City of Norman, OK

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

Meeting Agenda

Tuesday, June 28, 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**

3 GID-1011-44 CONSIDERATION OF THE MINUTES AS FOLLOWS:

CITY COUNCIL STUDY SESSION MINUTES OF MAY 17, 2011
CITY COUNCIL CONFERENCE MINUTES OF MAY 31, 2011
CITY COUNCIL SPECIAL SESSION MINUTES OF JUNE 7, 2011
CITY COUNCIL MINUTES OF JUNE 14-JUNE 21, 2011
NORMAN UTILITIES AUTHORITY MINUTES OF JUNE 14/JUNE 21, 2011
NORMAN MUNICIPAL AUTHORITY MINUTES OF JUNE 14/JUNE 21, 2011 NORMAN TAX INCREMENT FINANCE AUTHORITY MINUTES OF JUNE 14/JUNE 21, 2011

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

ACTION TAKEN: _____

Attachments: May 17 Study Session Minutes
May 31 conference minutes
June 7 Special Session minutes.pdf
June 14-June 21 CC minutes.pdf

4 **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 5 through Item 23 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:

5 **O-1011-48** CONSIDERATION OF ORDINANCE NO. O-1011-48 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 PART OF THE NORTHEAST QUARTER OF SECTION ELEVEN (11) OF TOWNSHIP NINE (9) NORTH, RANGE THREE (3) WEST OF THE INDIAN MERIDIAN, TO NORMAN, CLEVELAND COUNTY, OKLAHOMA, IN THE C-2, GENERAL COMMERCIAL DISTRICT, AND REMOVE SAME FROM THE I-1, LIGHT INDUSTRIAL DISTRICT, OF SAID CITY; AND PROVIDING FOR THE SEVERABILITY THEREOF. (GENERALLY LOCATED ON THE WEST SIDE OF U.S. HIGHWAY 77 AT FRANKLIN ROAD)

ACTION NEEDED: Motion to Introduce and adopt Ordinance No. O-1011-48 upon First Reading by title.

ACTION TAKEN: _____

Attachments: O-1011-48
FranklinBusPark Location Map
Franklin BusPark Site Plan
Franklin Business Park Rezone Staff Report
5-12-11 PC Minutes - Franklin Bus Park

Legislative History

5/12/11	Planning Commission	Recommended for Adoption at a subsequent City Council Meeting to the City Clerk Department

6 O-1011-56 CONSIDERATION OF ORDINANCE NO. O-1011-56 UPON FIRST READING BY TITLE: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, CLOSING A PORTION OF A SANITARY SEWER EASEMENT LOCATED WITHIN LOT 8A, BLOCK 1, WHISPERING PINES ADDITION, TO THE CITY OF NORMAN, CLEVELAND COUNTY, OKLAHOMA; AND PROVIDING FOR THE SEVERABILITY THEREOF. (1119 WHISPERING PINES DRIVE)

ACTION NEEDED: Motion to Introduce and adopt Ordinance No. O-1011-56 upon First Reading by title.

ACTION TAKEN: _____

Attachments: O-1011-56 Young Sewer Easement
Young Location Map
Petition Whispering Pines
Exhibit A Warranty Deed
Exhibit B Proposed Lot Line Adjustment
Young Sewer Easement Staff Report
5-12-11 PC Minutes - Young Easement

Legislative History

5/12/11	Planning Commission	Recommended for Adoption at a subsequent City Council Meeting to the City Clerk Department

7 AP-1011-23 CONSIDERATION OF THE MAYOR'S APPOINTMENTS AS FOLLOWS:

DEVELOPMENT OVERSIGHT COMMITTEE FOR TIF NO. 2
TERM: 04-10-11 TO 04-10-14: Robert Castleberry, 4701 Windrush Circle
TERM: 04-10-11 TO 04-10-14: Michael Givel, 2800 Barry Switzer Avenue
TERM: 04-10-11 TO 04-10-14: Fred Walden, Post Office Box 644

HUMAN RIGHTS COMMISSION
TERM: 06-28-11 TO 07-13-12: Cheryl Wattley, 2007 Trailpine Court
TERM: 06-28-11 TO 07-13-13: Tamara Pullin, 415 College Avenue
TERM: 07-13-11 TO 07-13-14: Kay Ham, 504 Clearview Drive
TERM: 07-13-11 TO 07-13-14: Teresa Turner, 408 Piney Oak Drive
TERM: 06-28-11 TO 07-13-14: Marjaneh Seirafi-Pour, 4509 Canonbury Circle

REAPPORTIONMENT COMMISSION - WARD FIVE
TERM: 06-28-11 TO 07-01-15: Theodore Metscher, 8900 Alameda Drive

INFORMATION: In accordance with the Mayor's request, the above-described item is submitted for City Council's consideration. Michael Givel will replace Ted Greb; Cheryl Wattley will fill the unexpired term of Clint Williams who has resigned; Tamara Pullin will fill the unexpired term of Charlotte Gordon who has resigned; Marjaneh Seirafi-Pour will replace Michael Ridgeway who has resigned; Theodore Metscher will replace Mark Morton who is no longer eligible to serve; and Robert Castleberry, Fred Walden, Kay Ham, and Teresa Turner are reappointments.

ACTION NEEDED: Motion to confirm or reject the appointments.

ACTION TAKEN: _____

8 **RPT-1011-47**

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

ACTION NEEDED: Motion to acknowledge receipt of the report and direct the filing thereof.

ACTION TAKEN: _____

Attachments: Finance Investment Report

9 **RPT-1011-48**

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

ACTION NEED: Motion to acknowledge receipt of the reports and direct the filing thereof.

ACTION TAKEN: _____

10 **BID-1011-82**

CONSIDERATION AND AWARDING OF BID NO. 1011-82 FOR THE PURCHASE OF LIQUID ALUMINUM SULFATE FOR THE WATER TREATMENT PLANT.

ACTION NEEDED: Acting as the Norman Utilities Authority, motion to accept or reject all bids meeting specifications; and, if accepted, award the bid for liquid aluminum sulfate in the amount of $290 per dry ton to Southwest Chemical Services of McAlester, Oklahoma as the lowest and best bidder meeting specifications.

ACTION TAKEN: _____

Attachments: Bid Tab Alum.pdf

11 **BID-1011-83** CONSIDERATION AND AWARDING OF BID NO. 1011-83 FOR THE PURCHASE OF ANHYDROUS AMMONIA FOR THE WATER TREATMENT PLANT.

ACTION NEEDED: Acting as the Norman Utilities Authority, motion to accept or reject all bids meeting specifications; and, if accepted, award the bid for anhydrous ammonia in the amount of $1,630 per ton to Southwest Chemical Services of McAlester, Oklahoma, as the lowest and best bidder meeting specifications.

ACTION TAKEN: _____

Attachments: Bid Tab Ammonia.pdf

12 **BID-1011-84** CONSIDERATION AND AWARDING OF BID NO. 1011-84 FOR THE PURCHASE OF CHLORINE FOR THE WATER TREATMENT PLANT.

ACTION NEEDED: Acting as the Norman Utilities Authority, motion to accept or reject all bids meeting specifications; and, if accepted, award the bid for chlorine in the amount of $549 per ton to Altivia of Houston, Texas as the lowest and best bidder meeting specifications.

ACTION TAKEN: _____

Attachments: Bid Tab Chlorine.pdf

13 **BID-1011-85** CONSIDERATION AND AWARDING OF BID NO. 1011-85 FOR THE PURCHASE OF LIQUID FERRIC SULFATE FOR THE WATER TREATMENT PLANT.

ACTION NEEDED: Acting as the Norman Utilities Authority, motion to accept or reject all bids meeting specifications; and, if accepted, award the bid for liquid ferric sulfate in the amount of $267.22 per dry ton for 12% solution and $296.45 per dry ton for 10% solution to Kemira Water Solutions of Lawrence, Kansas as the lowest and best bidder meeting specifications.

ACTION TAKEN: _____

Attachments: Bid Tab Ferric Sulfate.pdf

14 BID-1011-86

CONSIDERATION AND AWARDING OF BID NO. 1011-86 FOR THE PURCHASE OF AGGREGATE BASE COARSE STONE AND FILL SAND FOR THE LINE MAINTENANCE DIVISION.

ACTION NEEDED: Acting as the City of Norman and the Norman Utilities Authority, motion to accept or reject all bids meeting specifications on Section 1; and, if accepted, award the bid to Bernie Mathes Trucking, Inc., in the amount of $11.75 per ton as the lowest and best bidder meeting specifications.

ACTION TAKEN: _____

ACTION NEEDED: Acting as the City of Norman and the Norman Utilities Authority, motion to accept or reject all bids meeting specifications on Section 2; and, if accepted, award the bid to Sand Express, Inc., in the amount of $5.25 per ton as the lowest and best bidder meeting specifications.

ACTION TAKEN: _____

Attachments: Bid tab Aggregate Materials

15 FP-1011-13

CONSIDERATION OF A FINAL PLAT FOR RED CANYON RANCH ADDITION, SECTION 2, AND ACCEPTANCE OF PUBLIC DEDICATIONS CONTAINED THEREIN.

ACTION NEEDED: Motion to approve or reject the final plat for Red Canyon Ranch Addition, Section 2; and, if approved, accept the public dedications contained within the plat; authorize the Mayor to sign the final plat and subdivision and maintenance bonds subject to the City Development Committee's acceptance of all required public improvements and receipt of documentation showing a warranty deed for private parkland is filed of record, and direct the filing of the final plat.

ACTION TAKEN: _____

Attachments: Location Map - Red Canyon
Red Canyon Sect. 2 Final Plat
Staff Report - Red Canyon
Red Canyon Ranch Prelim Plat
Parks Board Mts-Red Canyon
11-18-10 PC Minutes - Red Canyon FP

Legislative History

11/18/10	Planning Commission	Recommended for Adoption at a subsequent City Council Meeting to the City Clerk Department

16 **K-0910-29 FINAL**

CONSIDERATION OF FINAL ACCEPTANCE AND FINAL PAYMENT OF CONTRACT NO. K-0910-29 BY AND BETWEEN THE NORMAN UTILITIES AUTHORITY AND WYNN CONSTRUCTION COMPANY, INC., FOR THE WATER TREATMENT PLANT UPGRADE PROJECT, PHASE I.

ACTION NEEDED: Acting as the Norman Utilities Authority, motion to accept or reject the project; and, if accepted, direct final payment in the amount of $25,000 to Wynn Construction Company, Inc.

ACTION TAKEN: _____

Attachments: DW-121A Engineer's Final Acceptance of Project Form.pdf

17 **K-1011-147 FINAL**

CONSIDERATION OF FINAL ACCEPTANCE AND FINAL PAYMENT OF CONTRACT NO. K-1011-147 BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND REX PLAYGROUND EQUIPMENT FOR THE WALNUT RIDGE PLAYGROUND REPLACEMENT PROJECT.

ACTION NEEDED: Motion to accept or reject the project; and, if accepted, direct final payment in the amount of $2,250 to Rex Playground Equipment.

ACTION TAKEN: _____

18 **K-1011-184**

CONTRACT NO. K-1011-184: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN AND CORVEL HEALTHCARE CORPORATION TO PROVIDE CERTAIN HEALTH CARE SERVICES FOR WORKERS INJURED ON THE JOB.

ACTION NEEDED: Motion to approve or reject Contract No. K-1011-184 with CorVel Healthcare Corporation ; and, if approved, authorize the execution thereof.

ACTION TAKEN: _____

Attachments: Corvel Contract.PDF

19 **K-1011-186** CONTRACT NO. K-1011-186: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN AND MORAIN PROPERTIES IN THE AMOUNT OF $185,000 FOR THE PURCHASE OF PROPERTIES IN THE GREENBELT FLOOD PLAIN LOCATED AT 809 EAST COMANCHE, 815 EAST COMANCHE, 121 SOUTH COCKRELL, 123 SOUTH COCKRELL AND 114-116 SOUTH CARTER, ALL WITHIN THE CITY LIMITS OF CITY OF NORMAN AND BUDGET APPROPRIATION.

ACTION NEEDED: Motion to approve or reject Contract No. K-1011-186; and, if approved, authorize the execution thereof and the City Attorney to execute any and all documents to effectuate the purchase of the property and appropriate $225,000 from the Project No. PR0040, Greenbelt Fund (050-9175-452.60-01) to .

ACTION TAKEN: _____

Attachments: Attachment 1 Contract of Sale of RE

20 **R-1011-133-1** RESOLUTION NO. R-1011-133: A RESOLUTION OF THE NORMAN UTILITIES AUTHORITY AUTHORIZING THE CHAIRMAN TO SUBMIT A BUREAU OF RECLAMATION (BOR) GRANT APPLICATION FOR WATERSMART ADVANCED WATER TREATMENT PILOT AND DEMONSTRATION PROJECT GRANTS.

ACTION NEEDED: Acting as the Norman Utilities Authority, motion to adopt or reject Resolution No. R-1011-133; and, if adopted, direct submission thereof to the Bureau of Reclamation.

ACTION TAKEN: _____

Attachments: Resolution
Grant Summary

21 **R-1011-135** RESOLUTION NO. R-1011-135: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, SUPPORTING MILLER VALENTINE GROUP IN ITS ENDEAVOR TO CONSTRUCT UP TO A 50 UNITS OF SENIOR HOUSING, LOCATED ON BRANDYWINE LANE.

ACTION NEEDED: Motion to adopt or reject Resolution No. R-1011-135.

ACTION TAKEN: _____

Attachments: Cover Letter Brandywine senior housing 6-11
Brandywine senior housing location maps
Brandywine senior housing site plan
Brandywine senior housing site plan with unit type
Miller Valentine Group brochure
Miller Valentine Groups Experience list
R-1011-135 Support Miller Valentine

22 **R-1011-137** RESOLUTION NO. R-1011-137: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, TRANSFERRING $702 FROM THE FIRE INVESTIGATION LIABILITY ACCOUNT TO PURCHASE A BULLET PROOF VEST FOR THE FIRE DEPARTMENT.

ACTION TAKEN: _____

Attachments: Resolution

23 **GID-1011-40** RESOLUTION OF NGUYEN V. JOHN TERRY AND CITY OF NORMAN, CASE NO. CIV-10-0196-R, FOR SETTLEMENT OF MEDICAL BILLS IN THE AMOUNT OF $11,000.

ACTION NEEDED: Motion to approve or reject Resolution of Nguyen v. John Terry and City of Norman, Case No. CIV-10-0196-R, for settlement of medical bills in the amount of $11,000; and, if approved, direct payment to Norman Regional Health System in the amount of $11,000.

ACTION TAKEN: _____

Attachments: Terry Settlement Agenda Item

Non-Consent Items

24 O-1011-58 ORDINANCE NO. O-1011-58: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AMENDING ARTICLE VIII, SECTIONS 8-103 AND 8-104 OF CHAPTER 8 OF THE CODE OF THE CITY OF NORMAN PROVIDING FOR THE ESTABLISHMENT OF GENERAL FUND OPERATING RESERVE REQUIREMENTS, ESTABLISHMENT OF GENERAL FUND EMERGENCY RESERVE REQUIREMENTS, CREATION OF A NET REVENUE STABILIZATION ("RAINY DAY") FUND, ESTABLISHING REQUIREMENTS FOR FUNDING OF THE NET REVENUE STABILIZATION FUND, ESTABLISHING RESTRICTIONS ON THE APPROPRIATION AND USE OF NET REVENUE STABILIZATION FUND BALANCES; AND PROVIDING FOR THE SEVERABILITY THEREOF.

ACTION NEEDED: Motion to adopt or reject Ordinance No. O-1011-58 upon Second Reading section by section.

ACTION TAKEN: _____

ACTION NEEDED: Motion to adopt or reject Ordinance No. O-1011-58 upon Final Reading as a whole.

ACTION TAKEN: _____

Attachments: O-1011-58
O-1011-58 Annotated
Pert Exc April 20 2011 Finance Comm Minutes
Pert exc May 18 2011 Finance Comm Minutes

Legislative History

6/14/11	City Council	Introduced and adopted on First Reading by title only

25 O-1011-53 ORDINANCE NO. O-1011-53: 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 adopt or reject Ordinance No. O-1011-53 upon Second Reading section by section.

ACTION TAKEN: _____

ACTION NEEDED: Motion to adopt or reject Ordinance No. O-1011-53 upon Final Reading as a whole.

ACTION TAKEN: _____

Attachments: O-1011-53
O-1011-53 Annotated
Exhibit A to O-1011-53
Ordinance Timeline updated April 22, 2011
WQPZ Staff Report
4-14-11 PC Minutes-WQPZOD
April 8 PCDC Minutes
March 8 Conference minutes
February 11 PCDC Minutes
Support letter.pdf
Protest letters filed 6-20-11
Protest letters
Protest letters
Protest letters
Protest letters

Legislative History

5/10/11	City Council	Introduced and adopted on First Reading by title only
5/31/11	City Council	Postponed

26 **O-1011-52** 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.

ACTION NEEDED: Motion to adopt or reject Ordinance No. O-1011-52 upon Second Reading section by section.

ACTION TAKEN: _____

ACTION NEEDED: Motion to adopt or reject Ordinance No. O-1011-52 upon Final Reading as a whole.

ACTION TAKEN: _____

Attachments: O-1011-52
O-1011-52 Annotated
O-1011-52 Timeline 5-11-11
WQPZ Staff Report from PC meeting
4-14-11 PC Minutes-WQPZOD
April 8 PCDC Minutes
March 8 Conference minutes
February 11 PCDC Minutes

Legislative History

5/10/11	City Council	Introduced and adopted on First Reading by title only
5/31/11	City Council	postpone to the City Clerk Department

27 **R-1011-120** RESOLUTION NO. R-1011-120: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA ADOPTING THE STORM WATER MASTER PLAN FINAL REPORT DATED OCTOBER 2009.

ACTION NEEDED: Motion to adopt or reject Resolution No. R-1011-120.

ACTION TAKEN: _____

Attachments: R-1011-120

Legislative History

5/31/11	City Council	postpone to the City Clerk Department

28 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.

29 Adjournment

City of Norman, OK

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

Master

File Number: GID-1011-44

File ID:	GID-1011-44	**Type:**	Minutes	**Status:**	Consent Item
Version:	1	**Reference:**	Item No. 3	**In Control:**	City Council
Department:	City Clerk Department	**Cost:**		**File Created:**	06/13/2011
File Name:	Minutes			**Final Action:**	

Title: CONSIDERATION OF THE MINUTES AS FOLLOWS:

CITY COUNCIL STUDY SESSION MINUTES OF MAY 17, 2011
CITY COUNCIL CONFERENCE MINUTES OF MAY 31, 2011
CITY COUNCIL SPECIAL SESSION MINUTES OF JUNE 7, 2011
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NORMAN UTILITIES AUTHORITY MINUTES OF JUNE 14/JUNE 21, 2011
NORMAN MUNICIPAL AUTHORITY MINUTES OF JUNE 14/JUNE 21, 2011 NORMAN TAX INCREMENT FINANCE AUTHORITY MINUTES OF JUNE 14/JUNE 21, 2011

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

ACTION TAKEN: _____

Notes:

		Agenda Date:	06/28/2011
		Agenda Number:	3
Sponsors:		**Enactment Date:**	
Attachments:	May 17 Study Session Minutes, May 31 conference minutes, June 7 Special Session minutes.pdf, June 14-June 21 CC minutes.pdf	**Enactment Number:**	
Project Manager:	Brenda Hall, City Clerk	**Hearing Date:**	
Entered by:	Ellen.Usry@NormanOK.gov	**Effective Date:**	

History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:

CITY COUNCIL STUDY SESSION MINUTES

May 17, 2011

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a conference at 5:35 p.m. in the Municipal Building Conference Room on the 17th day of May, 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, Dillingham, Ezzell, Griffith, Kovach, Quinn, Mayor Rosenthal
ABSENT:	Councilmember Cubberley

DISCUSSION REGARDING ORDINANCE NO. O-1011-52 PROVIDING REQUIREMENTS FOR A DESIGNATED WATER QUALITY PROTECTION ZONE INCLUSIVE OF THE LAKE THUNDERBIRD WATERSHED AND ORDINANCE NO. O-1011-53 CREATING A ZONING OVERLAY DISTRICT FOR THE WATER QUALITY PROTECTION ZONE AND FOR SUBMITTALS FOR A VARIANCE.

Mr. Shawn O'Leary, Director of Public Works, highlighted the timeline of the ordinances and said Staff has been discussing stream planning corridors, local flood plains, and water quality issues since 2006. He said City Council accepted the Storm Water Master Plan (SWMP) in 2009, and meetings with developers were held in 2010. He said, at that time, Staff began research and development of a Stream Planning Corridor (SPC) ordinance with input from the United States Army Corps of Engineers (USACOE) and the Oklahoma Department of Environmental Quality (ODEQ). He said Staff introduced final draft ordinances in 2011, and the Planning Commission considered the ordinances in their meeting on April 14, 2011, and with a tie vote the ordinances move forward to City Council for their consideration on May 24, 2011.

Mr. O'Leary said water quality, protecting Lake Thunderbird and Norman's drinking water supply was a paramount issue from the onset of SWMP discussions. He said there had also been discussion of a future Lake Thunderbird Watershed Plan and City Staff is waiting for completion of the study by ODEQ.

Dr. Baxter Vieux, Vieux and Associates, said this topic is important to him as he is a resident of Norman as well as a Professor of Civil Engineering and Environmental Science at the University of Oklahoma (OU). He said he teaches hydrology and his core of expertise is hydrologic modeling of watersheds and lake water quality, and through his consulting firm, he contributes to technical studies of rainfall and runoff.

Mr. Vieux said he is a member of the Central Oklahoma Master Conservancy District (COMCD) Board that manages Lake Thunderbird's drinking water quality. He said the Oklahoma Water Resources Board (OWRB) is under contract with COMCD to evaluate lake water quality each year. The OWRB's May 6, 2011, water quality report states that excess nitrogen and phosphorous has led to significant water quality problems including reduced spawning grounds, reduced natural habitats, fish kills, hypoxic/anoxic conditions (no oxygen in water), harmful algal blooms, and public health concerns related to impaired drinking water sources. Councilmember Kovach asked what the public health concerns were and Mr. Vieux said they are primarily related to algal blooms because toxins are created in the water when that occurs as well as affecting water taste and odor.

Mr. Vieux said phosphorous is an essential nutrient in the energy cycle of human cells, but when there is excess phosphorous in the water problems arise. He said the OWRB developed a similar study for the Oklahoma Conservation Commission (OCC) on the amount of phosphorous going into the lake and the impact of water quality under current base line conditions as well as build out scenarios of urban development. He said 69% of the total phosphorous loading was coming from the Little River, which is the

urban area branch into the lake. Mr. Vieux said there is a minimal amount coming from neighboring cities. He said there is a greening of the lake that has caused Chlorophyll A (CHL-A) concentration in the lake to increase by 73 micro grams per liter (mgl) and the standard threshold is 10 mgl. He said the threshold is set at 10 mgl because lakes tend to develop harmful algal blooms above that figure and City's do not want public water supplies to have excessive CHL-A production, which is an indicator of the amount of algal growth in the water. He said the lake is currently over 70 mgl. Councilmember Atkins asked if the threshold is a limitation or a standard and Mr. Vieux said it is a standard that is in violation. He said ODEQ is in the process of formulating a Watershed Management Plan (WMP) and once that is enacted, the communities will be required to monitor and show progress towards meeting standards. Councilmember Atkins asked if ODEQ has regulatory authority on what is discharged into the lake on a regional or statewide basis and Mr. Vieux said the regulatory aspect of the standards will factor in when cities apply for storm water discharge permits and cities will have to meet ODEQ standards. Councilmember Dillingham asked what regulatory authority COMCD has under Norman's contract with them to force compliance and how bad does it have to get before they step in and say no more building permits. Mr. Vieux said he was not sure, but COMCD once filed a lawsuit against the City of Oklahoma City (OKC) because they were not doing enough under the storm water permit to limit discharge into the lake. Mayor Rosenthal asked at what point the lake started going over the 10 mgl and Mr. Vieux said 2006.

Mr. Roger Gallagher, Councilmember-Elect for Ward One, asked if there was a correlation between population growth and the problems associated with Lake Thunderbird such as chemicals in relation to the algal blooms and Mr. Vieux said the algal blooms is a combined effect of the hydrology of both the amount of run off that occurs and what it is picking up. He said in any given year, Norman has weather conditions that may affect the temperature of the turnover of the lake and the amount of run off that can affect algae. He said partial answers can be acquired by modeling, but no specific modeling has been done about why the lake has a certain level of algae each year, but historically there has been an increase. Mr. Gallagher asked if there were models for other areas in the nation where those communities have eradicated or reduced the algae growth and Mr. Vieux said there are a wide variety of success stories on the Environmental Protection Agency's (EPA) website. Mayor Rosenthal said eradication and reduction would fall under Best Management Practices (BMP) incorporated into the Water Quality Protection Zone (WQPZ) ordinances.

Mr. Vieux highlighted the Lake Thunderbird Watershed Analysis and Water Quality Evaluation Report prepared by Vieux and Associates dated October 25, 2007, for the OCC. At that time, it was forecasted that at a full build out (FBF) scenario, the phosphorus level would be 40 mgl, but the lake is nearly double that now. He said the projected impervious area percentage change was 5% from baseline to build out. He said Vieux and Associates estimated an annual total average of phosphorus load by sub-basin to determine the types of practices that need to be applied for its reduction. He said the greatest export of phosphorous is coming from urbanized areas and offered ideas on a group of practices to reduce phosphorus that includes voluntary fertilizer reduction, statutory fertilizer reduction, and structural controls. He said reduction cannot be achieved by using a single set of practices such as fertilization management only, whether statutory or voluntary. He said structural controls are regional detention ponds that control lots of area and have a great detention capacity that allows the settling of phosphorous and particulates. He said the City of Norman has the largest percentage of watersheds than the other communities that use Lake Thunderbird.

Mr. O'Leary said the WQPZ and Overlay District ordinances would apply only to the Lake Thunderbird watershed. He said Norman has 51% of the watershed, Moore - 8%, Oklahoma City - 38%, and unincorporated areas - 3%. He highlighted how much of the watershed in Lake Thunderbird is included in the Norman 2035 Plan in the current and future urban service area, suburban residential, and country residential.

Mr. O'Leary displayed a schematic of a three stage stream buffer zone that would include a streamside zone, middle zone, and outer zone. He displayed a map of an existing development that, coincidentally, is similar to the schematics of the WQPZ. Councilmember Dillingham felt it important to note that the developer did not design this development with the goal to establish the three stage buffer system, but the development is onlyan example of what the three stage system would look like. Mr. O'Leary agreed and said the developer wasplanning for floodplain conditions and working with existing topography. Councilmember Ezzell said he understood the ordinances would not apply to existing plats, which would be grandfathered in and Mr. O'Leary said correct, unless the plats were to expire. He said if the plat expired, the City would not remove any existing infrastructure, but undeveloped portions would be changed to meet ordinance requirements. Councilmember Atkins asked if there would be a conflict of the grass height ordinance in areas zoned R-1, Singe Family Residential, and Mr. O'Leary said Staff has discussed a maximum height of six inches and the ordinance for high weeds and grass allows up to twelve inches before being considered a violation so this would need to be addressed.

Mr. O'Leary said the ordinances have a measuring system based on the greater of three dimensions which are FBF (map system), FEMA floodplain, or 100 foot buffer. He said every stream is different and in the Dave Blue Creek Tributary the governing dimension would be the FBF on both sides while the Little River's would be a 100 foot buffer on one side and FEMA floodplain on the other side.

Councilmember Kovach asked Mr. O'Leary to explain the FBF and Mr. O'Leary said the Full Buildout Floodplain is the full build out of the Norman 2025 Land Use and Transportation Plan for the 1% 100 year storm.

Ms. Kathryn Walker, Assistant City Attorney, discussed the ordinances a said one ordinance would amend subdivision regulations and the other would be an addition to the zoning ordinance. She said the ordinances will only affect new developments in the Lake Thunderbird watershed in Norman; a WQPZ would be designated along each stream to serve as natural vegetative buffer; uses allowed would be limited (the closer to the stream, the more limited); variations from the WQPZ designation will be allowed; variances from the use restriction will be allowed; and there will be no requirement that any portion of the WQPZ be dedicated for purposes of public access and/or trail systems. She said the base WQPZ width is going to be the greater of 100 feet in width measured from the top of the bank on each side of the stream or designated FBF or FEMA floodplain. She said there could also be an alternative width determined through the variation process. Mayor Rosenthal asked where the 100 feet came from and Ms. Walker said Staff looked at similar ordinances throughout the country and may of them, as well as the EPA, recommended 100 feet as the base width. She said the width may be increased depending on slope, stream order, and encompassing wetlands.

Ms. Walker said the WQPZ under the ordinances would be divided into the following three sub-zones:

- Zone 1 – Streamside zone (the first 25% of water quality protection but no less than 25 feet)
- Zone 2 – Middle zone (reaming 67% of WQPZ)
- Zone 3 – Outer zone (reminder of WQPZ)

Ms. Walker said the significance of the sub-zones is to determine allowable uses and the closer to the stream, the more restricted the uses. Ms. Walker said allowable uses are as follows:

- **Zone 1 – Streamside Zone**
  - Flood control structure
  - In channel detention ponds (not in FEMA floodplain)
  - Utility rights of way and/or easements
  - Existing agricultural operations

- **Zone 2 – Middle Zone**
  - All uses allowed in Zone 1
  - Foot and bike paths, trails, access ramps, entries
  - Recreational play fields

- **Zone 3 – Outside Zone**
  - All uses allowed in Zone 1 and w
  - All uses allowed by underlying zoning designation except septic systems, permanent structures, impervious cover (paths ok), feedlot operations

Ms. Walker said developers can request a variance from use restrictions through the Board of Adjustment.

