Change Order, executed by the AUTHORITY; and that in the event any additions are provided by the CONTRACTOR without such authorization, the CONTRACTOR shall not be entitled to any compensation therefore whatsoever.
- 7) That if any additional work is performed or additional materials provided by the CONTRACTOR upon authorization by the AUTHORITY, the CONTRACTOR shall be compensated therefore at the unit price bid or as agreed to by both parties in the execution of the Change Order.
- 8) That the CONTRACTOR shall perform the work and provide the materials strictly in accordance with the specifications as to quality and kind and all work and materials shall be subject to rejection by the AUTHORITY through its authorized representatives for failure to meet such requirements, and in the event of such rejection, the CONTRACTOR shall replace the work and materials without compensation therefore by the AUTHORITY.
- 9) The CONTRACTOR shall complete the work in accordance with the terms of this Agreement. The CONTRACTOR agrees to pay as liquidated damages, the sum two-hundred and forty dollars (\$ 240.00) for each consecutive calendar day thereafter the specified time for completion, as provided in the General Conditions.
- 10) The CONTRACTOR shall furnish surety bonds and certificate of insurance as specified herein which bonds and insurance must be approved by the AUTHORITY prior to issuance of the Work Order and commencement of work on the project.
- 11) The CONTRACTOR shall indemnify, hold harmless, and defend the AUTHORITY from and against any and all liabilities, claims, penalties, fines, forfeitures, suits and the cost and expenses incidental thereto (including cost of defense, settlement, and the reasonable attorney's fees) which may be alleged against the AUTHORITY or which the AUTHORITY may incur, become responsible for, or pay out as a result of death or bodily injury to any person, destruction, or damage to any property, contamination of or adverse effects on the environment, or any violation or alleged violation of governmental laws, regulations orders, to the extent that such damage was caused by the CONTRACTOR or CONTRACTOR'S agents negligence, willful or

intentional act or omission, breach or contract or a failure of CONTRACTOR'S warranties to be true, accurate, or complete.

12) IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed, in four (4) duplicate originals, the day and year first above written.

To that end, no provision of this CONTRACT or of any such aforementioned documents shall be interpreted or given legal effect to create an obligation on the part of the AUTHORITY to third persons, including, by way of illustration but not exclusion, sureties upon performance bonds, payment bonds or other bonds, assignees of the CONTRACTOR, subcontractors, and persons performing labor, furnishing material or in any other way contributing to or assisting in the performance of the obligations of the CONTRACTOR; nor shall any such provisions be interpreted or given legal effect to afford a defense against any obligation owed or assumed by such third person to the AUTHORITY or in any way to restrict the freedom of the AUTHORITY to exercise full discretion in its dealing with the Contractor.

The sworn, notarized statement below must be signed and notarized before this Contract will become effective.

STATE OF Oklahoma )  
 )§  
COUNTY OF Cleveland )

James L. Tipken, of lawful age, being first duly sworn, on oath says that (s)he is the agent authorized by CONTRACTOR to submit the above CONTRACT to the AUTHORITY. Affiant further states that CONTRACTOR has not paid, given or donated or agreed to pay, give, or donate to any officer or employee of the AUTHORITY any money or other thing of value, either directly or indirectly, in the procuring of the CONTRACT.

James L Tipken

Submitted and sworn to before me this 10th day of May, 20 11.

Sara N. Switzer

Notary Public

My Commission Expires:

July 12, 2011



IN WITNESS WHEREOF, the said parties of the First and Second Part have hereunto set their hands and seals respectively the 10th day of May, 20 11, and the 10th day of May, 20 11.

(Corporate Seal) (where applicable)

ATTEST

James L Tipken  
Corporate Secretary (where applicable)

Central Contracting Services, Inc.  
PRINCIPAL

Signed: James L Tipken  
Authorized Representative

James L. Tipken, President  
Name and Title

Address: 17301 S. Sunnyslane  
Norman, OK 73071

Telephone: 405-895-6250

NORMAN UTILITIES AUTHORITY

APPROVED as to form and legality this 29 day of April, 20 11.

[Signature]  
AUTHORITY Attorney

Approved by the Trustees of the NORMAN UTILITIES AUTHORITY this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

NORMAN UTILITIES AUTHORITY

ATTEST

By: \_\_\_\_\_

Title: Chairman

\_\_\_\_\_

Secretary

## PERFORMANCE BOND

Know all men by these presents that Central Contracting Services, Inc., as PRINCIPAL, and American Safety Casualty Insurance Company, a corporation organized under the laws of the State of Oklahoma, and authorized to transact business in the State of Oklahoma, as SURETY, are held and firmly bound unto NORMAN UTILITIES AUTHORITY, a Public Trust of the State of Oklahoma, herein called AUTHORITY, in the sum of One million, one hundred eighty-one thousand, sixty-eight and 04/100 Dollars (\$ 1,181,068.04), for the payment of which sum PRINCIPAL and SURETY bind themselves, their heirs, executors, administrators, successors and assigns jointly and severally.

WHEREAS, the conditions of this obligation are such, that the PRINCIPAL, being the lowest and best bidder on the following PROJECT:

### NORMAN PHASE 2A WATER WELL DISTRIBUTION SYSTEM PROJECT NORMAN, OKLAHOMA

has entered into a written CONTRACT (K-1011-156) with the AUTHORITY, dated May 10, 2011 for the erection and construction of this PROJECT, that CONTRACT being incorporated herein by reference as if fully set forth.

NOW, THEREFORE, if PRINCIPAL shall, in all particulars, well and truly perform and abide by the CONTRACT and all specifications and covenants thereto; and if the PRINCIPAL shall promptly pay or cause to be paid all indebtedness incurred for labor and materials and repairs to and parts for equipment furnished in the making of this PROJECT, whether incurred by the PRINCIPAL or subcontractors; and if the PRINCIPAL shall protect and hold harmless the AUTHORITY from all loss, damage, and expense to life or property suffered or sustained by any person, firm, or corporation caused by the PRINCIPAL or his or its agents, servants, or employees in the construction of the PROJECT, or by or in consequence of any negligence, carelessness or misconduct in guarding and protecting the same, or from any act or omission of the PRINCIPAL or his or its agents, servants, or employees; and if the PRINCIPAL shall protect and save the AUTHORITY harmless from all suits and claims of infringement or alleged infringement or patent rights or processes, then this obligation shall be null and void. Otherwise this obligation shall remain in full force and effect.

It is further expressly agreed and understood by the parties hereto that no changes or alterations in the CONTRACT and no deviations from the plan or mode of procedure herein fixed shall have the effect of releasing the sureties, or any of them, from the obligations of this Bond.

It is further expressly agreed that the PRINCIPAL'S obligations under this Bond include payment of not less than the prevailing hourly rate of wages as established by the Commissioner of Labor and by the Secretary of the U.S. Department of Labor or as determined by a court on appeal.

IN WITNESS WHEREOF, the PRINCIPAL has caused these presents to be executed in its name and its corporate seal (where applicable) to be hereunto affixed by its duly authorized representative(s), on the 10th day of May, 20 11, and the SURETY has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its authorized representative(s) on the 10th day of May, 20 11.

(Corporate Seal) (where applicable)

ATTEST

James L. Tipken  
Corporate Secretary (where applicable)

Central Contracting Services, Inc.  
PRINCIPAL

Signed: James L. Tipken  
Authorized Representative

James L. Tipken, President  
Name and Title

Address: 17301 S. Sunnyslane  
Norman, OK 73701

Telephone: 405-895-6250

(Corporate Seal)

ATTEST

Tracy L. Kyle  
Corporate Secretary

American Safety Casualty Insurance Company  
SURETY

Signed: Tina E. Switzer  
Authorized Representative

Tina E. Switzer, Attorney-in-Fact  
Name and Title

Address: 909 S. Meridian, Suite 700  
Oklahoma City, OK 73108

Telephone: 405-568-3008

CORPORATE ACKNOWLEDGEMENT

STATE OF OKLAHOMA )  
 )§  
COUNTY OF Cleveland )

The foregoing instrument was acknowledged before me this 10th day of May,

20 11, by James L. Tipken of Central Contracting Services, Inc.  
Name and Title  
a Oklahoma corporation, on behalf of the corporation.

WITNESS my hand and seal this 10th day of May ~~19~~ 2011.

Jana N Switzer  
Notary Public

My Commission Expires: July 12, 2011



INDIVIDUAL ACKNOWLEDGEMENT

STATE OF OKLAHOMA )  
 )§  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,

20 \_\_\_\_\_, by \_\_\_\_\_ an individual.  
Name and Title

WITNESS my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

PARTNERSHIP ACKNOWLEDGEMENT

STATE OF OKLAHOMA )  
 )§  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
20 \_\_\_\_, by \_\_\_\_\_ partner (or agent) on behalf of  
Name and Title  
\_\_\_\_\_, a partnership.

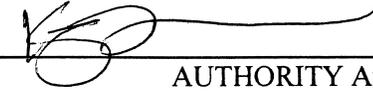
WITNESS my hand and seal this \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

NORMAN UTILITIES AUTHORITY

APPROVED as to form and legality this 29 day of April, 2011.

  
\_\_\_\_\_  
AUTHORITY Attorney

Approved by the Trustees of the NORMAN UTILITIES AUTHORITY this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

NORMAN UTILITIES AUTHORITY

ATTEST

By: \_\_\_\_\_

Title: Chairman

\_\_\_\_\_

Secretary

## STATUTORY BOND

Know all men by these presents that Central Contracting Services, Inc., as PRINCIPAL, and American Safety Casualty Insurance Company corporation organized under the laws of the State of Oklahoma, and authorized to transact business in the State of Oklahoma, as SURETY, are held and firmly bound unto NORMAN UTILITIES AUTHORITY, a Public Trust of the State of Oklahoma, herein called AUTHORITY, in the sum of One million, one hundred eighty-one thousand, sixty-eight and 04/100 Dollars (\$1,181,068.04), for the payment of which sum PRINCIPAL and SURETY bind themselves, their heirs, executors, administrators, successors and assigns jointly and severally.

WHEREAS, the conditions of this obligation are such, that the PRINCIPAL, being the lowest and best bidder on the following PROJECT:

### **NORMAN PHASE 2A WATER WELL DISTRIBUTION SYSTEM PROJECT NORMAN, OKLAHOMA**

has entered into a written CONTRACT (K-1011-156) with the AUTHORITY, dated May 10, 2011 for the erection and construction of this PROJECT, that CONTRACT being incorporated herein by reference as if fully set forth.

NOW, THEREFORE, if the PRINCIPAL, shall properly and promptly complete the work on this PROJECT in accordance with the CONTRACT, and shall well and truly pay all indebtedness incurred for labor and materials and repairs to and parts for equipment furnished in the making of the PROJECT, whether incurred by the PRINCIPAL, his subcontractors, or any material men, then this obligation shall be void. Otherwise this obligation shall remain in full force and effect. If debts are not paid within thirty (30) days after the same becomes due and payable, the person, firm, or corporation entitled thereto may sue and recover on this Bond, subject to the provisions of 61 O.S. 1981 §2, for the amount so due and unpaid.

It is further expressly agreed and understood by the parties hereto that no changes or alterations in said CONTRACT and no deviations from the plan or mode of procedure herein fixed shall have the effect of releasing the SURETIES, or any of them, from the obligation of this Bond.

It is further expressly agreed that the PRINCIPAL'S obligations under this Bond include payment of not less than the prevailing hourly rate of wages as established by the Commissioner of Labor of the State of Oklahoma and by the Secretary of the U.S. Department of Labor or as determined by a court on appeal.

IN WITNESS WHEREOF, the PRINCIPAL has caused these presents to be executed in its name and its corporate seal (where applicable) to be hereunto affixed by its duly authorized representative(s), on the 10th day of May, 20 11, and the SURETY has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its authorized representative on the 10th day of May, 20 11.

(Corporate Seal) (where applicable)

ATTEST

James L. Tipken  
Corporate Secretary (where applicable)

Central Contracting Services, Inc.

PRINCIPAL

Signed: James L. Tipken  
Authorized Representative

James L. Tipken, President  
Name and Title

Address: 17301 S. Sunnyslane  
Norman, OK 73701

Telephone: (405)895-6250

(Corporate Seal)

ATTEST

Tracy L. Kyle  
Corporate Secretary

American Safety Casualty Insurance Company

SURETY

Signed: Tina E. Switzer  
Authorized Representative

Tina E. Switzer, Attorney-in-Fact  
Name and Title

Address: 909 S. Meridian, Suite 700

Oklahoma City, OK 73108

Telephone: (405)568-3008

**CORPORATE ACKNOWLEDGEMENT**

STATE OF OKLAHOMA )  
 )§  
COUNTY OF Cleveland )

The foregoing instrument was acknowledged before me this 10th day of May,  
20 11, by James L. Tipken of Central Contracting,  
Name and Title Services, Inc.  
a Oklahoma corporation, on behalf of the corporation.

WITNESS my hand and seal this 10th day of May 2011.

Sara H Switzer  
Notary Public

My Commission Expires: July 12, 2011



**INDIVIDUAL ACKNOWLEDGEMENT**

STATE OF OKLAHOMA )  
 )§  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
20 \_\_\_\_\_, by \_\_\_\_\_ an individual.  
Name and Title

WITNESS my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**PARTNERSHIP ACKNOWLEDGEMENT**

STATE OF OKLAHOMA            )  
  )§  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
20 \_\_\_\_, by \_\_\_\_\_ partner (or agent) on behalf of  
Name and Title  
\_\_\_\_\_, a partnership.

WITNESS my hand and seal this \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**NORMAN UTILITIES AUTHORITY**

APPROVED as to form and legality this 29 day of April, 20 11.

  
\_\_\_\_\_  
AUTHORITY Attorney

Approved by the Trustees of the NORMAN UTILITIES AUTHORITY this \_\_\_\_\_ day of  
\_\_\_\_\_, 20 \_\_\_\_.

**NORMAN UTILITIES AUTHORITY**

ATTEST

By: \_\_\_\_\_  
Title: Chairman

\_\_\_\_\_  
Secretary

## MAINTENANCE BOND

Know all men by these presents that Central Contracting Services, Inc., as PRINCIPAL, and American Safety Casualty Insurance Company corporation organized under the laws of the State of Oklahoma, and authorized to transact business in the State of Oklahoma, as SURETY, are held and firmly bound unto NORMAN UTILITIES AUTHORITY, a Public Trust of the State of Oklahoma, herein called AUTHORITY, in the sum of One million, one hundred eighty-one thousand, sixty-eight and 04/100 Dollars (\$1,181,068.04), for the payment of which sum PRINCIPAL and SURETY bind themselves, their heirs, executors, administrators, successors and assigns jointly and severally.