Councilmember Atkins asked about septic systems in the WQPZ and how that would work if they were functional, but not approved by ODEQ and Ms. Walker said property owners can have a standard septic system on the property, but it can not be located within the WQPZ.

Councilmember Ezzell said Section 19 states that variances can be granted where a literal enforcement of the positions of the ordinance result in unnecessary hardship as a criteria for variance, but also alludes to the fact that if you can have an alternative engineering solution for the storm water if it will substantially reduce or eliminate the affect the development has on flooding and water quality; however, language in Section 22 states that the only appropriate condition for a variance is substantial hardship. He asked if variances could be denied if unnecessary hardship is not shown and Ms. Walker said this criteria was found in other City's ordinances, but her assumption would be that the goal is not just the pollutant removal that buffers achieve, but also stream bank stabilization, reducing sedimentation, etc., which are other benefits of buffers. Councilmember Ezzell felt you could have a solution that achieves all the goals, but it could be denied on the basis of what is considered a hardship.

Ms. Walker said other innovation elements of the ordinances to achieve good developments include clustering; buffer averaging; steep slopes; engineered solutions; stream order; water pollution hazard setbacks; WQPZ management and inspection; and encourages use of low impact development.

Ms. Walker said Councilmember Ezzell had previously asked, "when may the WQPZ be reduced." She said considering first order streams that are not as identifiable, the City has allowed for an automatic reduction of the base buffer width achieving a 75% reduction in nitrogen and 58% reduction in phosphorous by using BMP's as identified in the integrated Storm Water Management Manual (iSWM) or fifty feet, but no less than FBF. Councilmember Dillingham asked Ms. Walker to explain why the iSWM is such a gooddocument, how the City intends to use it, and if the City will license it as its own. Ms. Walker said the iSWM was placed in the ordinance as a guidance tool for developers and the City. She said the City can license the manual for a fee of $3,500, but wants to wait to see how it works as a tool first. Mr. O'Leary said iSWM's look similar across the nation and feels the City can benefit from these. He said later, the City can develop its own manual or buy license to the Texas manual.

Councilmember Ezzell said he was concerned the City has a variance process that is nominal and not really a variance process because, based on the language, it is really at the whim of the Public Work's Director with no standardized criteria to dispute the Public Work's Director conclusions. Ms. Walker said Staff struggled to create predictable criteria because the science is evolving and BMP's differ so much on what can be used. She said the idea of the target reduction evolved over time and is something concrete the City can point to and say yes, it achieves the same. Mr. O'Leary said the iSWM gives clear guidance as to what BMP's can achieve reduction, which ones cannot, and the range of achievable reductions, etc. He said as the Director, he does not want a lot of latitude. Councilmember Kovach asked if there is an appeal process and Ms. Walker said yes, they can appeal to City Council.

Ms. Walker highlighted the WQPZ averaging concept and said its purpose is to accommodate unusual or historical development patterns, shallow lots, stream crossings, or storm water ponds. She said the development would need an overall average width of 100 feet, but could be reduced in some sections to accommodated unusual aspects. She said the total width would not be less than 75 feet at any location and those areas can not comprise more than 50% of the length of the zone. She said there will be no averaging where the slopes are greater than 15% within 50 feet of the stream.

She said the zoning ordinance includes transfers of development density that allow smaller lot sizes than would normally be allowed.

Councilmember Ezzell said ordinance language in Section 19-514(c) states, "The Public Works Department shall inspect the buffer annually and following severe storm for evidence of sediment deposition, erosion, or concentrated flow channels and corrective actions taken to ensure the integrity and functions of the WQPZ." He asked how the City would pay for those inspections, if it is a realistic requirement, and why it is a necessary requirement. Mr. O'Leary said it will be a challenge to Staff, but the ordinance language anticipates other improvements in the storm water program that are also in the SWMP to be paid for by the additional storm water utility fee system. Councilmember Ezzell wondered if the language should be added after a utility fee has been established and Mr. O'Leary said similar language was found in other City ordinances and was strongly felt by the other agencies involved in the process that someone, which should be the City, has to manage the WQPZ. Councilmember Dillingham asked how many actual developments the City currently has at the predevelopment level that would require inspections and Mr. O'Leary said very few and the ordinances only apply to the Lake Thunderbird watershed and properties that have streams. Councilmember Griffith said he was concerned about the language "corrective actions taken" and asked what entity would take corrective actions. Would it be the City, Homeowners Association, property owner? Mr. O'Leary said it would be treated similar to retention basins that are the responsibility of the property owner or neighborhood association unless is was a structure such as a damn that the City has accepted responsibility for through the platting process.

Councilmember Ezzell said there seems to be an inherent inequity between existing parts of Norman and future parts of Norman that would be governed by the ordinance. He said there was great consternation in the SWMP regarding existing parts of Norman and the cost of acquisition of drainage easements. He said the City would buy easements from the existing property owners while requiring new property owners to donate easements and asked why. Mr. O'Leary said, historically, the City has not done a great job of acquiring dedicated easements for drainage systems to the extent that 70% of the City's streams and channels do not have public drainage easements included in the original plat, which means the City is trespassing if they enter to maintain the drainage systems. He said that was identified as a weakness in the current system and it was recommended that, over time, the City would acquire easements beginning with the deteriorated areas such as Imhoff Creek. Councilmember Kovach said the City will not be able to offer enhanced maintenance until a storm water utility fee is established and Mr. O'Leary agreed.

Councilmember Ezzell said everyone agrees Lake Thunderbird is a severely impaired body of water and is impaired by water from current urban runoff, but the ordinances do nothing to address current run off. He said there are non-structural and structural BMP's, but the ordinances only focus on buffer zones and that seems myopic. He said the language in the SWMP states, "adding buffer width might make more sense in the City areas that are subject to relatively less dense urban development such as the suburban residential areas and the country residential areas, especially those draining into Lake Thunderbird. In the current urban and future service areas, the Norman 2025 Plan discusses a need to provide for more dense development. It needs more densely developed areas and may be impracticable and inconsistent to add buffer width," yet the City is

bringing an ordinance forward that is all buffer width everywhere. Ms. Walker said the engineering solution portion of the ordinance was added as an eye on the urban areas because there will be developments where a buffer may not be feasible. Councilmember Ezzell said there are 10,000 acres of current and future service area that is being overlaid with an ordinance that the SWMP states is inappropriate, impractical, and inconsistent and he does not understand why. Mr. O'Leary said the consultant tried to be mindful that every area is unique and every development different and that is why provisions were included in the ordinance in order to try to address those conditions. Councilmember Ezzell said the City is proposing to adopt these ordinances with no idea of how to pay for it, what it is going to cost, or how to implement it, which is the classic cart before the horse and that concerns him. Mayor Rosenthal said looking at evidence of the conditions and predictions in 2007, then fast forwarding to current conditions, she does not believe this is putting the cart before the horse and feels the City needs to act now to protect the lake.

Councilmember Kovach said it is undisputable that the situation with the lake is based on current conditions and even if the City never allows construction of another development, there would still be a big problem. He feels it is imperative to move forward expeditiously on a ban of phosphate based fertilizer in the City. Councilmember Dillingham reminded everyone that it was at the specific request of the development community that the City adopt these ordinances to protect water quality first.

Councilmember Atkins asked what the measurable gain would be to enact the ordinances when it appears that all the high concentrates being discharged into the lake come from outside the WQPZ. Mr. Vieux said Norman has 50% of the lake drainage areas and buffer areas will have a beneficial impact even though effects have not been modeled. Councilmember Ezzell asked what discussions COMCD is having with regard to OKC and Moore and the impending state studies. Mr. Vieux said Norman is the biggest consumer of the water in the lake so they are all waiting for the WMP to be put into place, but currently COMCD works with communities on helping with developments that do not have proper construction erosion controls or storm water protection plans. He said COMCD does not have the power to control the developments, but that may change with a WMP.

Mr. O'Leary said Norman's next priority under the SWMP action plan, in terms of the ordinances, will be a collaborative effort between Moore, OKC, Norman, COMCD, ODEQ, and other entities to address these problems on a more global basis. Mayor Rosenthal said it is hard to negotiate with another group that has no vested interest in the lake especially if the City of Norman does nothing. She said Del City and Midwest City are looking at Norman to take a leadership role in protecting the water supply.

Councilmember Kovach said when there is a Council Committee, the Council generally receives agendas and minutes from that Committee; however, Council was not kept informed of storm water meetings or provided minutes. He said several Councilmembers would probably have attended some of those meetings or read the minutes to say abreast of information. Mayor Rosenthal said the City held periodic Study Sessions and briefings to the Planning and Community Development Committee (PCDC).

Councilmember Butler asked about the timing of the storm water permit renewals and how that fits in with what is going on at the State level. Mr. O'Leary explained that storm water permits are issued by the State for the EPA mandated and ODEQ administered Storm water Phase II process. He said the first permit was issued in 2005 and expired in 2010, and is basically an "order" from the State that tells cities what they need to do in the next five years for compliance. He said the permit is delayed, but he expects it to be renewed this summer. He said part of the delay could be staffing and resource issues at the State, but believes it could also be from interest in the WMP and SWMP. He said the permit may address specific storm water concerns in regards to Lake Thunderbird that was not addressed in the 2005 permit.

Mr. Gallagher said water quality projects around the country have received block grant money from the Federal government and asked if that is what the City has planned or were the use of general obligation bonds planned. Mayor Rosenthal said there will be meetings regarding the creation of a storm water utility and all that entails. She said there are not a lot of grant opportunities, but a high priority lobbying initiative is authorization of $10 million under the Water Resources Development Act (WRDA) that can be used on storm water infrastructure. Mr. O'Leary said the SWMP takes a two part approach to funding, which are general obligation bonds issued through voter approval and a storm water utility fee. Under the utility fee, every parcel in Norman would pay a fee based upon impermeable area, averaging about $5 to $6 for a typical home per month. Councilmember Ezzell asked if Council could create a utility fee without a vote of the people if it is called a fee and not a rate. Mr. Jeff Bryant, City Attorney, said a utility rate would have to go to a vote of the people, but a utility fee could be enacted administratively.

Councilmember Ezzell said the Norman Developers Council had provided City Council alternate ordinances, which have not been discussed and felt Council should take additional time to review and consider these ordinances. He said one of the reasons Council accepted the SWMP instead of adopting the plan was because of the noted trepidation from the community with regards to stream planning corridors, now referred to as the WQPZ. Mayor Rosenthal said the alternate ordinances came from Harold Heiple, Attorney at Law, on March 9, 2010, and a number of the provisions in that ordinance have been incorporated into the ordinances.

Councilmember Dillingham asked Mr. O'Leary when he anticipated the first developments to occur in which the City would accept the responsibility for maintenance and Mr. O'Leary said two years at the earliest. Councilmember Quinn asked if it would be two years before the ordinance is enforced because it applies to new development, which is probably not going to happen for awhile due to the economy, which would have no affect on the quality of the lake until it is time to be enacted and Mr. O'Leary said that was correct. Mr. O'Leary said the City's inheritance of the responsibility of structural control is different than a development that could occur with homes being built.

Councilmember Ezzell asked what an existing Homeowners Association (HOA) with a structural aspect such as a detention pond could expect out of the ordinance as far as assistance from the City and Mr. O'Leary said there has been feedback from HOA's that they would like the City to implement the enhanced maintenance and channel clearing concepts and there has been positive feedback regarding the storm water utility fee concept as well.

Councilmember Dillingham asked if it were reasonable, from Staff's perspective, that within that two year period, the remainder of the policy pieces that need to be completed in order to have a comprehensive storm water plan could be accomplished and Mr. O'Leary said yes. He envisioned a lot of improvements over the next two years in meeting the goals in the action plan. Councilmember Dillingham said in addition to the fertilizer issue, some of the other southwest areas have adopted requirements for xeriscaping and asked if xeriscaping or landscaping with more drought tolerant, indigenous plant varieties act an any way to improve water quality by itself. Mr. Vieux said yes, infiltration is your friend in water quality so if you can get water to infiltrate the ground you will have less run off, less watering, and less fertilization.

Councilmember Ezzell asked if existing and future detention basins in the urbanized buildout area taken into account in the modeling done as part of the SWMP and Mr. Vieux said yes, in a general way but not specifically.

Councilmember Ezzell asked if the City foresees any problems in making the ordinance work with the existing subdivision ordinances and how it would be applied. Mr. O'Leary said he did not think there would be any problems meshing the new ordinance with the existing ordinance as many developers are unintentionally meeting guidelines for the WQPZ, for development reasons that have nothing to do with water quality issues.

CITY COUNCIL CONFERENCE MINUTES

May 31, 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 31st day of May, 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, Ezzell, Griffith, Quinn, Mayor Rosenthal
ABSENT:	Councilmember Kovach

DISCUSSION REGARDING THE OKLAHOMA WATER RESOURCES BOARD STATE WATER PLAN.

Mr. Steve Lewis, City Manager, said Staff will be providing an update on the Oklahoma Comprehensive Water Plan (OCWP) which comes at the same time as Norman is working on a drought plan. He said one of the main objectives of the OCWP was to provide a 50 year water supply plan in terms of funding, finances, and improvements. Mr. Lewis said the goal of the OCWP is very ambitious and said all the competing issues with respect to the OCWP include: recreational benefits of water; maintaining lake levels; new reservoir development; agricultural needs; impacts of potential water sales to Texas; large cities versus rural cities; state versus tribal ownership of water; protection of wildlife habitats; sustainable water management; and funding of infrastructure. Mr. Lewis said the state released their basin by basin analysis on May 26, 2011; therefore, Staff has not had a lot of time to review the report. He felt Staff will address areas that are most important to the City, but may need to adjust some of their findings after examining the report in a more detailed manner.

Mr. Ken Komiske, Director of Utilities, said the Oklahoma Water Resources Board (OWRB) published the first OCWP in April 1980, established eight planning regions, and determined Norman was in the Central Planning Region. He said according to State law the OCWP must be updated every ten years and the last update was done in 1995. Mr. Komiske said Legislature directed the OWRB to update the OCWP in 2006 emphasizing public participation. He said 42 local input meetings were held in 2007 and 2008, to include a public meeting at the Cleveland County Fairgrounds which was attended by both Council and Staff. Mr. Komiske said in April 2011, OWRB began holding regional meetings to gather public input and he said the last regional meeting was held on May 26, 2011, at Norman. He said the hurried timeline from when OWRB provided Norman with the draft OCWP to the regional meeting was only a few days and did not allow for a lot of public feedback. He said Staff will discuss two components of the OCWP tonight, first the general statewide overview of the OCWP followed by the regional overview of the OCWP.

Mr. Mark Daniels, Utilities Engineer, said a draft OCWP identifying 82 water sheds, broken into 13 regions, was issued in 2011 and includes a statewide water assessment; regional and statewide opportunities and solutions; and the water policy and related recommendations. He said the OCWP identified 12 of the 82 basins in Oklahoma as "hotspots", (Basin 62 for Norman was not identified as one of the twelve), but the information provided is merely an overview with very little data specific to Norman. Mr. Daniels said the OCWP also sub-divided the recommendations into higher and lower priority.

The identified "hotspots" were mainly located in western Oklahoma and seem to generally be agricultural in nature. The ranking was based on physical supply availability (50%), water quality (20%), and permit availability (30%). Mr. Daniels said Staff felt the ranking criteria should have considered the treat-ability of the water and cost to provide a potable water supply; potential yield reduction for the Garber Wellington aquifer; and potential change to Maximum Contaminant Level (MCL) for chromium or other metals.

Additional criteria identified in the OCWP is the definition of Marginal Water Quality (MWQ) which includes storm water and Wastewater Treatment Plant (WWTP) effluent. Mr. Daniels said Staff felt storm water and WWTP effluent are suitable for use and should not be considered marginal. Storm water is the source of most water supply lakes and alluvial ground waters and secondary effluent from Norman's WWTP is, in most respects, of better quality than storm water flowing into Lake Thunderbird. Tertiary treatment at the WWTP would be provided if indirect reuse was proposed.

Mr. Daniels said the draft OCWP's recommendations are generally without funding options and in-stream or environmental flows seem to be favored over a municipalities right to reuse effluent from its Publicly Owned Treatment Works (POTW). He said the OCWP briefly mentions WWTP effluent reuse and only recommends it for industrial and irrigation uses. Mr. Daniels said the development of regulations by the OWRB and Oklahoma Department of Environmental Quality (ODEQ) for indirect potable reuse is not a priority. He said the OCWP recommends, but does not require, development of water conservation plans, drought contingency plans, or emergency plans and said entities have no incentive to develop these plans and reduce water usage.

Mr. Daniels highlighted the OCWP Central Region update stating specific data is to be published in 13 regional reports and issued at least seven days prior to a scheduled regional meeting. Norman is in the Central Planning Region and received the summary letter from OWRB on May 20, 2011. The Central Region Report is 135 pages total and was published May 23, 2011, just four days before the regional meeting was held on May 26, 2011.

Mr. Daniels said concerns have surfaced from Staff's preliminary evaluation of the OCWP to include the

Norman Water Demand Findings:

- Initial review of Basin 62 summary indicates Norman has adequate supply to meet its water needs through 2060 which assumes the following:
  - ✓ Temporary water rights of 2 acre-feet per year per acre (AFY/A) continues; this equates to about 33 million gallons per day (mgd) supply from the Garber Wellington. Currently Norman is at 6.5 mgd and after the City's 10 new wells are in operation, it will be approximately 10 mgd.
  - ✓ Population growth provided by the Department of Commerce and City Staff felt the numbers are low.
- Retail population served shows Norman with 90,805 in 2010 and projects 113,160 in 2060:
  - ✓ Staff's projection (based on the Norman Land Use and Transportation Plan) in 2060 is 201,961.
- Public water demand shows Norman needing 13,840 AF/Y in 2060 which is equal to an average of 12.35 and 15.43 mgd respectively:
  - ✓ Staff projection for average daily demand in 2060 is 39 mgd, a deficit of approximately 24 mgd, assuming no loss in groundwater production.

Norman Water Supply Findings:

- Table on page 37 of the OCWP indicates Norman has 37,089 AF/Y, or 33 mgd, in water rights available now:
  - ✓ Staff analysis indicates a total of approximately 38,000 AF/Y with 9,460 from Lake Thunderbird (8.35 mgd) and 28,600 from the Garber Wellington (GW) aquifer.
- Table on page 37 of the OCWP incorrectly identifies the sources as:
  - ✓ Surface water (0%), alluvial groundwater (92%), and bedrock groundwater (8%) – which Staff believes is approximately surface water (70%) and bedrock groundwater (30%).
- Central Oklahoma Master Conservancy District (COMCD) is not included on this table of water providers.
- Ground water rights of two AF/Y per acre is not necessarily equal to sustainable yield of the aquifer.

Surface Water Findings:

- "Lake Thunderbird is expected to continue to supply additional supplies to its members in the future."
- "The availability of permits in Basin 62 is not expected to limit the development of surface water supplies for in-basin use through 2060."
  - ✓ These statements seem inconsistent with the table on page 7, Surface Water Resources, which shows almost no available yield remaining to be permitted in Basin 62. Additionally, the yield of Lake Thunderbird is shown as 21,700 acre-feet per year (AFY) which does not account for the pending Bureau of Reclamation (BOR) reduction to 15,600 AFY.
- "Relative to other basins in the State, the surface water quality in Basin 62 is good."
  - ✓ Contrary to this statement, Lake Thunderbird is shown on the Table on page 18 to have elevated chlorophyll-a, conductivity, total nitrogen, total phosphorus, and turbidity.

Basin 62 Groundwater Findings:

- "There are no significant groundwater quality issues in the basin." (page 119)
  - ✓ This statement is then followed by "However, high concentrations of nitrate, arsenic, chromium, and selenium have been found in the GW aquifer."
- "The use of groundwater to meet in-basin demand is not expected to be limited by the availability of permits through 2060." (page 119)
  - ✓ This statement is preceded by "The OWRB and United States Geological Survey (USGS) are currently conducting a detailed study of the GW aquifer that will establish the maximum annual yield..., and may change the current 2 AFY/A allowed under temporary permits."
  - ✓ Experts from Association of Central Oklahoma Governments (ACOG) expect the GW yield to be reduced to around 0.5 AFY/A; if so, Norman's theoretical annual yield would be reduced from about 25.5 mgd to 6.4 mgd.

Additional statements:

- Table on page 41 of the OCWP indicates Norman needs are as follows:
  - ✓ Short Term: water tower and raw water line to Lake Thunderbird
  - ✓ Long Term: water tower and distribution improvements
  - ✓ No mention of additional surface water supply
- Staff desires input regarding the draft OCWP and the conclusions regarding Basin 63 in the Central Planning Watershed:
  - ✓ Population and water use projections for Norman?
  - ✓ Quality and sustainable yield of the GW Aquifer?
  - ✓ Water rights versus sustainable yield?
  - ✓ Continued availability of current water supplies?
  - ✓ Availability of future water supplies within Basin 62?
  - ✓ Reallocation of under utilized rights to Lake Thunderbird?
  - ✓ Increased effluent reuse?
  - ✓ Indirect potable reuse?
  - ✓ Long term needs?

Mr. Daniels said Norman submitted technical and general comments to OWRB concerning the draft OCWP recommendations and OWRB said they would review the comments and consider them for revision in their final OCWP report. Mayor Rosenthal asked Staff if they received any feedback from OWRB as to why there was such a disconnect in the OCWP report versus basic factual data and Mr. Komiske said OWRB mentioned they have to use the data that was available to them. He said OWRB was appreciative that Norman Staff brought the inconsistencies to their attention. Mayor Rosenthal felt OWRB overlooked the reuse issue and Mr. Komiske said OWRB is adhering to State law which states there are no regulations for reuse. He said Norman commented specifically on this topic, reiterating that OWRB stated in the draft OCWP that reuse could be a possibility for industrial and irrigation use. Mr. Komiske said Norman also commented on indirect potable use and stated OWRB did not acknowledge indirect potable reuse even though it is on the cusp of becoming state law.

Mayor Rosenthal said another concern is that the OWRB's strategy is forcing the water issues back to the regions; therefore, the OCWP will not truly be a State water plan that helps to resolve use conflicts or the varying demands on use. Mr. Komiske said it has been suggested the State should set up 13 regional plans and each region will have a member at OWRB. Mayor Rosenthal asked Staff what the next steps will be and Mr. Komiske said OWRB did not say whether or not they would directly respond to Norman's comments. Mr. Daniels said OWRB should have a final revised OCWP report by September 2011, and Norman would have 30 days to respond.

Items submitted for record

1. Memorandum dated May 26, 2011, from Mr. Steve Lewis, City Manager, to The Honorable Mayor and Council
2. PowerPoint Presentation entitled, "Oklahoma Comprehensive Water Plan," dated May 31, 2011
3. Draft letter dated May 27, 2011, from Mr. Ken Komiske, Director of Utilities, to Ms. Fleming, Oklahoma Water Resources Research Institute

UPDATE OF THE UNIVERSITY NORTH PARK TAX INCREMENT FINANCE (TIF) DISTRICT.

Mr. Jeff Bryant, City Attorney, highlighted the University North Park Tax Increment Finance (UNPTIF) District and said the Project Plan was adopted in May 2006. He said the goal was to create a unique development that will attract visitors from around the region for shopping and entertainment as well as stimulate major economic development, office, and mixed-use development in the northern portion of the Project Area.

Mr. Bryant said there are five components to the Project Plan to include:

1. Conference Center/Cultural Facilities (Rock Creek Overpass)
2. Traffic and roadway improvements: I-35 and Robinson Street improvements – East and West side; 24th Avenue NW improvements – Robinson Street and 24th Avenue NW , signals, intersections, etc.; I-35 Frontage Road; and Tecumseh Road Improvements.
3. Legacy Park
4. Lifestyle Center
5. Economic development – quality jobs

The original allocation for the Hotel/Conference Center was $16.5 million which opened in October 2008 and the TIF funds were reallocated to the Rock Creek Overpass ($7.75 million) and Cultural facilities ($7.75). Mr. Bryant said the Rock Creek Road Project is estimated to be approximately $1 million under budget and has a completion date of July 2011.

Mr. Bryant said the traffic and roadway improvements are currently at $11.55 million and he provided a list of completed projects as follows:

- Robinson Street/24th Avenue NW Improvement: $750,000 – Developer reimbursed from accumulated revenues at 90% of cost.
- Robinson Street/East I-35 Drive: $319,713 - Developer reimbursed from accumulated revenues at 90% of cost.
- Tecumseh Road at Flood Avenue/24th Avenue NW: $265,525 - Developer reimbursed from accumulated revenues at 90% of cost.
- Mount Williams/24th Avenue NW Intersection: $365,095 - Developer reimbursed from accumulated revenues at 90% of cost.
- Frontage Road to Conference Center Drive: $659,305 – Paid from accumulated revenues in June 2008.
- Conference Center Drive/24th Avenue NW Intersection: $525,797– Paid from accumulated revenues in June 2008.

The TIF traffic and roadway improvements remaining are broken into first priority and second priority as follows:

First Priority: $4,225,000 Total Estimated Cost
- Robinson Street/East Interstate Drive (northbound on-ramp): $1,747,041
- Frontage Road Extension : $1,525,000
- Design of Robinson Street/ West Interstate Drive and Crossroads Boulevard: $200,000

Second Priority: $3,954,018 Total Estimated Cost
- Tecumseh Road/Flood Avenue, Tecumseh Road, and 24th Avenue NW intersections: $846,712
- Tecumseh Road/East I-35: $946,723
- Tecumseh Road/West I-35: $650,000
- Robinson Street/West Interstate Drive and Crossroads Boulevard: $1,110,583
- Remaining intersections (2): $400,000

Mr. Bryant highlighted the first priority traffic and roadway improvements stating the Robinson Street/East I-35 interchange (northbound on ramp) was a $2.7 million project but the City received $1,016,834 from Association of Central Oklahoma Governments (ACOG). He said the project design will be concluded and the right-of-way (ROW) will be cleared by August 2011. The bid process is scheduled to be completed by January 2012, construction will commence in Spring 2012, and the construction will take three to six months. Mr. Bryant said the frontage road extension that will loop around 24th Avenue NW will take three months to design, two months for the bidding process, and approximately six months to construct. He said the West I-35 Robinson Improvements will take approximately six to twelve months to design and the Oklahoma Department of Transportation (ODOT) will be involved in the project.

The Lifestyle Center has approximately an $8.25 million incentive and will be located in the area east of 24th Avenue NW and north of Robinson Street. Mr. Bryant said the developer is still committed to the Lifestyle Center and stated possible concept modifications to the Lifestyle Center include: dropping the theater and adding hotel sites/cultural facility site; add parking for retail along Legacy Drive; widen park features in center of Legacy Drive, and shift location of anchor and junior anchors. He said another concept that has been discussed is a 106,000 square foot grocery flagship store, not currently located in Norman. Mr. Bryant said major retailers are beginning to look for locations and feel Norman is a potential "hotspot". He said the International Council of Shopping Centers (ICSC) are meeting later this month in Las Vegas and possible anchors and junior anchors are currently in discussions with the developer about possible locations in the TIF area. Mr. Bryant said Inland Real Estate Investment Trust (REIT) recently purchased the Power Center, (retail area located west of 24th Avenue NW) at a premium price and the ad valorem for those parcels is expected to double in 2013. He said Rock Creek Overpass is scheduled to open in July 2011 and developer representatives have indicated the announcement of the opening is helping tremendously in their discussions with potential retailers who desire locations closer to Rock Creek Road.

Mr. Bryant provided an update on the Economic Development (ED) and said ED fees were eligible because of UNPTIF's designation as an Enterprise Zone. He said there is $8.25 million to help create quality jobs, sixty acres is available at a reduced cost, and forty acres is available at market price. Mr. Bryant said Norman Economic Development Coalition (NEDC) purchased 30 acres on October 15, 2010, that could accommodate a six building business park; incentive funding/debt authorization was approved in September 2011; and prospects of quality jobs employers are being pursued.

Legacy Park also has $8.25 million available and included enhanced landscaping, Legacy Trail, public art, and park construction. Mr. Bryant stated the final design of Legacy Park was completed in the Fall 2009 and was recognized by the American Society of Landscape Architecture Central States Design. He said Development Agreement No. 3 was approved October 2007 and the Legacy Park design was completed September 2009. Bids were opened December 2009, but the park land has not been donated. Mr. Bryant said a main issue is a $5.9 million penalty if a 250,000 square foot Lifestyle Center is not built by January 1, 2016, and Staff has been working on Development Agreement No. 5 which addresses several issues that may allow Legacy Park to move forward.

Mr. Bryant highlighted the UNPTIF revenues and said from October 2006 through March 2011, the TIF generated $17,717,672 million in sales tax. He said the total sales tax generated in the TIF was projected at $17,962,270, therefore the TIF collected a little less than expected. Mr. Bryant said $4,757,440 million was from transfer adjustment (to General Fund), leaving the net TIF generated sales tax at $12,960,232. The $12,960,232 was split under the project plan, with 40% ($5,428,374) going into the General Fund and 60% ($7,531,858) going towards the project plan components.

The UNPTIF total ad valorem revenues are approximately $3.7 million, cumulative through 2011, i.e., properties built in 2009, assessed in 2010, and taxes payable in 2011; with the TIF portion (50%) being $1.8 million. The projected total ad valorem was $2.8 million therefore collections are 23.6% above projections.

The original note in 2009 from the Oklahoma University (OU) Foundation was a $14.56 million debt authorization (draw note) and set up temporary financing that helped lock rate(s) for a period of time.

Mr. Bryant said the original note from the OU Foundation was initial funding for the Rock Creek Road Bridge, Legacy Park design, Rock Creek Road and 24th Avenue NW construction, and the design of Legacy Park at the 24th Avenue NW intersection. The draw note was authorized for $8.4 million and estimated $6.7 million will be spent leaving an estimated $1.7 million remaining. The next draw on the future funding would have been on Legacy Park construction, as well as Legacy Park and 24th Avenue NW intersection design, and was estimated to be $6.16 million which was contingent on finalizing Development Agreement No. 5. Mr. Bryant said Robinson Street and East I-35 funding was not included in the original OU Foundation TIF note and Staff has discussed several options in order to obtain the funding to include:

- Modify project authorization to include as part of initial funding
- Release excess cash in September 2011
- Amount of debt authorization remains unchanged
- Lender must agree to modification

Council authorized a refinancing option with Republic Bank on February 22, 2011, and Republic Bank will schedule a closing date in the future. Mr. Bryant said Republic Bank is currently working on debt placement and he said the debt placement will not impact the City under the current financing, but instead possibly enhance future funding options. The rate is a non-taxable fixed rate of 3.75% until September 1, 2013, when it will change to 5% and the reserve requirement is also lower at $750,000. Projects included in the refinancing are as follows: paying off the OU Foundation note plus cost of issuance ($6,942,959); design of Robinson Street/West Interstate Drive and Crossroads Boulevard ($200,000); completion of frontage road ($1,525,000); and Robinson Street and East I-35 ($1,747,041), for a total cost of $10,415,000. Future funding will be on a parity basis, i.e., equal basis for future debt holders to this current debt, which is important to be able to offer.

Development Agreement No. 5 consists of the following:

- Modified Concept – (Village Center)
- Retail Anchor for Town Center: Developer to continue to use best efforts to bring a quality retail anchor to the Town Center area. Authority reaffirm commitment to incentives of $8.25 million per the Project Plan
- Additional land: Donate approximately two (2) acres, exhibit hall/cultural facility/or other appropriate use. Shared parking with the conference center. Additional vacant land, if needed, at $5.00 per square foot.
- Lifestyle Center Development connected to clawbacks: 250,000 square feet of retail in Lifestyle Center remains – deadline extended from 2016 to 2018. Grocery Store (106,000 square feet) meets incentive criteria (sales projected to be over $175 per square feet and located from outside Norman), but no incentive request. Potential $5.9 million clawback reduced to $3 million based on land donation credit. $2.4 million claw back not to exceed actual cost of the frontage road and loop road construction.
- Legacy Park: File final plat of Legacy Park to donate land in summer 2011. Finalize Special Assessment District for long term maintenance and provide matching development assistance funds up to $900,000 over a 10 year period. Shared parking with restaurants around Legacy Park. OU Foundation to commit as alternative funding for park construction. Re-bid project in the summer of 2011.

Mr. Bryant said the future actions for the UNPTIF include:

- Close on refinancing with OU Foundation Note
- Opening of Rock Creek Overpass – July 2011
- Finalize Development Agreement No. 5
- Robinson Street and I-35 interchange (east side) project – complete by end of Summer 2012
- Design of West Robinson Street improvements
- I-35 Frontage Road extension – design and construction
- Legacy Park land donation anticipated Summer 2011
- Continue recruitment efforts to obtain a Quality Jobs employer
- Complete Lifestyle Center construction by 2018

Mayor Rosenthal asked Staff why the City did not receive notice prior to sale of the Power Center and Mr. Bryant said none of the development agreements require a formal notice to be provided to the City.

Items submitted for the record

1. PowerPoint Presentation entitled, "University North Park Tax Increment Finance District, Council Conference, May 31, 2011

The meeting adjourned at 6:25 p.m.

ATTEST:

City Clerk

Mayor

CITY COUNCIL SPECIAL SESSION MINUTES

June 7, 2011

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a Special Session at 5:30 p.m. in the Municipal Building Conference Room on the 7th day of June, 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, Butler, Cubberley, Dillingham, Griffith, Kovach, Mayor Rosenthal
ABSENT:	Councilmembers Ezzell and Quinn

Item 1, being:

DISCUSSION OF POSSIBLE AMENDMENTS TO THE FYE 2012 OPERATING AND CAPITAL BUDGET.

Mr. Steve Lewis, City Manager, said it has been Norman's historical practice to present Council with a list of potential budget amendments approximately two weeks prior to adoption of the budget.

Mr. Anthony Francisco, Director of Finance, highlighted the proposed amendments as follows:

- Increase Risk Management Fund revenues and expenditures by $379,696 from a proposed increase to the level of health insurance premiums associated with escalated health insurance premium costs
- Decrease the Community Development Block Grant (CDBG) Special Revenue Fund by $11,801 for the Home Grant and $58,721 for the CDBG Fund for a total difference of $70,522
- Increase appropriated Water Fund Capital Project expenditures by $1,269,161 to fund the new 24 inch Waterline Project and the High Pressure Plane Upgrade Project
- Increase Capital Fund project expenditures by $1,003,500 for the construction and materials for Fire Station No. 9 with a corresponding inter-fund transfer revenue from the Public Safety Sales Tax Fund
- Add $31,000 to the City of Norman's share of the Capital Fund for the Regional Transit Alternative Analysis Study (commuter rail – Association of Central Oklahoma Governments
- Reduce Capital Fund project expenditures from $157,765 to zero for the Compressed Natural Gas (CNG) Slow Fill Project
- Reduce $450,000 to zero in the University North Park Tax Increment Finance Fund for utility relocation for Robinson/I-35 N.E. Ramp Project
- Increase General Fund salary and benefits accounts in the Municipal Court Department by $5,458 to account for an increase in hourly rates for temporary positions
- Increase salary and benefits account by $226,373 for the increase in the health insurance premiums in the General Fund; $24,886 in the Public Safety Sales Tax Fund; $1,121 in the CDBG Fund; $226 in the Intelligence Analysis Special Revenue Fund; $169 in the Seizure and Restitutions Fund; $3,422 in the Westwood Fund; $18,448 in the Water Fund; $9,031 in the Wastewater Fund; $20,561 in the Sanitation Fund; $946 in the Risk Management Fund; $3,459 in the Capital Fund; and $7,858 in the Sewerline Maintenance Fund for the corresponding increases to health insurance premiums.
- Establish a new Net Revenue Stabilization Fund (Rainy Day Fund) via a transfer in the amount of $550,000 from the General Fund
- Increase General Fund Banking Service Charges account in the Finance Department by $180,000 to accurately reflect historic expenditures
- Increase General Fund Outside Legal Fees account in the Legal Department by $58,000 to accurately reflect historic expenditures
- Increase General Fund Prisoner Care account in the Police Department by $40,000 to accurately reflect historic expenditures
- Make typographical and minor numerical corrections to the budget document with no financial impact

Councilmember Kovach said he would like a Business Ombudsman position created and funded in this budget with the job description to be defined by the Finance Committee. Councilmember Cubberley said an amendment cannot be made without a cost and Mr. Francisco said a classification analysis done by the Human Resources Department determined the estimated cost to be $72,500. Councilmember Butler asked if there had been recent discussion on unfilled positions or potential new positions based on needs of the changing environment. Mr. Lewis said, at a previous work session, Council had asked Staff to gather costs of various positions and those included a Business Ombudsman or Development Coordinator. He said Staff also provided information relative to an Assistant to the City Manager and Public Information Officer. He said leaving positions vacant has been a cost containment strategy and the list of open positions is reviewed monthly by the Finance Committee. Ms. Gala Hicks, Director of Human Resources, said there are 44 vacancies and an additional 11 vacancies the City

is currently trying to fill. Mayor Rosenthal said, of the 44 vacant positions currently on hold, there are six positions in the Planning and Community Development Department and her concern is whether or not a Development Coordinator is more important than those six positions. She suggested creating a new committee that will look at business and community affairs, review the vacancies against the City's needs, and make an evaluation based on those findings. Mr. Lewis said the Development Coordinator would work out of the City Manager's Office with four major responsibilities: 1.) Facilitate the development review process for public and private development projects 2.) Provide assistance and guidance to the Private Development Project Team members 3.) Provide assistant to Staff in resolving those problems, and 4.) Work with Developers, Engineers, Architects, and other community groups to explain and interpret the City's design standards, code specifications, and processes. He said customarily, special projects such as corridor studies, helping and assisting on City construction projects, and working with developers on any type of intergovernmental issues are a part of that job.

Councilmember Kovach said that a Business Ombudsman is needed and should take precedence over the six open positions in the Planning Department and urged Council to add the position to the budget. Councilmember Dillingham said she would support attaining the goals for an oOmbudsman, but felt it would be better to form a committee that includes members from the business community to ensure the money is well spent by achieving those goals. Councilmember Atkins asked if there was a comparable position open in the Planning Department that could be re-classed for the position with no impact to the budget. Mr. Lewis said there is a Development Services Manager position open, but that position has historically been geared toward day to day building issues in the community and an ombudsman position would require a different skill set. Mayor Rosenthal was concerned about department productivity if a comparable position were re-classed for an ombudsman. Councilmember Cubberley said the budget amendment would not be revenue neutral as the proposal is to add $72,500 and the positions on hold are being held open for another year to acquire savings to combine positions and to fill them would not save money. He said the budget is predicated on keeping those positions open and, possibly, even a few more positions open. Mayor Rosenthal said one of the most consistent complaints in the permitting process is that the City is inconsistent or not business friendly. She said creating a new position instead of filling open positions would not solve the problem.

Councilmember Kovach said he would like an interfund transfer of $72,500 from the University North Park Tax Increment Finance District (UNPTIF) No. 2 into the General Fund for staff services supporting TIF related projects. Councilmember Cubberley asked if this would violate any portion of UNPTIF agreement and Mr. Bryant said allocation of City staff time was not addressed in the agreement. Councilmember Atkins felt that while the City is working on projects for the different Enterprise Funds, this would be a good time to build that cost into the budget as part of the project cost. Mr. Francisco said the Capital Fund directly funds several positions where Staff time is totally allocated to those projects and doing the same with the UNPTIF has been discussed. Councilmember Atkins felt that for consistency, the City should move towards that goal. Councilmember Cubberley said, in the past, there had been resistance from UNPTIF partners to allocate funds for Staff time, but when the City refinances the UNPTIF agreement, that could take away that hurdle. Councilmember Kovach asked if the refinancing would be finished in the next few months and Mr. Bryant said hopefully by the end of June. Councilmember Cubberley said Council could amend the budget after the refinancing is in place and if available revenues are in the UNPTIF.

Councilmember Kovach asked if Staff anticipates any funds to be in the FYE 2011 Budget that have not yet been discussed and Mr. Francisco said he expects the revenues to be right on target within 1% and expenditures to be a little above what was anticipated. Councilmember Kovach asked about the status of union negotiations and Mr. Lewis said there has been some discussion with a tentative update to Council on June 14th or 28th, but nothing significant enough to factor into the FYE 2012 budget process.

Items submitted for the record
1. FYE 2012 Potential Budget Amendments

Item 2, being:

DISCUSSION REGARDING THE ESTABLISHMENT OF GENERAL FUND EMERGENCY RESERVE REQUIREMENTS, CREATION OF A NET REVENUE STABILIZATION FUND (RAINY DAY FUND).

Mr. Francisco said establishing an Emergency Reserve Fund or Rainy Day Fund has been discussed by the Finance Committee and City Council for several years and the Council Finance Committee directed Staff to move forward with a proposed ordinance. He said the basic purpose of the fund is to codify the existing reserve policies by putting them in ordinance form instead of adopted policies. He said in February 2009, the Governmental Accounting Standards Board (GASB) issued Statement Number 54: Fund Balance Reporting and Governmental Fund Type Definitions. He said under the new requirements for generally accepted accounting principles, the

City of Norman will be required to make several changes to its fund structure and fund balance classifications. He said Statement Number 54 expands the classifications of fund balance in governmental funds from "Reserved" or "Unreserved" to the following five categories and provided descriptions of each.

- Non-Spendable Fund Balance
- Restricted Fund Balance
- Committed Fund Balance
- Assigned Fund Balance
- Unassigned Fund Balance

Mr. Francisco said the legal name of the fund is Net Revenue Stabilization Fund, but it will be commonly known as the Rainy Day Fund. He said the ordinance would require a 2% emergency reserve allocation in the General Fund, a minimum General Fund balance of 3%, and establishment of a Net Revenue Stabilization Fund (Rainy Day Fund). He said the General Fund balance of 3% minimum must be met before the Rainy Day Fund can receive funds and, once that has been met, the ordinance requires a minimum Rainy Day Fund balance of 3% with a 4.5% target and a 6% maximum.

Mayor Rosenthal said the General Fund balance has been described as the City's savings account, which is not an accurate characterization as it is more like a checking account with checks and balances. She said the Rainy Day Fund would be a true savings account. Mr. Francisco said the General Fund is somewhat like a savings account because only the Council can appropriate money from the fund, but there are no strings attached as to how the money can be used. The Rainy Day Fund ordinance will define for what and how the money can be used, tying the Council's hands to some extent.

Councilmember Butler asked if the 6% maximum was a standard and Mr. Francisco said, in discussions about the Rainy Day Fund, it was perceived that if the City had 6% in the Rainy Day Fund and 5% in the General Fund it would have a total fund balance of 11%, which is the national standard used for various needs of the citizens and the services they demand.

Mr. Francisco said expenditure requirements of the Rainy Day Fund are:

- Unexpected expenses due to disasters that would be declared by the President of the United States or the Governor of Oklahoma and the Mayor of Norman.
- The General Fund operating reserve is projected to fall below 1% of expenditures.
- Critical non-programmed one time capital expenditures required for maintenance, replacement, construction, or improvement of City of Norman buildings or infrastructure.

Mr. Francisco said the ordinance requires the Rainy Day Fund be established at 3% and returned to 3% within three years if money is taken from the fund. Councilmember Kovach wondered if three years was too soon to replenish the Fund especially during long term recessions. Councilmember Cubberley said if there is no trigger date then the funds may not get restored and if the City gets into such dire straights that they cannot meet the three year timeline, the ordinance can be amended. He said the ordinance needs to be in place to offer discipline to Council to ensure the Fund is reimbursed when used.

Mr. Francisco said the General Fund would be classified as Unassigned and the Rainy Day Fund as Committed.

Mayor Rosenthal said the ordinance would be on the Council agenda for First Reading on June 14, 2011, and Second Reading adoption on June 28, 2011.

Items submitted for the record

1. Memorandum dated June 2, 2011, from Anthony Francisco, Finance Director, to Honorable Mayor and Councilmembers
2. Draft ordinance

Item 3, being:

DISCUSSION REGARDING COMMERCIAL OUTDOOR LIGHTING STANDARDS, PREVIOUSLY DISCUSSED AT THE APRIL 12, 2011, COUNCIL MEETING TO BE BACK BEFORE COUNCIL ON JUNE 14, 2011.

Ms. Susan Connors, Director of Planning and Community Development, said the Commercial Outdoor Lighting Standards ordinance was postponed to June 14, 2011, and the sub-committee appointed by the Mayor has met twice and hopes to have recommendations by the end of the week. She said the areas discussed for modification are areas for applicability and separating pole mounted lights and wall pack lights. Additional discussion included creating a distance from one and two family residences as a means to judge compliance and the triggers that would lead to that compliance. She said the Committee was also reviewing the distance of pole mounted lights from one and two family property boundaries and the height of poles. She said in the photometric lighting plans, the Committee is reviewing changing the square footage that will trigger a photometric plan. Discussion is still ongoing regarding definitions for cut off fixtures, full cut off fixtures, glare, and semi-cut off fixtures.

Item 4, being:

CONSIDERATION OF ADJOURNING INTO AN EXECUTIVE SESSION AS AUTHORIZED BY OKLAHOMA STATUTES TITLE 25 §307(B)(3) TO DISCUSS THE POSSIBLE PURCHASE OF ALL OR PARTS(S) OF REAL PROPERTY LOCATED AT 101, 113, 115, 116, AND 118 WEST GRAY STREET.

Councilmember Dillingham moved that the Special Session be adjourned out of and an Executive Session be convened into in order to discuss the possible purchase of all or part(s) of real property located at 101, 113, 115, 116, and 118 West Gray Street, which motion was duly seconded by Councilmember Atkins; and the question being upon adjourning out of the Special Session and convening into an Executive Session, 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 Special Session adjourned out of; and the Executive Session was convened into in order to discuss the possible purchase of all or part(s) of real property located at 101, 113, 115, 116, and 118 West Gray Street.

The City Council convened into Executive Session at 6:36 p.m. Mr. Steve Lewis, City Manager; Mr. Jeff Bryant, City Attorney; and Mr. Blaine Nice, Assistant City Attorney, were in attendance at the Executive Session.

Thereupon, Councilmember Cubberley moved that the Special Session be reconvened, which motion was duly seconded by Councilmember Butler; and the question being upon reconvening the Special Session, 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 Special Session was reconvened.

The Special Session reconvened at 7:23 p.m.

The Mayor said the possible purchase of all or part(s) of real property located at 101, 113, 115, 116, and 118 West Gray Street, was discussed in Executive Session. No action was taken and no votes were cast.

* * * * *

ADJOURNMENT

There being no further business, Councilmember Kovach moved that the meeting be adjourned, which motion was duly seconded by Councilmember Griffith; 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 7:24 p.m.

ATTEST:

City Clerk

Mayor

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

June 14, 2011/June 21, 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 14th day of June, 2011, at 6:30 p.m., and that meeting was recessed at 8:00 p.m. due to a power outage and severe storm to be reconvened at 6:30 p.m. June 21, 2011. The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a Reconvened meeting in the Council Chambers of the Norman Municipal Building on the 21st day of June, 2011, at 6:30 p.m. 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 24 hours prior to the beginning of the meeting.

Item 1, being:

Roll Call for June 14, 2011, meeting.

PRESENT:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Ezzell, Kovach, Quinn, Mayor Rosenthal
ABSENT:	Councilmember Griffith

* * * * *

Item 2, being:

Pledge of Allegiance. The Pledge of Allegiance was led by Mayor Rosenthal.

* * * * *

Item 3, being:

APPROVAL OF THE MINUTES AS FOLLOWS:

CITY COUNCIL CONFERENCE MINUTES OF MAY 10, 2011
CITY COUNCIL PLANNING AND COMMUNITY DEVELOPMENT MINUTES OF MAY 13, 2011
CITY COUNCIL FINANCE COMMITTEE MINUTES OF MAY 18, 2011
CITY COUNCIL RETREAT MINUTES OF MAY 18, 2011
CITY COUNCIL SPECIAL SESSION MINUTES OF MAY 31, 2011
NORMAN UTILITIES AUTHORITY SPECIAL SESSION MINUTES OF MAY 31, 2011
NORMAN MUNICIPAL AUTHORITY SPECIAL SESSION MINUTES OF MAY 31, 2011
NORMAN TAX INCREMENT FINANCE AUTHORITY SPECIAL SESSION MINUTES OF MAY 31, 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. Text File No. GID-1011-35 dated May 19, 2011, by Brenda Hall
2. City Council Conference minutes of May 10, 2011
3. City Council Planning and Community Development minutes of May 13, 2011
4. City Council Finance Committee minutes of May 18, 2011
5. City Council Retreat minutes of May 18, 2011
6. City Council Special Session minutes of May 31, 2011
7. Norman Utilities Authority Special Session minutes of May 31, 2011
8. Norman Municipal Authority Special Session minutes of May 31, 2011
9. Norman Tax Increment Finance Authority Special Session minutes of May 31, 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, Ezzell, Kovach, Quinn, Mayor Rosenthal
NAYES:	None

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

* * * * *

Item 4, being:

PROCLAMATION NO. P-1011-20: A PROCLAMATION OF THE MAYOR OF THE CITY OF NORMAN, OKLAHOMA, PROCLAIMING THURSDAY, JUNE 16, 2011, AS DUMP THE PUMP DAY IN THE CITY OF NORMAN.

Councilmember Kovach moved that receipt of Proclamation No. P-1011-20 proclaiming Thursday, June 16, 2011, as Dump the Pump Day in the City of Norman 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. P-1011-20 dated April 29, 2011, by Transportation Committee
2. Proclamation No. P-1011-20

Participants in discussion
1. Mr. Doug Myers, Director of Cleveland Area Rapid Transit (CART) Services, accepted the proclamation and thanked the Council

and the question being upon acknowledging receipt of Proclamation No. P-1011-20 proclaiming Thursday, June 16, 2011, as Dump the Pump Day in the City of Norman and upon the subsequent directive, a vote was taken with the following result:

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

The Mayor declared the motion carried and receipt of Proclamation No. P-1011-20 proclaiming Thursday, June 16, 2011, as Dump the Pump Day in the City of Norman acknowledged; and the filing thereof was directed.

* * * * *

Item 5, being:

PROCLAMATION NO. P-1011-23: A PROCLAMATION OF THE MAYOR OF THE CITY OF NORMAN, OKLAHOMA, PROCLAIMING THE WEEK OF JUNE 13 THROUGH 17, 2011, AS COMMUNITY DEVELOPMENT WEEK IN THE CITY OF NORMAN.

Councilmember Dillingham moved that receipt of Proclamation No. P-1011-23 proclaiming the week of June 13 through 17, 2011, as Community Development Week in the City of Norman be acknowledged and the filing thereof be directed, which motion was duly seconded by Councilmember Atkins;

Items submitted for the record
1. Text File No. P-1011-23 dated June 2, 2011, by Linda Price
2. Proclamation No. P-1011-23

Participants in discussion
1. Ms. Linda Price, Revitalization Manager, accepted the proclamation and thanked the Council

and the question being upon acknowledging receipt of Proclamation No. P-1011-23 proclaiming the week of June 13 through 17, 2011, as Community Development Week in the City of Norman and upon the subsequent directive, a vote was taken with the following result:

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

The Mayor declared the motion carried and receipt of Proclamation No. P-1011-23 proclaiming the week of June 13 through 17, 2011, as Community Development Week in the City of Norman acknowledged; and the filing thereof was directed.

* * * * *

CONSENT DOCKET

Councilmember Kovach moved that Item 7 through Item 31 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 7 through Item 31, a vote was taken with the following result:

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

The Mayor declared the motion carried and Item 7 through Item 31 were placed on the consent docket by unanimous vote.

* * * * *

Item 7, being:

CONSIDERATION OF ORDINANCE NO. O-1011-58 UPON FIRST READING BY TITLE: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AMENDING ARTICLE VIII, SECTIONS 8-103 AND 8-104 OF CHAPTER 8 OF THE CODE OF THE CITY OF NORMAN PROVIDING FOR THE ESTABLISHMENT OF GENERAL FUND OPERATING RESERVE REQUIREMENTS, ESTABLISHMENT OF GENERAL FUND EMERGENCY RESERVE REQUIREMENTS, CREATION OF A NET REVENUE STABILIZATION ("RAINY DAY") FUND, ESTABLISHING REQUIREMENTS FOR FUNDING OF THE NET REVENUE STABILIZATION FUND, ESTABLISHING RESTRICTIONS ON THE APPROPRIATION AND USE OF NET REVENUE STABILIZATION FUND BALANCES; AND PROVIDING FOR THE SEVERABILITY THEREOF.

Councilmember Cubberley moved that Ordinance No. O-1011-58 be Introduced and adopted upon First Reading by title, which motion was duly seconded by Councilmember Butler;

Items submitted for the record

1. Text File No. O-1011-58 dated May 31, 2011, by Anthony Francisco, Director of Finance
2. Ordinance No. O-1011-58
3. Legislatively notated copy of Ordinance No. O-1011-58
4. Pertinent excerpts from Finance Committee minutes of April 20 and May 18, 2011

and the question being upon the Introduction and adoption of Ordinance No. O-1011-58 upon First Reading by title, a vote was taken with the following result:

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

The Mayor declared the motion carried and Ordinance No. O-1011-58 was Introduced, read, and adopted upon First Reading by title.

* * * * *

Item 8, being:

CONSIDERATION OF THE MAYOR'S APPOINTMENTS AS FOLLOWS:

ENVIRONMENTAL CONTROL ADVISORY BOARD
TERM: 06-14-11 TO 10-27-12: JACY CROSBIE, 204 MOUNTAIN OAKS DRIVE

NORMAN CONVENTION AND VISITORS BUREAU
TERM: 07-31-11 TO 07-31-14: JUNA STOVALL, 2127 TERESA DRIVE

NORMAN HOUSING AUTHORITY
TERM: 06-14-11 TO 11-21-13: JAN HUNTER, 700 NORTH BERRY ROAD, A-103

REAPPORTIONMENT COMMISSION
TERM: 07-01-11 TO 07-01-16: DAVID MORGAN, 2711 POPLAR LANE
TERM: 07-01-11 TO 07-01-16: CHERYL CLAYTON, 503 TULSA STREET

Councilmember Cubberley moved that the appointments be confirmed, which motion was duly seconded by Councilmember Butler;

Items submitted for the record
1. Text File No. AP-1011-22 dated May 23, 2011, by Mayor Rosenthal

and the question being upon confirming the appointments, a vote was taken with the following result:

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

The Mayor declared the motion carried and the appointments were confirmed.

* * * * *

Item 9, being:

SUBMISSION OF THE PIONEER LIBRARY SYSTEM FYE 2012 ANNUAL BUDGET.

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

Items submitted for the record
1. Text File No. RPT-1011-46 dated June 7, 2011, Anne Masters, Director, Pioneer Library System
2. Letter of transmittal dated June 1, 2011, from Anne Masters, Director, Pioneer Library System, to Brenda Hall, City Clerk
3. Pioneer Library System Budget, July 1, 2011 – June 30, 2012
4. Pioneer Library System Income, 2011/2012
5. Pioneer Library System Expenses, 2011/2012

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

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

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

* * * * *

Item 10, being:

CONSIDERATION OF BID NO. 1011-67, CONTRACT NO. K-1011-153 WITH CENTRAL CONTRACTING SERVICES, INC. IN THE AMOUNT OF $187,877; PERFORMANCE BOND NO. B-1011-91; STATUTORY BOND NO. B-1011-92, MAINTENANCE BOND NO. MB-1011-91, AND RESOLUTION NO. R-1011-101 FOR THE U.S. HIGHWAY 77 AND IMHOFF ROAD WATER LINE RELOCATION PROJECT.

Councilmember Cubberley moved that all bids meeting specifications be accepted; the bid in the amount of $187,877 be awarded to Central Contracting Services, Inc., as the lowest and best bidder meeting specifications; Contract No. K-1011-153 and the performance, statutory, and maintenance bonds be approved; execution of the contract be authorized; filing of the bonds be directed; and Resolution No. R-1011-101 be adopted, which motion was duly seconded by Councilmember Butler;

Items submitted for the record

1. Text File No. K-1011-153 dated May 31, 2011, by John Clink, Capital Projects Engineer
2. Bid list for Contract No. K-1011-153, Classen Boulevard and Imhoff Road Water Line Relocation
3. Contract No. K-1011-153
4. Performance Bond No. B-1011-91
5. Statutory Bond No. B-1011-92
6. Maintenance Bond No. MB-1011-91
7. Resolution No. R-1011-101
8. Purchase Requisition No. 0000186876 dated May 25, 2011, in the amount of $187,877 to Central Contracting Services, Inc.

Participants in discussion

1. Mr. Shawn O'Leary, Director of Public Works

and the question being upon accepting all bids meeting specifications and upon the subsequent awarding of the bid, approval, directive, authorization, and adoption, a vote was taken with the following result:

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

The Mayor declared the motion carried and all bids meeting specifications accepted; the bid in the amount of $187,877 was awarded to Central Contracting Services, Inc., as the lowest and best bidder meeting specifications; Contract No. K-1011-153 and the performance, statutory, and maintenance bonds were approved; execution of the contract was authorized; the filing of the bonds was directed; and Resolution No. R-1011-101 was adopted.

* * * * *

Item 11, being:

CONSIDERATION OF BID NO. 1011-71, CONTRACT NO. K-1011-169 WITH CENTRAL CONTRACTING SERVICES, INC., IN THE AMOUNT OF $156,102; PERFORMANCE BOND NO. B-1011-96; STATUTORY BOND NO. B-1011-97, MAINTENANCE BOND NO. MB-1011-95. AND RESOLUTION NO. R-1011-112 FOR THE NORTH PORTER AVENUE WATER LINE RELOCATION PROJECT AND BUDGET APPROPRIATION.

Councilmember Cubberley moved that all bids meeting specifications be accepted; the bid in the amount of $156,102 be awarded to Central Contracting Services, Inc., as the lowest and best bidder meeting specifications; Contract No. K-1011-169 and the performance, statutory, and maintenance bonds be approved; execution of the contract be authorized; filing of the bonds be directed; Resolution No. R-1011-112 be adopted; and $11,602 be appropriated from the Capital Fund Balance, (050-0000-253.20-00) to Project No. TR0243, Porter Gap Paving Project, Rock Creek to Tecumseh, Utilities (050-9366-431.67-01), which motion was duly seconded by Councilmember Butler;

Item 11, continued:

Items submitted for the record

1. Text File No. K-1011-169 dated June 2, 2011, by John Clink, Capital Projects Engineer with Attachment A, project budget summary and construction cost estimate
2. Bid list for Contract No. K-1011-169, North Porter Avenue Water Line Relocation
3. Contract No. K-1011-169
4. Performance Bond No. B-1011-96
5. Statutory Bond No. B-1011-97
6. Maintenance Bond No. MB-1011-95
7. Resolution No. R-1011-112
8. Purchase Requisition No. 0000187155 dated June 1, 2011, in the amount of $156,102 to Central Contracting Services, Inc.