WHEREAS, the conditions of this obligation are such, that the PRINCIPAL, being the lowest and best bidder on the following PROJECT:

### **NORMAN PHASE 2A WATER WELL DISTRIBUTION SYSTEM PROJECT NORMAN, OKLAHOMA**

has entered into a written CONTRACT (K-1011-156) with the AUTHORITY, dated May 10, 2011 for the erection and construction of this PROJECT, that CONTRACT being incorporated herein by reference as if fully set forth.

WHEREAS, under the ordinances of the AUTHORITY, the PRINCIPAL is required to furnish to the AUTHORITY a maintenance bond covering said construction of this PROJECT, the bond to include the terms and provisions hereinafter set forth, as a condition precedent to final acceptance of the PROJECT.

NOW THEREFORE, if the PRINCIPAL shall keep and maintain, subject to normal wear and tear, the construction, except for defects not occasioned by improper workmanship, materials, or failure to protect new work until it is accepted, and if the PRINCIPAL shall promptly repair, without notice from the AUTHORITY or expense to the AUTHORITY any and all defects arising from improper workmanship, materials, or failure to protect new work until it is accepted; all for a period of two (2) years from the date of the written final acceptance by the AUTHORITY, then this obligation shall be null and void. Otherwise, this obligation shall remain in full force and effect at all times.

Provided further, however, that upon neglect, failure or refusal of the PRINCIPAL to maintain or make any needed repairs upon the construction on the PROJECT, as set out in the preceding paragraph, within ten (10) days after the mailing of notice to the PRINCIPAL by letter deposited in the United States Post Office at Norman, Oklahoma, addressed to the PRINCIPAL at the address set forth below, then the PRINCIPAL and SURETY shall jointly and severally be liable to the AUTHORITY for the cost and expense for making such repair, or otherwise maintaining the said construction.

If is further expressly agreed and understood by the parties hereto that no changes or alterations in said CONTRACT and no deviations from the plan or mode of procedure herein fixed shall have the effect of releasing the sureties, or any of them, from the obligations of this Bond.

IN WITNESS WHEREOF, the said PRINCIPAL has caused these presents to be executed in its name and its corporate seal (where applicable) to be hereunto affixed by its duly authorized representative(s), on the 10th day of May, 2011, and the SURETY has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its authorized representative(s) on the 10th day of May, 2011.

(Corporate Seal) (where applicable)

Central Contracting Services, Inc.

ATTEST

PRINCIPAL

James L. Tipken  
Corporate Secretary (where applicable)

Signed: James L. Tipken  
Authorized Representative

James L. Tipken, President  
Name and Title

Address: 17301 S. Sunnyslane

Norman, OK 73701

Telephone: (405)895-6250

(Corporate Seal)

American Safety Casualty Insurance Company

ATTEST

SURETY

Traap L. Kyle  
Corporate Secretary

Signed: Tina E. Switzer  
Authorized Representative

Tina E. Switzer, Attorney-in-Fact  
Name and Title

Address: 909 S. Meridian, Suite 700

Oklahoma City, OK 73108

Telephone: (405)568-3008

**CORPORATE ACKNOWLEDGEMENT**

STATE OF OKLAHOMA            )  
  )§  
COUNTY OF Cleveland        )

The foregoing instrument was acknowledged before me this 10th day of May,  
20 11, by James L. Tipken of Central Contracting Services,  
Name and Title Inc.  
a Oklahoma corporation, on behalf of the corporation.

WITNESS my hand and seal this 10th day of May 2011.

Sara N Switzer  
Notary Public

My Commission Expires: July 12, 2011



**INDIVIDUAL ACKNOWLEDGEMENT**

STATE OF OKLAHOMA            )  
  )§  
COUNTY OF \_\_\_\_\_        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
20 \_\_\_\_\_, by \_\_\_\_\_ an individual.  
Name and Title

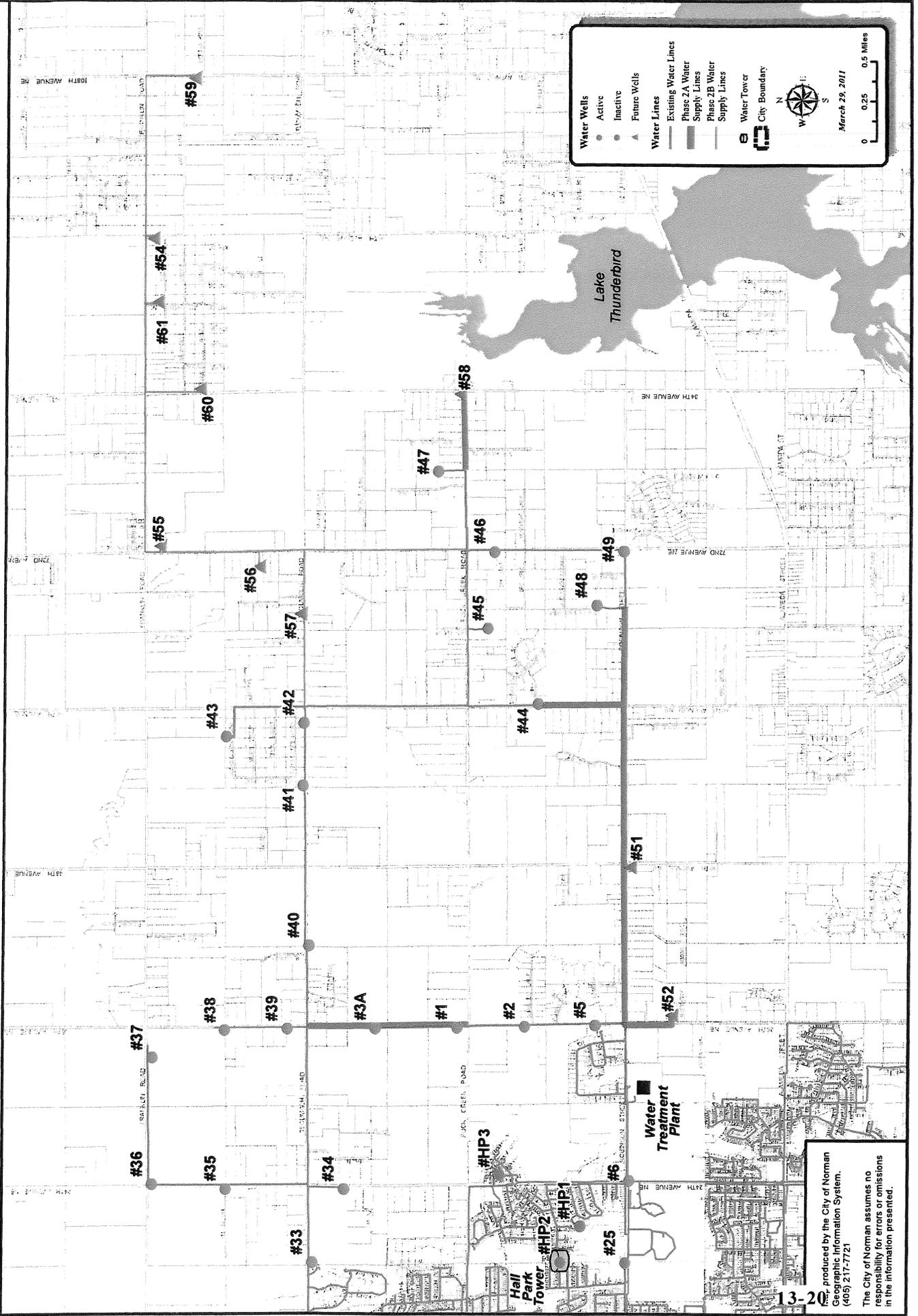
WITNESS my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_



# City of Norman - Phase 2A Water Supply Lines



13-20  
 produced by the City of Norman  
 Geographic Information System.  
 (405) 217-7721  
 The City of Norman assumes no  
 responsibility for errors or omissions  
 in the information presented.

PURCHASE REQUISITION NBR: 0000185971

REQUISITION BY: WEBB G

STATUS: INSUFFICIENT FUNDS

DATE: 5/03/11

SHIP TO LOCATION: P W - UTILITIES DIRECTOR

SUGGESTED VENDOR: 2892 CENTRAL CONTRACTING SERVICES

DELIVER BY DATE: 5/30/11

LINE NBR	DESCRIPTION	QUANTITY UOM	UNIT COST	EXTEND COST	VENDOR PART NUMBER
1	FYE 10 12-INCH WATER SUPPLY LINES COMMODITY: CONSTRUCTION SERVICES, HE SUBCOMMOD: CONSTRUCTION, WATER SYSTE	444117.00	DOL 1.0000	444117.00	
2	FYE 10 16-INCH WATER SUPPLY LINES COMMODITY: CONSTRUCTION SERVICES, HE SUBCOMMOD: CONSTRUCTION, WATER SYSTE	582028.35	DOL 1.0000	582028.35	
3	SEGMENT F WATER LINE COMMODITY: CONSTRUCTION SERVICES, HE SUBCOMMOD: CONSTRUCTION, WATER SYSTE	154922.69	DOL 1.0000	154922.69	

REQUISITION TOTAL: 1181068.04

ACCOUNT INFORMATION

LINE #	ACCOUNT	PROJECT	%	AMOUNT
1	03193454626101	Capital Projects Construction	100.00	444117.00
2	03193454626101	Capital Projects Construction	100.00	582028.35
3	03193604626101	Capital Projects Construction	100.00	154922.69
		Water System Impr Sgmt F		1181068.04

REQUISITION IS IN THE CURRENT FISCAL YEAR.

REQUISITION COMMENTS:

CONTRACT K-1011-156 CONTINGENT ON NUA APPROVAL 5-10-11.



**CITY COUNCIL AGENDA  
MAY 10, 2011**

Municipal Building Council  
Chambers  
201 West Gray Street  
Norman, OK 73069

**Item No. 14**

**Text File Number: COS-1011-7**

**Introduced:** 3/21/2011 by Ken Danner, Development Manager

**Current Status:** Consent Item

**Version:** 1

**Matter Type:** Certificate of Survey

Title

CONSIDERATION OF NORMAN RURAL CERTIFICATE OF SURVEY NO. COS-1011-7 FOR LOT 4, ARMS ACRES. (LOCATED ON THE SOUTH SIDE OF INDIAN HILLS ROAD APPROXIMATELY ONE-FOURTH MILE WEST OF NORTH PORTER AVENUE)

**ACTION NEEDED:** Motion to approve or reject Norman Rural Certificate of Survey No. COS-1011-7 for Lot 4, Arms Acres; and, if approved, direct the filing of thereof with the Cleveland County Clerk.

**ACTION TAKEN:** \_\_\_\_\_

body

**BACKGROUND:** This item is Norman Rural Certificate of Survey No. COS-1011-7, Lot 4, Arms Acres, generally located on the south side of Indian Hills Road approximately one-quarter mile west of Porter Avenue. The property is located in the A-2, rural agricultural zoning district.

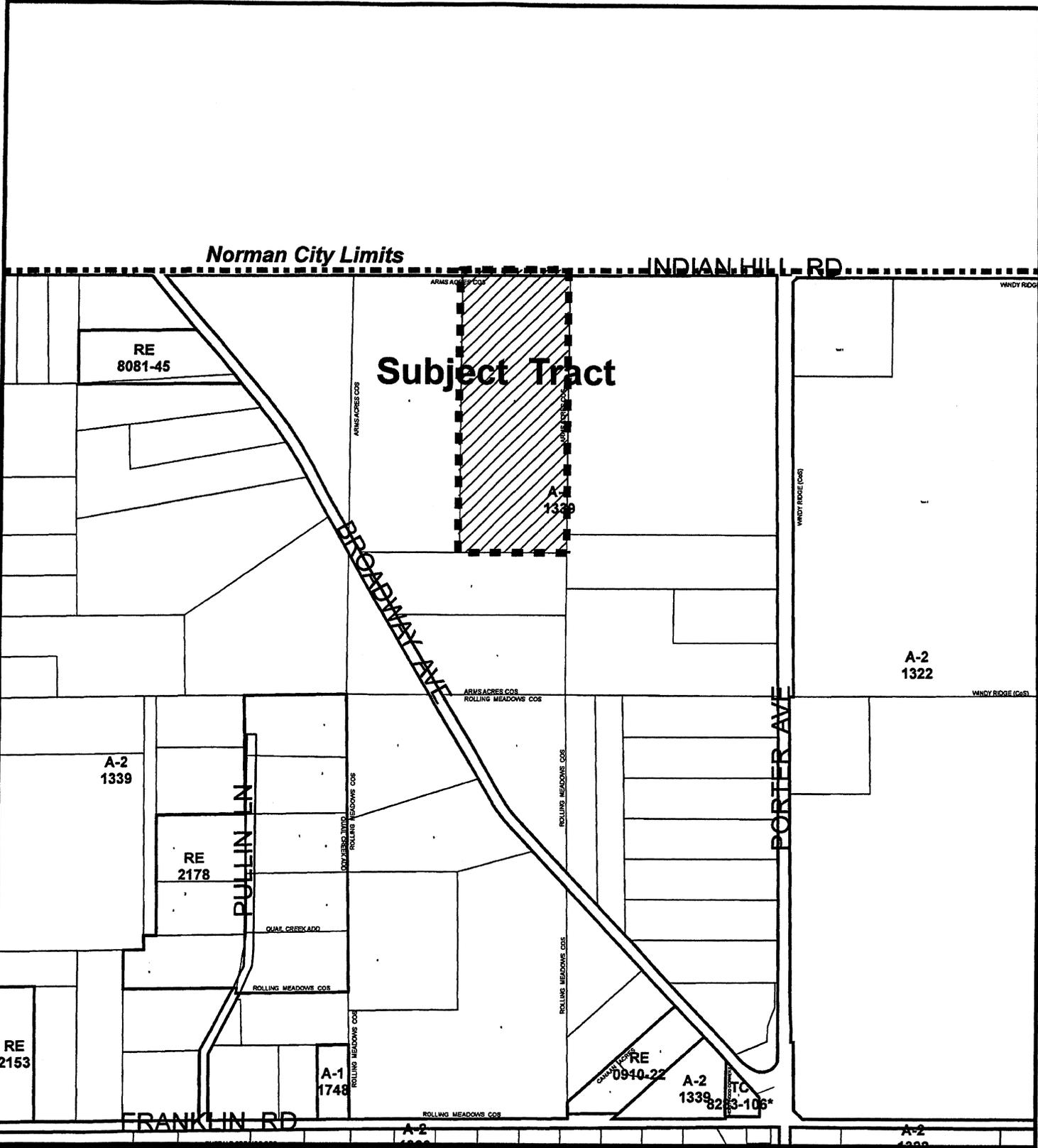
Norman Rural Certificate of Survey COS-0506-3 for Arms Acres was approved by Planning Commission at its meeting of November 10, 2005, and City Council at its meeting of November 22, 2005. Arms Acres was filed of record with the Cleveland County clerk on November 23, 2005. Norman Rural Certificate of Survey No. COS-0506-3 consisted of four (4) lots consisting of 72.979 acres. The owner for Lot 4 desires to subdivide Lot 4 into two (2) lots with the required frontage and acreage for both lots. A common drive approach to Indian Hills Road is proposed with the remainder of the frontage of "limits of no access" labeled on the certificate of survey. The required four hundred foot (400') building setback from Indian Hills Road is provided on the certificate of survey. The additional seventeen foot (17') roadway, drainage and utility easement for Indian Hills Road was filed of record with Norman Rural Certificate of Survey No. COS-0506-3, Arms Acres.