Participants in discussion

1. Mr. Shawn O'Leary, Director of Public Works

and the question being upon accepting all bids meeting specifications and upon the subsequent awarding of the bid, approval, directive, authorization, adoption, and appropriation, a vote was taken with the following result:

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

The Mayor declared the motion carried and all bids meeting specifications accepted; the bid in the amount of $156,102 was awarded to Central Contracting Services, Inc., as the lowest and best bidder meeting specifications; Contract No. K-1011-169 and the performance, statutory, and maintenance bonds were approved; execution of the contract was authorized; the filing of the bonds was directed; Resolution No. R-1011-112 was adopted, and $11,602 was appropriated from the Capital Fund Balance, (050-0000-253.20-00) to Project No. TR0243, Porter Gap Paving Project, Rock Creek to Tecumseh, Utilities (050-9366-431.67-01)

* * * * *

Item 12, being:

CONSIDERATION AND AWARDING OF BID NO. 1011-73 FOR THE PURCHASE OF ONE (1) COMPRESSED NATURAL GAS (CNG) FIELD SERVICE LUBE TRUCK FOR THE FLEET MAINTENANCE DIVISION.

Councilmember Cubberley moved that all bids meeting specifications be accepted and the bid be awarded to Roberts Truck Centers in the amount of $177,015 less trade-in allowance of $18,250 for a total bid price of $158,765 as the lowest and best bidder meeting specifications, which motion was duly seconded by Councilmember Butler;

Items submitted for the record

1. Text File No. BID-1011-73 dated May 31, 2011, by Mike White, Fleet Superintendent with attachment of table showing ACOG grant guidelines
2. Bid tabulation for CNG Field Service Lube Truck
3. Public Fleet Conversion Grant Contract between the Association of Central Oklahoma Governments and the City of Norman, Oklahoma, Grant No. 2010-R2-APR29-Norman, approved by City Council on September 14, 2010

and the question being upon accepting all bids meeting specifications and upon the subsequent awarding of the bid, a vote was taken with the following result:

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

The Mayor declared the motion carried and all bids meeting specifications accepted; and the bid was awarded to Roberts Truck Centers in the amount of $177,015 less trade-in allowance of $18,250 for a total bid price of $158,765 as the lowest and best bidder meeting specifications.

* * * * *

Item 13, being:

CONSIDERATION OF AUTHORIZATION FOR THE PURCHASE OF FIFTEEN (15) MOBILE RADIOS FROM STOLZ TELECOM, L.L.C., IN THE AMOUNT OF $47,005.20 FOR THE NORMAN POLICE DEPARTMENT.

Councilmember Cubberley moved that authorization for the purchase of fifteen (15) mobile radios in the amount of $47,005.20 from Stolz Telecom, L.L.C., for the Police Department be approved, which motion was duly seconded by Councilmember Butler;

Items submitted for the record
1. Text File No. GID-1011-37 dated May 26, 2011, by Lance Terry, Communications Center Supervisor
2. Quote No. 1076 dated May 6, 2011, from Stolz Telecom, L.L.C., in the amount of $47,005.20

and the question being upon approving authorization for the purchase of fifteen (15) mobile radios in the amount of $47,005.20 from Stolz Telecom, L.L.C., for the Police Department, a vote was taken with the following result:

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

The Mayor declared the motion carried and authorization for the purchase of fifteen (15) mobile radios in the amount of $47,005.20 from Stolz Telecom, L.L.C., for the Police Department was approved.

* * * * *

Item 14, being:

CONSIDERATION OF A FINAL PLAT FOR SIGMA NU ADDITION AND ACCEPTANCE OF PUBLIC DEDICATIONS CONTAINED THEREIN. (GENERALLY LOCATED SOUTH OF EMERALD WAY BETWEEN CHAUTAUQUA AVENUE AND COLLEGE AVENUE)

Councilmember Cubberley moved that the final plat for Sigma Nu Addition be approved; the public dedications contained within the plat be accepted; the Mayor be authorized to sign the final plat and subdivision and maintenance bonds subject to the City Development Committee's acceptance of all required public improvements; and the filing of the final plat be directed subject to receipt of a fee in the amount of $3,894 in lieu of park land dedication requirements, which motion was duly seconded by Councilmember Butler;

Items submitted for the record
1. Text File No. FP-1011-19 dated February 8, 2011, by Ken Danner, Development Manager
2. Location map
3. Staff Report dated March 10, 2011, recommending approval
4. Final plat
5. Site plan
6. Preliminary plat
7. Pertinent excerpts from Planning Commission minutes of March 10, 2011

and the question being upon approving the final plat for Sigma Nu Addition and upon the subsequent acceptance, authorization, and directive, a vote was taken with the following result:

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

The Mayor declared the motion carried and the final plat for Sigma Nu Addition approved; the public dedications contained within the plat were accepted, the Mayor was authorized to sign the final plat and subdivision and maintenance bonds subject to the City Development Committee's acceptance of all required public improvements, and the filing of the final plat was directed subject to receipt of a fee in the amount of $3,894 in lieu of park land dedication requirements.

* * * * *

Item 15, being:

CONSIDERATION OF A FINAL PLAT FOR MOOSE LODGE CHAPTER 1799 ADDITION AND ACCEPTANCE OF PUBLIC DEDICATIONS CONTAINED THEREIN. (GENERALLY LOCATED ON THE WEST SIDE OF CLASSEN BOULEVARD SOUTH OF IMHOFF ROAD)

Councilmember Cubberley moved that the final plat for Moose Lodge Chapter 1799 Addition be approved; the public dedications contained within the plat be accepted; the Mayor be authorized to sign the final plat and subdivision and maintenance bonds subject to the City Development Committee's acceptance of all required public improvements; and the filing of the final plat be directed, which motion was duly seconded by Councilmember Butler;

Items submitted for the record
1. Text File No. FP-1011-20 dated March 22, 2011, by Ken Danner, Development Manager
2. Location map
3. Staff Report dated May 12, 2011
4. Final plat
5. Site plan
6. Preliminary plat
7. Pertinent excerpts from Planning Commission minutes of May 12, 2011

and the question being upon approving the final plat for Moose Lodge Chapter 1799 Addition and upon the subsequent acceptance, authorization, and directive, a vote was taken with the following result:

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

The Mayor declared the motion carried and the final plat for Moose Lodge Chapter 1799 Addition approved; the public dedications contained within the plat were accepted, the Mayor was authorized to sign the final plat and subdivision and maintenance bonds subject to the City Development Committee's acceptance of all required public improvements, and the filing of the final plat was directed.

* * * * *

Item 16, being:

CONSIDERATION OF ACCEPTANCE OF EASEMENT NO. E-1011-115, A DRAINAGE EASEMENT DONATED BY MOOSE LODGE NO. 1799, FOR A PRIVATELY MAINTAINED STORMWATER DETENTION POND IN CONNECTION WITH MOOSE LODGE 1799 ADDITION.

Councilmember Cubberley moved that Easement No. E-1011-115 be accepted and the filing thereof with the Cleveland County Clerk be directed, which motion was duly seconded by Councilmember Butler;

Items submitted for the record
1. Text File No. E-1011-115 dated June 1, 2011, by Ken Danner, Development Manager
2. Easement No. E-1011-115 with Exhibit "A," legal description and location map

and the question being upon accepting Easement No. E-1011-115 and upon the subsequent directive, a vote was taken with the following result:

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

The Mayor declared the motion carried and Easement No. E-1011-115 accepted; and the filing thereof with the Cleveland County Clerk was directed.

* * * * *

Item 17, being:

CONSIDERATION OF A FINAL PLAT FOR MURDOCK VILLAGE ADDITION, PHASE 2, A REPLAT OF PART OF LOTS 1 AND 1A, BLOCK 3, NORMANDY ACRES FIRST ADDITION, AND ACCEPTANCE OF PUBLIC DEDICATIONS CONTAINED THEREIN. (GENERALLY LOCATED SOUTH OF WEST MAIN STREET AND WEST OF 24TH AVENUE S.W.)

Councilmember Cubberley moved that the final plat for Murdock Village Addition, Phase 2, a replat of part of Lots 1 and 1A, Block 3, Normandy Acres First Addition, be approved; the public dedications contained within the plat be accepted; the Mayor be authorized to sign the final plat and subdivision and maintenance bonds subject to the City Development Committee's acceptance of all required public improvements; and the filing of the final plat be directed, which motion was duly seconded by Councilmember Butler;

Items submitted for the record

1. Text File No. FP-1011-22 dated April 14, 2011, by Ken Danner, Development Manager
2. Location map
3. Staff Report dated May 12, 2011, recommending approval
4. Final plat
5. Site plan
6. Preliminary plat
7. Pertinent excerpts from Planning Commission minutes of May 12, 2011

and the question being upon approving the final plat for Murdock Village Addition, Phase 2, a replat of part of Lots 1 and 1A, Block 3, Normandy Acres First Addition, and upon the subsequent acceptance, authorization, and directive, a vote was taken with the following result:

YEAS: Councilmembers Atkins, Butler, Cubberley, Dillingham, Ezzell, Kovach, Quinn, Mayor Rosenthal

NAYES: None

The Mayor declared the motion carried and the final plat for Murdock Village Addition, Phase 2, a replat of part of Lots 1 and 1A, Block 3, Normandy Acres First Addition, approved; the public dedications contained within the plat were accepted, the Mayor was authorized to sign the final plat and subdivision and maintenance bonds subject to the City Development Committee's acceptance of all required public improvements, and the filing of the final plat was directed.

* * * * *

Item 18, being:

SPECIAL CLAIM NO. SC-1011-07: A CLAIM IN THE REDUCED AMOUNT OF $8,681.17 SUBMITTED BY DAVID E. WINKLER FOR CHARGES INCURRED DUE TO A SEWER BACKUP AT 2031 ALLENHURST STREET.

Councilmember Cubberley moved that Special Claim No. SC-1011-07 be approved and payment in the reduced amount of $8,681.17 be directed contingent upon obtaining a Release and Covenant Not to Sue from David E. Winkler, which motion was duly seconded by Councilmember Butler;

Items submitted for the record

1. Text File No. SC-1011-07 dated May 25, 2011, by Jeanne Snider, Assistant City Attorney
2. Staff memorandum dated April 19, 2011, from Brenda Hall, City Clerk, to Ken Komiske, Director of Utilities, and Jeff Bryant, City Attorney
3. Special Claim No. SC-1011-07 dated March 28, 2011, submitted by David E. Winkler in the amount of $9,405.57

and the question being upon approving Special Claim No. SC-1011-07 and upon the subsequent directive, a vote was taken with the following result:

YEAS: Councilmembers Atkins, Butler, Cubberley, Dillingham, Ezzell, Kovach, Quinn, Mayor Rosenthal

NAYES: None

The Mayor declared the motion carried and Special Claim No. SC-1011-07 approved; and payment in the reduced amount of $8,681.17 was directed contingent upon obtaining a Release and Covenant Not to Sue from David E. Winkler.

* * * * *

Item 19, being:

SPECIAL CLAIM NO. SC-1011-08: A CLAIM IN THE AMOUNT OF $1,873.14 SUBMITTED BY SHERRI BUSSEY FOR DAMAGES INCURRED WHEN INVOLVED IN AN ACCIDENT WITH A SEWER LINE MAINTENANCE VEHICLE AT THE INTERSECTION OF PORTER AVENUE AND RICH STREET.

Councilmember Cubberley moved that Special Claim No. SC-1011-08 be approved and payment in the amount of $1,873.14 be directed contingent upon obtaining a Release and Covenant Not to Sue from Sherri Bussey, which motion was duly seconded by Councilmember Butler;

Items submitted for the record
1. Text File No. SC-1011-08 dated May 25, 2011, by Jeanne Snider, Assistant City Attorney
2. Staff memorandum dated March 24, 2011, from Brenda Hall, City Clerk, to Ken Komiske, Director of Utilities, and Jeff Bryant, City Attorney
3. Special Claim No. SC-1011-08 dated March 24, 2011, submitted by Sherri Bussey in the amount of $1,873.14
4. Estimate, CD Log No. 1385-1, dated March 8, 2011, from Leon Pierce Body Repairs, Inc., in the amount of $1,873.14

and the question being upon approving Special Claim No. SC-1011-08 and upon the subsequent directive, a vote was taken with the following result:

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

The Mayor declared the motion carried and Special Claim No. SC-1011-08 approved; and payment in the amount of $1,873.14 was directed contingent upon obtaining a Release and Covenant Not to Sue from Sherri Bussey.

* * * * *

Item 20, being:

CHANGE ORDER NOS. ONE AND TWO TO CONTRACT NO. K-1011-1: BY AND BETWEEN THE NORMAN UTILITIES AUTHORITY AND URBAN CONTRACTORS, L.L.C., INCREASING THE CONTRACT AMOUNT BY $91,859 FOR THE FYE 2009 SEWER MAINTENANCE PROJECT, PHASE 1, AND FINAL ACCEPTANCE OF THE PROJECT.

Acting as the Norman Utilities Authority, Trustee Cubberley moved that Change Order Nos. One and Two to Contract No. K-1011-1 with Urban Contractors, L.L.C., increasing the contract amount by $91,859 be approved; the execution thereof be authorized; the project be accepted; and final payments in the amount of $84,701.67 to Urban Contractors, L.L.C., and $7,149.35 for vendor payments be directed, which motion was duly seconded by Trustee Butler;

Items submitted for the record
1. Text File No. K-1011-1, Change Order Nos. One and Two, dated May 18, 2011, by Charlie Thomas, Capital Projects Engineer
2. Change Order No. One to Contract No. K-1011-1 in the amount of $81,620
3. Change Order No. Two to Contract No. K-1011-1 in the amount of $10,239
4. Purchase Order No. 190049 dated August 5, 2010, in the amount of $1,172,650 adding Change Order No. One in the amount of $81,620 and Change Order No. Two in the amount of $10,239 and subtracting payments totaling $1,172,657.98 to vendors and contractor, leaving a final vendor payment in the amount of $7,149.35 and final contractor payment in the amount of $84,701.67

Item 20, continued:

and the question being upon approving Change Order Nos. One and Two to Contract No. K-1011-1 with Urban Contractors, L.L.C., increasing the contract amount by $91,859 and upon the subsequent authorization, acceptance, and directive, a vote was taken with the following result:

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

The Chairman declared the motion carried and Change Order Nos. One and Two to Contract No. K-1011-1 with Urban Contractors, L.L.C., increasing the contract amount by $91,859 approved; the execution thereof was authorized, the project be accepted, and final payments in the amount of $84,701.67 to Urban Contractors, L.L.C., and $7,149.35 for vendor payments were directed.

* * * * *

Item 21, being:

CHANGE ORDER NO. ONE TO CONTRACT NO. K-1011-2: BY AND BETWEEN THE NORMAN UTILITIES AUTHORITY AND URBAN CONTRACTORS, L.L.C., INCREASING THE CONTRACT AMOUNT BY $69,250 AND EXTENDING THE CONTRACT BY 30 CALENDAR DAYS FOR THE FYE 2009 SEWER MAINTENANCE PROJECT, PHASE 2.

Acting as the Norman Utilities Authority, Trustee Cubberley moved that Change Order No. One to Contract No. K-1011-2 with Urban Contractors, L.L.C., increasing the contract amount by $69,250 and extending the contract by 30 calendar days be approved and the execution thereof be authorized, which motion was duly seconded by Trustee Butler;

Items submitted for the record

1. Text File No. K-1011-21, Change Order No. One, dated May 26, 2011, by Charlie Thomas, Capital Projects Engineer
2. Change Order No. One to Contract No. K-1011-2 in the amount of $69,250
3. Purchase Order No. 190050 dated August 5, 2010, in the amount of $1,570,100 adding Change Order No. One in the amount of $69,250 for a total contract price of $1,639,350

and the question being upon approving Change Order No. One to Contract No. K-1011-2 with Urban Contractors, L.L.C., increasing the contract amount by $69,250 and extending the contract by 30 calendar days and upon the subsequent authorization, a vote was taken with the following result:

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

The Chairman declared the motion carried and Change Order No. One to Contract No. K-1011-2 with Urban Contractors, L.L.C., increasing the contract amount by $69,250 and extending the contract by 30 calendar days approved; and the execution thereof was authorized.

* * * * *

Item 22, being:

CONSIDERATION OF FINAL ACCEPTANCE AND FINAL PAYMENT OF CONTRACT NO. K-1011-63 BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND CHAMBERS GOLF CONSTRUCTION (CGC), L.L.C., FOR THE GRIFFIN PARK LAKE IRRIGATION PUMP STATION PROJECT.

Councilmember Cubberley moved that the project be accepted and final payment in the amount of $14,508 to CGC, L.L.C., be directed, which motion was duly seconded by Councilmember Butler;

Items submitted for the record
1. Text File No. K-1011-63, Final, dated May 26, 2011, by James Briggs, Park Planner
2. Purchase Order No. 191149 dated August 30, 2010, in the amount of $148,800 subtracting payments in the amount of $134,292 leaving a balance of $14,508

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, Ezzell, Kovach, Quinn, Mayor Rosenthal
NAYES:	None

The Mayor declared the motion carried and the project accepted; and final payment in the amount of $14,508 to CGC, L.L.C., was directed.

* * * * *

Item 23, being:

CONTRACT NO. K-1011-151: A RIGHT-OF-WAY AGREEMENT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND OKLAHOMA NATURAL GAS COMPANY IN CONNECTION WITH THE INTERSTATE 35/ROBINSON STREET INTERCHANGE NORTHEAST QUADRANT PROJECT.

Councilmember Cubberley moved that Contract No. K-1011-151 with Oklahoma Natural Gas Company be approved and the execution thereof be authorized, which motion was duly seconded by Councilmember Butler;

Items submitted for the record
1. Text File No. K-1011-151 dated May 31, 2011, by John Clink, Capital Projects Engineer
2. Contract No. K-1011-151
3. Location map

and the question being upon approving K-1011-151 with Oklahoma Natural Gas Company and upon the subsequent authorization, a vote was taken with the following result:

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

The Mayor declared the motion carried and Contract No. K-1011-151 with Oklahoma Natural Gas Company approved; and the execution thereof was authorized.

* * * * *

Item 24, being:

CONTRACT NO. K-1011-180: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND OKLAHOMA NATURAL GAS COMPANY IN THE AMOUNT OF $305,607 FOR THE UTILITY RELOCATION ASSOCIATED WITH THE INTERSTATE 35/ROBINSON STREET INTERCHANGE NORTHEAST QUADRANT.

Councilmember Cubberley moved that Contract No. K-1011-180 with Oklahoma Natural Gas Company in the amount of $305,607 be approved and the execution thereof be authorized, which motion was duly seconded by Councilmember Butler;

Items submitted for the record
1. Text File No. K-1011-180 dated May 31, 2011, by John Clink, Capital Projects Engineer
2. Contract No. K-1011-180 with attached plan sheet and cost estimate
3. Purchase Requisition No. 0000186877 dated May 25, 2011, in the amount of $305,607 to Oklahoma Natural Gas Company

and the question being upon approving K-1011-180 with Oklahoma Natural Gas Company in the amount of $305,607 and upon the subsequent authorization, a vote was taken with the following result:

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

The Mayor declared the motion carried and Contract No. K-1011-180 with Oklahoma Natural Gas Company in the amount of $305,607 approved; and the execution thereof was authorized.

* * * * *

Item 25, being:

CONTRACT NO. K-1011-183: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN AND OKLAHOMA GAS AND ELECTRIC COMPANY IN THE AMOUNT OF $16,484.12 FOR THE UTILITY RELOCATION ASSOCIATED WITH THE INTERSTATE 35/ROBINSON STREET INTERCHANGE NORTHEAST QUADRANT PROJECT.

Councilmember Cubberley moved that Contract No. K-1011-183 with Oklahoma Gas and Electric Company in the amount of $16,484.12 be approved and the execution thereof be authorized, which motion was duly seconded by Councilmember Butler;

Items submitted for the record
1. Text File No. K-1011-183 dated June 1, 2011, by John Clink, Capital Projects Engineer
2. Contract No. K-1011-183
3. Estimate of Cost to be paid by Others for Relocating OG&E Electric Services Facilities with Attachment "A," Material for Permanent Construction; Attachment "C," Labor; Attachment "D," Deduction for OG&E Betterments; and Attachment "E," Material to be Salvaged from Original Plant
4. Location map of Proposed OG&E Cable
5. Location map
6. Purchase Requisition No. 0000186920 dated May 25, 2011, in the amount of $16,484.12 to Oklahoma Gas and Electric Company

and the question being upon approving K-1011-183 with Oklahoma Gas and Electric Company in the amount of $16,484.12 and upon the subsequent authorization, a vote was taken with the following result:

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

The Mayor declared the motion carried and Contract No. K-1011-183 with Oklahoma Gas and Electric Company in the amount of $16,484.12 approved; and the execution thereof was authorized.

* * * * *

Item 26, being:

RESOLUTION NO. R-1011-116: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, ADOPTING THE FIRST COURTHOUSE NEIGHBORHOOD PLAN.

Councilmember Cubberley moved to adopt Resolution No. R-1011-116, which motion was duly seconded by Councilmember Butler;

Items submitted for the record
1. Text File No. R-1011-116 dated April 14, 2011, by Susan Atkinson, Historic District Planner
2. Location map
3. Resolution No. R-1011-116
4. First Courthouse Neighborhood Plan
5. Pertinent excerpts from Planning Commission minutes of May 12, 2011

and the question being upon adopting Resolution No. R-1011-116, a vote was taken with the following result:

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

The Mayor declared the motion carried and Resolution No. R-1011-116 was adopted.

* * * * *

Item 27, being:

RESOLUTION NO. R-1011-117: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, ADOPTING THE OLD SILK STOCKING NEIGHBORHOOD PLAN.

Councilmember Cubberley moved to adopt Resolution No. R-1011-117, which motion was duly seconded by Councilmember Butler;

Items submitted for the record
1. Text File No. R-1011-117 dated April 14, 2011, by Susan Atkinson, Historic District Planner
2. Location map
3. Resolution No. R-1011-117
4. Old Silk Stocking Neighborhood Plan
5. Pertinent excerpts from Planning Commission minutes of May 12, 2011

and the question being upon adopting Resolution No. R-1011-117, a vote was taken with the following result:

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

The Mayor declared the motion carried and Resolution No. R-1011-117 was adopted.

* * * * *

Item 28, being:

RESOLUTION NO. R-1011-129: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, PROGRAMMING FEDERAL SURFACE TRANSPORTATION PROGRAM URBANIZED AREA (STP/UZA-SAFETY) FUNDS FOR THE INSTALLATION OF CONTINUOUS ROADWAY LIGHTING ALONG JENKINS AVENUE, BETWEEN JUST NORTH OF STATE HIGHWAY 9 AND CONSTITUTION STREET.

Councilmember Cubberley moved that Resolution No. R-1011-129 be adopted, which motion was duly seconded by Councilmember Butler;

Items submitted for the record
1. Text File No. R-1011-129 dated May 31, 2011, by Angelo Lombardo, Traffic Engineer
2. Resolution No. R-1011-129
3. List of Programming Resolutions Requesting Federal Funds totaling $1,189,180

and the question being upon adopting Resolution No. R-1011-129, a vote was taken with the following result:

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

The Mayor declared the motion carried and Resolution No. R-1011-129 was adopted.

* * * * *

Item 29, being:

RESOLUTION NO. R-1011-130: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, PROGRAMMING FEDERAL SURFACE TRANSPORTATION PROGRAM URBANIZED AREA SAFETY (STP-UZA-SAFETY) FUNDS FOR THE INSTALLATION OF FLASHING YELLOW ARROW DISPLAYS AT VARIOUS SIGNALIZED INTERSECTIONS THROUGHOUT THE CITY OF NORMAN.

Councilmember Cubberley moved that Resolution No. R-1011-130 be adopted, which motion was duly seconded by Councilmember Butler;

Items submitted for the record
1. Text File No. R-1011-130 dated May 31, 2011, by Angelo Lombardo, Traffic Engineer
2. Resolution No. R-1011-130
3. List of Programming Resolutions Requesting Federal Funds totaling $1,189,180

and the question being upon adopting Resolution No. R-1011-130, a vote was taken with the following result:

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

The Mayor declared the motion carried and Resolution No. R-1011-130 was adopted.

* * * * *

Item 30, being:

RESOLUTION NO. R-1011-131: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, PROGRAMMING FEDERAL SURFACE TRANSPORTATION PROGRAM URBANIZED AREA (STP-UZA) FUNDS FOR PAVEMENT OVERLAYS ALONG TECUMSEH ROAD, 24TH AVENUE N.W., AND LINDSEY STREET.

Councilmember Cubberley moved that Resolution No. R-1011-131 be adopted, which motion was duly seconded by Councilmember Butler;

Items submitted for the record
1. Text File No. R-1011-131 dated May 31, 2011, by Angelo Lombardo, Traffic Engineer
2. Resolution No. R-1011-131
3. List of Programming Resolutions Requesting Federal Funds totaling $1,189,180

and the question being upon adopting Resolution No. R-1011-131, a vote was taken with the following result:

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

The Mayor declared the motion carried and Resolution No. R-1011-131 was adopted.

* * * * *

Item 31, being:

RESOLUTION NO. R-1011-134: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, TRANSFERRING $34,478 FROM VARIOUS PARK PROJECT ACCOUNTS TO BE USED TO PURCHASE ADDITIONAL PLAYGROUND EQUIPMENT AT ROYAL OAKS PARK, TO REPLACE DAMAGED PLAYGROUND EQUIPMENT AT SEQUOYAH TRAILS PARK, AND TO ADD NEW HANDICAP-ACCESSIBLE PATHS AT EACH PARK.

Councilmember Cubberley moved that Resolution No. R-1011-134 be adopted, which motion was duly seconded by Councilmember Butler;

Items submitted for the record
1. Text File No. R-1011-134 dated June 1, 2011, by James Briggs, Park Planner
2. Resolution No. R-1011-134

and the question being upon adopting Resolution No. R-1011-134, a vote was taken with the following result:

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

The Mayor declared the motion carried and Resolution No. R-1011-131 was adopted.

* * * * *

Item 32, being:

PUBLIC HEARING REGARDING THE PROPOSED THIRTY-SEVENTH YEAR NORMAN COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) APPLICATION AND THE 2011 HOME PROGRAM TOTALING $1,305,376 TO BE SUBMITTED TO THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

Councilmember Dillingham moved that a public hearing be conducted, which motion was duly seconded by Councilmember Butler;

Items submitted for the record
1. Text File dated June 2, 2011, by Linda Price, Revitalization Manager
2. 2011 Community Development Block Grant Budget
3. 2011 HOME Investment Partnerships Budget
4. Second Program Year Action Plan, Narrative Responses, from the United Stateion Department of Housing and Urban Development

and the question being upon conducting a public hearing, a vote was taken with the following result:

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

The Mayor declared the motion carried and a public hearing was conducted.

Thereupon, the following persons addressed City Council:

Participants in discussion
1. Ms. Linda Price, Revitalization Manager
2. Mr. Tim Mauldin, CDBG Policy Committee Co-Chair, Post Office Box 722100
3. Ms. Jayne Crumpley, 423 Elm, proponent
4. Ms. Tracy Curtis, Habitat for Humanity, 1836 Industrial Boulevard, proponent

Thereupon, Councilmember Dillingham moved that the public hearing be closed, which motion was duly seconded by Councilmember Butler; and the question being upon closing the public hearing, a vote was taken with the following result:

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

The Mayor declared the motion carried and the public hearing was closed.

Thereupon, Councilmember Dillingham moved that recommendations regarding the proposed Thirty-Seventh Year CDBG Application and the 2011 HOME Program totaling $1,305,376 be approved and the submission thereof be directed to the United States Department of Housing and Urban Development, which motion was duly seconded by Councilmember Kovach; and the question being upon approving recommendations regarding the proposed Thirty-Seventh Year CDBG Application and the 2011 HOME Program totaling $1,305,376 and upon the subsequent directive, a vote was taken with the following result:

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

The Mayor declared the motion carried and recommendations regarding the proposed the Thirty-Seventh Year CDBG Application and the 2011 HOME Program totaling $1,305,376 approved; and the submission thereof was directed to the United States Department of Housing and Urban Development.

* * * * *

Item 33, being:

CONSIDERATION OF ADOPTION OF THE FYE 2011 CITY OF NORMAN PROPOSED OPERATING AND CAPITAL BUDGETS AND THE NORMAN CONVENTION AND VISITORS BUREAU, INC., BUDGET WITH DETAILED ANNUAL PLAN OF WORK.