Planning Commission, on April 14, 2011, recommended to City Council the Norman Rural Certificate of Survey No. COS-1011-7, Lot 4, Arms Acres be approved.

**DISCUSSION:** There are a total of 2 lots encompassing 26.5 acres in this certificate of survey. Lot 4a contains 13.22 acres and Lot 4b contains 13.28 acres. This certificate of survey, if approved, will allow one single-family structure on each lot.

Private individual sanitary sewer systems and water wells will be installed in accordance with the Oklahoma Department of Environmental Quality (ODEQ) standards. Fire protection will be provided by the City of Norman pumper/tanker trunks.

**RECOMMENDATION:** Based upon the above information, staff recommends approval of Norman Rural Certificate of Survey No. COS-1011-7, Lot 4, Arms Acres.



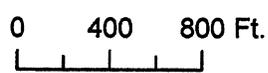
# Location Map

COS-1011-7  
 Rural Certificate of Survey  
LOT 4 ARMS ACRES  
 Owner: James & Judy Arms  
 (Lemke Land Surveying)

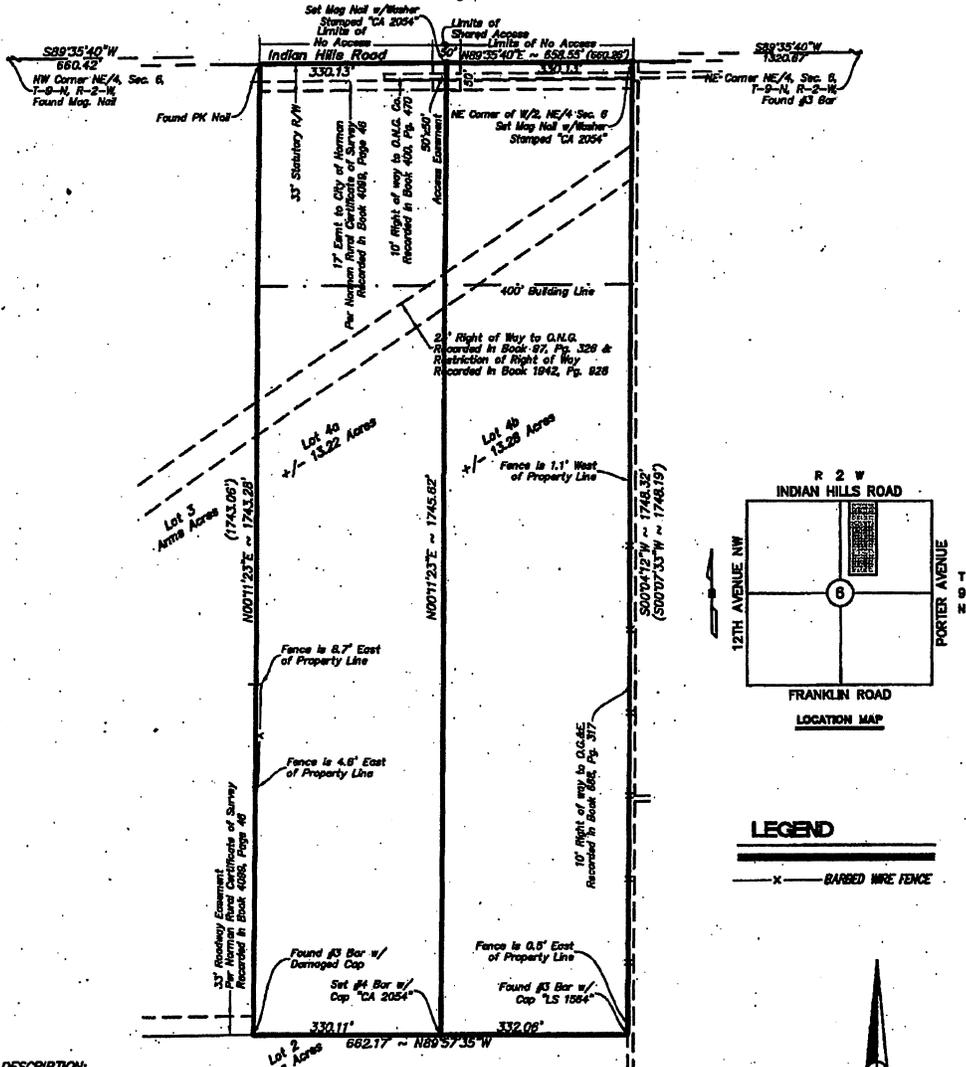
-  Subject Tract
-  Zoning



Map Produced by the City of Norman  
 Geographic Information System.  
 (405) 366-5316  
 The City of Norman assumes no  
 responsibility for errors or omissions  
 in the information presented.



**NORMAN RURAL CERTIFICATE OF SURVEY PLAT**  
**LOT 4 ARMS ACRES**  
**Part of the NE/4 of Section 6,**  
**Township 9 North, Range 2 West of the Indian Meridian**  
**Cleveland County, Oklahoma**



**LEGAL DESCRIPTION:**

Overall Tract (Quit Claim Deed—Bk 4251, Pg. 506):

A part of the West Half (W/2) of the Northeast Quarter (NE/4) of Section Six (6), Township Nine (9) north, Range Two (2) West of the Indian Meridian, lying Northwesterly of the Right-of-Way Line of Broadway Avenue, Norman, Cleveland County, Oklahoma, more particularly described as follows:

COMMENCING at the North Quarter (N/4) Section Corner of said Section 6; thence along the North line of said Section 6 on a bearing of N 89°35'40" E a distance of 1322.25 feet to the Northeast Corner of said W/2 of the NE/4 the point of beginning; Thence along the East line of said W/2 on a bearing S 00°04'12" West a distance of 1748.32 to a 3/8 Inch Rebar; Thence on a bearing of N 89°57'35" W a distance of 662.17 feet to a 3/8 Inch Rebar; Thence on a bearing of N 00°11'23" E a distance of 1743.28 feet to the North line of said W/2; Thence along said North line on a bearing of N 89°35'40" E a distance of 658.55 feet to the point of beginning.

This plat of survey meets or exceeds the "Oklahoma Minimum Standards for the Practice of Land Surveying" as adopted by the Oklahoma State Board of Licensure for Professional Engineers and Land Surveyors.

Due care and diligence have been exercised in researching easement and right-of-way documents for this survey; however, no liability is assumed for the correctness or completeness of the information furnished.

Bearings and distances shown in parenthesis ( ) denote field measurements which are different than the deed calls.

Basis of Bearing: S 89°35'40" W—The North line of the NE/4 of Section 6, T-9-N, R-2-W. Per Quit Claim Deed recorded in Book 4251, Page 506.

**MATT C. BARNUM**  
 1742  
 MATT C. BARNUM, P.L.S. 1742

DATED: 3/29/2011

NORMAN RURAL CERTIFICATE OF SURVEY PLAT		
LOT 4 ARMS ACRES		
5501 INDIAN HILLS ROAD, NORMAN, OK		
Last Field Visit Date: 01.28.2011	S L L S	Sheet Number 1
Date: 03.29.2011		Sheet 1 of 4
Drawn by: MB	LEMKE LAND SURVEYING, Inc. 3226 BART CORNER DRIVE NORMAN, OK 73062 PH:(405)368-8541 FAX:(405)368-8540 CA # 2054 http://www.lemke-land.com	
Approved by: MB		
Scale: 1"=250'		

---

NORMAN RURAL CERTIFICATE OF SURVEY

ITEM NO. 4

---

**STAFF REPORT**

**ITEM:** Consideration of a Norman Rural Certificate of Survey No. COS-1011-7 for LOT 4, ARMS ACRES

**LOCATION:** Generally located on the south side of Indian Hills Road approximately one-quarter mile west of Porter Avenue.

**INFORMATION:**

1. Owner. Judy Arms
2. Surveyor. Lemke Land Surveying

**HISTORY:**

1. The property for the proposed development is A-2 zoning classification.

**IMPROVEMENT PROGRAM:**

1. Fire Protection. Fire protection will be provided by the Norman Fire Department.
2. Sanitary Sewers. Individual septic systems will be installed in accordance with City and Oklahoma Department of Environmental Quality standards.
3. Easements. An easement for additional roadway and utilities for Indian Hills Road has been previously filed of record.
4. Acreage. Lot 4a consists of 13.22 acres and Lot 4b consist of 13.28 acres.
5. Limits of No Access. A note has been placed on the certificate of survey that Indian Hills Road is a Limits of No Access facility with the exception of a common drive with cross access serving the proposed two (2) lots.
6. Water. Individual water wells will be installed in accordance with City and Oklahoma Department of Environmental Quality standards.

**SUPPLEMENTAL MATERIAL:** Copies of the location map and Norman Rural Certificate of Survey No. COS-1011-7 for Lot 4, Arms Acres are included in the Agenda Book.

**STAFF RECOMMENDATION:** Staff recommends approval of the Norman Rural Certificate of Survey No. COS-1011-7 for Lot 4, Arms Acres.

*P.C. AGENDA 4-14-11*  
*COS for LOT 4, ARMS ACRES*

**ACTION NEEDED:** Recommend approval or disapproval of Norman Rural Certificate of Survey No. COS-1011-7 for Lot 4, Arms Acres to City Council.

**ACTION TAKEN:** \_\_\_\_\_

**NORMAN PLANNING COMMISSION  
REGULAR SESSION MINUTES**

**APRIL 14, 2011**

The Planning Commission of the City of Norman, Cleveland County, State of Oklahoma, met in Regular Session in the Council Chambers of the Norman Municipal Building, 201 West Gray Street, on the 14<sup>th</sup> day of April 2011. Notice and agenda of the meeting were posted at the Norman Municipal Building twenty-four hours prior to the beginning of the meeting.

Chairman Jim Gasaway called the meeting to order at 6:30 p.m.

Item No. 1, being:

**ROLL CALL**

MEMBERS PRESENT

Cynthia Gordon (arrived after Roll Call)  
Diana Hartley  
Tom Knotts  
Chris Lewis  
Curtis McCarty  
Roberta Pailes  
Andy Sherrer (arrived at 7:38 p.m.)  
Jim Gasaway  
Zev Trachtenberg

MEMBERS ABSENT

Tom Knotts

A quorum was present.

STAFF MEMBERS PRESENT

Susan Connors, Director, Planning &  
Community Development  
Doug Kosciński, Manager, Current  
Planning Division  
Ken Danner, Development Coordinator  
Roné Tromble, Recording Secretary  
Kathryn Walker, Asst. City Attorney  
Larry Knapp, GIS Analyst  
Jane Hudson, Planner II  
Shawn O'Leary, Director, Public Works  
Department  
Bob Hanger, Storm Water Engineer

\* \* \*

Item No. 2, being:

**CONSENT DOCKET**

Chairman Gasaway announced that the Consent Docket is designed to allow the Planning Commission to approve a number of items by one motion and vote. He read the items recommended for inclusion on the Consent Docket, as follows:

Item No. 3, being:

**APPROVAL OF THE MARCH 10, 2011 REGULAR SESSION MINUTES**

Item No. 4, being:

**COS-1011-7 – CONSIDERATION OF A RURAL CERTIFICATE OF SURVEY SUBMITTED BY JAMES AND JUDY ARMS (LEMKE LAND SURVEYING) FOR LOT 4 ARMS ACRES GENERALLY LOCATED ON THE SOUTH SIDE OF INDIAN HILLS ROAD APPROXIMATELY ONE-QUARTER MILE WEST OF NORTH PORTER AVENUE.**

Item No. 5, being:

**PP-1011-17 – CONSIDERATION OF A PRELIMINARY PLAT (REAPPROVAL) SUBMITTED BY TERRA VERDE DEVELOPMENT, L.L.C. (SMC CONSULTING ENGINEERS, P.C.) FOR LITTLE RIVER TRAILS ADDITION, A PLANNED UNIT DEVELOPMENT, GENERALLY LOCATED ON THE WEST SIDE OF NORTH PORTER AVENUE APPROXIMATELY 1,100 LINEAR FEET NORTH OF TECUMSEH ROAD.**

\*

Chairman Gasaway asked if any member of the Planning Commission wished to remove any item from the Consent Docket. There being none, Chairman Gasaway asked whether anyone in the audience wished to remove an item from the Consent Docket. There being none, he turned to the Planning Commission for discussion.

*Zev Trachtenberg moved to place approval of Item Nos. 3 through 5 on the Consent Docket and approve by one unanimous vote. Diana Hartley seconded the motion.*

There being no further discussion, a vote on the motion was taken with the following result:

YEAS	Cynthia Gordon, Diana Hartley, Chris Lewis, Curtis McCarty, Roberta Pailles, Zev Trachtenberg, Jim Gasaway
NAYES	None
ABSENT	Tom Knotts, Andy Sherrer

Recording Secretary Roné Tromble announced that the motion, to place approval of Item Nos. 3 through 5 on the Consent Docket and approve by one unanimous vote, passed by a vote of 7-0.

\* \* \*

Item No. 4, being:

**COS-1011-7 – CONSIDERATION OF A RURAL CERTIFICATE OF SURVEY SUBMITTED BY JAMES AND JUDY ARMS (LEMKE LAND SURVEYING) FOR LOT 4 ARMS ACRES GENERALLY LOCATED ON THE SOUTH SIDE OF INDIAN HILLS ROAD APPROXIMATELY ONE-QUARTER MILE WEST OF NORTH PORTER AVENUE.**

**ITEMS SUBMITTED FOR THE RECORD:**

1. Location Map
2. Rural Certificate of Survey Plat
3. Staff Report

This item was approved on the Consent Docket by a vote of 7-0.