Councilmember Cubberley moved that the FYE 2012 City of Norman Budget and the Norman Convention and Visitors Bureau, Inc., Budget with Detailed Annual Plan of Work be adopted, which motion was duly seconded by Councilmember Quinn;

Items submitted for the record

1. Text File No. GID-1011-36 dated May 20, 2011, by Suzanne Krohmer, Budget Manager
2. City of Norman, Oklahoma, Fiscal Year Ending 2012 Annual Budget Summary of Fund Balances
3. The City of Norman, Oklahoma, Budget, Fiscal Year Ending June 30, 2012
4. The City of Norman, Oklahoma, Capital Improvements Project Budget, Fiscal year Ending June 30, 2012, Financial Plan – Fiscal Year-End 2012-2016
5. Norman Convention and Visitors Bureau Destination Management Plan, Fiscal Year 2012 (July 2011 – June 2012)
6. Norman Convention and Visitors Bureau Fiscal Year Ending 2011-2012 Budget

Thereupon, Councilmember Cubberley moved to amend the FYE 2012 City of Norman Budget to increase estimated Risk Management Fund revenues by $379,696 from a proposed increase to the level of health insurance premiums associated with escalated health insurance premium costs, which motion was duly seconded by Councilmember Ezzell; and the question being upon amending the FYE 2012 City of Norman Budget as stated above, a vote was taken with the following result:

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

The Mayor declared the motion carried and the FYE 2012 City of Norman Budget was amended as stated above.

Thereupon, Councilmember Dillingham moved that the FYE 2012 City of Norman Budget, as amended, be further amended to decrease the Community Development Block Grant Special Revenue Fund revenues and expenditures by $11,801 for the HOME Grant and $58,721 for the Community Development Block Grant Fund for a total difference of $70,522, which motion was duly seconded by Councilmember Quinn; and the question being upon further amending the FYE 2012 City of Norman Budget, as amended, as stated above, a vote was taken with the following result:

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

The Mayor declared the motion carried and the FYE 2012 City of Norman Budget, as amended, was further amended as stated above.

Thereupon, Councilmember Atkins moved that the FYE 2012 City of Norman Budget, as amended, be further amended to increase appropriated Water Fund capital project expenditures by $1,269,161 to appropriately fund the new 24" waterline project ($1,002,161) and the high pressure plane upgrade ($267,000) project, which motion was duly seconded by Councilmember Ezzell; and the question being upon further amending the FYE 2012 City of Norman Budget, as amended, as stated above, a vote was taken with the following result:

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

The Mayor declared the motion carried and the FYE 2012 City of Norman Budget, as amended, was further amended as stated above.

Item 33, continued:

Thereupon, Councilmember Atkins moved that the FYE 2012 City of Norman Budget, as amended, be further amended to increase Capital Fund project expenditures by $1,003,500 for the construction and materials for Fire Station #9 with a corresponding Inter-fund transfer revenue from the Public Safety Sales Tax Fund; which motion was duly seconded by Councilmember Ezzell; and the question being upon further amending the FYE 2012 City of Norman Budget, as amended, as stated above, a vote was taken with the following result:

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

The Mayor declared the motion carried and the FYE 2012 City of Norman Budget, as amended, was further amended as stated above.

Thereupon, Councilmember Butler moved that the FYE 2012 City of Norman Budget, as amended, be further amended to add the City of Norman's share of $31,000 to the Capital Fund for the Regional Transit Alternative Analysis Study (Commuter Rail – ACOG), which motion was duly seconded by Councilmember Quinn; and the question being upon further amending the FYE 2012 City of Norman Budget, as amended, as stated above, a vote was taken with the following result:

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

The Mayor declared the motion carried and the FYE 2012 City of Norman Budget, as amended, was further amended as stated above.

Thereupon, Councilmember Butler moved that the FYE 2012 City of Norman Budget, as amended, be further amended to reduce the Capital Fund project expenditures for the CNG Slowfill Facility proposed in FYE 12 from $157,765 to zero, which motion was duly seconded by Councilmember Dillingham; and the question being upon further amending the FYE 2012 City of Norman Budget, as amended, as stated above, a vote was taken with the following result:

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

The Mayor declared the motion carried and the FYE 2012 City of Norman Budget, as amended, was further amended as stated above.

Thereupon, Councilmember Dillingham moved that the FYE 2012 City of Norman Budget, as amended, be further amended to increase the General Fund Salary and Benefits accounts in the Municipal Court Department in the amount of $5,458 to account for an increase in hourly rates for temporary positions, which motion was duly seconded by Councilmember Ezzell; and the question being upon further amending the FYE 2012 City of Norman Budget, as amended, as stated above, a vote was taken with the following result:

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

The Mayor declared the motion carried and the FYE 2012 City of Norman Budget, as amended, was further amended as stated above.

Item 33, continued:

Thereupon, Councilmember Quinn moved that the FYE 2012 City of Norman Budget, as amended, be further amended to increase the Salary and Benefits accounts for the increase in health insurance premiums in the amount of $227,319 in the General Fund; $24,886 in the Public Safety Sales Tax Fund; $1,121 in the CDBG Fund; $226 in the Intelligence Analysis Special Revenue Fund; $169 in the Seizure and Restitutions Fund; $3,422 in the Westwood Fund; $18,448 in the Water Fund; $9,031 in the Wastewater Fund; $20,561 in the Sanitation Fund; $946 in the Risk Management Fund; $3,459 in the Capital Fund; and $7,858 in the Sewerline Maintenance Fund for the corresponding increases to health insurance premiums, which motion was duly seconded by Councilmember Dillingham; and the question being upon further amending the FYE 2012 City of Norman Budget, as amended, as stated above, a vote was taken with the following result:

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

The Mayor declared the motion carried and the FYE 2012 City of Norman Budget, as amended, was further amended as stated above.

Thereupon, Councilmember Cubberley moved that the FYE 2012 City of Norman Budget, as amended, be further amended to establish a new Net Revenue Stabilization Fund (Rainy Day Fund) via a transfer from the General Fund in the amount of $120,000, which motion was duly seconded by Councilmember Ezzell; and the question being upon further amending the FYE 2012 City of Norman Budget, as amended, as stated above, a vote was taken with the following result:

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

The Mayor declared the motion carried and the FYE 2012 City of Norman Budget, as amended, was further amended as stated above.

Thereupon, Councilmember Ezzell moved that the FYE 2012 City of Norman Budget, as amended, be further amended to increase the General Fund Banking Services Charges account in the Finance Department by $180,000 to accurately reflect historic expenditures, which motion was duly seconded by Councilmember Dillingham; and the question being upon further amending the FYE 2012 City of Norman Budget, as amended, as stated above, a vote was taken with the following result:

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

The Mayor declared the motion carried and the FYE 2012 City of Norman Budget, as amended, was further amended as stated above.

Item 33, continued:

Thereupon, Councilmember Ezzell moved that the FYE 2012 City of Norman Budget, as amended, be further amended to increase the General Fund Outside Legal Fees account in the Legal Department by $58,000 to accurately reflect historic expenditures, which motion was duly seconded by Councilmember Dillingham; and the question being upon further amending the FYE 2012 City of Norman Budget, as amended, as stated above, a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Ezzell, Quinn, Mayor Rosenthal
NAYES:	Councilmember Kovach

The Mayor declared the motion carried and the FYE 2012 City of Norman Budget, as amended, was further amended as stated above.

Thereupon, Councilmember Kovach moved that the FYE 2012 City of Norman Budget, as amended, be further amended to increase the General Fund Prisoner Care account in the Police Department by $40,000 to accurately reflect historic expenditures, which motion was duly seconded by Councilmember Quinn; and the question being upon further amending the FYE 2012 City of Norman Budget, as amended, as stated above, a vote was taken with the following result:

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

The Mayor declared the motion carried and the FYE 2012 City of Norman Budget, as amended, was further amended as stated above.

Thereupon, Councilmember Kovach moved that the FYE 2012 City of Norman Budget, as amended, be further amended to make typographical and minor numerical corrections, with no financial impact to the FYE 2012 Budget, to the budget document as required, which motion was duly seconded by Councilmember Atkins; and the question being upon further amending the FYE 2012 City of Norman Budget, as amended, as stated above, a vote was taken with the following result:

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

The Mayor declared the motion carried and the FYE 2012 City of Norman Budget, as amended, was further amended as stated above.

and the question being upon adopting the FYE 2012 City of Norman Budget, as amended, and the Norman Convention and Visitors Bureau, Inc., Budget with Detailed Annual Plan of Work a vote was taken with the following result:

YEAS:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Ezzell, Quinn, Mayor Rosenthal
NAYES:	Councilmember Kovach

The Mayor declared the motion carried and the FYE 2012 City of Norman Budget, as amended, and the Norman Convention and Visitors Bureau, Inc., Budget with Detailed Annual Plan of Work were adopted.

* * * * *

Item 34, being:

CONTRACT NO. K-1011-165: A PROFESSIONAL SERVICES AGREEMENT BY AND BETWEEN THE NORMAN MUNICIPAL AUTHORITY, AND DAVID P. LISLE AS GOLF PROFESSIONAL/MANAGER OF WESTWOOD GOLF COURSE THROUGH DECEMBER 31, 2012.

Item 34 was withdrawn at the request of Staff.

* * * * *

Item 35, being:

CONSIDERATION OF A PRELIMINARY PLAT FOR SUMMIT VALLEY ADDITION. (GENERALLY LOCATED NORTH OF STATE HIGHWAY NO. NINE ON BOTH SIDES OF 36TH AVENUE S.E.)

Councilmember Ezzell moved that the preliminary plat for Summit Valley Addition be approved, which motion was duly seconded by Councilmember Dillingham;

Items submitted for the record

1. Text File No. PP-1011-22 dated April 14, 2011, by Ken Danner, Development Manager, with attached Traffic Impact Charter
2. Location map
3. Preliminary plat
4. Site plan
5. Staff Report dated May 12, 2011, recommending approval
6. Preliminary plats split up for four sections
7. Norman Greenbelt Enhancement Statement dated March 9, 2011
8. Greenbelt Commission Meeting for Greenbelt Case No. 11-08 dated March 21, 2011
9. Predevelopment Summary Case No. PD11-07 dated March 24, 2011, for MSDC, L.L.C., for property located north of Highway 9 at 36th Avenue S.E. (Summit Valley)
10. Pertinent excerpts from Planning Commission minutes of May 12, 2011

Participants in discussion

1. Mr. David Hargis, Clour Engineering and Planning Services, 408 Bannister Court, engineer representing the applicant
2. Mr. Bobby Stevens, 3801 108th Avenue S.E., asked questions

RECESS

Due to a power outage and a severe storm, Councilmember Ezzell moved that the meeting be recessed and reconvened at 6:30 p.m., Tuesday, June 21, 2011, which motion was duly seconded by Councilmember Dillingham; and the question being upon recessing the meeting and the subsequent reconvening, a vote was taken with the following result:

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

The Mayor declared the motion carried and the meeting was recessed at 8:00 p.m. to be reconvened at 6:30 p.m., Tuesday, June 21, 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 14th day of June, 2011, at 6:30 p.m., and that meeting was recessed at 8:00 p.m. due to a power outage and severe storm to be reconvened at 6:30 p.m. June 21, 2011. Item 35, Preliminary Plat for Summit Valley Addition, was under consideration at the time of the recess with a motion to approve on the floor. The City Council reconvened the meeting in the Council Chambers of the Norman Municipal Building on the 21st day of June, 2011, at 6:30 p.m. 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 24 hours prior to the beginning of the meeting.

Roll Call for Reconvened Meeting on June 21, 2011.

PRESENT:	Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Quinn, Mayor Rosenthal
ABSENT:	Councilmember Ezzell

Motion on the floor from June 14, 2011, to approve the preliminary plat for Summit Valley Addition:

and the question being upon approving the preliminary plat for Summit Valley Addition, a vote was taken with following result:

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

The Mayor declared the motion carried and the preliminary plat for Summit Valley Addition was approved.

* * * * *

Item 36, being:

ORDINANCE NO. O-1011-57: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, CLOSING A PORTION OF A UTILITY EASEMENT LOCATED ON THE EAST SIDE OF LOT 3, BLOCK 1, CROSSROADS WEST NO. 4 ADDITION TO THE CITY OF NORMAN, CLEVELAND COUNTY, OKLAHOMA; AND PROVIDING FOR THE SEVERABILITY THEREOF. (3106 PHEASANT RUN ROAD)

Ordinance No. O-1011-57 having been Introduced and adopted upon First Reading by title in City Council's meeting of May 31, 2011, Councilmember Kovach moved that Ordinance No. O-1011-57 be adopted upon Second Reading section by section, which motion was duly seconded by Councilmember Quinn;

Items submitted for the record

1. Text File No. O-1011-57 dated April 18, 2011, by Doug Koscinski, Current Planning Manager
2. Location map
3. Ordinance No. O-1011-57
4. Memorandum dated April 13, 2011, from Brenda Hall, City Clerk, to Jeff Bryant, City Attorney; Doug Koscinski, Current Planning Manager; Ken Danner, Development Coordinator; and Ken Komiske, Director of Utilities
5. Letter dated April 13, 2011, from David T. Hopper, Attorney at Law, to City of Norman, City Clerk's Office
6. Petition dated April 13, 2011, from David T. Hopper, to City of Norman, City Clerk, Brenda Hall
7. Staff report dated May 12, 2011, recommending approval
8. Radius map
9. Pertinent excerpts from Planning Commission minutes of May 12, 2011

Participants in discussion

1. Memorandum dated April 13, 2011, from Brenda Hall, City Clerk, to Jeff Bryant, City Attorney; Doug Koscinski, Current Planning Manager; Ken Danner, Development Coordinator; and Ken Komiske, Director of Utilities
5. Letter dated April 13, 2011, from David T. Hopper, Attorney at Law, to City of Norman, City Clerk's Office

Item 36, continued:

and the question being upon adopting Ordinance No. O-1011-57 upon Second Reading section by section, a vote was taken with the following result:

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

The Mayor declared the motion carried and Ordinance No. O-1011-57 was adopted upon Second Reading section by section.

Thereupon, Councilmember Kovach moved that Ordinance No. O-1011-57 be adopted upon Final Reading as a whole, which motion was duly seconded by Councilmember Quinn; and the question being upon adopting Ordinance No. O-1011-57 upon Final Reading as a whole, the roll was called with the following result:

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

The Mayor declared the motion carried and Ordinance No. O-1011-57 was adopted upon Final Reading as a whole.

* * * * *

Item 37, being:

RESOLUTION NO. R-1011-106: 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-1011-9**, 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, 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 APPROXIMATELY 1,318 LINEAR FEET EAST OF 48TH AVENUE N.W.)

Councilmember Cubberley moved that Resolution No. R-1011-106, Land Use Plan Amendment No. LUP-1011-9, be adopted and the NORMAN 2025 Land Use and Transportation Plan be amended according thereto, which motion was duly seconded by Councilmember Quinn;

Items submitted for the record
1. Text File No. R-1011-106 dated March 22, 2011, by Doug Koscinski, Current Planning Manager
2. Resolution No. R-1011-106, Land Use Plan Amendment No. LUP-1011-9
3. Location map
4. Staff Report dated April 14, 2011, recommending approval
5. Pertinent excerpts from Planning Commission minutes of April 14, 2011

Participants in discussion
1. Mr. Sean Rieger, 136 Thompson Drive, attorney representing the applicant
2. Mr. Richard McKown, 3309 Cannon Drive
3. Ms. Ann Gallagher, 1522 East Boyd Street, asked questions
4. Mr. Mark Campbell, 2821 Dewey Avenue, made comments

and the question being upon adopting Resolution No. R-1011-106, Land Use Plan Amendment No. LUP-1011-9, and upon the subsequent amendment, a vote was taken with the following result:

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

The Mayor declared the motion carried and Resolution No. R-1011-106, Land Use Plan Amendment No. LUP-1011-9, adopted; and the NORMAN 2025 Land Use and Transportation Plan was amended according thereto.

* * * * *

Item 38, being:

ORDINANCE NO. O-1011-49: 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.)

Ordinance No. O-1011-49 having been Introduced and adopted upon First Reading by title in City Council's meeting of May 31, 2011, Councilmember Quinn moved that Ordinance No. O-1011-49 be adopted upon Second Reading section by section, which motion was duly seconded by Councilmember Atkins;

Items submitted for the record

1. Text File No. O-1011-49 dated March 22, 2011, by Doug Koscinski, Current Planning Manager
2. Ordinance No. O-1011-49
3. Location map
4. Staff report dated April 14, 2011, recommending approval
5. Preliminary plat
6. Site plan
7. Glenridge Addition, Planned Unit Development, narrative dated March 14, 2011, submitted by Sassan K. Moghadam, Developer, with Exhibit A, Proposed Preliminary Plat; Exhibit B, Proposed Open Space Diagram; Exhibit C, Proposed Phasing Plan; and Exhibit D, Typical Lot Line Plan
8. Pertinent excerpts from Planning Commission minutes of April 14, 2011

and the question being upon adopting Ordinance No. O-1011-49 upon Second Reading section by section, a vote was taken with the following result:

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

The Mayor declared the motion carried and Ordinance No. O-1011-49 was adopted upon Second Reading section by section.

Thereupon, Councilmember Cubberley moved that Ordinance No. O-1011-49 be adopted upon Final Reading as a whole, which motion was duly seconded by Councilmember Quinn; and the question being upon adopting Ordinance No. O-1011-49 upon Final Reading as a whole, the roll was called with the following result:

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

The Mayor declared the motion carried and Ordinance No. O-1011-49 was adopted upon Final Reading as a whole.

* * * * *

Item 39, being:

CONSIDERATION OF A PRELIMINARY PLAT FOR GLENRIDGE ADDITION, A PLANNED UNIT DEVELOPMENT. (GENERALLY LOCATED ON THE SOUTH SIDE OF INDIAN HILLS ROAD APPROXIMATELY 1,318 LINEAR FEET EAST OF 48TH AVENUE N.W.)

Councilmember Quinn moved that the preliminary plat for Glenridge Addition, a Planned Unit Development, be approved, which motion was duly seconded by Councilmember Atkins;

Items submitted for the record

1. Text File No. PP-1011-18 dated March 22, 2011, by Ken Danner, Development Manager with attached Traffic Impact Study
2. Location map
3. Preliminary plat
4. Staff Report dated April 14, 2011, recommending approval
5. City of Norman Traffic Impacts Development Review Form dated April 8, 2011, for Glenridge Addition Preliminary Plat by David R. Riesland, P.E., Assistant City Traffic Engineer
6. Typical lot site plan
7. Predevelopment Summary Case No. PD 11-09 dated March 24, 2011, for L&S Development II, L.L.C., for property located on the south side of Indian Hills Road east of 48th Avenue N.W.
8. Greenbelt Commission Report, Case No. 11-10 dated March 21, 2011
9. Pertinent excerpts from Planning Commission minutes of April 14, 2011

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

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

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

* * * * *

Item 40, being:

ORDINANCE NO. O-1011-27: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AMENDING ARTICLE XIII, SECTION 4-1301 OF CHAPTER 4 OF THE CODE OF THE CITY OF NORMAN BY AMENDING THE NUMBER OF MEETINGS HELD BY THE TREE BOARD EACH CALENDAR YEAR; AND PROVIDING FOR THE SEVERABILITY THEREOF.

Ordinance No. O-1011-27 having been Introduced and adopted upon First Reading by title in City Council's meeting of May 31, 2011, Councilmember Quinn moved that Ordinance No. O-1011-27 be adopted upon Second Reading section by section, which motion was duly seconded by Councilmember Dillingham;

Items submitted for the record

1. Text File No. O-1011-27 dated May 3, 2011, by Jud Foster, Director of Parks and Recreation
2. Ordinance No. O-1011-27
3. Legislatively notated copy of Ordinance No. O-1011-27
7. Pertinent excerpts from Tree Board minutes of April 4, 2011

Participants in discussion

1. Mr. Blaine Nice, City Attorney
2. Ms. Leah Messner, Assistant City Attorney
3. Mr. Bobby Stevens, 3801 108th Avenue S.E., asked questions

Item 40, continued:

and the question being upon adopting Ordinance No. O-1011-27 upon Second Reading section by section, a vote was taken with the following result:

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

The Mayor declared the motion carried and Ordinance No. O-1011-27 was adopted upon Second Reading section by section.

Thereupon, Councilmember Kovach moved that Ordinance No. O-1011-27 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-1011-27 upon Final Reading as a whole, the roll was called with the following result:

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

The Mayor declared the motion carried and Ordinance No. O-1011-27 was adopted upon Final Reading as a whole.

* * * * *

Item 41, being:

ORDINANCE NO. O-1011-44: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, ADDING SECTION 431.6 (COMMERCIAL OUTDOOR LIGHTING STANDARDS) AND AMENDING SECTION 431.7 (DEVELOPMENT AND MAINTENANCE OF OFF STREET PARKING FACILITIES), AND SECTION 450 (DEFINITIONS) OF CHAPTER 22 OF THE CODE OF THE CITY OF NORMAN SO AS TO CREATE COMMERCIAL OUTDOOR LIGHTING STANDARDS AND ADDING RELATED DEFINITIONS; AND PROVIDING FOR THE SEVERABILITY THEREOF.

Ordinance No. O-1011-44 having been Introduced and adopted upon First Reading by title in City Council's meeting of March 22, 2011, and postponed on April 12, 2011, until June 14, 2011, Councilmember Kovach having moved that Ordinance No. O-1011-44 be adopted upon Second Reading section by section, which motion was duly seconded by Councilmember Butler;

and Councilmember Ezzell having moved that Section 431.6(3)(b) of Ordinance No. O-1011-44 be amended to read as follows:

(b) These lighting regulations do not apply to properties zoned or used for single-family or two-family dwellings. These lighting regulations do not apply to any luminaries, lighting systems, or properties that are located more than two hundred (200) feet away from the boundary of a residentially zoned property adjacent to property which is zoned or used as single or two-family residential.

which motion was duly seconded by Councilmember Quinn;

Participants in discussion
1. Mr. Blaine Nice, Assistant City Attorney

and the question being upon amending Section 431.6(3)(b) of Ordinance No. O-1011-44 as stated above, a vote was taken with the following result:

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

The Mayor declared the motion failed and Section 431.6(3)(b) of Ordinance No. O-1011-44 was not amended as stated above.

Item 41, continued:

Thereupon, Councilmember Cubberley moved that Ordinance No. O-1011-44 be amended to substitute the existing ordinance with the ordinance dated June 21, 2011, and delete "from a nearby property" from Section 431.6(4)(a) to read as follows:

4. Compliance.
   (a) Whenever a complaint about existing lighting is received~~, from a nearby property,~~ it shall be investigated to determine if corrective action is warranted in accordance with the standards and requirements listed in Tables 1 and 2 of this section of the Code.

which motion was duly seconded by Councilmember Kovach;

Items submitted for the record
1. Text File No. O-1011-44 dated January 19, 2011, by Susan Connors, Director of Planning and Community Development
2. Legislatively notated copy of Ordinance No. O-1011-44 dated June 9, 2011
3. Text File No. O-1011-44, Version 1, dated January 19, 2011, by Susan Connors, Director of Planning and Community Development
5. Ordinance No. O-1011-44 dated February 10, 2011
6. Pertinent excerpts from Planning Commission minutes of April 12, 2011
7. Memorandum dated February 10, 2011, from Doug Koscinski, AICP, Manager, Current Planning Division, to Chairman and Members, Norman Planning Commission
8. Pertinent excerpts from Planning Commission minutes of February 10, 2011
9. Pertinent excerpts from City Council Conference minutes of September 28, 2010
10. Legislatively noted copy of Ordinance No. O-1011-44 dated June 21, 2011
11. Letter dated June 17, 2011, from H.L. Heiple to City of Norman City Clerk's Office with proposed amendments to Ordinance No. O-1011-44 submitted by H.L. Heiple

Participants in discussion
1. Ms. Susan Connors, Director of Planning and Community Development
2. Major Jim Maisano, Police Department
3. Ms. Leah Messner, Assistant City Attorney
4. Ms. Brenda Hall, City Clerk
5. Mr. Paul Moss, 1344 Interstate Drive and 1212 McGee, protestant
6. Mr. Jim Harvey, 321 84th Avenue N.E., protestant
7. Mr. Brad Little, 3201 Market Place, Hey Day Entertainment, protestant
8. Mr. Keith Steincamp, 441 Waterfront, protestant
9. Mr. James Key, 403 George Cross Court, made comments
10. Mr. Osher Bachrach, 716 Goshawk, protestant
11. Mr. Bobby Stevens, 3801 108th Avenue S.E., asked questions
12. Mr. Chad Wilcox, 2240 Ravenwood Lane, made comments
13. Mr. Mark Campbell, 2821 Dewey Avenue, made comments
14. Mr. John Woods, Norman Chamber of Commerce, protestant
15. Ms. Ann Gallagher, 1522 East Boyd, made comments
16. Mr. Greg Mattoon, 1364 Tarman Circle, protestant
17. Mr. Roger Gallagher, 1522 East Boyd, made comments
18. Mr. Dave Spaulding, 6700 103rd Avenue N.E., protestant
19. Mr. Doug Kennon, 1200 24th Avenue S.W., protestant
20. Mr. Harold Haralson, 517 Avon, protestant
21. Mr. Larry Steele, 730 Hoover Street, proponent
22. Mr. David Kemp, 317 Towry Drive, made comments
23. Mr. Jim Simpson, 2530 Wyandotte Way, protestant
24. Mr. Dave Boeck, 925 Schultz Drive, made comments
25. Mr. Sean Rieger, Norman Builder's Association, 136 Thompson Drive, protestant
26. Ms. Eileen Grybowski, 715 Elm Street, proponent
27. Mr. Chris Lewis, 221 Summit Ridge Court, made comments
28. Mr. Doug Koscinski, Current Planning Manager
29. Mr. Shawn O'Leary, Director of Public Works

Item 41, continued:

and the question being upon amending Ordinance No. O-1011-44 to substitute the existing ordinance with the ordinance dated June 21, 2011, and delete "from a nearby property" from Section 431.6(4)(a) to read as stated above, a vote was taken with the following result:

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

The Mayor declared the motion carried and Ordinance No. O-1011-44 was amended to substitute the existing ordinance with the ordinance dated June 21, 2011, and delete "from a nearby property" from Section 431.6(4)(a) to read as stated above

and the question being upon adopting Ordinance No. O-1011-44, as amended, upon Second Reading section by section, a vote was taken with the following result:

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

The Mayor declared the motion carried and Ordinance No. O-1011-44, as amended, was adopted on Second Reading section by section.

Thereupon, Councilmember Kovach moved that Ordinance No. O-1011-44, as amended, 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-1011-4, as amended, upon Final Reading as a whole, the roll was called with the following result:

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

The Mayor declared the motion carried and Ordinance No. O-1011-44, as amended, was adopted upon Final Reading as a whole.

* * * * *

MISCELLANEOUS DISCUSSION

Public Safety Sales Tax. Mr. Bobby Stevens, 3801 108th Avenue S.E., asked if Public Safety Sales Tax (PSST) will be spent to bring the City of Norman into compliance with the Commercial Outdoor Lighting Ordinance since it was indicated the ordinance would enhance public safety.

Mayor Rosenthal said the current ordinance governing the PSST does provide certain criteria for funds to be expended for public safety reasons, but that would have to be discussed by Council. She said to date, discussion has focused principally on major capital projects that benefit the entire City in regards to public safety. She said her personal opinion is that PSST funds would not be used to bring City of Norman properties in compliance with the ordinance.

Mr. Stevens asked if McGee "lake" would fall under one of those capital projects associated with the PSST funds and Mayor Rosenthal said that is not a project discussed for use of PSST funds.

*

Stormwater Quality Protection Zone Overlay District. Mr. Bobby Stevens, 3801 108th Avenue S.E., said he did not believe that all citizens in Ward Five had been properly notified of the Special Planning Commission meeting to be held on June 23, 2011, regarding the Stormwater Quality Protection Zone Overlay District ordinance. He said the information on the City of Norman webpage has not been updated since August 17, 2010.

*

Miscellaneous Discussion, continued:

Commercial Outdoor Lighting Ordinance. Ms. Ann Gallagher, 1522 East Boyd, said Staff had done a wonderful job on the PowerPoint presentation for the Commercial Outdoor Lighting Ordinance, but the tables in the presentation were too small for the public to read.

Mr. Mark Campbell, 2821 Dewey Avenue, asked when he could expect a Police Officer or Code Enforcement Inspector to inspect and make a report on the lighting issues at his apartment complex. Mayor Rosenthal said she has forwarded his complaint to the City Manager and Code Enforcement Division. Mr. Steve Lewis, City Manager, said a Code Enforcement Officer inspected the property today and met with property management and said Susan Connors, Director of Planning and Community Development, would be happy to meet with Mr. Campbell for an update.

Mr. Roger Gallagher, 1522 East Boyd, said changes to an ordinance, small or large, requires that it go back to the Planning Commission, but during discussion on the ordinance it was stated that the amendments proposed by Council would not go back to the Planning Commission. He asked if there is a time limit defined in the City Charter regarding whether or not an ordinance has to go back to the Planning Commission. Mr. Blaine Nice, Assistant City Attorney, said to his knowledge, there is no time limitation and the Council has the ability to make amendments to any ordinance at the time it is being considered. Mr. Gallagher said he will be sworn in as a Councilmember in July and, as such, he would not have voted for the ordinance and would have suggested the Council postpone the ordinance for further review or send it back to the Planning Commission.

Mr. Stephen Tyler Holman, 1020 South College, said he is the fourth generation to live in Norman and has been interested in City government since middle school. He commended the Councilmembers for having the courage to make a public vote on many controversial issues, whether they are for or against the issue. He said he supports Council in their decisions and supports the decision tonight on lighting.
Miscellaneous Discussion, continued:

Mr. Chris Applegate, 728 Humming Fish Drive, said he would like to echo Mr. Holman's statement. He said creating an ordinance for the safety of citizens is commendable. He said the subject of rate increases by the Oklahoma Electric Cooperative (OEC) had been brought up during the ordinance's public discussion and felt the ordinance did not play a part in the rate increase. He felt the rate increases are due to growth in the community.