\* \* \*



# CITY COUNCIL AGENDA MAY 10, 2011

Municipal Building Council  
Chambers  
201 West Gray Street  
Norman, OK 73069

## Item No. 15

Text File Number: LL-1011-16

---

**Introduced:** 4/26/2011 by Wayne Stenis, Planner II

**Current Status:** Consent Item

**Version:** 1

**Matter Type:** Limited License

Title

LIMITED LICENSE NO. LL-1011-16: LIMITED LICENSE TO PLACE FIVE (5) GROUND BANNERS WITHIN THE PUBLIC RIGHTS-OF-WAY PURSUANT TO A REQUEST FROM THE JAZZ IN JUNE COMMITTEE FOR JAZZ IN JUNE TO BE HELD JUNE 23 THROUGH 25, 2011.

**ACTION NEEDED:** Motion to approve or reject Limited License No. LL-1011-16 to place five (5) ground banners within the public rights-of way pursuant to a request from the Jazz in June Committee; and if approved, authorize the issuance thereof.

**ACTION TAKEN:** \_\_\_\_\_

Body

**BACKGROUND:** Section 18-308 states:

**Festival or Public Event Banners.**

*Signs announcing specific events or promotions that are of a legitimate public benefit to the community at large may be erected within the public right-of-way when authorized by a limited license granted by the City Council. The size, number, type, and wording of such signs must be specified in the license, as well as their location and duration of use. Because of their unique location within the public right-of-way, such banners may not be placed so as to interfere with legitimate traffic and safety concerns.*

**DISCUSSION:** The Jazz in June Committee, a 501(c)(3) organization, will host their annual Jazz in June Festival June 23 to 25, 2011 at various venues around the City of Norman. The proceeds from the sale support the festival. They have requested permission to place five ground banners at in the public right-of-way at major intersections (see application) to inform the public of this event. The signs are 4' x 8' in size, and are vinyl. They will be in place for the thirty days, (May 26 - June 25) and will be removed right after the event.

They have been advised that banners should not be located to obstruct any sight triangle, and the proposed locations do not create any obstruction. A copy of the application is attached for reference.

**RECOMMENDATION:** Staff has prepared the license in accordance with their request, and presents it to the Council for their consideration. Conditions may be attached, if the Council desires. Staff supports granting this Limited License, for the specified time period.

**APPLICATION FOR LIMITED LICENSE  
FOR FESTIVAL OR PUBLIC EVENT BANNER OR SIGN**

**Date:** February 3, 2011

**Name of Applicant:** Jazz in June by Debra Levy Martinelli

**Address:** 213 Great Oaks Drive, Norman, OK, 73071

**Telephone:** (405) 226-0076

**Number of Banners/Signs:** 5

**Location of Banners (If list is lengthy you may attach separate sheet or map):**

1. NW corner 24th/Robinson - intersection where Target is located
2. NW corner 12th/Alameda - Walgreens
3. SW corner 24th/Lindsey - Sooner Legends (alternate location at NE corner liquor store)
4. SE corner 24th/Main - c-store by Hastings
5. SE corner 12th/Lindsey - Republic Bank

**Banner Size:** 4' x 8'

**Type of Banner:** Vinyl

**Wording of Banner:** Jazz in June  
June 23-25, 2011

**Duration of Use:** May 26 – June 25, 2011

Because of their unique location within the public right-of-way, such banners shall not be placed so as to interfere with legitimate traffic and safety concerns. Additionally, these are intended to be of benefit to the community at large and not private commercial advertising, although they may contain a sponsor's identification on a minor portion of the sign.

**LIMITED LICENSE NO. 1011-16**

**LIMITED LICENSE TO INSTALL FIVE (5) GROUND  
BANNERS WITHIN THE PUBLIC RIGHTS-OF-WAY  
PURSUANT TO A REQUEST FROM THE JAZZ IN JUNE  
COMMITTEE FOR THE JAZZ IN JUNE FESTIVAL TO  
BE HELD JUNE 23 THROUGH 25, 2011.**

An Application has been filed by Debra Levy Martinelli on behalf of Jazz in June for a Limited License to place five (5) ground banners within the public rights-of-way pursuant to Section 18-308 of Chapter 18 of the Code of Ordinances, which Application is hereby granted pursuant to the conditions and limitations as set forth in said Application.

Special conditions for the granting of this limited license by the City Council are as follows:

Strict compliance with all the conditions set forth in the application filed herein with regard to description, location, duration, and wording as specified in the application which is incorporated herein and made a part hereof.

License limited for thirty-four day period from May 26 through June 25, 2011.

Any special conditions which may be imposed by the City Council.

Further, any breach of the conditions as above set forth shall be grounds for immediate revocation of this license and further that the City Council may revoke this limited license at will and for any cause whatsoever upon the giving of thirty (30) days notice authorized by the City Council to the application.

Approved this 10th day of May, 2011.

CITY OF NORMAN

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



**CITY COUNCIL AGENDA  
MAY 10, 2011**

Municipal Building Council  
Chambers  
201 West Gray Street  
Norman, OK 73069

**Item No. 16**

**Text File Number: K-0910-61 Amend 1**

---

**Introduced:** 4/26/2011 by Mark Daniels, Utilities Engineer

**Current Status:** Consent Item

**Version:** 1

**Matter Type:** Contract

Title

AMENDMENT NO. ONE TO CONTRACT NO. K-0910-61: A CONTRACT BY AND BETWEEN THE NORMAN UTILITIES AUTHORITY AND POE AND ASSOCIATES, INC. IN THE AMOUNT OF \$172,000 TO PROVIDE ENGINEERING DESIGN SERVICES, BIDDING AND CONSTRUCTION SERVICES FOR THE BERRY WATER LINE REPLACEMENT PROJECT.

**ACTION NEEDED:** Acting as the Norman Utilities Authority, motion to approve or reject Amendment No. One to Contract No. K-0910-61 with Poe and Associates, Inc., in the amount of \$172,000; and, if approved, authorize the execution thereof.

**ACTION TAKEN:** \_\_\_\_\_

Body

**BACKGROUND:** For many years, the Norman Utilities Authority (NUA) has contemplated replacement of the 14-inch waterline along Berry Road from Robinson to Lindsey. This waterline was installed in the early 1940's when North Base was a military facility; the waterline is in poor condition resulting in lost water and numerous repairs. The proposed Berry Waterline Replacement project (WA0305) is expected to include 13,200 linear feet (LF) of 16-inch waterline along the west side of Berry Road from Robinson to Lindsey and then east along the north side of Lindsey to Chautauqua where it will connect to the 16-inch Lindsey Waterline project completed in 2005.

The new location for the waterline will be determined during design but is expected to be constructed on the same side and adjacent to the existing waterline within the existing street right-of-way (ROW). Residential street crossings will likely be open-cut and the street repaired; boring under the streets will be considered to reduce impacts to our citizens. The improvements will also include replacement of impacted commercial and residential driveways, and sidewalks along the route. Removal of trees along the roadway may also be required; trees may be replaced upon project completion, or damages paid to homeowners, as applicable.

In May 2009, Request for Proposal No. RFP-0809-94 was distributed to over 40 engineering consultants to perform on-call design and/or surveying work on City of Norman projects; eleven proposals were received. On August 25, 2009, the NUA approved three on-call design and three on-call surveying contracts. Contract No. K-0910-61 with Poe and Associates was one of the design contracts approved.

**DESCRIPTION:** Poe and Associates of Oklahoma City (Poe) was selected by staff to design the Berry Road Waterline based their expertise, previous work on the Lindsey Waterline project and their ongoing relationship with the University of Oklahoma. Amendment No. 1 to Contract No. K-0910-61 will authorize Poe to perform field surveying, preliminary design, final design, and limited construction management services for the Berry Waterline Replacement. Staff has negotiated the contract scope and amount and recommends approval of the amendment for \$172,000.

Staff will continue discussions with the University of Oklahoma and in an effort to coordinate any work that may be required on their 14-inch waterline located on the east side of Berry Road. The survey and design phase is expected to be complete in nine months or less. The construction phase will likely be complete in 12 months. If work proceeds as anticipated, construction would begin in spring 2012.

The Fiscal Year Ending (FYE) 2011 budget includes \$192,000 to design the Berry Waterline Replacement project (Account 031-9521-462.62-01, WA0305).

**RECOMMENDATION:** Staff recommends the NUA approve Amendment No. 1 to Contract No. K-0910-61 for \$172,000 with Poe and Associates of Oklahoma City.

AMENDMENT NO. 1  
TO AGREEMENT BETWEEN  
OWNER AND ENGINEER  
FOR  
PROFESSIONAL DESIGN, BIDDING, AND CONSTRUCTION SERVICES

This Amendment No. 1 dated this \_\_\_\_\_ day of \_\_\_\_\_ 2011 is made a part of the Agreement dated August 25, 2009, between the Norman Utilities Authority (OWNER) and Poe and Associates, Inc. (ENGINEER) for professional engineering services.

1. The times for the performance of ENGINEER's services of said Agreement are amended as set forth in Attachment A, attached hereto and incorporated by reference herein.
2. The Scope of Services of ENGINEER of said Agreement are amended and supplemented as described in Attachment B, attached hereto and incorporated by reference herein.
3. The method of payment for services rendered by ENGINEER shall be set forth in Attachment C, attached hereto and incorporated by reference herein.

Acceptance of the terms of this Amendment is acknowledged by the following authorized signatures of the parties to the Agreement. All other particulars in the original Agreement, and not specifically referenced in this Amendment No. 1 remain in effect and unchanged.

IN WITNESS WHEREOF, OWNER and ENGINEER have executed this AGREEMENT.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

**Poe & Associates, Inc. - ENGINEER**

By:   
Title: Sr. Vice President

ATTEST

  
Assistant Secretary

**Norman Utilities Authority- OWNER**

APPROVED as to form and legality this 29 day of April 2011.

  
City Attorney

APPROVED by the Trustees of the Norman Utilities Authority this \_\_\_\_\_ day of \_\_\_\_\_ 2011.

ATTEST

By: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

ATTACHMENT A

SCHEDULE

This Amendment will extend the "On Call Engineering Services" contract through August 24, 2012.

ENGINEER shall submit preliminary design report to the OWNER within 90 calendar days following receipt of the NOTICE TO PROCEED.

ENGINEER shall submit final design plans to the OWNER within 180 calendar days following receipt of preliminary design plan comments from the OWNER.

ENGINEER shall submit as-built drawings to the OWNER within 60 calendar days after acceptance of construction PROJECT by OWNER.

Failure of ENGINEER to comply with above schedule for various tasks or subtasks may result in OWNER's termination of this AGREEMENT.

## ATTACHMENT B

### SCOPE OF SERVICES

WHEREAS, OWNER intends to replace the existing 14-inch water line along Berry Road from Robinson Street to Lindsey Street and along Lindsey Street from Berry Road to Chautauqua Avenue (the PROJECT). The total length of the new 16-inch waterline is approximately 2.5 miles. The existing water line, located under the southbound pavement on the west side of Berry Road and along the north side of Lindsey Street., has required numerous leak repairs in recent years with resultant pavement patches. This work will be performed under existing Contract K-0910-61 for On-Call Engineering Services.

ENGINEER shall perform the following SERVICES under this AGREEMENT.

#### 1 PRELIMINARY DESIGN SERVICES

- 1a Preliminary Design Report: The ENGINEER will prepare a preliminary design report (based on preliminary field investigation) accomplishing the work described below:

Prepare a written design analysis including design requirements and necessary supporting calculations. The design analysis will recommend the construction techniques to be used in the final design, placing high priority on those techniques minimizing need for additional permanent easement and reducing the amount of disruption to surrounding residents and businesses. Revise Preliminary Design Report based on OWNER comments. OWNER staff must approve the preliminary design report prior to proceeding with the final plans and specifications.

- 1b Preliminary Design Meetings: The ENGINEER will, in addition to regular meetings with OWNER staff, schedule, attend and make presentations at one public meeting with affected property owners prior to final issuance of the preliminary design report for PROJECT.

#### 2 FINAL DESIGN SERVICES

- 2a Design Survey: Perform topographic design survey along the route of the PROJECT in sufficient detail to permit the improvements to occur. Said survey shall locate all adjacent structures, underground and above ground public and private utilities, water meter services on private property, roadways, driveways, fences, trees, shrubs, other pertinent physical features and detailed surface topography. The survey shall extend at least 15 feet on either side of the proposed water line improvements. It is expected that the proposed water line will be constructed along the west side of Berry Street and on the north side of Lindsey Street in new or existing right-of way.

- 2b Final Design Meetings: The ENGINEER will attend regular meetings with OWNER staff as needed prior to final issuance of the preliminary design report for PROJECT.

- 2c Draft Contract Documents: Prepare detailed contract documents including construction drawings, specifications and bidding documents. The construction drawings, at a minimum, shall include plan and profile sheets for all proposed utilities and standard detail sheets adequate to convey the intent of the design. The construction drawings shall show all property lines, right-of-way, proposed easements, existing recorded easements and all structures, utilities and other appurtenances that may be affected by the construction. Drawings will reflect actual conditions to a distance of at least 15 feet on either side of the proposed water line.

Prepare technical specifications to fully describe the intended work and convey the intent of the design. ENGINEER may utilize City of Norman Standard Specifications and Construction Drawings (City

Specifications) to the maximum extent possible. For all items not adequately covered in the City Specifications, the ENGINEER will provide supplemental specifications and drawings. Ensure that erosion prevention and storm water runoff controls are included to prevent water quality degradation. All specifications used in this PROJECT will be submitted in a digital format acceptable to the OWNER.

ENGINEER will ensure that the design complies with the most recent amendment of all applicable portions of Oklahoma Administrative Code.

Prepare contract documents for the proposed work on a unit price basis. Supplemental specifications shall include a measurement and payment description. Each unit price bid item will be fully described in this section. Bid documents will likely be prepared to allow differing construction techniques such open trench, boring and jacking, or directional boring. Additive alternates may also be included to maintain PROJECT budget.

Furnish four sets of the draft drawings, specifications and bidding documents to the OWNER. In addition, furnish additional sets to all utility companies affected by the PROJECT. Schedule and attend conference(s) with all affected utility companies to verify horizontal and vertical locations of their existing facilities as required. Revise documents as necessary to reflect utility company and OWNER comments. Obtain written approval from all affected utility companies as to correctness of existing facilities and proposed relocations shown on the revised plans.

2d Final Contract Documents: Incorporate modifications requested by the OWNER into the final contract documents including construction drawings, specifications, and bidding documents. Furnish three sets of the final drawings, specifications and bidding documents to the OWNER. Prior to the advertisement for bids, provide contract documents and construction permit applications to appropriate Federal, State, and local agencies from which approval of the PROJECT must be obtained. Prepare engineering design report and necessary calculations to comply with ODEQ requirements. Provide updated construction cost estimate. If necessary, incorporate modifications requested by permitting entities and obtain all required design approvals and permits. The OWNER will be responsible for fees associated with the permitting process. Ensure that all necessary ROW is obtained prior to award of any construction contract(s). Submit plans as required to all parties associated with PROJECT including OWNER, ODEQ and private utility companies. ENGINEER shall make all OWNER requested changes to the final plans and re-submit to OWNER.

2e Bidding Assistance: Prepare advertisement for bids and coordination publication of bidding notice with the OWNER. Distribute copies of the final contract documents to prospective bidders, material suppliers, and other interested parties. The OWNER will be responsible for advertisement costs.

Conduct pre-bid conference and, in conjunction with the OWNER, issue addenda in response to questions raised during the bidding process. Transmit addenda to all plan holders.

Conduct bid-opening proceedings, provide ENGINEER's estimate of probable construction cost and tabulate bid proposals. Make an analysis of the bids received and the suitability of the low bidder to perform the work. Make written recommendation to OWNER for awarding construction contract(s).

2f Project Management: during the design process, submit monthly progress reports, due no later than five working days after the end of the preceding month. Attend any required conferences with the OWNER or any other affected party.

3 CONSTRUCTION SERVICES:

3a Construction Management: Provide general engineering review of the work as construction progresses to ascertain that the PROJECT is conforming to the design concept. Submit monthly progress reports, including minutes of monthly progress meeting, due no later than five working days after the end of the preceding month.

Upon award of the contract(s), furnish three (3) sets of the drawings, specifications and contract documents to the OWNER and three (3) sets to the PROJECT contractor for execution. Provide construction specifications to OWNER on electronic media.

Conduct pre-construction conference and, in conjunction with the OWNER, issue clarifications in response to questions raised at the conferences. Attend monthly progress meetings at City Hall with the OWNER and the PROJECT contractor. Meet with OWNER staff and/or the City Council for PROJECT discussions, coordination and presentations as required by the OWNER.

Interpret the intent of the drawings and specifications to protect the OWNER against defects and deficiencies in construction on the part of the PROJECT contractor(s). On a timely basis, prepare and recommend necessary contract change orders for consideration by the OWNER.

Review the contractor's application for progress payments and, when approved, submit to the OWNER for payment. Prior to submitting the final pay estimate, submit a written statement of completion with recommendation that the OWNER accept the improvements.

Perform interim and "pre-final" inspections of the completed work. Develop a punch list of items required and forward it to the PROJECT contractor and OWNER. Issue statement of substantial construction completion and submit a written certification to the OWNER.

3b Submittals: Ensure that the PROJECT contractor provides appropriate submittals and obtains approval prior to incorporation into the work. Perform timely review all submittals or shop drawings delivered by the PROJECT contractor for conformance with the contract documents. Provide written conformation to the OWNER that each approved submittal conforms to all applicable specifications.

3c Record Drawings: Provide one (1) set of reproducible record (as-built) drawings on mylar, two (2) sets of prints as well as the drawings on electronic media diskettes after completion of the PROJECT. Such drawings will be based upon construction records provided by the PROJECT contractor during construction and reviewed by the resident inspector.

ATTACHMENT C

**COMPENSATION**

The OWNER will compensate ENGINEER on a lump sum basis for the SERVICES rendered. The lump sum fee is broken down below by task as defined in the Scope of Services:

Task	<u>Task Description</u>	<u>Lump Sum Amount</u>
<b>Preliminary Design Report Services</b>		
1a	Preliminary Design Report	\$22,800.00
1b	Preliminary Design Meetings	\$ 3,000.00
1	Preliminary Design Subtotal	\$ 25,800.00
<b>Final Design Services</b>		
2a	Design Survey	\$41,400.00
2b	Final Design Meetings	\$ 1,700.00
2c	Draft Plans & Contract Documents	\$22,400.00
2d	Final Plans & Contract Documents	\$41,600.00
2e	Bidding Assistance( base on one project)	\$3,900.00
2f	Project Management	\$1,200.00
2	Final Design Subtotal	\$112,200.00
<b>Construction Services</b>		
3a	Construction Management ( base on one project)	\$30,000.00
3b	Submittals	\$1,000.00
3c	Record Drawings	\$3,000.00
3	Construction Services Subtotal	\$34,000.00
Total		\$172,000.00

The ENGINEER may submit interim statements, not to exceed one per month, for partial payment for SERVICES rendered. The statements to OWNER will be by task for the percentage of work actually completed. The OWNER shall make interim payments within 30 calendar days in response to ENGINEER's interim statements.

PURCHASE REQUISITION NBR: 0000185943

REQUISITION BY: MDANIELS

STATUS: DIVISION APPROVAL

REASON: DESIGN BERRY ROAD WATERLINE REPLACEMENT

DATE: 5/03/11

SHIP TO LOCATION: P W - UTILITIES DIRECTOR

SUGGESTED VENDOR: 1643 POE AND ASSOCIATES INC

DELIVER BY DATE: 5/03/11

LINE NBR	DESCRIPTION	QUANTITY UOM	UNIT COST	EXTEND COST	VENDOR PART NUMBER
----------	-------------	--------------	-----------	-------------	--------------------

1	DESIGN AND CONSTRUCTION ADMINISTRATION	172000.00	DOL	1.0000	172000.00
---	--	-----------	-----	--------	-----------

COMMODITY: ARCHITECTURAL AND ENGINEE  
 SUBCOMM: DESIGNING SERVICES

REQUISITION TOTAL: 172000.00

-----  
A C C O U N T I N F O R M A T I O N

LINE #	ACCOUNT	PROJECT	%	AMOUNT
1	03195214626201	Capital Projects Design	100.00	172000.00
		Waterline Repl: Berry Rd		172000.00

REQUISITION IS IN THE CURRENT FISCAL YEAR.

REQUISITION COMMENTS:

CONTINGENT OF NUA APPROVAL ON 051011



**CITY COUNCIL AGENDA  
MAY 10, 2011**

Municipal Building Council  
Chambers  
201 West Gray Street  
Norman, OK 73069

**Item No. 17**

**Text File Number: K-1011-130 FINAL**

---

**Introduced:** 4/26/2011 by James Briggs, Park Planner

**Current Status:** Consent Item

**Version:** 1

**Matter Type:** Contract

Title

CONSIDERATION OF FINAL ACCEPTANCE AND FINAL PAYMENT OF CONTRACT NO. K-1011-130 BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND LASHAR HOME COMFORT SYSTEMS, L.L.C., FOR THE SENIOR CITIZENS HVAC IMPROVEMENT PROJECT.

**ACTION NEEDED:** Motion to accept or reject the project; and, if accepted, direct final payment in the amount of \$1,269.60 to Lashar Home Comfort Systems, L.L.C.

**ACTION TAKEN:** \_\_\_\_\_

Body

**BACKGROUND:** On 26 January 2011, City Council approved Contract No.K-1011-130 with Lashar Home Comfort Systems LLC for the Senior Citizens Center Lower HVAC Improvements Project. This project included replacing the old, all-electric ground level heat and air units at the facility with new, energy efficient gas/electric package unit equipment.

Funding for this project was approved in the Maintenance of Existing Facilities account in the amount of \$24,000. The lowest bid meeting specification was in the amount of \$25,392. City Council also approved a transfer in the amount of \$1,392 from the Recreation Center Ventilation Project, also within the Maintenance of Existing Facilities to accommodate the completion of the project.

**DISCUSSION:** On 29 March 2011, a partial payment was made in the amount of \$24,122.40. The project was completed and fully operational on 13 April 2011. The City's Construction Inspector accepted the project as complete as per specifications on 21 April 2011.

**RECOMMENDATION:** It is recommended that City Council accept this project as complete and authorize final payment in the amount of \$1,269.60 to Lashar Home Comfort Systems, LLC. The funding is available in Maintenance of Existing Facilities; Senior Center Lower HVAC Improvements (050-9677-419.6101 - EF0137).



The City of  
**NORMAN**

INVOICE TO:  
City of Norman  
PARKS AND RECREATION  
201-C WEST GRAY STREET  
NORMAN, OK 73070

P.O. #: 197280

DATE: 01/28/11

VENDOR #  
10730

LASHAR HOME COMFORT SYSTEMS LL  
P O BOX 722037  
3535 N FLOOD AVE  
NORMAN, OK 73070

SHIP TO:  
City of Norman  
PARKS AND RECREATION  
201-C WEST GRAY STREET  
NORMAN, OK 73070

DELIVER BY: 01/20/11  
SHIP VIA: BEST WAY

F.O.B. DESTINATION

TERMS NET

CONFIRM BY

FREIGHT

ACCOUNT NO.  
05096774196101

REQUISITIONED BY  
TERRY-FOSTER

REQ. NO.  
181708

REQ. DATE  
01/20/11

LINE#	QUANTITY	UOM	ITEM NO. AND DESCRIPTION	UNIT COST	EXTENDED COST
1	25392.00	EA	SENIOR CENTER (LOWER) HVAC REPLACEMENT CITY COUNCIL AGENDA 1-25-2011, ACCT050-9677-419. 6101 PROJECT EF0137 VENDOR ITEM NO.- CONTRACT#K-1011-130	1.0000	25392.00
SUB-TOTAL					25392.00
TOTAL					25392.00

*Inv. # 2011-004*  
*3.29.11 Receipted in -24,122.40*  


---

*Retainage \$ 1,269.60*



**CITY COUNCIL AGENDA  
MAY 10, 2011**

Municipal Building Council  
Chambers  
201 West Gray Street  
Norman, OK 73069

**Item No. 18**

**Text File Number: K-1011-163**

**Introduced:** 4/18/2011 by Jud Foster, Director of Parks and Recreation

**Current Status:** Consent Item

**Version:** 2

**Matter Type:** Contract

Title

**CONTRACT NO. K-1011-163:** A CONTRACT BY AND BETWEEN THE NORMAN MUNICIPAL AUTHORITY AND DAVID MINIHAN, WESTWOOD TENNIS PROFESSIONAL FOR A TERM OF FIVE YEARS.

**ACTION TAKEN:** Acting as the Norman Municipal Authority, motion to approve or reject Contract No. K-1011-163 with David Minihan for a term of five years; and, if approved, authorize the execution thereof.

**ACTION TAKEN:** \_\_\_\_\_

Body

**BACKGROUND:** On 23 May 2006, City Council approved the Westwood Park Tennis professional employment agreement, Contract No. K-0506-112. Mr. David Minihan, has been the Westwood Tennis Professional since 2001.

**DISCUSSION:** Due to the efforts of David Minihan, Westwood Tennis Center has received national recognition for the *Outstanding Junior Tournament* as this is their 10th year to host the United States Tennis Association (USTA) Boys and Girls 16's National Open. Westwood Tennis Center hosted the Missouri Valley Super Two's in 2006 and 2007 and in 2007, was recognized as the USTA National Outstanding Facility of the Year. In 2010, the Center hosted 14 USTA sanctioned tournaments including the National Open, US Open Playoffs and the Missouri Valley Summer Sectionals, the largest junior sectional tournament of the year.

The Westwood Tennis Center also provides adult classes and league play. They provide a college program "Tennis on Campus" that finished third in the Missouri Valley sectional this year and will be playing in the Nationals in North Carolina.

Additionally, during this same period Mr. Minihan has personally raised approximately \$27,000 in private donations for facility amenities and improvements and Junior Development Programming. Westwood Tennis Center memberships and court fees from Fiscal Year Ending 2006 through 2010 generated \$52,591 in City revenue. Mr. Minihan receives \$1,250 monthly (\$15,000 annually) from the City via this contract. He also received revenue from tennis lessons and from the sale of pro shop merchandise, which he provides.

The current employment agreement, Contract No. K-0506-112, expires on 23 May 2011. Through Contract No. K-1011-163 the City agrees to employ Mr. Minihan for an additional five-year term. The only change to the provisions of this contract is that “pay phones” have been deleted to Number 5(B) as revenue to the Norman Municipal Authority, as there is no longer a pay phone on the premises.

Funds are available in expenditure account Other Professional (020-7021-451.40-99) for Fiscal Year 2011.

**RECOMMENDATION:** It is recommended that the Norman Municipal Authority approve Contract No. K-1011-163, employment agreement with David Minihan, for the Westwood Tennis Professional position, for the Parks and Recreation Department.

EMPLOYMENT AGREEMENT

THIS AGREEMENT made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by and between the Trustees of the Norman Municipal Authority, a Public Trust, hereinafter referred to as "Authority," and David Minihan, Westwood Tennis Professional, hereinafter referred to as "Professional."

WITNESSETH:

WHEREAS, the Authority owns and possesses a Municipal Tennis Center known as "Westwood Tennis Center" situated in Norman, Oklahoma, including the grounds and courts thereon and all other improvements appurtenant thereto, and,

WHEREAS, the Professional is desirous of managing and operating said Westwood Tennis Center and facilities (excluding the grounds thereof) (hereinafter called "WTC") for the Authority, and the Authority wants to employ the Professional for those purposes.

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements hereinafter set forth, the Authority and Professional agree as follows:

1. Authority hereby employs Professional and Professional accepts employment for a period of five (5) years from date hereof to manage and operate said WTC, and the Professional shall assume responsibility for the general management and operation of said WTC, and provide to the general public services for tennis lessons, subject to the overall direction of the Director of Parks and Recreation for the City of Norman, Oklahoma (hereinafter referred to as the "Director") and the Authority. The Director shall have supervision over the performance of the acts and things herein contained and covenanted.
2. Professional shall keep accurate records of all receipts and collections of the WTC income in a manner approved and reasonably established in writing by the Authority and/or its designated agent or auditor, the cost thereto to be assumed and paid for by the Authority. Professional shall make such records available for inspection by the Authority or the Director at any time during the Director's customary business hours upon the Director's demand and shall submit such records or a copy thereof to whomever the Authority or Director may designate hereafter for the purpose of auditing such records on or before the tenth day of each month for the preceding month.
3. A schedule of fees and prices applying to use of the tennis courts at WTC shall be established by the Authority.
4. The WTC shall be open for full operation daily subject to necessary repairs and maintenance approved by the Director or the Authority. The specific hours of such operations shall be established by the Director. Professional shall abide by such established hours of operation and use his reasonable efforts to assure that services and employees will be available to the patrons during all the hours of operation.
5. (A) Income and disbursements will be administered in the following manner: Professional will receive all income from (a) the sales and rental of tennis or tennis related merchandise, equipment, supplies, food and drink, all of which shall be purchased at his own cost and

expense, and consisting of such items and priced as Professional deems appropriate in his sole discretion; (b) the charges and fees for repairs to tennis players' equipment and supplies at a Repair Shop at the WTC, which Repair Shop the Professional shall equip and maintain at his own cost and expense, excluding the facility and building at which the Repair Service is located; and (c) from tennis lessons given by the Professional to patrons of WTC.