*

Debris Removal. Ms. Ann Gallagher, 1522 East Boyd, said the City has done a great job in clearing the debris from the recent storm; however, she notice people trying to navigate around trees on the sidewalk on the southwest corner of Alameda and 12th Avenue S.E. to get to the bus stop and asked that they be cleared.

*

University North Park Tax Increment District. Ms. Ann Gallagher, 1522 East Boyd, said referenced an article in the newspaper regarding the University North Park Tax Increment District (UNPTIF). She said many of the developers in Norman do an admiral job, but when a developer does not meet their obligations to the City, i.e., the land transfer for Legacy Park, it makes all the other developers look bad. She said she would like to see that addressed and the developer comply.

Mr. Jim Stanley, 3922 Pine Tree Circle, said he noticed construction in the UNPTIF and hoped that it would be for a business that would make the UNPTIF "spectacular," but he found out the building is going to be leased, which he is concerned about.

Mr. Roger Gallagher, 1522 East Boyd, asked if the buildings being constructed in the UNPTIF are going to be occupied and what types of businesses they are. Mayor Rosenthal said she did not know what businesses were going in at the locations and he would have to visit with the developer. Mr. Gallagher said he had been attending the UNPTIF meetings because he is concerned about the gutting of Norman and the meetings have been cancelled twice with minimum notice. Mayor Rosenthal said she was unaware that the meetings were cancelled and did not know the reasons for the cancellations.

*

Business Ombudsman. Mr. Mark Campbell, 2821 Dewey Avenue, said a Business Ombudsman position in the City of Norman is not needed. He said there are 8,000 plus businesses in Norman as well as resources such as the Norman Economic Development Coalition (NEDC), Norman Business Association, Norman Chamber of Commerce, etc., to aid in the development and assistance of new businesses.

*

Miscellaneous Discussion, continued:

Storm Response. Councilmember Atkins said he was driving home after the June 14, 2011, Council meeting was postponed due to power outages caused by the storm and noticed that City crews were already out securing damaged portions of the City and helping with traffic control. He expressed his appreciation to City Staff as well as the OEC and OG&E employees for their prompt action.

Councilmember Kovach said City Staff has done an excellent job of working on storm issues. He said there was not a lot of information on locations of shelters for citizens with no power in triple digit heat. He said it is hard to go online for information when you do not have power. He said after the 2007 ice storms the City established KGOU Radio Station as their information station for City bulletins and encouraged staff to utilize that means again in the future to get the information out to the public in a manner citizens will be able to access. He also cautioned citizens that are getting their roofs repaired to check the heat exhaust pipe because they can be improperly reinstalled, which can be dangerous.

Councilmember Dillingham agreed that Staff response was great as well as OG&E and OEC's response. She said after the 2007 ice storm the City wanted to ensure that an Emergency Plan was in place for future events and that why there was such quick response and felt the plan was implemented well. She thanked all the citizens who were out the next day helping their neighbors and directing City Staff to problem areas. She believes it is important for everyone to procure a NOAA radio because that is the best way to stay connected during a storm. She suggested developing partnerships with churches and non-profit agencies to make sure citizens have a way to acquire a radio. She said it is also important for citizens to have their own safety plans.

Councilmember Quinn thanked City Staff for their great response.

Mayor Rosenthal said she would like to add her appreciation to City Staff.

*

Shop Norman. Councilmember Quinn urged citizens to "Shop Norman."

*

Oklahoma Department of Transportation Public Meeting. City Manager Lewis said the Oklahoma Department of Transportation (ODOT) will hold a public meeting regarding the I-35/South Highway 9 Bridge Projects on June 22, 2011, at the Embassy Suites at 6:00 p.m. He said this will be the final public hearing and encouraged citizens to attend. He said the projects will cost approximately $113 million and discussion will include construction schedules; sequencing of the projects; interchange closure; noise wall; location design; etc. He said citizens will be able to submit public comments in writing or online.

* * * * *

ADJOURNMENT

There being no further business, Councilmember Quinn 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, Quinn, Mayor Rosenthal
NAYES:	None

The Mayor declared the motion carried and the meeting was adjourned at 10:40 p.m.

ATTEST:

City Clerk Mayor

City of Norman, OK

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

Master

File Number: O-1011-48

File ID:	O-1011-48	**Type:**	Zoning Ordinance	**Status:**	Consent Item
Version:	1	**Reference:**	Item No. 5	**In Control:**	City Council
Department:	Planning and Community Development Department	**Cost:**		**File Created:**	03/22/2011
File Name:	O-1011-48 Franklin Business Park Rezone			**Final Action:**	

Title: CONSIDERATION OF ORDINANCE NO. O-1011-48 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 PART OF THE NORTHEAST QUARTER OF SECTION ELEVEN (11) OF TOWNSHIP NINE (9) NORTH, RANGE THREE (3) WEST OF THE INDIAN MERIDIAN, TO NORMAN, CLEVELAND COUNTY, OKLAHOMA, IN THE C-2, GENERAL COMMERCIAL DISTRICT, AND REMOVE SAME FROM THE I-1, LIGHT INDUSTRIAL DISTRICT, OF SAID CITY; AND PROVIDING FOR THE SEVERABILITY THEREOF. (GENERALLY LOCATED ON THE WEST SIDE OF U.S. HIGHWAY 77 AT FRANKLIN ROAD)

ACTION NEEDED: Motion to Introduce and adopt Ordinance No. O-1011-48 upon First Reading by title.

ACTION TAKEN: _____

Notes:

Agenda Date: 06/28/2011

Agenda Number: 5

Sponsors:

Enactment Date:

Attachments: O-1011-48, FranklinBusPark Location Map, Franklin BusPark Site Plan, Franklin Business Park Rezone Staff Report, 5-12-11 PC Minutes - Franklin Bus Park

Enactment Number:

Project Manager: Doug Koscinski, Current Planning Manager

Hearing Date:

Entered by: rone.tromble@normanok.gov

Effective Date:

History of Legislative File

Ver-sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Planning Commission	05/12/2011	Recommended for Adoption at a subsequent City Council Meeting	City Clerk Department			Pass
	Action Text: Recommended for Adoption at a subsequent City Council Meeting to the City Clerk Department						
1	Planning Commission	05/12/2011					
1	City Council	06/28/2011					

Text of Legislative File O-1011-48

Body

SYNOPSIS: This is the companion rezoning request for the previous 2025 Land Use Amendment. The applicant is seeking to change the existing I-1, Light Industrial zoning on approximately fourteen acres to C-2, General Commercial zoning in order to create a larger commercial development.

ANALYSIS: The applicant owns the abutting 36 acres to the north, which is already zoned for commercial development. This tract is currently and would be rezoned from I-1 and platted as additional sections of Franklin Business Park. This rezoning will allow for an expanded commercial development to be constructed at the newly re-aligned Franklin Road intersection with Flood Avenue (US Highway 77). The applicant intends to develop an area consisting of detached buildings with general retail uses permitted in the C-2 zoning district.

Reconstruction of the Franklin Road intersection is complete. A new traffic signal will be installed that will facilitate movement into this tract. The change from I-1 to C-2 will not result in negative land use impacts on this developing area, and traffic impacts will be similar to those achieved under the industrial zoning. The tract is traversed by a major drainage channel, and a flood plain permit has been approved for the creek crossings. The roadway system is circuitous by design, and provides internal access to all twenty-two of the commercial sites. Norman's ordinances require all new commercial buildings to consist of masonry material over 80 percent of all facades, but do not otherwise regulate the design of such buildings. The internal roadway system has been designed as two connected loop streets that provide for two creek crossings. The site will only be accessed from Highway 77 via an existing street to the south (Washington Drive) and a new street that is aligned with the newly constructed Franklin Road intersection. As this new intersection will be signalized, it is expected to be the primary access point for the proposed commercial development. No direct driveways will be permitted onto Highway 77.

STAFF RECOMMENDATION This request would add 14 acres to the 36 acres that is already zoned commercial, and allow a significant expansion for highway-oriented commercial uses at the intersection of Highway 77 and the Interstate at a newly signalized intersection. The tract had previously been preliminarily platted with smaller lots for small

industrial users. The two creek crossings prevent the site from being used by a single large industrial user. This tract can readily be utilized for commercial use with little negative impact. Planning Commission, at their May 12, 2011, regular meeting, unanimously recommended approval of this request. Staff supports this rezoning request from I-1 to C-2.

O-1011-48

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 PART OF THE NORTHEAST QUARTER OF SECTION ELEVEN (11) OF TOWNSHIP NINE (9) NORTH, RANGE THREE (3) WEST OF THE INDIAN MERIDIAN, TO NORMAN, CLEVELAND COUNTY, OKLAHOMA, IN THE C-2, GENERAL COMMERCIAL DISTRICT, AND REMOVE SAME FROM THE I-1, LIGHT INDUSTRIAL DISTRICT, OF SAID CITY; AND PROVIDING FOR THE SEVERABILITY THEREOF. (Generally located on the west side of U.S. Highway 77 at Franklin Road)

§ 1. WHEREAS, Franklin Business Park, L.L.C., the owners of the hereinafter described property, have made application to have the same placed in the C-2, General Commercial District, and to have the same removed from the I-1, Light Industrial 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 C-2, General Commercial District, and to remove the same from the I-1, Light Industrial District, to wit:

Being a part of the NE ¼, of Section 11, T9N, R3W, of the Indian Meridian, Norman, Cleveland County, Oklahoma, being more particularly described as follows:
COMMENCING at the NW corner of Lot 1, Block 2, Pepco Industrial Park, Phase I, as recorded in Book 14, Page 36, Cleveland County, Oklahoma, said point being the POINT OF BEGINNING:
THENCE North 00°22'56" East a distance of 733.35 feet;
THENCE North 41°00'26" East a distance of 553.22 feet;
THENCE North 77°43'17" East a distance of 30.08 feet;
THENCE South 16°21'11" East a distance of 297.77 feet;
THENCE South 66°50'09" West a distance of 55.39 feet;
THENCE South 16°21'11" East a distance of 533.43 feet;
THENCE South 61°21'11" East a distance of 168.48 feet;
THENCE North 75°40'23" East a distance of 100.28 feet;
THENCE South 12°23'04" East a distance of 227.13 feet;
THENCE South 00°00'00" East a distance of 100.00 feet;
THENCE South 90°00'00" West a distance of 383.68 feet;

THENCE North 76°49'34" West a distance of 60.00 feet;
THENCE South 16°21'11" East a distance of 533.43 feet to a point on a curve to left, said curve having a radius of 680.00 feet, a chord bearing of South 11°17'23" West, and a chord distance of 44.69 feet, for an arc distance of 44.70 feet;
THENCE North 80°35'34" West a distance of 429.03 feet to the POINT OF BEGINNING.

Said tract contains 14.21 acres more or less.

§ 5. Further, pursuant to the provisions of Section 22:442.1(7) of the Code of the City of Norman, as amended, the following condition is hereby attached to the zoning of the tract:

The site shall be developed in accordance with the Site Plan, approved May 12, 2011 by the Planning Commission and attached as Exhibit A.

§ 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

_____, 2011.

_____
(Mayor)

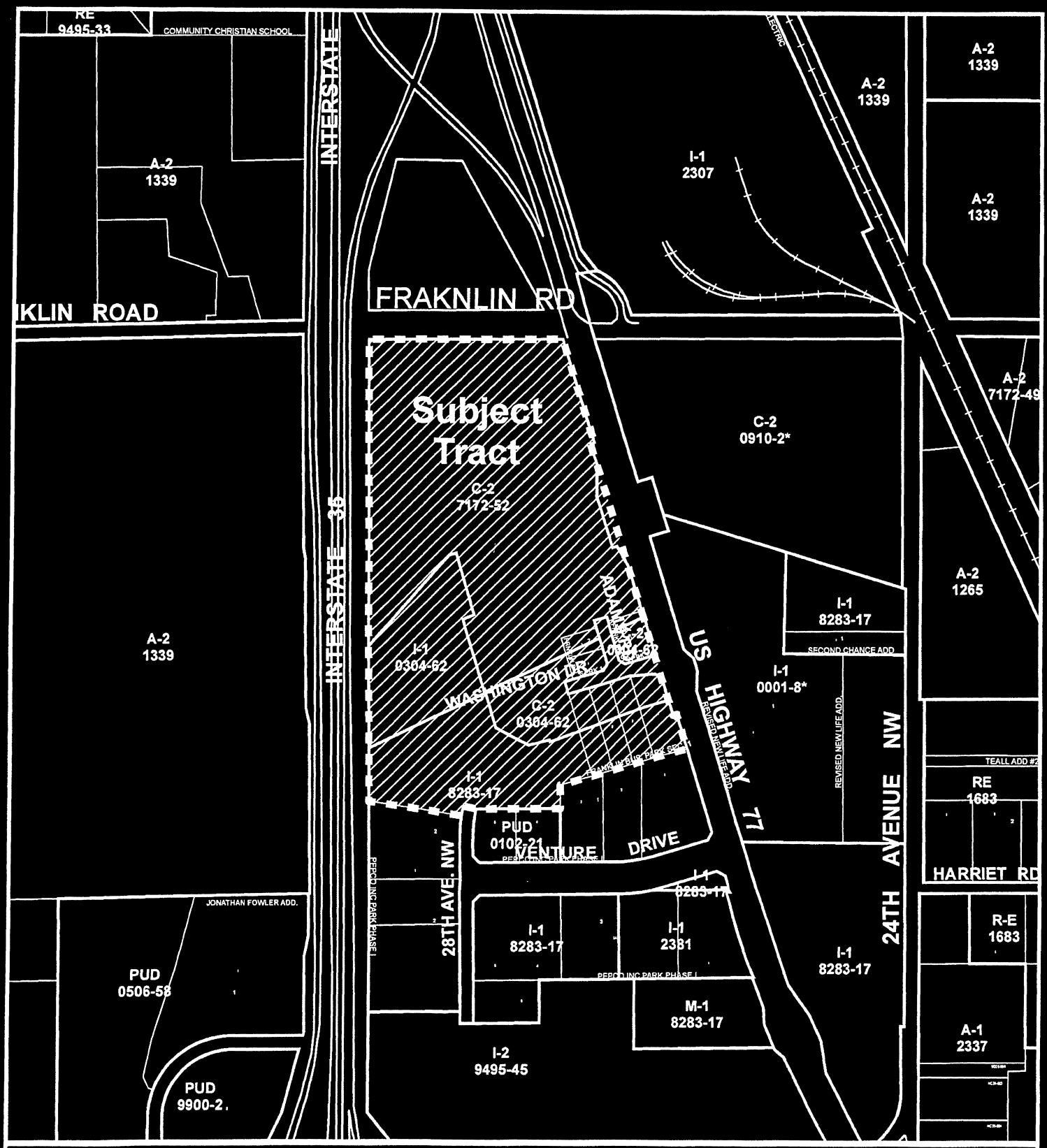
ATTEST:

_____
(City Clerk)

NOT ADOPTED this _____day of

_____, 2011.

_____
(Mayor)



Location Map

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.

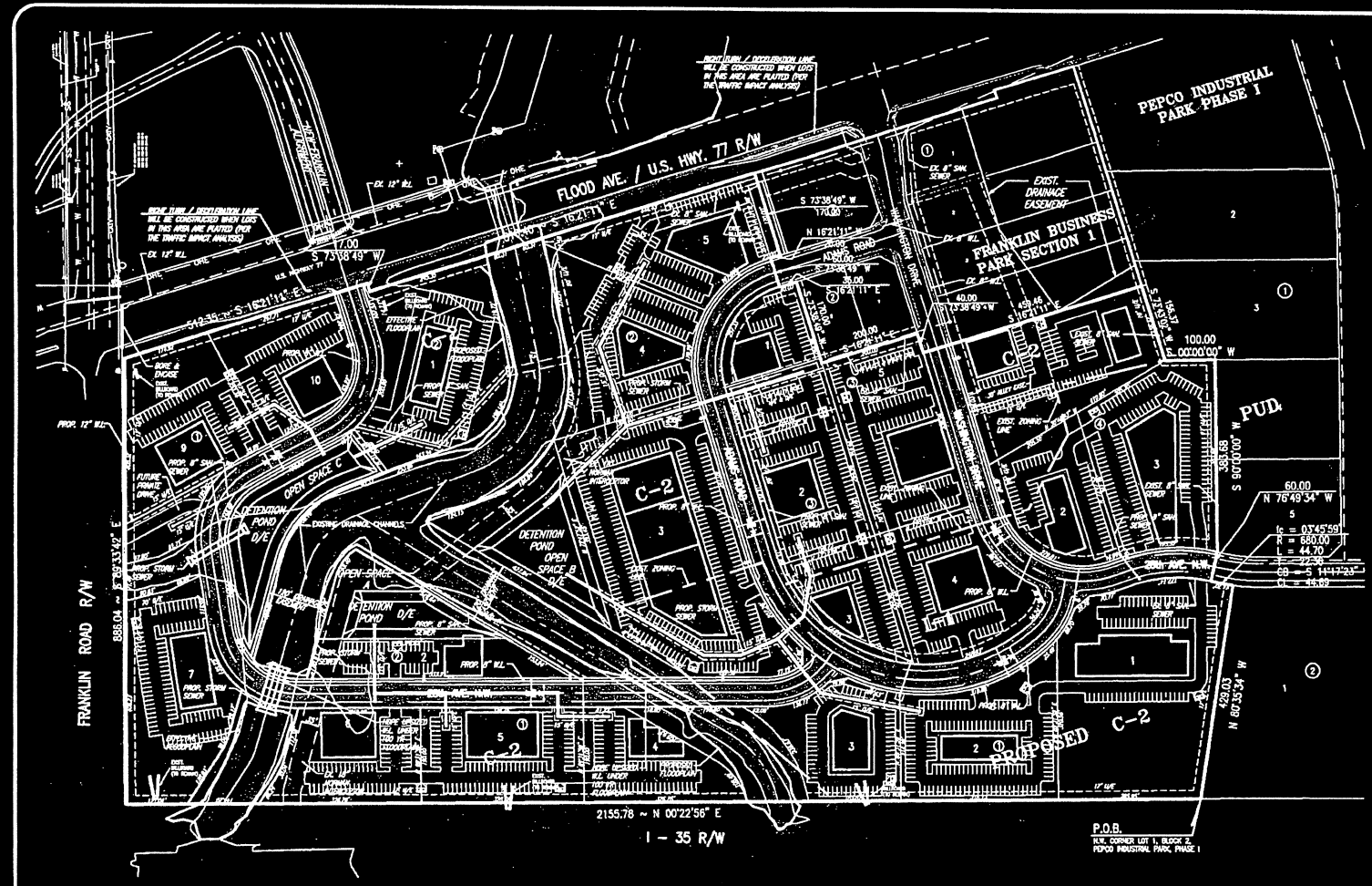
N
W E
S

March 9, 2011

0 400 800 Ft.

Subject Tract

Zoning



LEGAL DESCRIPTION

A part of the N.E./4 of Section 11, Township 9 North, Range 3 West of the Indian Meridian, Norman, Cleveland County, Oklahoma, described as follows:

BEGINNING at the Northwest corner of Lot 1, Block 2, PEPCO INDUSTRIAL PARK, PHASE I, as recorded in Book 14, Page 36, Cleveland County, Oklahoma; THENCE North 00°22'56" East on the East right-of-way of Interstate Highway 35 a distance of 2155.78 feet to a point on the South right-of-way line of Franklin Road; THENCE South 80°33'54" East on the South right-of-way of Franklin Road a distance of 888.04 feet to a point on the Westerly right-of-way line of U.S. Highway 77; THENCE South 16°21'11" East on the Westerly right-of-way of U.S. Highway 77 a distance of 518.35 feet; THENCE South 73°38'49" West on the Westerly right-of-way of U.S. Highway 77 a distance of 17.00 feet; THENCE South 16°21'11" East on the Westerly right-of-way of U.S. Highway 77 a distance of 810.40 feet to the Northeast corner of Lot 1, Block 1, FRANKLIN BUSINESS PARK SECTION 1, as recorded in Book 28, Page 126, Cleveland County, Oklahoma; THENCE South 73°38'49" West on the platted boundary of said FRANKLIN BUSINESS PARK SECTION 1, a distance of 170.00 feet; THENCE North 16°21'11" West on said platted boundary a distance of 35.00 feet; THENCE South 73°38'49" West on said platted boundary a distance of 200.09 feet; THENCE South 16°21'11" East on said platted boundary a distance of 35.00 feet; THENCE South 73°38'49" West on said platted boundary a distance of 170.00 feet; THENCE South 16°21'11" East on said platted boundary a distance of 200.00 feet; THENCE South 73°38'49" West on said platted boundary a distance of 40.00 feet; THENCE South 16°21'11" East a distance of 438.49 feet on said platted boundary to a point on the platted boundary of said PEPCO INDUSTRIAL PARK, PHASE I; THENCE South 73°47'02" West on the platted boundary of said PEPCO INDUSTRIAL PARK, PHASE I, a distance of 156.37 feet; THENCE South 00°00'00" West on said platted boundary a distance of 100.00 feet; THENCE South 90°00'00" West on said platted boundary a distance of 383.68 feet; THENCE North 76°49'34" West on said platted boundary a distance of 60.00 feet to a point on a curve; THENCE on said platted boundary on a curve to the left having a radius of 680.00 feet (said curve subtended by a chord which bears South 14°17'23" West a distance of 44.69 feet) a distance of 44.70 feet; THENCE North 80°33'54" West on said platted boundary a distance of 429.03 feet to the POINT OF BEGINNING.

Containing 51.11 acres, more or less.

NOTES:

1. FIRE HYDRANTS WILL BE LOCATED AND INSTALLED IN ACCORDANCE WITH THE FINAL PLANS AND THE CITY OF NORMAN STANDARDS AND SPECIFICATIONS. ADDITIONAL FIRE HYDRANTS MAY BE REQUIRED ON THE INTERIORS OF THE LOTS TO PROVIDE FACADE COVERAGE AS WELL AS MEET DISTANCE LIMITATIONS BETWEEN THE FDC TO HYDRANT.
2. REFER TO DRAINAGE REPORT FOR SPECIFIC DATA FOR DRAINAGE AND DETENTION.
3. EXISTING ZONING IS C-2 & I-1. THIS REQUEST IS TO REZONE THE REMAINING 14.21 ACRES TO C-2.
4. ALL PROPOSED SANITARY LINES ARE 8-INCH EXCEPT AS NOTED.
5. SIDEWALKS WILL BE CONSTRUCTED ALONG ALL STREETS, INCLUDING FLOOD AVENUE.
6. OPEN SPACE AREAS A, B, & C WILL ALSO BE DRAINAGE EASEMENTS.
7. UTILITY EASEMENTS MAY VARY WITH APPROVAL OF FINAL PLAT AND CONSTRUCTION PLANS.
8. FIRE VAULTS FOR ANY SPRINKLED BUILDING WILL BE ILLUSTRATED ON THE CONSTRUCTION PLANS FOR FINAL PLATS WHEN THEY ARE SUBMITTED.

REVISED PRELIMINARY SITE PLAN

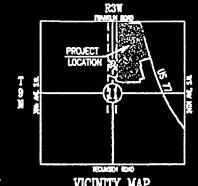
FRANKLIN BUSINESS PARK

A PART OF THE N.E./4, SEC. 11, T9N, R3W, I.M.
NORMAN, CLEVELAND COUNTY, OKLAHOMA

SCALE: 1" = 100'

LOT PLAN

LOTS 1-8	RESTAURANT
LOTS 9-13	RETAIL
LOTS 15-19	ENTERTAINMENT
LOTS 14, 20, 21, & 22	OFFICE



VICINITY MAP

OWNER / DEVELOPER

FRANKLIN BUSINESS PARK, L.L.C.
1320 N. PORTER AVENUE
NORMAN, OKLAHOMA 73072
(405) 364-1152

PREPARED BY

SMC CONSULTING ENGINEERS, P.C.
815 W. MAIN ST.
OKLAHOMA CITY, OKLAHOMA 73106
(405) 232-7715

Tom L. McGuire 13418 OKLAHOMA
NOT VALID FOR CONSTRUCTION UNLESS SIGNED IN THIS SPACE

REVISED PRELIMINARY SITE PLAN

FRANKLIN BUSINESS PARK

NORMAN, OKLAHOMA

SMC Consulting Engineers, P.C.
815 West Main • Oklahoma City, OK 73106
PH: 405-232-7715 Fax: 405-232-7464
CERTIFICATE OF AUTHORIZATION NO. CA 464 EXP. 06/30/2011

SMC

No.	Description	By	Date
1	PC#10 SPC PLAT	ST	6/2/2011
2	Comments	ST	6/20/2011
3	Revised per City Traffic Comments	ST	7/5/2011

DATE: 3-16-11
DRAWN BY: JJL
PROJECT NO.: 3147
SCALE: 1" = 100'
SHEET NO. 1

DESIGNED: TOM L. McGUIRE, P.E. #13418

ORDINANCE NO. O-1011-48 ITEM NO. 11b

STAFF REPORT

GENERAL INFORMATION

APPLICANT	Franklin Business Park, L.L.C.
REQUESTED ACTION	Rezoning to C-2, General Commercial District
EXISTING ZONING	I-1, Light Industrial District
SURROUNDING ZONING	North: Unclassified (federal/state ROW) East: C-2 and I-1 South: PUD and I-1 West: I-35 and A-2
LOCATION	West side of US Highway 77 at Franklin Road
SIZE	14.21 acres
PURPOSE	Commercial Subdivision
EXISTING LAND USE	Vacant
SURROUNDING LAND USE	North: Vacant East: Institutional South: Commercial/Industrial West: Interstate 35

SYNOPSIS: This is the companion rezoning request for the previous item. The applicant is seeking to change the existing I-1, Light Industrial zoning on approximately fourteen acres to C-2, General Commercial zoning in order to create a commercial development.

ANALYSIS: The applicant owns the abutting 36 acres to the north, which is already zoned for commercial development. This tract, currently vacant and designated for industrial use on the 2025 Plan, would be rezoned from I-1 and platted as additional sections of Franklin Business Park. This rezoning will allow for an expanded commercial development to be constructed at the newly re-aligned Franklin Road intersection. The applicant intends to develop an area consisting of detached buildings with uses permitted in the C-2 zoning district.

ALTERNATIVES/ISSUES:

- **IMPACTS** With the reconstruction of the Franklin Road intersection, a new traffic signal will be installed that will facilitate movement into this tract. The change from I-1 to C-2 will not result in negative land use impacts on this developing area, and traffic impacts will be similar.

- **DESIGN** The tract is traversed by a major drainage channel, and a flood plain permit has been approved for the creek crossings. The roadway system is circuitous by design, and provides internal access to all twenty-two of the commercial sites. Norman's ordinances require all new commercial buildings to consist of masonry material over 80 percent of all facades, but do not otherwise regulate the design of such buildings. Landscaping will be installed per the City of Norman requirements.

- **ACCESS** The internal roadway system has been designed as two connected loop streets that provide for two creek crossings. The site will only be accessed from Highway 77 via an existing street to the south (Washington Drive) and a new street that is aligned with the newly constructed Franklin Road intersection. As this intersection will be signalized, it is expected to be the primary access point for the proposed commercial development. No direct driveways will be permitted onto Highway 77.

- **SITE PLAN** The preliminary design of each lot is generic, but does shows some connectivity between lots. An alley waiver has been requested. Parking and access throughout the site appears to be adequate.

OTHER AGENCY COMMENTS:

- **PARK BOARD** No parkland dedication is required for commercial developments.

- **PUBLIC WORKS** The accompanying Preliminary Plat has been reviewed by all affected departments, and staff recommends approval. The Preliminary Plat includes a request to waive the alley requirement for this development.

STAFF RECOMMENDATION This request would add 14 acres to the 36 acres that is already zoned commercial, and allow a significant expansion for highway-oriented commercial uses at the intersection of Highway 77 and the Interstate at a newly signalized intersection. This tract can readily be utilized for commercial use with little negative impact. Staff supports this rezoning request from I-1 to C-2.

NORMAN PLANNING COMMISSION
REGULAR SESSION MINUTES

MAY 12, 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 12th day of May 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 Diana Hartley Tom Knotts Chris Lewis Curtis McCarty Roberta Pailes Andy Sherrer Jim Gasaway Zev Trachtenberg
MEMBERS ABSENT	None

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 Leah Messner, Asst. City Attorney Larry Knapp, GIS Analyst Jane Hudson, Planner II Linda Price, Revitalization Manager Lisa Krieg, Grants Planner Susan Atkinson, Neighborhood Planner David Riesland, Traffic Engineer

* * *

Item No. 11, being:
FRANKLIN BUSINESS PARK, L.L.C., REQUESTS AMENDMENT OF THE NORMAN 2025 LAND USE AND TRANSPORTATION PLAN (LUP-1011-12) FROM INDUSTRIAL DESIGNATION TO COMMERCIAL DESIGNATION FOR 14.21 ACRES OF PROPERTY GENERALLY LOCATED ON THE WEST SIDE OF US HIGHWAY 77 AT FRANKLIN ROAD.

11A. RESOLUTION NO. R-1011-105
FRANKLIN BUSINESS PARK, L.L.C., REQUESTS AMENDMENT OF THE NORMAN 2025 LAND USE AND TRANSPORTATION PLAN (LUP-1011-12) FROM INDUSTRIAL DESIGNATION TO COMMERCIAL DESIGNATION FOR 14.21 ACRES OF PROPERTY GENERALLY LOCATED ON THE WEST SIDE OF US HIGHWAY 77 AT FRANKLIN ROAD.