(B) Authority shall receive income from the following: court fees and memberships. The income of the Authority shall be deposited daily on all days in which banking services are reasonably available in such bank as is hereafter designated in writing by the Director and the Authority to Professional.

6. Yearly audits of all activities of the WTC under the Professional's supervision and control shall be performed in order to determine profit and loss, which audit shall be supplied by the Authority at the Authority's sole expense.
7. As consideration for the Professional's supervision and management of WTC and other activities appurtenant to the WTC, the Professional shall receive, as remuneration, the following:
  - Professional will receive a salary of \$1,250 per month.
  - Professional will receive 100% of all tennis program fees, which include junior and adult clinics, junior and adult leagues, private and group lessons and fees from all tournaments put on by the Professional;
  - Professional will receive 100% of all pro shop retail sales and racquet service.
8. All buildings, landscaping, tennis courts, nets, fencing, benches, bulletin boards, sidewalks, lighting, parking lot, items of equipment for maintenance of and improvement to the WTC, shall be owned and reasonably maintained by the Authority and the expenses for the ownership, maintenance, repair and operation of said Authority property shall be paid for by and the sole responsibility of the Authority. Adequate labor and supplies to properly maintain, repair and operate the WTC shall be provided by, and at the sole expense of, the Authority. The Authority shall maintain WTC in a manner similar to other first class municipal tennis centers in Oklahoma (e.g., the Oklahoma City Tennis Center and Kickingbird Tennis Center, Edmond, Oklahoma). Authority shall be solely responsible for the cost to repair and maintain the structural integrity of the tennis courts, building, fencing, exterior lighting, parking lot and appurtenances directly associated thereto.
9. Professional agrees that such management and operation of the WTC including said tennis lessons and said tennis sales and rentals shall be conducted in a manner similar to other municipal tennis centers in Oklahoma.
10. Authority reserves the right to host certain special events upon reasonable notice and such terms as can be agreed upon by Professional and Authority. Professional may, as often as desired by Professional, hold and conduct tournaments and other events at the WTC.

11. Professional shall assure that the premises and grounds are maintained in good and substantial repair and in a clean and orderly condition. All employees of Westwood Tennis Center will dress in a manner similar to their respective counterparts at other municipal tennis centers in Oklahoma.
12. In the operation and management of the WTC and properties, Professional shall have the right during the term hereof to select and employ on behalf of the Authority or the City of Norman, Oklahoma, as directed by the Director all necessary assistants and personnel at rates of pay within the limitation of funds provided for that purpose in a budget approved by the Director and by the Authority, and said employees shall be employees of the City of Norman, Oklahoma and paid from funds of the City Of Norman, and the Professional shall establish employment conditions and regulations for all employees delineating duties and responsibilities which shall be approved by the Director.
  - (A) Professional shall provide loss and damage insurance necessary to protect Professional's tennis merchandise and Professional's equipment in the Repair Shop and property and equipment of patrons in the possession of Professional. Professional assumes all risks incident to or in connection with Professional's sale of tennis merchandise, and repairs referred to above, and shall indemnify, defend and save the authority and the City of Norman harmless from damages or injuries of whatever nature or kind to persons or property arising directly or indirectly out of the above-specified activities, except with respect to any damage or injury resulting from any negligent act or omission or wrongful misconduct by the City of Norman, Oklahoma, the Director and/or the Authority, or any agent or employee thereof (other than Professional), or any infirmity or defect in any structure, court, equipment, or material owned by the City of Norman or the Authority. In this connection, the Professional shall carry Comprehensive General Public Liability Insurance in the minimum amount provided by the Oklahoma Governmental Tort Claims Act. Professional further agrees to save the Authority and the City of Norman harmless from any and all damages arising out of any act or omission by him outside the scope of his employment.
  - (B) Authority shall provide insurance for Property Damage for the WTC, its equipment, buildings, fixtures, fencing, landscaping and grounds equipment, in such amounts as are customary for facilities of this type and to protect the Authority, its agents and employees including the Professional from any and all accidents in the general operation of the WTC and facilities, except those stated in Paragraph 12 (A) above. The Authority shall provide insurance against damage to the WTC, its equipment, courts, fencing, landscaping and grounds equipment including, without limitation, hail, lightning, wind, rain, vandalism, fire and theft.
  - (C) Professional shall qualify for a Corporate Surety Bond in the amount as specified in Section 8-109(2)C of the Code of the City of Norman to be procured by the Authority at the Authority's sole cost and expense. Conditions of said bond shall be the faithful performance of all the covenants and obligations imposed on the Professional by this

Agreement.

- (D) Professional shall comply in all material respects with all applicable federal, state, county and municipal laws and ordinances regarding nondiscrimination, and specifically agrees not to discriminate against any employee, applicant for employment, any patron or other person because of race, color, religion, sex, age or national origin. Professional further agrees not to refuse to hire, discharge, promote, demote or to otherwise discriminate in matters of compensation against any person otherwise qualified solely because of race, creed, color, sex, national origin, ancestry or disability. Professional shall not be liable, responsible or accountable for damages or otherwise to the Authority or the City of Norman, Oklahoma for any act taken or performed or for any omission to act, if such act or omission does not constitute willful misconduct, negligence or recklessness. In any threatened, pending or completed action, suit or investigation in which Professional was or is a party by virtue of his employment under the term of this Agreement, the Authority shall, solely indemnify Professional against claims, judgments, settlements, penalties, fines or expenses, including attorneys' fees, asserted against or incurred by Professional in connection therewith, so long as his action or failure to act does not constitute willful misconduct, recklessness, a breach of loyalty, lack of good faith, intentional misconduct, knowing violation of law, or negligence. The indemnification rights herein contained shall be cumulative of, and in addition to, any and all other rights and remedies to which Professional shall be entitled, whether pursuant to some other provision of this Agreement, at law or in equity.
13. All expenditures of Authority funds for supplies and equipment shall be approved by the Director, and any expenditure exceeding \$5,000 shall be approved by the governing body of the City Of Norman.
14. Authority agrees to furnish at the above-named WTC to the Professional: office space, office equipment, storage area and suitable area in which to sell and work upon tennis equipment and supplies, and food and tennis-related merchandise, free of rent or other remuneration of any kind.
15. Professional agrees to abide in all material respects by the Ordinances of the City Of Norman and the Statutes of the State of Oklahoma and reasonable rules and regulations established by the Director and the Authority applicable to the performance of his duties and responsibilities under this contract.
16. Provided further that this contract is subject to the annual appropriation by the City Council of the City of Norman, Oklahoma of the funds allocated herein. Should the City Council fail to appropriate funds sufficient to fulfill the uses and purposes of this Agreement, then this contract shall terminate.
17. In the event the Authority or Professional shall fail in any material respect to perform, keep and observe any of the terms, covenants and conditions herein contained, which apply to that party, Authority or Professional may give the other written notice to correct such condition or

cure such default, and reasonable action to correct any such condition or default shall be taken and reasonably prosecuted within thirty (30) days after receipt of such notice by Authority or Professional, as applicable. Thereafter, if it is determined by the Authority, or by the Professional, as the case may be, that no action has been taken or that the action to correct such condition or default is not appropriate, not being reasonably prosecuted or is insufficient, then the other may terminate this contract by the giving of written notice to that effect addressed to the other party by registered mail in which event the contract shall terminate after the expiration of ninety (90) days from the date of notification. If the Professional shall at any time be incapacitated by illness or otherwise from performing his duties for a reasonable period of time, or if he shall, in the reasonable opinions of the Director and Authority, exercised with the utmost good faith and fair dealings, acts to the material detriment of the Authority or improperly performs his duties in any material respect, the Authority may, after three calendar months prior written notice, terminate this contract, notwithstanding anything herein contained to the contrary.

18. In the event the Authority initiates termination of this agreement the Authority shall purchase from the Professional the merchandise, equipment, supplies and clothing owned by him in the operation of the tennis pro shop at the WTC as follows:
  - A. All new merchandise, delivered or undelivered at the date of notice of termination, which has been paid for by the Professional, including, but not limited to, clothing, shoes, tennis balls, and other items for sale in the tennis pro shop shall be purchased at actual invoice price plus actual freight costs. Professional shall supply documentation to the Authority indicating said actual cost.
  - B. Any payments due to the Professional from the Authority shall be paid within thirty (30) days of the date of termination of this Agreement.
19. It is contemplated between the parties hereto that during the term of this contract that various improvements may be made to the Tennis Center and its facilities. In the event that improvements shall be made of such a substantial nature as to disrupt the normal operation of the Tennis Center, the parties may, by mutual agreement, revise during the period of such disruption the monthly salary being paid to Professional to a monthly salary that more properly represents the conditions existing at that time.
20. It is agreed that this contract shall not be assigned in whole or in part by any party hereto without written consent of the other party, which consent shall not be unreasonably withheld or delayed.
21. During the continuance of this Agreement, Professional shall devote at least 40 hours each calendar week (on an annualized basis) to his duties set forth herein during the operating hours of the Tennis Center except during periods of illness, vacation or approved absence by the Director and shall use his reasonable efforts to promote the interest and welfare of the Authority. During periods of inclement weather (e.g., heavy rains, snow, ice, etc.), the Professional may close, and need not be present at the WTC. Professional shall be allowed

to participate in tennis tournaments and other professional tennis activities after obtaining permission from the Director, which permission shall not be unreasonably withheld or delayed.

- 22. If any casualty or unforeseen occurrence shall render the fulfillment of this contract by Authority impossible, including without limitation thereto, the requisitioning of the premises by the United States Government or the State of Oklahoma or the City Of Norman or any arm or instrumentality thereof for a major portion of the term, then this contract shall terminate and Professional waives any claim for damages or compensation, should this contract be so terminated, except for amounts theretofore earned. If the Authority reasonably determines (exercising the utmost good faith) that it is in the best interest of the Authority and the City of Norman, Oklahoma, to discontinue the operation of said WTC, it may, at its discretion, terminate this contract on three (3) months written notice to Professional and Professional waives any claim for damages or compensation in case of such termination, except for amounts theretofore earned and as otherwise provided in the Agreement.
- 23. It is understood and agreed by and between the parties that the terms and conditions of this contract contain all matters which constitute the employment relationship herein created and any duties, responsibility, benefit, privilege or condition not expressly contained herein is deemed to have been considered and rejected as part of this Agreement and is not subject to further negotiation unless mutually agreed to by the parties.
- 24. The prevailing party in any action to construe, enforce or for breach of this Agreement shall be entitled to that party's reasonable attorneys' fees and court costs.

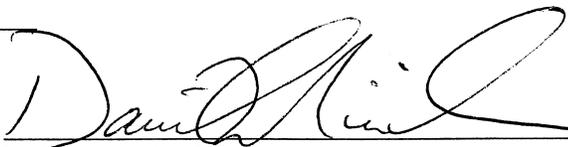
WITNESS, our hands the day and year first above written.

NORMAN MUNICIPAL AUTHORITY  
A Public Trust

By: \_\_\_\_\_

ATTEST:

Secretary

  
 \_\_\_\_\_  
 Professional – Manager

STATE OF OKLAHOMA )  
 ) ss.  
COUNTY OF CLEVELAND )

On this 1<sup>st</sup> day of April, 2011, before me personally appeared David Minihan to me known to be the identical person who subscribed the above and foregoing instrument and acknowledged to me that he executed the same as his free voluntary act and deed for the uses and purposes therein set forth.

WITNESS my hand and official seal the day and year last above written.

*Stephanne E. Terry*  
Notary Public

My Commission Expires:  
30 January 2013  
#01000390

APPROVED as to form and legality this 19 day of April, 2011.

*[Signature]*  
City Attorney



**CITY COUNCIL AGENDA  
MAY 10, 2011**

Municipal Building Council  
Chambers  
201 West Gray Street  
Norman, OK 73069

**Item No. 19**

**File Number: K-1011-164**

**Introduced:** 4/7/2011 by Jim Spearman, Grants Coordinator

**Current Status:** Consent Item

**Version:** 1

**Matter Type:** Contract

Title

**CONTRACT NO. K-1011-164:** MEMORANDUM OF UNDERSTANDING BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND THE OKLAHOMA OFFICE OF HOMELAND SECURITY REGARDING THE ASSIGNMENT OF GRANT FUNDS RECEIVED FROM THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY.

**ACTION NEEDED:** Motion to approve or reject Contract No. K-1011-164 with the Oklahoma Office of Homeland Security; and, if approved, authorize the execution thereof.

**ACTION TAKEN:** \_\_\_\_\_

Body

**BACKGROUND:** Generally, United States Department of Homeland Security guidelines require 80% of grant funds to be awarded to local units of government. However, if approved by a local jurisdiction, a portion of the "Local" funds may be retained by the State if those funds are to be used for the benefit of local units of government. In order to accomplish this, the State must obtain an agreement with local units of government through a Memorandum of Understanding (MOU).

**DISCUSSION:** The City of Norman is an important partner in the State of Oklahoma's Fusion Center. The Fusion Center is a central repository of law enforcement sensitive information that is housed and managed by the Oklahoma State Bureau of Investigation (OSBI). Other local partners include the City of Oklahoma City, Tulsa and Stillwater.

The Norman Police Department employs a fusion center analyst using funding provided in a direct grant from the Oklahoma Office of Homeland Security (OKOHS) to the City of Norman. In addition, Norman PD is actively involved in the Oklahoma Automated Secure Information Sharing System (OASIS) and the Oklahoma Law Enforcement Information Exchange (OKLeX). These initiatives provide state and local law enforcement professionals with important tools to facilitate better communication and timely access to critical data.

OKOHS has designated \$770,000 in Local FY 2010 FEMA/DHS grant funding for the sustainment of various information sharing initiatives. \$485,000 of the total would be used to pay salaries, benefits and related costs including training of five fusion center analysts. The \$285,000 balance is intended to be used to maintain the OASIS and OKlex systems. These expenditures will directly benefit the citizens of Norman as well as citizens throughout the entire state.

While much of the prior year information sharing systems cost has been paid using “State” homeland security funding (in addition to OSBI’s significant direct and indirect investment in these programs using OSBI’s State of Oklahoma budgeted funding), an ever decreasing federal homeland security funding level makes continued funding of system sustainment impossible without the use of local homeland security funding.

OKOHS respectfully requests that this MOU be approved so they can continue to provide resources that will benefit the entire State. This MOU will assign \$770,000 in grant funds to OSBI and OKOHS to fund continuing maintenance, expansion and support of information sharing initiatives, including but not limited to the Fusion Center, OASIS and OKLeX. OSBI will be responsible for grant accounting and reporting.

**RECOMMENDATION:** It is recommended that this MOU be signed and returned to the Oklahoma Office of Homeland Security.

**MEMORANDUM OF UNDERSTANDING  
2010 STATE HOMELAND SECURITY PROGRAM  
DESIGNATION OF THE STATE AS THE AGENT FOR THE LOCAL  
SHARE OF GRANT FUNDING**

*Generally, DHS guidelines require 80% of Homeland Security funds to be awarded to local units of government. However, if requested by a local jurisdiction, the State may retain a portion of "Local" grant funds for equipment used by the State and/or for planning, exercises and training activities that are coordinated by the State for the benefit of local units of government.*

I, as the duly authorized official of the City of Norman, Oklahoma, the ("City") have read and understood the Federal FY 2010 Homeland Security Grant Program (the "2010 Grant") Guidance and Application Kit, which can be found at the following web address:

<http://www.fema.gov/government/grant/hsgp/index.shtm>

On behalf of the City, I hereby accept \$770,000.00 of 2010 Grant Local funding and assign this funding to the State of Oklahoma, specifically the Oklahoma State Bureau of Investigation ("OSBI") and the Oklahoma Office of Homeland Security ("OKOHS"), to fund (1) continuing maintenance, expansion and support of information sharing initiatives, including but not limited to the OASIS and OKLeX programs and (2) planning and operational oversight costs of the fusion center, which include salary and benefits of the fusion center coordinator.

Program Title: Oklahoma Automated Secure Information Sharing System ("OASIS")  
Oklahoma Law Enforcement Information Exchange ("OKLeX")

Description: OASIS is an information-sharing database/network and set of analytical tools currently being developed and deployed by OSBI in cooperation with the various state and local law enforcement agencies for the purpose of combating terrorism and other major crimes. The OKLeX Program is an information sharing program designed to help law enforcement officials do their job more effectively and efficiently. Funds will be used for info sharing and critical infrastructure protection related projects, including but not limited to salary/benefit costs.

**Local Authorizing Official/Point of Contact for the City:**

Name: \_\_\_\_\_

Position: Mayor (Authorizing Official)

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Phone/E-mail: jim.spearman@normanok.gov (405) 366-5215 (Jim Spearman-Point of Contact)

**State Administrative Agency (SAA) Official/Point of Contact:**

Name: \_\_\_\_\_

Oklahoma Homeland Security Director

Signature: \_\_\_\_\_

Date: \_\_\_\_\_



# CITY COUNCIL AGENDA MAY 10, 2011

Municipal Building Council  
Chambers  
201 West Gray Street  
Norman, OK 73069

## Item No. 20

Text File Number: K-1011-168

**Introduced:** 4/22/2011 by Angelo Lombardo, Traffic Engineer

**Current Status:** Consent Item

**Version:** 1

**Matter Type:** Contract

Title

**CONTRACT NO. K-1011-168:** A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND THE ASSOCIATION OF CENTRAL OKLAHOMA GOVERNMENTS (ACOG) TO PROVIDE FUNDING IN THE AMOUNT OF \$10,560 AS A PART OF THE UNIFIED PLANNING WORKS PROGRAM (UPWP) FOR THE COLLECTION OF TRAFFIC DATA AND THE PREPARATION OF TRAVEL TIME/DELAY STUDIES AND BUDGET APPROPRIATION.

**ACTION NEEDED:** Motion to approve or reject Contract No. K-1011-168 with ACOG to provide funding in the amount of \$10,560 as part of the UPWP Program; and, if approved, authorize the execution thereof and upon reimbursement of the funds, increase the Special Revenue Fund Balance (022-0000-253.20-00) by \$10,560 and appropriate \$10,560 to Maintenance Supplies/Traffic Signal Parts (022-5023-429.32-12).

**ACTION TAKEN:** \_\_\_\_\_

Body

**BACKGROUND:** The Association of Central Oklahoma Governments (ACOG) is responsible for the administration of the Unified Planning Works Program (UPWP) in the Oklahoma City Metropolitan Area. The program's purpose is to maintain a comprehensive, continuing, and cooperative planning process for the region. The Oklahoma Department of Transportation provides Federal Highway Administration funds for this planning process and the many tasks associated with it, which include activities such as travel time/delay studies, monitoring of intersection related accidents, traffic data collection, traffic signal monitoring, and congestion management.

**DESCRIPTION:** During the last seventeen years, our City has been able to participate in the program by collecting traffic data at a number of locations throughout the City. For Fiscal Year 2012, ACOG has offered us \$10,560 in federal funds to cover the cost associated with this activity. These funds will be reimbursed to the City upon completion of the work.

The Traffic Control Division collects traffic data on a routine basis. The additional funds made available through ACOG have allowed us to expand our program and offset some of the local expenses associated with this work activity. In order to receive these funds, the City must enter into a contractual agreement with ACOG. Staff and ACOG officials developed contract No. K-1011-168 for this specific purpose. The City Attorney has reviewed this document and found its content to be acceptable.

**RECOMMENDATION:** Staff recommends the execution of contract No. K-1011-168 between the Association of Central Oklahoma Governments and the City of Norman for the collection of traffic counts during Federal Fiscal Year 2012. To offset the costs associated with the maintenance and replacement of the equipment used for this activity, it is also recommended that upon reimbursement, these funds be appropriated from Account No. 022-0000-253.20-00 (Special Revenue Fund Balance) to Account No. 022-5023-429.32-12 (Traffic Signal Parts).

**CONTRACT**

**Between**

**ASSOCIATION OF CENTRAL OKLAHOMA GOVERNMENTS**

**and the**

**CITY OF NORMAN**

**I. PARTIES AND PURPOSE**

This CONTRACT made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by and between the Association of Central Oklahoma Governments (ACOG) and the City of Norman (NORMAN) reaffirms the Metropolitan Transportation Planning process of the Oklahoma City Area Regional Transportation Study (OCARTS). The above cited parties to this CONTRACT will hereinafter be referred to individually as ACOG and NORMAN respectively or, individually or collectively as the PARTICIPANT and PARTICIPANTS. Frequent reference will be made in this CONTRACT to the Federal Highway Administration, United States Department of Transportation, hereinafter referred to as FHWA.

The intent of this CONTRACT is to provide NORMAN funding of the Metropolitan Transportation Planning activities within the OCARTS transportation management area (TMA) as identified in the FY 2012 Unified Planning Work Program (UPWP). The purpose of this CONTRACT is to maintain the comprehensive, continuing and cooperative transportation planning process in order to provide the most desirable multi-modal transportation system that is compatible with community goals and at minimum expense.

**II. EFFECTIVE DATE**

The provisions of this CONTRACT shall become effective on the first day of July 2011, or on the day this Federal-aid project is authorized by FHWA, whichever comes later. This CONTRACT shall be effective until all funding provided under Section V have been expended but in no event shall the term of this CONTRACT be extended beyond June 30, 2012 for expenditure of FHWA Planning (PL) Funds without supplementation as provided by Section XV of this CONTRACT. This CONTRACT may be terminated earlier upon thirty (30) days written notice by either party as provided for in Section XVI of this CONTRACT.

### III. ORGANIZATION

Policy direction, plan selection, and development of programs for plan implementation of the OCARTS Planning Process shall be vested in an Intermodal Transportation Policy Committee (ITPC) whose membership and responsibilities are detailed in the Memorandum of Understanding signed December 18, 2008. The ITPC will send ACOG, the Metropolitan Planning Organization (MPO), transportation plans, policies and implementation programs for review and endorsement.

### IV. UNIFIED PLANNING WORK PROGRAM

The specific activities to be conducted and financed during the CONTRACT period are prescribed in the FY 2012 UPWP. The UPWP details the tasks, work responsibilities, costs and funding sources of each activity to be undertaken within the TMA. The product of the UPWP will be a twenty-year comprehensive and multi-modal transportation plan for the OCARTS TMA. Approval of the UPWP by the PARTICIPANTS, the ITPC, and FHWA will constitute acceptance of the UPWP as a part of this CONTRACT, subject to the financing provisions of Section V herein.

### V. FINANCING

ACOG presently has funds available, allocated through the FHWA and administered by ODOT, which may be used to facilitate Metropolitan Transportation Planning. Contingent upon the continued availability of such funds, ACOG agrees to participate in the planning effort to be conducted within the TMA boundary as detailed in the UPWP. The PARTICIPANTS agree that the financing of the OCARTS as set forth in this CONTRACT shall not exceed \$13,200 of which \$10,560 are FHWA's PL Funds and shall be on the basis of direct and indirect actual auditable costs incurred as a part of this study and the provisions of the Office of Management and Budget Circular A-133. The actual costs shall be limited to the equipment rental, office supplies, printing costs, personnel salaries, legal fees, personnel selection and placement, personnel relocation expenses, office rent and other necessary expenses directly associated with actual work performed under this CONTRACT. Allowable costs will be determined in accordance with the Office of Management and Budget Circular A-87.

The financing provided by this CONTRACT is for eighty percent (80%) of total actual auditable costs. The remaining twenty percent (20%) of the costs are to be funded by NORMAN.

**VI. DISPUTES RELATED TO FINANCES**

In the event of disagreement between the PARTICIPANTS relative to the eligibility of or NORMAN's financial participation in any work item or items contained in the UPWP, the details of such disagreement shall be forwarded to both the Executive Director of ACOG and the City Manager of NORMAN who jointly shall make the final determination.

**VII. PAYMENT**

Payments for services described in the UPWP and this CONTRACT for cooperative funding shall be disbursed by ACOG on the basis of documented monthly billings from NORMAN showing the total actual costs incurred in conformance with the UPWP. Such billings shall be submitted to ACOG along with a narrative progress report. The billings shall be submitted by the tenth (10th) day after the end of any month in which data for 10 or more traffic count locations (including midblock and intersection turning movement counts) have been collected, except for work completed during the month of June as noted below. The billings shall include a list of the traffic count locations, billable at the agreed upon rate of \$100/count. If fewer than 10 traffic counts are collected in any given month, the data shall accumulate to a total of 10 or more, and a billing shall be submitted in a later month, accordingly. The final billing, for work completed before or during June 2012, shall be submitted on or before July 11, 2012.

**VIII. PROGRESS REPORTS**

NORMAN shall provide ACOG progress reports regarding the date, time, and location of the traffic counts. Such reports shall provide hourly and 24-hour counts at midblock locations, and 15-minute interval counts for turning movements at the intersections specified on the forms furnished by ACOG. The reports shall be submitted along with a billing by the tenth (10th) day after the end of a month for which the billing and report are prepared. The final progress report shall be submitted on or before July 11, 2012.

**IX. INSPECTION OF WORK**

ACOG shall be accorded proper facilities for review and inspection of the work hereunder and shall at all reasonable times have access to the premises, to all reports, books, records, correspondence, instructions, receipts, vouchers, memoranda and any other materials of every description which ACOG considers pertinent to the work hereunder. The PARTICIPANTS will fully inform each other in the event of any review and inspection of work specified hereunder by other than PARTICIPANTS. ACOG shall maintain the responsibility of review and concurrence in all techniques and methodology utilized in this study.

X. RECORDS

NORMAN shall maintain accounting records and other evidence pertaining to the costs incurred under this CONTRACT. This data will be made available for inspection by ACOG, at all reasonable times at the respective offices during the contract period and for three years after the date of the final payment of Federal funds to ACOG with respect to the study. Copies of such records shall be furnished at cost to ACOG.

XI. OWNERSHIP OF DATA

The ownership of the data collected under this CONTRACT, together with reports, brochures, summaries, and all other materials of every description derived therefrom, shall be vested in the PARTICIPANT having the major funding responsibility for its development, subject to the applicable Federal and State laws and regulations.

XII. INFORMATION AND REPORTS

All information, reports, proposals, brochures, summaries, written conclusions, graphic presentations and similar materials developed by NORMAN and/or its consultants and financed in whole or in part by ACOG, shall be submitted to ACOG for review and concurrence and shall have the approval of the appropriate study committee prior to its public release, presentation, dissemination, publication, or other distribution. The distribution of such information and reports, whether draft or final and including the UPWP, to any unit of the FHWA shall be made through ACOG only. NORMAN is a public entity subject to the Oklahoma Open Records Act. To the extent that anything in this paragraph conflicts with the Open Records Act, it shall be void.

XIII. PUBLICATION PROVISIONS

NORMAN shall be free to copyright material developed under this CONTRACT with the provision that ACOG and FHWA reserve a royalty-free, nonexclusive, and irrevocable License to reproduce, publish or otherwise use, and to authorize others to use, the work for Government purposes. All reports published under this CONTRACT shall contain a credit reference to the FHWA; such as "prepared in cooperation with the U.S. Department of Transportation, Federal Highway Administration."

XIV. TRAVEL

There are no travel or training expenses eligible for reimbursement under this CONTRACT.

**XV. AMENDMENTS OR MODIFICATION OF CONTRACT**

No changes, revisions, amendments or alterations in the manner, scope or type of work or compensation to be paid by ACOG shall be effective unless reduced to writing and executed by the PARTICIPANTS with the same formalities as are observed in the execution of this CONTRACT.

**XVI. TERMINATION OF CONTRACT**

This CONTRACT was entered into by the PARTICIPANTS because of their mutual accord that the comprehensive, continuing, and cooperative transportation planning process provided herein was necessary. Either PARTICIPANT may terminate its interest and its obligation under this CONTRACT by giving thirty (30) days notice in writing to the other PARTICIPANT, it being understood that such termination may be adverse to the interests of the other PARTICIPANT. In the event of such termination, NORMAN shall deliver at cost to ACOG all items mentioned in Sections X and XI of this CONTRACT within thirty (30) calendar days following the effective termination date.

**XVII. GOVERNMENTWIDE NONPROCUREMENT SUSPENSION AND DEBARMENT**

In order to protect the public interest the "Federal-aid Eligibility Certification" (Exhibit A) shall be signed by the City Clerk of NORMAN as to current history regarding suspension, debarment, ineligibility, voluntary exclusion, criminal convictions, or civil judgements involving fraud or official misconduct of himself/herself and any person associated in the administration and management of this federally funded project.

**XVIII. USE OF CONSULTANTS**

Under the terms of this CONTRACT, NORMAN may engage qualified consultants to perform certain duties on their behalf. All contracts with other parties for services within the scope of the Transportation Planning Process shall be justified, in writing, by NORMAN and are subject to prior written approval by ACOG. Contracts for work to be done, must, as a minimum, meet the requirements of law relative to non-collusion and the provisions of 49 CFR Part 18. U.S. Department of Transportation regulations (49 CFR Part 29) require that ACOG shall insure that NORMAN insert in each subcontract the provisions required by "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion" (Exhibit B) and further shall require its inclusion in any covered transaction NORMAN may make. All contracts and discussions between ACOG and consultants retained by NORMAN must be initiated through NORMAN.