ITEMS SUBMITTED FOR THE RECORD:
1. Location Map
2. Staff Report

11B. ORDINANCE NO. R-1011-48
FRANKLIN BUSINESS PARK, L.L.C., REQUESTS REZONING FROM I-1, LIGHT INDUSTRIAL DISTRICT, TO C-2, GENERAL COMMERCIAL DISTRICT, FOR 14.21 ACRES OF PROPERTY GENERALLY LOCATED ON THE WEST SIDE OF US HIGHWAY 77 AT FRANKLIN ROAD.

ITEMS SUBMITTED FOR THE RECORD:
1. Location Map
2. Staff Report

11C. PP-1011-21 – CONSIDERATION OF A REVISED PRELIMINARY PLAT SUBMITTED BY FRANKLIN BUSINESS PARK, L.L.C. (SMC CONSULTING ENGINEERS, P.C.) FOR FRANKLIN BUSINESS PARK, GENERALLY LOCATED ON THE WEST SIDE OF US HIGHWAY 77 AT FRANKLIN ROAD.

ITEMS SUBMITTED FOR THE RECORD:
1. Location Map
2. Revised Preliminary Plat
3. Staff Report
4. Transportation Impacts
5. Revised Preliminary Site Plan
6. Request for Alley Waiver
7. Pre-Development Summary
8. Greenbelt Enhancement Statement
9. Greenbelt Commission Comments

PRESENTATION BY STAFF:
1. Mr. Koscinski reported that there are a couple of criteria for the change of designation in the 2025 Plan from Industrial Designation to Commercial Designation. The most important criteria is that there is some change in circumstance. Directly across the street the County is constructing a large new facility and the ordinance was amended to grant them commercial zoning; it will not be retail commercial, but will be the jail. As part of that, the County acquired the right to have a couple of commercial out-lots. The realignment of Franklin Road will provide a major access point to the subject property. Those two circumstances help justify the change in designation. Part of the site is already designated and zoned commercial. The rezoning will be from I-1

to C-2. A preliminary plat also accompanies these requests. The tract is essentially vacant. The owner believes that the new ramp off I-35, the realignment of Franklin Road and the new traffic signal will all help spur commercial interest in the area. There were no filed protests.

2. Mr. Knotts noted that this site is directly north of Westheimer Airport and asked if there is any plan incorporated in this development to respect the airspace. Mr. Koscinski responded that the ordinance, which FAA helped write, has a 50' exemption. These buildings will primarily be one- or two-story buildings and will be well under that height limit. There is a cell tower north of the site that exceeds the 50' height limit with lights on it. You can still work with FAA to get approvals.

3. Mr. Lewis commented that sometimes people entering into a marriage do a pre-nuptial agreement. He asked if there is any kind of pre-noise agreement with regard to this development, because he sees the potential for complaints about noise since this development is approximately one mile from the end of the runway. Mr. Koscinski indicated that the applicant can be asked to attach a note to the plat or put something in the covenants to put potential owners on notice. We do not usually get noise complaints from commercial uses.

4. Mr. Trachtenberg referred to the discussion centered on the Industrial Land Use Survey and asked if there was concern about this site further nibbling away at industrial land. Mr. Koscinski pointed out that the study indicated a need for large industrial tracts. The change on this tract is only about 14 acres, with the rest of the tract already zoned commercial. There is existing vacant industrial property south of this tract as well.

5. Mr. Lewis asked why this is not coming in as a Planned Unit Development or a Mixed Use Development. He was concerned about the possibility of requests for special uses at some point in the future. Mr. Koscinski indicated that is possible, but C-2 is a broad retail category and allows car dealership, auto repair, gas stations, restaurants, and general retail uses. This location is at the first major exit off the interstate and the applicant thinks that location will be a good location for commercial.

6. Ms. Pailes noted that this area is basically the headwater of Little River. She was concerned about runoff from the parking lots and whether there are plans to deal with that. Mr. Koscinski indicated there are a couple of detention ponds that will work as filtration basins and should mitigate some of the runoff issues.

7. Mr. Knotts commented that this is the entry to Norman. There was a lot of effort in University North Park to put a nice face of the buildings toward I-35. He asked whether that will be done in this development. Mr. Koscinski indicated the applicant did not request a PUD. Our standard development controls require masonry buildings. Staff believes it will serve the applicant well to try to dress the area up.

8. Mr. Lewis referred to the Transportation Impacts form, and asked where the information on the square footage of various uses comes from. Mr. Riesland stated that the Traffic Impact Study was prepared for the City; he reviewed the Traffic Impact Study which contained the square footage information. Michael Hofener, Traffic

Engineering Consultants, reported they were hired to conduct the traffic study on the subject property. The apartments were probably a misunderstanding on their part. There is the potential for a hotel on the property. Hotel venues overall generate 5-10% fewer trips than apartments. The first step in the process, if you don't know exactly what will be going in, is to use floor/area ratios based on what the developer thinks may be built. They use manuals which are based on hundreds of studies to assign trip counts. They do not typically use the worst case scenario, but try to come up with the most realistic scenario. Mr. Lewis expressed concern about either apartments or a hotel being in this area because it is the approach path for the airport. Mr. Hofener reiterated that the apartment use was a misunderstanding on their part when they prepared the traffic study. If there was to be an apartment component, it would have to come back to the Planning Commission for a special use.

9. Ms. Gordon was concerned about traffic backing up at the Franklin intersection on Highway 77 and a conflict with traffic coming south from I-35 around the curve. Mr. Riesland reported that the traffic signal has been designed with a safety feature so that people coming off the interstate will have a "signal ahead" sign that will flash; they will see the sign before they can see the intersection. It will be located 600' north of the intersection.

PRESENTATION BY THE APPLICANT:

1. Tom McCaleb, engineer for the applicant – This is another collaborative project. The collaboration of this project has dealt with the jail, ODOT and the City with regard to the location of Franklin Road. When the county bought the property for the jail there was a plan for the realignment of Franklin Road that ODOT endorsed. The traffic light is being installed. Another traffic study was done for this project. The site is currently zoned C-2 and has been that way for years. They are adding 14 acres that is currently zoned industrial to the C-2 zoning. The property didn't have a good access. This project will add the west light to the traffic signal. The traffic that was generated by the TIA for this project was four cars over the threshold of design that would require a lane to slow down to make a right turn, but they have agreed to install that deceleration/turn lane. The TIA also showed that there may be a problem at Venture Drive and improvements may be needed there at some time in the future. The builder on this land is going to locate his personal office on the site, so it will present a nice face and he will require that of everybody. The sanitary sewer interceptor line went across the jail site and this site and a sewer line was laid to serve this site without a lift station. The site will be small tracts and there will not be any big-box uses and no apartments. The northeast corner is anticipated to be restaurants, and interest has been expressed by local establishments. They don't currently have a hotel planned for the site. The location of the roads is fixed for many reasons, including utilities and drainage. There is an OEC substation to the north of the site that currently accesses onto Franklin Road; they will be provided with an access driveway through this site.

2. Mr. Lewis asked why this was not submitted as a PUD or MUDD, and whether the concern about flight path noise was considered. Mr. McCaleb indicated that they can notify people about the issue of the noise, but that issue has not come up and the noise currently exists. They can put a notice about the flight path and noise in the covenants.

3. Mr. Trachtenberg asked about the Greenbelt Enhancement Statement and any possibility for trail systems along the Little River. Mr. McCaleb reported that they are doing some clean-up in the channel right now; there are some active beavers in the area and they are trying to solve some problems they have created. They have a flood plain permit to do the work. They are familiar with the full build-out floodplain grades and will design it to meet those. He is planning a vehicle/pedestrian bridge across the channel. The whole system will be designed for pedestrians and it will be green in nature. They didn't do a PUD because it was more restrictive than they could allow because they don't know the components for the site. They have talked about things that may or may not happen, including the possibility for water taxis and trying to create a feature around the water.

4. Ms. Pailes commented that anything that goes into the water at this point either has to be taken out or we have to drink it. She hopes that they will consider installing swales and things to decontaminate the runoff from the parking lots.

PARTICIPATION BY THE AUDIENCE:
None

DISCUSSION AND ACTION BY THE PLANNING COMMISSION:
Curtis McCarty moved to recommend adoption of Resolution No. R-1011-105, Ordinance No. O-1011-48, the Site Development Plan and accompanying documentation, and recommend approval of the Preliminary Plat for FRANKLIN BUSINESS PARK ADDITION, to the City Council. Andy Sherrer seconded the motion.

There being no further discussion, a vote on the motion was taken with the following result:

YEAS	Cynthia Gordon, Diana Hartley, Tom Knotts, Chris Lewis, Curtis McCarty, Roberta Pailes, Andy Sherrer, Zev Trachtenberg, Jim Gasaway
NAYES	None
ABSENT	None

Recording Secretary Roné Tromble announced that the motion, to recommend adoption of Resolution No. R-1011-105, Ordinance No. O-1011-48, the Site Development Plan and accompanying documentation, and recommend approval of the Preliminary Plat for FRANKLIN BUSINESS PARK ADDITION, to the City Council, passed by a vote of 9-0.

* * *

City of Norman, OK

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

Master

File Number: O-1011-56

File ID:	O-1011-56	**Type:**	Zoning Ordinance	**Status:**	Consent Item
Version:	1	**Reference:**	Item No. 6	**In Control:**	City Council
Department:	Planning and Community Development Department	**Cost:**		**File Created:**	04/14/2011
File Name:	O-1011-56 Young Sewer Easement Closing			**Final Action:**	

Title: CONSIDERATION OF ORDINANCE NO. O-1011-56 UPON FIRST READING BY TITLE: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, CLOSING A PORTION OF A SANITARY SEWER EASEMENT LOCATED WITHIN LOT 8A, BLOCK 1, WHISPERING PINES ADDITION, TO THE CITY OF NORMAN, CLEVELAND COUNTY, OKLAHOMA; AND PROVIDING FOR THE SEVERABILITY THEREOF. (1119 WHISPERING PINES DRIVE)

ACTION NEEDED: Motion to Introduce and adopt Ordinance No. O-1011-56 upon First Reading by title.

ACTION TAKEN: _____

Notes:

Agenda Date: 06/28/2011

Agenda Number: 6

Sponsors:

Enactment Date:

Attachments: O-1011-56 Young Sewer Easement, Young Location Map, Petition Whispering Pines, Exhibit A Warranty Deed, Exhibit B Proposed Lot Line Adjustment, Young Sewer Easement Staff Report, 5-12-11 PC Minutes - Young Easement

Enactment Number:

Project Manager: Doug Koscinski

Hearing Date:

Entered by: rone.tromble@normanok.gov

Effective Date:

History of Legislative File

Ver-sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:

1	Planning Commission	05/12/2011	Recommended for Adoption at a subsequent City Council Meeting	City Clerk Department	Pass
	Action Text:	Recommended for Adoption at a subsequent City Council Meeting to the City Clerk Department			
1	Planning Commission	05/12/2011			
1	City Council	06/28/2011			

Text of Legislative File O-1011-56

Body

BACKGROUND: The owners have submitted a request to close and ultimately vacate a 10-foot wide sanitary sewer easement located at 1119 Whispering Pines Drive, legally described as Lot 8A, Block 1, Whispering Pines Addition. Prior to 1957, properties in this area were served by a 15-inch sanitary sewer main, which ran across the front of the property from the northeast corner of the lot to the southeast corner of the lot. During 1957, a new 21-inch sanitary sewer main was installed in the rear of this lot adjacent to Imhoff Creek. The final plat for Whispering Pines Addition was filed of record June 29, 1971, honoring the 10-foot sanitary sewer easement on the front of the lot. Around 1993 or 1994, a new 36-inch sewer main was installed in Imhoff Creek at the rear of the lot. As a result, both the 15-inch line at the front of the lot and the 21-inch line at the rear have been abandoned in this area and are no longer in service. The applicant has begun remodeling the home and would like to expand the residence into the old easement. Therefore, they would like to eliminate the old easement, no longer in use, across the front of the property.

DISCUSSION: The vacation of an easement is a process and the request for closure is the first step in the process to remove an easement from a filed plat. The easement to be closed is described in Book 60 Page 24 in the Cleveland County records. The closure is followed by an appeal to District Court to vacate the easement.

RECOMMENDATION: The easement was originally created for a sewer line that has since been re-routed so the City has no need to retain the old easement. Planning Commission, by unanimous vote of 9-0 at their May 12, 2011 meeting, recommended closure of the easement. No protests were submitted or heard. Staff supports this request to close this portion of the easement no longer utilized by the City.

O-1011-56

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, CLOSING A PORTION OF A SANITARY SEWER EASEMENT LOCATED WITH LOT 8A, BLOCK 1, WHISPERING PINES ADDITION, TO THE CITY OF NORMAN, CLEVELAND COUNTY, OKLAHOMA; AND PROVIDING FOR THE SEVERABILITY THEREOF.
(1119 Whispering Pines Drive)

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

§ 1. That, pursuant to Resolution Number R-8182-66, Glenna Young, owner of the subject property, has petitioned the City to have a portion of the sanitary sewer easement within Lot 8A, Block 1, WHISPERING PINES ADDITION closed; and,

§ 2. That, also pursuant to Resolution Number R-8182-66, the proper notice has been given, and the maps, memorandums and other items required by said Resolution have been presented to this Council; and

§ 3. That, also pursuant to Resolution Number R-8182-66, a public hearing has been held regarding said closing; and

§ 4. That, a portion of the sanitary sewer easement within Lot 8A, Block 1, WHISPERING PINES ADDITION, filed in Book 60, Page 24 of the Cleveland County Clerks Records, herein after described, to wit:

> All of Lot Eight (8) and a part of Lot Seven (7), Block One (1) of WHISPERING PINES, an Addition to Norman, Cleveland County, Oklahoma, and being more particularly described as follows: Beginning at the Southwesterly corner (SWly/c) of said Lot 7; thence N 45°49'37" W and along the Southwesterly line of said Lot 7 for a distance of 139.39 feet to a point being the Northwesterly corner of said Lot 7; thence N 40°13'21" E and along the Northwesterly line of said Lot 7 for a distance of 41.94 feet; thence N 43°11'31" E for a distance of 40.95 feet; thence S 35°19'10" E for a distance of 154.47 feet to a point on the Southwesterly line of Lot 7; thence Southwesterly along a curve to the left, having a radius of 239.44 feet, chord bearing S 54°05'11" W and a chord distance 52.66 feet for curve length of 52.77 feet to the point or place of beginning, according to the recorded Lot Line Adjustment filed in Book 2810, Page 473. AKA Tract 8A.
> (1119 Whispering Pines Drive)

is hereby closed.

§ 5. 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

_____, 2011.

_____
(Mayor)

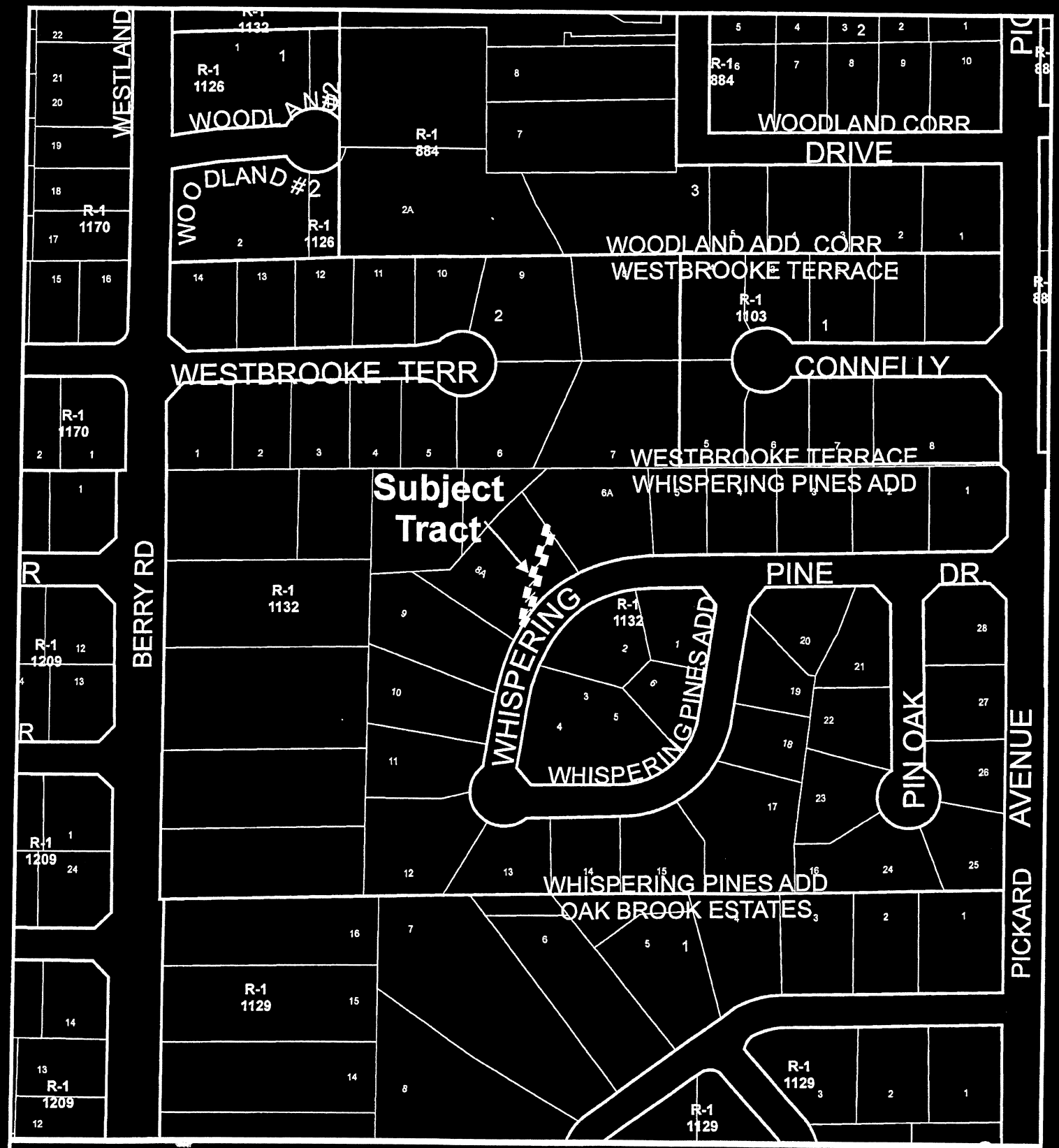
ATTEST:

_____
(City Clerk)

NOT ADOPTED this _____day of

_____, 2011.

_____
(Mayor)



Location Map

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.

N
W E
S

April 11, 2011

0 100 200 Ft.

Subject Tract

Zoning

PETITION TO VACATE AN ABANDONED SEWER EASEMENT

BEFORE THE CITY OF NORMAN
PLANNING COMMISSION AND CITY COUNCIL

Comes now Glenna Young 1119 Whispering Pines Dr. Norman, Oklahoma, the owner of the following described real estate, to-wit:

See Warranty Deed attached hereto marked Exhibit "A" and made a part hereof.
(Street address 1119 Whispering Pines Dr. Norman, OK 73072)

Petitioner requests the abandonment, vacation and closure of a sewer easement ten (10) in width across the above described real property exhibited on the Plat of Whispering Pines Addition attached hereto marked Exhibit "B"and made a part hereof.

The ownership list within 300 feet of the subject property, certified by a bonded abstractor is attached hereto marked Exhibit "C"and made a part hereof.

Attached hereto is the check in the amount of $400.00 for the filing fee.

WHEREFORE, petitioner requests that this petition and application for the closure of the ten (10) foot sewer easement be submitted to the Norman Planing Commission at its next scheduled meeting for its approval and then forwarded on to the Norman City Council for its approval.

Respectfully submitted this 11th day of April, 2011.

LAW OFFICES OF
WILLIAM H. MATTOON

William H. Mattoon

William H. Mattoon, OBA #5794
225 North Peters , Ave Ste. #3
Norman, OK 73069
(405) 329-1333
(405) 329-2160 FAX
wmattoon@aol.com

FILED IN THE OFFICE
OF THE CITY CLERK
ON 4-11-11

MAIL DEED/TAX STATEMENT TO: GLENNA ZOLDOSKE YOUNG 3217 ROLLING STONE ROAD OKC, OK. 73120

147606 BOOK 2817 PAGE 394

399.00 800 90

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

That **JUDITH A. JIMERSON, Trustee of the Judith A. Jimerson 1991 Trust, dated December 23, 1991, s/k/a the Judith A. Jimerson 1991 Trust Agreement, dated December 31, 1991,** party of the first part, in consideration of the sum of Ten and no/100 Dollars ($10.00), and other valuable considerations to it in hand paid, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto GLENNA ZOLDOSKE YOUNG, part Y of the second part, all its right, title, interest, estate, and every claim and demand, both at law and in equity, in and to all of the following described real property situate in CLEVELAND County, State of Oklahoma, to-wit:

SURFACE RIGHTS ONLY
All of Lot Eight (8) and a part of Lot Seven (7), Block One (1) of WHISPERING PINES, an Addition to Norman, Cleveland County, Oklahoma, and being more particularly described as follows: Beginning at the Southwesterly corner (SWly/c) of said Lot 7; thence N 45°49'37" W and along the Southwesterly line of said Lot 7 for a distance of 139.39 feet to a point being the Northwesterly corner of said Lot 7; thence N 40°13'21" E and along the Northwesterly line of said Lot 7 for a distance of 41.94 feet; thence N 43°22'31" E for a distance of 40.95 feet; thence S 35°19'10" E for a distance of 154.47 feet to a point on the Southeasterly line of Lot 7; thence Southwesterly along a curve to the left, having a radius of 239.44 feet, chord bearing S 54°05'11" W and a chord distance 52.66 feet for curve length of 52.77 feet to the point or place of beginning, according to the recorded Lot Line Adjustment filed in Book 2810, Page 473. AKA TRACT 8A.

together with all the improvements thereon and the appurtenances thereunto belonging, and warrant the title to the same.

TO HAVE AND TO HOLD said described premises unto the said part Y of the second part, their heirs and assigns, forever, free, clear and discharged of and from all former grants, charges, taxes, judgments, mortgages and other liens and incumbrances of whatsoever nature.

Signed and delivered this 21ST day of March, 1997.

CLEVELAND COUNTY 023487 OKLAHOMA Documentary Tax Commission TAX MAR 24'97 399.00 P.B. 1298

Judith A. Jimerson

JUDITH A. JIMERSON, Trustee of the Judith A. Jimerson 1991 Trust, dated December 23, 1991, s/k/a Judith A. Jimerson 1991 Trust Agreement, dated December 31, 1991

STATE OF OKLAHOMA)
) SS:
COUNTY OF CLEVELAND)

Before me, the undersigned, a Notary Public, in and for said County and State, on this 21ST day of MARCH, 1997, personally appeared JUDITH A. JIMERSON, Trustee of the Judith A. Jimerson 1991 Trust, dated December 23, 1991, s/k/a Judith A. Jimerson 1991 Trust Agreement, dated December 31, 1991, to me known to be the identical person who executed the within and foregoing instrument and acknowledged to me that she executed the same as her free and voluntary act and deed and as the free and voluntary act and deed of said Trust for the uses and purposes therein set forth.

GIVEN under my hand and seal the day and year last above written.

My Commission Expires:

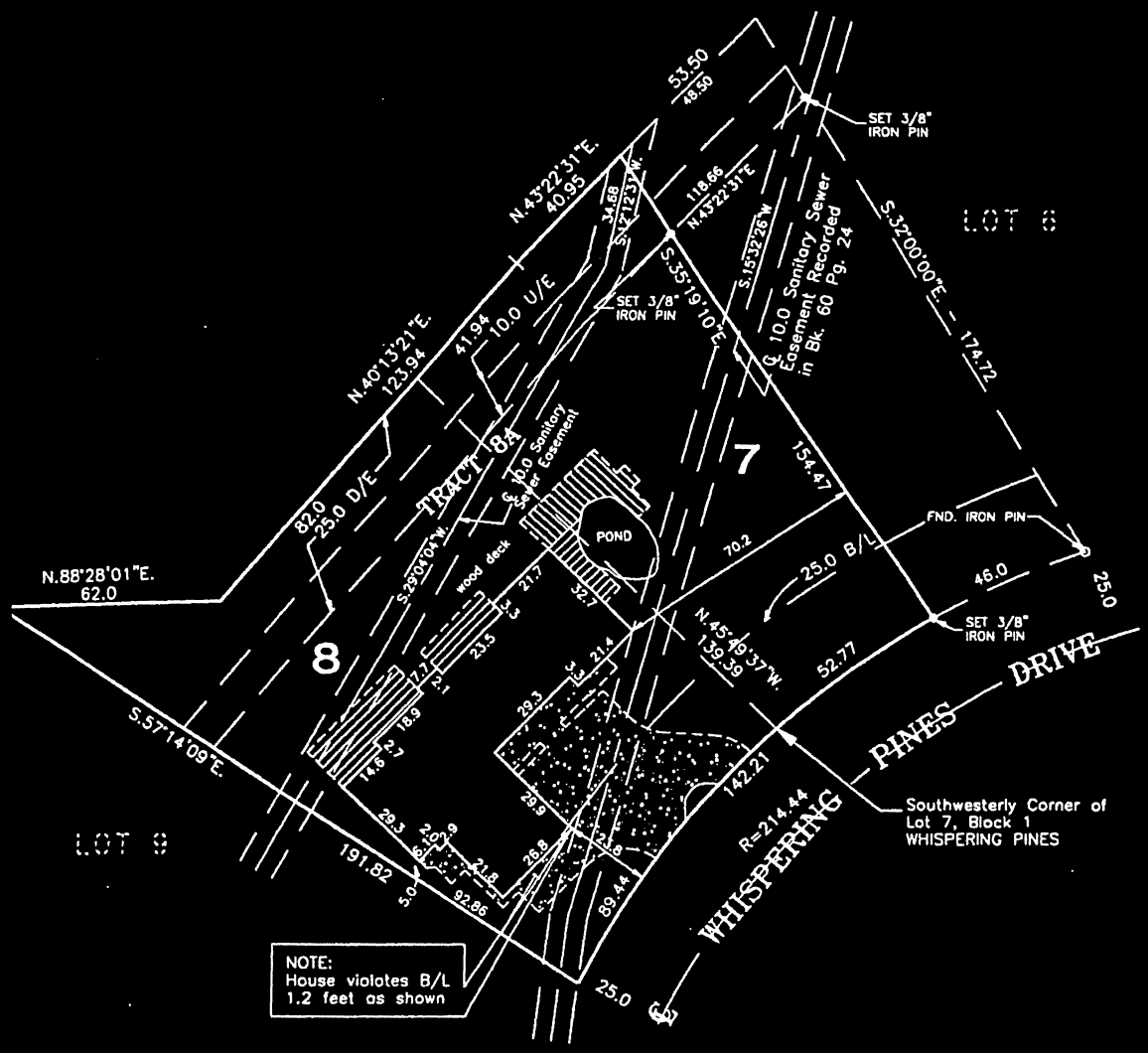
Patti Graham
Notary Public

OFFICIAL SEAL
Patti Graham
Notary Public ✪ Oklahoma
Cleveland County
My Commission Expires Mar. 22, 1999

STATE OF OKLAHOMA CLEVELAND COUNTY FILED AND RECORDED 97 MAR 24 PM 2:31 AT DODSON COUNTY CLERK

EXHIBIT A

PROPOSED LOT LINE ADJUSTMENT
Lots 7 and 8, Block 1 of WHISPERING PINES
to Norman, Cleveland County, Oklahoma



LOTS AS ADJUSTED

Scale: 1" = 40'

CERTIFICATE OF AUTHORIZATION CA-819
HALE & ASSOCIATES SURVEYING CO.

HALE ASSOCIATES SURVEYING CO.
TELEPHONE: (405) 886-0174
FAX: (405) 881-4981
1601 S.W. 89TH BLDG. C, SUITE 200
OKLAHOMA CITY, OKLAHOMA

EXHIBIT "B"

Sheet 2 of 3

Planning Commission Agenda
May 12, 2011

ORDINANCE NO. O-1011-56 ITEM NO. 8

STAFF REPORT

GENERAL INFORMATION

APPLICANT	Glenna Young
REQUESTED ACTION	Closure of a ten foot (10') sewer easement

BACKGROUND. The owners have submitted a request to close and ultimately vacate a 10' sanitary sewer easement located at 1119 Whispering Pine Drive, Lot 8A, Block 1, Whispering Pines Addition. Prior to 1957, properties in this area were served by a 15" sanitary sewer main. In this case the line ran across the front of the property. During 1957, a new 21" sanitary sewer main was installed in the rear of this lot adjacent to Imhoff Creek. The final plat for Whispering Pines Addition was filed of record June 29, 1971, honoring the 15" sewer main in a 10' sanitary sewer easement on the front of the lot. Around 1993 or 1994, a new 36" Imhoff Interceptor sewer main was installed. As a result, both the 15" and 21" lines have been abandoned in this area and are no longer in service. The applicant would like to expand the residence. The proposed expansion will encroach into the old easement. Therefore, they would like to eliminate the old easement, no longer in use, across the front of the property.

DISCUSSION. The vacation of an easement is a process and the request for "closure" is the first step in the process to remove an easement from a filed plat. The closure is followed by an appeal to District Court to vacate the easement.

RECOMMENDATION. The easement was originally created for a sewer line that has since been re-routed so the City has no need to retain the old easement. Staff supports this request to close this portion of the easement no longer utilized by the City.