**XIX. RESPONSIBILITY FOR CLAIMS AND LIABILITY**

NORMAN and/or its consultants shall hold harmless ACOG, ODOT, and FHWA from all suits, actions, or claims brought on account of any injuries or damages sustained by any person or property in consequence of any negligent acts or misconduct by NORMAN and/or its consultants or the negligent acts or misconduct of their subcontractors, agents, or employees arising from this CONTRACT or on account of any claims or amount recovered for an infringement of patent, trademark, or copyright, or from any claim or amounts arising or recovered under the Workers' Compensation Laws or any other laws. NORMAN and/or its consultants shall not be released from such responsibility until all claims have been settled and suitable evidence to the effect furnished ACOG.

**XX. COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**

NORMAN and ACOG agree that all operations under the terms of this CONTRACT will be in compliance with the applicable requirements of Title 49, Code of Federal Regulations, Part 21, which was promulgated to effectuate Title VI of the Civil Rights Act of 1964. In furtherance of requirements of Title 49, the following clauses and the "Nondiscrimination of Employees" (Exhibit C) are made a part of this contract.

The term contractor or consultant shall mean NORMAN and/or its consultants.

- (1) Compliance with Regulations: The contractor will comply with the Regulations of the US Department of Transportation relative to nondiscrimination in Federally-assisted programs of the US Department of Transportation (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) Nondiscrimination: The contractor, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Exhibit C of the Regulations.
- (3) Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurement of materials or equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this

contract and the Regulations relative to nondiscrimination on the grounds of race, color or national origin.

- (4) **Information and Reports**: The contractor will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by ACOG or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to ACOG or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) **Sanctions for Noncompliance**: In the event of the contractor's noncompliance with the non-discrimination provisions of this contract, ACOG shall impose such contract sanctions as it or the FHWA may determine to be appropriate including, but not limited to:
- (a) withholding of payments to the contractor under the contract until the contractor complies, and/or
  - (b) cancellation, termination or suspension of the contract, in whole or in part.
- (6) **Incorporation of Provisions**: The contractor will include the provisions of paragraph (1) through (6) in every subcontract, including procurement of the Regulations, order, or instructions issued pursuant thereto. The contractor will take such action with respect to any subcontract or procurement as ACOG or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the State to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States Attorney to enter into such litigation to protect the interests of the United States.

#### XXI. **COMPLIANCE WITH MINORITY BUSINESS ENTERPRISE ACT**

NORMAN and ACOG agree to adhere to the requirements that are specified in Sec. 23. 43, (General Requirements for Recipients) of 49 CFR 23 "Participation by Minority Business Enterprise in Department of Transportation Programs." A copy of the "Disadvantaged Business/Women's Business Enterprises" (Exhibit D) is attached hereto and becomes part of this CONTRACT.

**XXII. COMPLIANCE WITH CERTIFICATION REGARDING LOBBYING**

NORMAN agrees to adhere to Section 1352, Title 31, U.S. Code which in part prohibits the use of Federal appropriated funds by the PARTICIPANT(S) for influencing the making or modification of any Federal contract, grant, loan or cooperative agreement. A signed copy of the "Certification for Federal-Aid Contracts" (Exhibit E) regarding lobbying is attached hereto and becomes part of this CONTRACT.

**XXIII. COVENANTS AGAINST CONTINGENT FEES**

NORMAN warrants that it has not employed or retained any company or person specifically to solicit or secure this CONTRACT, and that it has not paid or agreed to pay any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this CONTRACT. For breach or violation of this warranty ACOG shall have the right to annul this CONTRACT without liability, or at its discretion, to deduct from the CONTRACT price or consideration, or otherwise recover, the full amount of such fee, commission, percentage brokerage fee, gift, or contingent fee.

**XXIV. PRIOR UNDERSTANDING**

This CONTRACT incorporates and reduces to writing all prior understanding, promises, agreements, commitments, covenants or conditions, and constitutes the full and complete understanding and contractual relationship of the PARTICIPANTS.

**XXV. GOVERNING RULES AND REGULATIONS**

NORMAN and its subcontractors shall comply with all Federal, State and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any court or administrative bodies or tribunals in any nature affecting the performance of this CONTRACT including workman's compensation laws, minimum and maximum salary and wage statutes and regulations. When required, NORMAN shall furnish ACOG with satisfactory proof of its compliance therewith.

**XXVI. GOVERNING LAW AND REGULATIONS**

This CONTRACT shall be governed and construed in accordance with the laws of the State of Oklahoma and the applicable rules, regulation, policies and procedures of the Oklahoma Transportation Commission.

**XXVII. HEADINGS**

Article headings used in this CONTRACT are inserted for convenience of reference only and shall not be deemed a part of this CONTRACT for any purpose.

**XXVIII. BINDING EFFECT**

This CONTRACT shall be binding upon and inure to the benefit of ACOG and NORMAN and shall be binding upon their successors and subject to the limitation of Oklahoma Law.

**XXIX. NOTICES**

All demands, requests, or other communications which may be or are required to be given, served or sent by either party to the other pursuant to the CONTRACT shall be in writing and shall be deemed to have been properly given or sent:

- (1) if intended for ACOG, by mailing by first class mail or, if sender prefers, by registered or certified mail, return receipt requested, with postage prepaid, addressed to ACOG at:

Association of Central Oklahoma Governments  
21 E. Main Street, Suite 100  
Oklahoma City, OK 73104-2405

- (2) if intended for NORMAN, by mailing by first class mail or, if sender prefers, by registered or certified mail, return receipt requested, with postage prepaid, addressed to NORMAN at:

The City of Norman  
Attention: City Traffic Engineer  
201 A. West Gray  
PO Box 370  
Norman, OK 73070

**XXX. SEVERABILITY**

If any provision, clause or paragraph of this contract or any document incorporated by reference shall be determined invalid by a court of competent jurisdiction, such determination shall not affect the other provisions, clauses or paragraphs of this contract which is not affected by the determination. The provisions, clauses or paragraphs and any documents incorporated by reference are declared severable and the invalidation of any such provision, clause, paragraph or document incorporated by reference shall not affect the remaining provisions, clauses, paragraphs and documents incorporated by reference which shall continue to be binding and of full legal efficacy.

EXECUTION OF CONTRACT

IN WITNESS WHEREOF, ACOG AND THE CITY OF NORMAN HAVE EXECUTED THIS CONTRACT AS OF THE DATE FIRST ABOVE WRITTEN.

ATTEST:

ASSOCIATION OF CENTRAL  
OKLAHOMA GOVERNMENTS

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Chairman, Board of Directors

\_\_\_\_\_  
John G. Johnson, General Counsel

ATTEST:

THE CITY OF NORMAN

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

Approved as to form and legality this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Legal Counsel, City of Norman

**EXHIBIT A**

**FEDERAL-AID ELIGIBILITY CERTIFICATION**

The undersigned hereby certifies to the best of his or her knowledge and belief:

- (1) That he or she is the fully authorized agent of the Prospective Participant in this project which involves, Federal funding and has full knowledge and authority to make this certification.
  
- (2) That, neither the Prospective Participant nor any person associated therewith in the capacity of director, officer, manager, auditor or accountant, nor any person in a position involving the administration of federal funds:
  - a. Is currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; and
  - b. Has been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three (3) years; and
  - c. Has a proposed debarment pending; and
  - d. Has been indicted, convicted, or had a civil judgment rendered against any of the aforementioned by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years, except:

None

(If none so state by entering the word none.)

---

Date

---

City Clerk, City of Norman

**EXHIBIT B (page 1 of 2)****ADDENDUM TO FORM FHWA-1273, REQUIRED CONTRACT PROVISIONS**

This certification applies to subcontractors, material suppliers, vendors and other lower tier participants.

- Appendix B of 49 CFR Part 29 -

Appendix B -- Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

**Instructions for Certification**

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospect lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

**EXHIBIT B (page 2 of 2)**

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions**

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**EXHIBIT C (page 1 of 3)****NONDISCRIMINATION OF EMPLOYEES**

During the performance of this contract, NORMAN, for itself, its assignees, and successors in interest hereby covenants and agrees as follows:

- (1) NORMAN and its subcontractors shall provide equal employment opportunities for all qualified persons within the limitations hereinafter set forth, and shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, or handicap.
- (2) That any subcontract entered into by NORMAN for performance of any portion of the work covered under this Contract shall incorporate all of the provisions of this Special Provision, "Nondiscrimination of Employees," and the same shall be appended to said subcontract and incorporated therein by reference.
- (3) NORMAN shall refrain from "discriminatory practices," as hereinafter defined. It is a discriminatory practice for NORMAN to:
  - (a) Fail or refuse to hire, to discharge or otherwise to discriminate against an individual with respect to compensation or the terms, conditions, privileges or responsibilities or employment, because of race, color, religion, sex, national origin, age or handicap; or
  - (b) To limit, segregate or classify an employee in a way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect the status of an employee, because of race, color, religion, sex, national origin, age or handicap; or
  - (c) Discriminate against an individual because of race, color, religion, sex, national origin, age or handicap, in admission to, or employment in, any program established to provide apprenticeship, on-the-job training or retraining; or
  - (d) Publish or cause to be printed or published any notice or advertisement relating to employment by NORMAN indicating a preference, limitation, specification, or discrimination, based on race, color, religion, sex, national origin, age or handicap, except where such preference, limitation, specification or discrimination based on religion, sex or national origin is a bona fide occupational qualification for employment; or

**EXHIBIT C (page 2 of 3)**

- (e) Retaliate or discriminate against a person because said person has opposed a discriminatory practice, or because said person has made a charge, filed a complaint, testified, assisted or participated in an investigation, proceeding or hearing under Chapter 21, Title 25, Oklahoma Statutes, 1991; or
  - (f) Aid, abet, incite or coerce a person to engage in a discriminatory practice; or
  - (g) Willfully interfere with the performance of a duty or the exercise of a power by the Oklahoma Human Rights Commission or one of its members or representatives; or
  - (h) Willfully obstruct or prevent a person from complying with the provisions of Chapter 21, Title 25, Oklahoma Statutes, 1991; or
  - (i) Attempt to commit, directly or indirectly, a discriminatory practice, as defined herein and as defined in Chapter 21, Title 25, Oklahoma Statutes, 1991.
- (4) NORMAN further agrees to refrain from discrimination by reason of race, color, religion, sex, national origin, age or handicap, against any persons, firm or corporation furnishing independent contract labor or materials to NORMAN in the performance of this Contract.
- (5) Sanctions for Noncompliance - In the event NORMAN violates or refuses to abide by any of the provisions herein set forth, ACOG reserves the right and option to:
- (a) Withhold payments to NORMAN until NORMAN furnishes satisfactory evidence of compliance and correction of all violations; or
  - (b) Cancel, terminate or suspend the Contract, in whole or in part, without further liability to ACOG other than payment for work performed up to the effective date of cancellation or termination of the contract.
  - (c) All violations which are not corrected by NORMAN within such time as is specified by ACOG in its notice of violation, shall be reported to the Oklahoma Human Rights Commission for such further proceedings as said Commission deems reasonable and necessary.
- (6) Immediately upon notification of Contract award, NORMAN shall submit to ACOG's Internal Equal Employment Officer a list by number, percentage, and position, including the identifying minority group employees who will be actively engaged in the Contract performance.

**EXHIBIT C (page 3 of 3)**

- (7) NORMAN hereby agrees to be bound by and subject itself to the provisions of Title 29, Code of Federal Regulations, Parts 1601-1605, inclusive, insofar as the same have been adopted by the Oklahoma Human Rights Commission for governing procedural matters concerning the administrative operations, functions, duties and responsibilities of said Commission.
  
- (8) NORMAN further agrees to be bound by and be subject to any and all laws, statutes, or regulations of administrative agencies of the State of Oklahoma, pertaining to employment practices in contracts being funded either in whole or in part with funds of the State of Oklahoma, and to the requirements of any and all laws, statutes or regulations of administrative agencies of the State of Oklahoma, and to the requirements of any and all laws, statutes or regulations of administrative agencies of the State of Oklahoma pertaining to equal employment opportunity and nondiscrimination requirements in such contracts and public projects being so funded.

**EXHIBIT D (page 1 of 2)**

**OKLAHOMA DEPARTMENT OF TRANSPORTATION**

**DISADVANTAGED BUSINESS/WOMEN'S BUSINESS ENTERPRISES**

**POLICY STATEMENT**

It is the policy of the Oklahoma Department of Transportation to ensure that Disadvantaged Business/Women's Enterprises (DBE/WBE) as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds under this CONTRACT. Consequently, the DBE/WBE (formerly MBE) requirements of 49 CFR Part 23 apply to this CONTRACT.

The Oklahoma Department of Transportation or its Consultants which are recipients of Federal-aid funds agree to ensure that disadvantaged business/women's enterprises as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under this CONTRACT. In this regard, the Oklahoma Department of Transportation, ACOG, NORMAN, and Consultants shall take all necessary and reasonable steps in accordance with 40 CFR Part 23 to ensure that disadvantaged business/women's business enterprises have the maximum opportunity to compete for and perform contracts. The Oklahoma Department of Transportation, ACOG, NORMAN, and Consultants shall not discriminate on the basis of race, color, national origin, religion, or sex in the award and performance of Oklahoma Department of Transportation assisted contracts.

Failure to carry out the requirements set forth above shall constitute a breach of contract and, after the notification of the Oklahoma Department of Transportation, may result in termination of the contract by the recipient or other such remedy as the recipient deems appropriate.

**EXHIBIT D (page 2 of 2)**

**OKLAHOMA DEPARTMENT OF TRANSPORTATION**  
**CONTRACTING WITH SMALL AND MINORITY FIRMS, WOMEN'S**  
**BUSINESS ENTERPRISE AND LABOR SURPLUS AREA FIRMS**

- (1) It is national policy to award a fair share of contracts to small and minority business firms. Accordingly, affirmative steps must be taken to assure that small and minority businesses are utilized when possible as sources of supplies, equipment, and services. Affirmative steps shall include the following:
  - (a) Including qualified small and minority business on solicitation lists.
  - (b) Assuring that small and minority businesses are solicited whenever they are potential sources.
  - (c) When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum small and minority business participation.
  - (d) Where the requirement permits, establishing delivery schedules which will encourage participation by small and minority business.
  - (e) Using the services and assistance of the Small Business Administration, the Office of Minority Business Enterprise of the Department of Commerce and the Community Services Administration as required.
  - (f) If any subcontracts are to be let, requiring the prime contractor to take the affirmative steps in (a) through (e) above.
- (2) Grantees shall take similar appropriate affirmative action in support of women's business enterprises.
- (3) Grantees are encouraged to procure goods and services from labor surplus areas.
- (4) Grantor agencies may impose additional regulations and requirements in the foregoing areas only to the extent specifically mandated by statute or presidential direction.