NORMAN PLANNING COMMISSION
REGULAR SESSION MINUTES

MAY 12, 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 12th day of May 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 Diana Hartley Tom Knotts Chris Lewis Curtis McCarty Roberta Pailes Andy Sherrer Jim Gasaway Zev Trachtenberg
MEMBERS ABSENT	None

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 Leah Messner, Asst. City Attorney Larry Knapp, GIS Analyst Jane Hudson, Planner II Linda Price, Revitalization Manager Lisa Krieg, Grants Planner Susan Atkinson, Neighborhood Planner David Riesland, Traffic Engineer

* * *

Item No. 8, being:
O-1011-56 – GLENNA YOUNG REQUESTS CLOSURE OF A TEN (10) FOOT SEWER EASEMENT LOCATED WITHIN LOT 8A, BLOCK 1, WHISPERING PINES ADDITION, AT 1119 WHISPERING PINES DRIVE.

ITEMS SUBMITTED FOR THE RECORD:
1. Location Map
2. Staff Report
3. Site Plan

PRESENTATION BY STAFF:
1. Mr. Koscinski reported that this is an older parcel that has had several upgrades. The first sewer line was a 15" line in the subject alignment that was installed in 1957. The sewer line was upgraded and moved to the back of the lot. When the property was subsequently replatted, they honored the easement because it had never been closed. The owner was under construction and discovered they were in the easement and has asked that the easement be closed and ultimately vacated. The City doesn't need it because the sewer line is now located at the rear of the property. Staff has no objection to closing the easement.

PRESENTATION BY THE APPLICANT:
None

PARTICIPATION BY THE AUDIENCE:
None

DISCUSSION AND ACTION BY THE PLANNING COMMISSION:
Diana Hartley moved to recommend adoption of Ordinance No. O-1011-56 to the City Council. Zev Trachtenberg seconded the motion.

There being no further discussion, a vote on the motion was taken with the following result:

YEAS	Cynthia Gordon, Diana Hartley, Tom Knotts, Chris Lewis, Curtis McCarty, Roberta Pailes, Andy Sherrer, Zev Trachtenberg, Jim Gasaway
NAYES	None
ABSENT	None

Recording Secretary Roné Tromble announced that the motion, to recommend adoption of Ordinance No. O-1011-56 to the City Council, passed by a vote of 9-0.

* * *

City of Norman, OK

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

Master

File Number: AP-1011-23

File ID:	AP-1011-23	**Type:**	Appointment	**Status:**	Consent Item
Version:	1	**Reference:**	Item No. 7	**In Control:**	City Council
Department:	City Clerk Department	**Cost:**		**File Created:**	06/16/2011
File Name:	Appointments			**Final Action:**	

Title: CONSIDERATION OF THE MAYOR'S APPOINTMENTS AS FOLLOWS:

DEVELOPMENT OVERSIGHT COMMITTEE FOR TIF NO. 2
TERM: 04-10-11 TO 04-10-14: Robert Castleberry, 4701 Windrush Circle
TERM: 04-10-11 TO 04-10-14: Michael Givel, 2800 Barry Switzer Avenue
TERM: 04-10-11 TO 04-10-14: Fred Walden, Post Office Box 644

HUMAN RIGHTS COMMISSION
TERM: 06-28-11 TO 07-13-12: Cheryl Wattley, 2007 Trailpine Court
TERM: 06-28-11 TO 07-13-13: Tamara Pullin, 415 College Avenue
TERM: 07-13-11 TO 07-13-14: Kay Ham, 504 Clearview Drive
TERM: 07-13-11 TO 07-13-14: Teresa Turner, 408 Piney Oak Drive
TERM: 06-28-11 TO 07-13-14: Marjaneh Seirafi-Pour, 4509 Canonbury Circle

REAPPORTIONMENT COMMISSION - WARD FIVE
TERM: 06-28-11 TO 07-01-15: Theodore Metscher, 8900 Alameda Drive

INFORMATION: In accordance with the Mayor's request, the above-described item is submitted for City Council's consideration. Michael Givel will replace Ted Greb; Cheryl Wattley will fill the unexpired term of Clint Williams who has resigned; Tamara Pullin will fill the unexpired term of Charlotte Gordon who has resigned; Marjaneh Seirafi-Pour will replace Michael Ridgeway who has resigned; Theodore Metscher will replace Mark Morton who is no longer eligible to serve; and Robert Castleberry, Fred Walden, Kay Ham, and Teresa Turner are reappointments.

ACTION NEEDED: Motion to confirm or reject the appointments.

ACTION TAKEN: _____

City of Norman, OK

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

Master

File Number: RPT-1011-47

File ID:	RPT-1011-47	**Type:**	Communication or Report	**Status:**	Consent Item
Version:	1	**Reference:**	Item No. 8	**In Control:**	City Council
Department:	Finance Department	**Cost:**		**File Created:**	06/10/2011
File Name:	Finance Directors Investment Report May 31, 2011			**Final Action:**	

Title:

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

ACTION NEEDED: Motion to acknowledge receipt of the report and direct the filing thereof.

ACTION TAKEN: _____

Notes:

Agenda Date:	06/28/2011
Agenda Number:	8
Sponsors:	
Enactment Date:	
Attachments:	Finance Investment Report
Enactment Number:	
Project Manager:	Anthony Francisco, Director of Finance
Hearing Date:	
Entered by:	Ellen.Usry@NormanOK.gov
Effective Date:	

History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:

Text of Legislative File RPT-1011-47

DATE: 07-Jun-11

TO: City Council

FROM: Anthony Francisco, Director of Finance
REVIEWED BY: Clint Mercer, Chief Accountant
PREPARED BY: Debbie Whitaker, Municipal Accountant III

SUBJECT: Breakdown of Interest Earnings by Fund

	MONTHLY COMPARISON				ANNUAL COMPARISON			
FUND	MONTHLY BUDGETED INTEREST EARNINGS FYE11	MONTHLY INTEREST EARNINGS May 2011	MONTHLY % INCREASE (DECREASE)	MONTHLY % OF PORTFOLIO HOLDINGS	ANNUAL BUDGETED INTEREST EARNINGS FYE10-YTD	INTEREST EARNINGS YTD FYE11	YTD % INCREASE (DECREASE)	YTD % PORTFOLIO HOLDINGS
GENERAL FUND	$22,917	$5,856	-74.45%	8.75%	$252,083	$55,728	-77.89%	8.21%
PUBLIC SAFETY SALES TAX FUND	N/A	$4,894	100.00%	7.32%	N/A	$50,564	100.00%	7.45%
ROOM TAX FUND	$250	$117	-53.15%	0.18%	$2,750	$1,086	-60.51%	0.16%
CAPITAL PROJECTS FUND	$29,167	$15,730	-46.07%	23.51%	$320,833	$155,583	-51.51%	22.93%
SINKING FUND	$2,083	$3,452	65.70%	5.16%	$22,917	$31,136	35.87%	4.59%
G.O. BOND FUND	$167	$112	-32.87%	0.17%	$1,833	$1,275	-30.44%	0.19%
WESTWOOD FUND	$625	$72	-88.42%	0.11%	$6,875	$5,980	-13.02%	0.88%
WATER FUND	$10,000	$10,001	0.01%	14.95%	$110,000	$89,816	-18.35%	13.24%
WASTEWATER FUND	$25,000	$6,923	-72.31%	10.35%	$275,000	$74,359	-72.96%	10.96%
HALLPARK FUND	N/A	$0	100.00%	0.00%	N/A	$0	100.00%	0.00%
DEVELOPMENT EXCISE	$16,667	$9,584	-42.50%	14.32%	$183,333	$97,565	-46.78%	14.38%
SEWER SALES TAX	$16,667	$5,876	-64.74%	8.78%	$183,333	$63,432	-65.40%	9.35%
SANITATION FUND	$2,500	$40	-98.39%	0.06%	$27,500	$3,866	-85.94%	0.57%
PARKLAND FUND	$2,255	$986	-56.29%	1.47%	$24,806	$10,346	-58.29%	1.52%
TRUST & AGENCY FUNDS	N/A	$4	100.00%	0.01%	N/A	$45	100.00%	0.01%
TAX INCREMENT DISTRICT	$417	$1,702	100.00%	2.54%	$4,583	$17,473	100.00%	2.58%
SPECIAL GRANTS FUND	N/A	$562	100.00%	0.84%	N/A	$8,621	100.00%	1.27%
CLEET FUND	N/A	$22	100.00%	0.03%	N/A	$186	100.00%	0.03%
HOUSING	N/A	$0	100.00%	0.00%	N/A	$133	100.00%	0.02%
SITE IMPROVEMENT FUND	N/A	$34	100.00%	0.05%	N/A	$356	100.00%	0.05%
ARTERIAL ROAD FUND	N/A	$538	100.00%	0.80%	N/A	$7,180	100.00%	1.06%
SEIZURES	$42	$402	864.18%	0.60%	$458	$3,688	704.69%	0.54%
	$128,755	$66,907	-48.04%	100.00%	$1,416,306	678,416	-52.10%	100.00%

City funds are invested in interest bearing accounts and investment securities, as directed by the City's Investment Policy. Rates of return on these investments relate directly to current Treasury and Money Market rates. Total funds on deposit of $ 115.41 million as of 5/31/11 are represented by working capital cash balances of all City funds of approximately $ 66.21 million, outstanding encumbrances of $21.73 million, General Obligation Bond proceeds of $6.72, NUA revenue bond proceeds of $ 12.4 million, NMA bond proceeds of $3.98 million, and UNP TIF reserve amounts of $ 4.37 million.

INVESTMENT BY TYPE

May 31, 2011

LIST BY TYPE	SEC. NO.	PURCHASED	MATURITY	YIELD	EARNED INTEREST	COST	MARKET
**Checking							
BANK OF AMERICA	NUA REV. FD.				$0.00	$0.00	$0.00
BANK OF AMERICA	GEN'L DEP.			0.30%	$2,962.01	$13,110,793.74	$13,110,793.74
BANK OF AMERICA	WARRANTS PAYABLE				$0.00	($1,366,613.21)	($1,366,613.21)
BANK OF AMERICA	PAYROLL				$0.00	($2,664,796.70)	($2,664,796.70)
BANK OF AMERICA	COURT BOND REFUNDS				$0.00	$231,153.00	$231,153.00
BANK OF AMERICA	INSURANCE CLAIMS				$0.00	($21,942.71)	($21,942.71)
BANK OF AMERICA	HALLPARK			0.01%	$1.38	$80,644.23	$80,644.23
**Subtotal					$2,963.39	$9,369,238.35	$9,369,238.35
**Money Market							
BANCFIRST-NUA	MONEY MKT.			0.01%	$3.00	$737,098.59	$737,098.59
BANCFIRST-NMA Sanitat.	MONEY MKT.			0.01%	$31.29	$3,592,341.97	$3,592,341.97
BANCFIRST-NMA Golf	MONEY MKT.			0.01%	$0.82	$389,103.72	$389,103.72
BANCFIRST-NUA Water	MONEY MKT.			0.01%	$89.09	$11,660,908.23	$11,660,908.23
Bank of Oklahoma UNP TIF	MONEY MKT.			0.01%	$23.72	$3,772,961.99	$3,772,961.99
REPUBLIC BANK UNP TIF	MONEY MKT.			0.66%	$342.16	$598,924.78	$598,924.78
FIRST FIDELITY	MONEY MKT.			0.40%	$71.54	$0.00	$0.00
BANK OF AMERICA	MONEY MKT.			0.01%	$3.47	$52,494.54	$52,494.54
BANK OF AMERICA	MONEY MKT.			0.04%	$10.14	$247,813.32	$247,813.32
BANK OF AMERICA - Drinking W	MONEY MKT.			0.30%	$68.99	$270,860.08	$270,860.08
BANK OF AMERICA - Clean Wat	MONEY MKT.			0.30%	$0.43	$962,559.28	$962,559.28
BANK OF AMERICA-2008A	MONEY MKT.			0.30%	$204.56	$775,258.18	$775,258.18
BANK OF AMERICA-2008B	MONEY MKT.			0.30%	$573.52	$2,121,317.99	$2,121,317.99
BANK OF AMERICA-2010	MONEY MKT.			0.30%	$1,009.66	$3,822,412.56	$3,822,412.56
**Subtotal					$2,432.39	$29,004,055.23	$29,004,055.23
**Sweep/Overnight							
JP MORGAN	SHORT TERM			0.00%	$0.00	$2,448,764.67	$2,448,764.67
**U.S. Treasury Securities							
FHLB	3133XFJY3	08/31/09	06/10/11	1.11%	5,012.45	5,555,000.00	$5,561,888.20
FHLMC	312SX1EJ2	12/31/09	05/22/13	2.08%	3,534.60	2,000,000.00	$2,147,060.00
FHLB	3133XWD71	12/31/09	02/28/12	1.24%	5,172.68	5,000,000.00	$5,031,850.00
T-Note	912828KP4	12/31/09	05/15/12	1.31%	6,539.41	6,000,000.00	$6,058,537.35
FHLB	3133XWD71	12/31/09	02/28/12	1.25%	5,196.26	5,000,000.00	$5,031,850.00
T-Note	912828KP4	12/31/09	05/15/12	1.31%	7,357.44	6,750,000.00	$6,831,967.65
FFCB	31331G2R9	03/31/10	12/07/12	1.58%	131.58	100,000.00	$102,265.00
FHLB	3133XTS49	03/31/10	06/20/12	1.30%	107.99	100,000.00	$101,674.00
FNMA	31398AZ47	07/29/10	07/29/13	1.19%	3,967.46	4,000,000.00	$4,006,200.00
FHLB	3133XYHD0	07/22/10	06/14/13	1.05%	3,484.75	4,000,000.00	$4,089,280.00
FNMA	313359MNU3	11/30/10	08/01/12	0.73%	4,215.48	8,000,000.00	$8,449,600.00
FHLB	313371WK8	11/30/10	02/25/14	1.00%	1,458.33	1,750,000.00	$1,748,950.00
FNMA	31398A5Q1	12/02/10	11/08/13	1.06%	7,356.60	8,250,000.00	$8,231,850.00
U.S. STRIPS (matured)	912833JW1	12/30/10	05/15/11	0.22%	3,280.00		
FFCB	31331KKX7	05/18/11	11/18/13	1.04%	1,906.67	5,500,000.00	$5,507,095.00
T-Note	912828MN7	05/20/11	02/15/13	0.46%	1,255.93	7,500,000.00	$7,627,125.00
FFCB	31331KET3	05/20/11	09/23/13	0.80%	1,088.36	5,000,000.00	$5,035,400.00
U.S. STRIPS (Hallpark)	912833KC3	06/09/04	05/15/14	5.12%	445.64	79,860.00	$128,804.28
**Subtotal					61,511.63	74,584,860.00	$75,691,396.48
TOTAL					66,907.41	115,406,918.25	$116,513,454.73

The Governmental Accounting Standards Board requires the reporting of market values of investment securities. These market values represent the amount of money the security would sell for on the open market, if cash flow demands were such that the security had to be sold. The City of Norman purchases investment securities with the intent of holding them to maturity, as stated in the City's Investment Policy. Only in exceptional circumstances would securities be sold before their maturity, due to cash flow demands or favorable market conditions.

City of Norman, OK

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

Master

File Number: RPT-1011-48

File ID:	RPT-1011-48	**Type:**	Communication or Report	**Status:**	Consent Item
Version:	1	**Reference:**	Item No. 9	**In Control:**	City Council
Department:	City Manager's Office	**Cost:**		**File Created:**	06/10/2011
File Name:	Monthly Departmental Report May 2011			**Final Action:**	

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

ACTION NEED: Motion to acknowledge receipt of the reports and direct the filing thereof.

ACTION TAKEN: _____

Notes:

	Agenda Date: 06/28/2011
	Agenda Number: 9
Sponsors:	**Enactment Date:**
Attachments:	**Enactment Number:**
Project Manager: Carol Coles, Administrative Assistant	**Hearing Date:**
Entered by: Ellen.Usry@NormanOK.gov	**Effective Date:**

History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:

Text of Legislative File RPT-1011-48

City of Norman, OK

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

Master

File Number: BID-1011-82

File ID:	BID-1011-82	**Type:**	Bid	**Status:**	Consent Item
Version:	1	**Reference:**	Item No. 10	**In Control:**	City Council
Department:	Utilities Department	**Cost:**		**File Created:**	06/07/2011
File Name:	Bid for Alum for the Water Treatment Plant			**Final Action:**	

Title: CONSIDERATION AND AWARDING OF BID NO. 1011-82 FOR THE PURCHASE OF LIQUID ALUMINUM SULFATE FOR THE WATER TREATMENT PLANT.

ACTION NEEDED: Acting as the Norman Utilities Authority, motion to accept or reject all bids meeting specifications; and, if accepted, award the bid for liquid aluminum sulfate in the amount of $290 per dry ton to Southwest Chemical Services of McAlester, Oklahoma as the lowest and best bidder meeting specifications.

ACTION TAKEN: _____

Notes:

		Agenda Date:	06/28/2011
		Agenda Number:	10
Sponsors:		**Enactment Date:**	
Attachments:	Bid Tab Alum.pdf	**Enactment Number:**	
Project Manager:	Bryan Hapke, Utilities Supervisor	**Hearing Date:**	
Entered by:	bryan.hapke@normanok.gov	**Effective Date:**	

History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	06/28/2011					

Text of Legislative File BID-1011-82

Body

BACKGROUND: On June 9, 2011, bids were opened for Bid No. 1011-82 for liquid aluminum sulfate. Funds in the amount of $647,901 have been budgeted in the FYE 2012 Budget Account Number 031-5534-461.31-08 (Water Fund - Water Treatment Plant - Operating Chemicals) for purchase of all treatment chemicals.

DISCUSSION: Bid No. 1011-82 - Liquid Aluminum Sulfate. Specifications were sent to seven (7) vendors and three (3) bids were received. The lowest and best bid meeting all specifications was submitted by Southwest Chemical Services of McAlester, Oklahoma in the amount of $290 per dry ton. This compares to a cost of $274.00 per ton last year, an increase of approximately 5.8%.

RECOMMENDATION: Purchases will be made throughout FY2012. Bids have been examined by Staff and found to be in order and proper as to form. Based upon the above information, Staff recommends acceptance of the low bid as listed above.

CITY OF NORMAN
Norman, Oklahoma

TABULATION OF BIDS
No. 1011-82
June 9, 2011

The following is a tabulation of bids received by the City of Norman for the FYE 2012 Contract for Liquid Aluminum Sulfate. Purchases will be made throughout the fiscal year as needed. Anticipated usage is approximately 500 to 800 tons annually, equating to approximately $145,000.00 to $232,000.00 at the low bid price. Funds for these purchases are available in Account No. 031-5534-461.31-08 - Operating Chemicals.

FYE 2012 LIQUID ALUMINUM SULFATE

BIDDER	COST PER DRY TON
Southwest Chemical Services, McAlester, OK	$290.00
General Chemical, Parsippany, NJ	$297.00
Altivia, Houston, TX	$318.00
Brenntag Southwest, Nowata, OK.	No response
Southern Ionics, West Point, MI	No response
Gulbrandsen Technologies, Inc., Clinton, NJ	No response
Simply Aquatics, Kirbyville, TX	No response

RECOMMENDATION: That the bid be awarded to Southwest Chemical Services in the amount of $290.00 per dry ton as the lowest and best bidder.

Forwarded By:
Bryan Hapke, Supervisor
Water Treatment Division

City of Norman, OK

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

Master

File Number: BID-1011-83

File ID:	BID-1011-83	**Type:**	Bid	**Status:**	Consent Item
Version:	2	**Reference:**	Item No. 11	**In Control:**	City Council
Department:	Utilities Department	**Cost:**		**File Created:**	06/13/2011
File Name:	Bid for Anhydrous Ammonia for the Water Treatment Plant			**Final Action:**	

Title: CONSIDERATION AND AWARDING OF BID NO. 1011-83 FOR THE PURCHASE OF ANHYDROUS AMMONIA FOR THE WATER TREATMENT PLANT.

ACTION NEEDED: Acting as the Norman Utilities Authority, motion to accept or reject all bids meeting specifications; and, if accepted, award the bid for anhydrous ammonia in the amount of $1,630 per ton to Southwest Chemical Services of McAlester, Oklahoma, as the lowest and best bidder meeting specifications.

ACTION TAKEN: _____

Notes:

		Agenda Date:	06/28/2011
		Agenda Number:	11
Sponsors:		**Enactment Date:**	
Attachments:	Bid Tab Ammonia.pdf	**Enactment Number:**	
Project Manager:	Bryan Hapke, Utilities Supervisor	**Hearing Date:**	
Entered by:	bryan.hapke@normanok.gov	**Effective Date:**	

History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
2	City Council	06/28/2011					

Text of Legislative File BID-1011-83

Body

BACKGROUND: On June 9, 2011, bids were opened for Bid No. 1011-83 for anhydrous ammonia. Funds in the amount of $647,901 have been budgeted in the FYE 2012 Budget Account Number 031-5534-461.31-08 (Water Fund - Water Treatment Plant - Operating

Chemicals) for purchase of all treatment chemicals.

DISCUSSION: Bid No. 1011-83 - Anhydrous Ammonia. Specifications were sent to five (5) vendors and one (1) bid was received. Airgas Specialty Products is the only source of ammonia in this area. Southwest Chemical Services is their representative. We historically get a bid from one, the other or both of these companies. This year the lowest and best bid meeting all specifications was submitted by Southwest Chemical Services of McAlester, Oklahoma in the amount of $1,630 per ton. This compares to a cost of $1,410 per ton last year, an increase of approximately 15.6%.

RECOMMENDATION: Purchases will be made throughout FY2012. Bids have been examined by Staff and found to be in order and proper as to form. Based upon the above information, Staff recommends acceptance of the low bid as listed above.

CITY OF NORMAN
Norman, Oklahoma

TABULATION OF BIDS
No. 1011-83
June 9, 2011

The following is a tabulation of bids received by the City of Norman for the FYE 2012 Contract for Anhydrous Ammonia. Purchases will be made throughout the fiscal year as needed. Anticipated usage is approximately 12 and 14 tons., equating to approximately $19,560.00 to $22,820 at the low bid price Funds for these purchases are available in Account No. 031-5534-461.31-08 - Operating Chemicals.

FYE 2012 ANHYDROUS AMMONIA

BIDDER	COST PER POUND
Southwest Chemical Services, McAlester, OK	$1,630.00
Airgas Specialty Products, Duluth, GA	No response
DPC, Cleburne, TX	No response
Simply Aquatics, Kirbyville, TX	No response
Mid America Chemical, Oklahoma City, OK	No response

RECOMMENDATION: That the bid be awarded to Southwest Chemical Services in the amount of $1,630.00 per pound as the lowest and best bidder.

Forwarded By:
Bryan Hapke, Supervisor
Water Treatment Division

City of Norman, OK

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

Master

File Number: BID-1011-84

File ID:	BID-1011-84	**Type:**	Bid	**Status:**	Consent Item
Version:	1	**Reference:**	Item No. 12	**In Control:**	City Council
Department:	Utilities Department	**Cost:**		**File Created:**	06/13/2011
File Name:	Bid 1011-84 for Chlorine for the Water Treatment Plant			**Final Action:**	

Title: CONSIDERATION AND AWARDING OF BID NO. 1011-84 FOR THE PURCHASE OF CHLORINE FOR THE WATER TREATMENT PLANT.

ACTION NEEDED: Acting as the Norman Utilities Authority, motion to accept or reject all bids meeting specifications; and, if accepted, award the bid for chlorine in the amount of $549 per ton to Altivia of Houston, Texas as the lowest and best bidder meeting specifications.

ACTION TAKEN: _____

Notes:

		Agenda Date:	06/28/2011
		Agenda Number:	12
Sponsors:		**Enactment Date:**	
Attachments:	Bid Tab Chlorine.pdf	**Enactment Number:**	
Project Manager:	Bryan Hapke, Utilities Supervisor	**Hearing Date:**	
Entered by:	bryan.hapke@normanok.gov	**Effective Date:**	

History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	06/28/2011					

Text of Legislative File BID-1011-84

□□□□

BACKGROUND: On June 9, 2011, bids were opened for Bid No. 1011-84 for chlorine. Funds in the amount of $647,901 have been budgeted in the FYE 2012 Budget Account Number 031-5534-461.31-08 (Water Fund - Water Treatment Plant - Operating Chemicals) for purchase of all treatment chemicals.

DISCUSSION: Bid No. 1011-84 - Chlorine. Specifications were sent to four (4) vendors and two (2) bids were received. The lowest and best bid meeting all specifications was submitted by Altivia of Houston, Texas in the amount of $549.00 per ton. This compares to a cost of $546.60 per ton last year, an increase of approximately 0.4%.

RECOMMENDATION: Purchases will be made throughout FY2012. Bids have been examined by Staff and found to be in order and proper as to form. Based upon the above information, Staff recommends acceptance of the low bid as listed above.

CITY OF NORMAN
Norman, Oklahoma

TABULATION OF BIDS
No. 1011-84
June 9, 2011

The following is a tabulation of bids received by the City of Norman for the FYE 2012 Contract for Chlorine. Purchases will be made throughout the fiscal year as needed. Anticipated usage is approximately 50 to 60 tons annually, equating to approximately $27,450.00 to $32,940.00 at the low bid price. Funds for these purchases are available in Account No. 031-5534-461.31-08 - Operating Chemicals.

FYE 2012 CHLORINE

BIDDER	COST PER TON
Altivia, Houston, TX	$549.00
Brenntag Southwest, Nowata, OK	$565.00
DPC, Cleburne, TX	No response
Simply Aquatics, Inc., Kirbyville, TX	No response

RECOMMENDATION: That the bid be awarded to Altivia in the amount of $549.00 per ton as the lowest and best bidder.

Forwarded By:
Bryan Hapke, Supervisor
Water Treatment Division

City of Norman, OK

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

Master

File Number: BID-1011-85

File ID:	BID-1011-85	**Type:**	Bid	**Status:**	Consent Item
Version:	1	**Reference:**	Item No. 13	**In Control:**	City Council
Department:	Utilities Department	**Cost:**		**File Created:**	06/13/2011
File Name:	Bid 1011-85 for Ferric Sulfate for Water Treatment Plant			**Final Action:**	

Title: CONSIDERATION AND AWARDING OF BID NO. 1011-85 FOR THE PURCHASE OF LIQUID FERRIC SULFATE FOR THE WATER TREATMENT PLANT.

ACTION NEEDED: Acting as the Norman Utilities Authority, motion to accept or reject all bids meeting specifications; and, if accepted, award the bid for liquid ferric sulfate in the amount of $267.22 per dry ton for 12% solution and $296.45 per dry ton for 10% solution to Kemira Water Solutions of Lawrence, Kansas as the lowest and best bidder meeting specifications.

ACTION TAKEN: _____

Notes:

	Agenda Date: 06/28/2011
	Agenda Number: 13
Sponsors:	**Enactment Date:**
Attachments: Bid Tab Ferric Sulfate.pdf	**Enactment Number:**
Project Manager: Bryan Hapke, Utilities Supervisor	**Hearing Date:**
Entered by: bryan.hapke@normanok.gov	**Effective Date:**

History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	06/28/2011					

Text of Legislative File BID-1011-85

Body

BACKGROUND: On June 9, 2011, bids were opened for Bid No. 1011-85 for liquid ferric sulfate. Funds in the amount of $647,901 have been budgeted in the FYE 2012 Budget

Account Number 031-5534-461.31-08 (Water Fund - Water Treatment Plant - Operating Chemicals) for purchase of all treatment chemicals.

DISCUSSION: Bid No. 1011-85 - Liquid Ferric Sulfate. Liquid Ferric Sulfate is an alternative to liquid aluminum sulfate (alum) which we have used as a coagulant since the plant was first put into service. Use of ferric sulfate instead of alum would allow options in disposal of treatment residuals that could help limit future cost increases. We intend to do a trial on ferric sulfate to determine the effect on water quality and cost.

Specifications were sent to five (5) vendors and bids were received from two (2) vendors. Since our specifications did not limit produce concentration Kemira Water Solutions bid both 10% and 12% solutions. The lowest and best bid meeting all specifications was submitted by Kemira Water Solutions of Lawrence, Kansas in the amount of $267.22 per dry ton for 12% solution. The alternate bid from Kemira was $296.45 per dry ton for 10% product.

RECOMMENDATION: Purchases will be made throughout FY2012. Bids have been examined by Staff and found to be in order and proper as to form. Based upon the above information, Staff recommends acceptance of both bids from Kemira Water Solutions with the intent of using the lower cost 12% solution unless it proves incompatible with our handling and feeding equipment

CITY OF NORMAN
Norman, Oklahoma

TABULATION OF BIDS
No. 1011-85
June 9, 2011

The following is a tabulation of bids received by the City of Norman for the FYE 2012 Contract for Liquid Ferric Sulfate. Purchases will be made throughout the fiscal year as needed. Liquid Ferric Sulfate is a replacement for Liquid Aluminum Sulfate. Use of Liquid Ferric Sulfate could open up alternates for disposal of treatment residuals and potentially reduce costs in the future. We intend to do a trial to determine the effect on treatment and water quality. If we do the trial cost of the Liquid Ferric Sulfate would be balanced by savings in Liquid Aluminum Sulfate resulting in no significant change in treatment cost. Our specifications did not limit the bidders to one concentration of chemical, so Kemira Water Solutions bid on both concentrations of product that they offer. Funds for these purchases are available in Account No. 031-5534-461.31-08 - Operating Chemicals.

FYE 2012 LIQUID FERRIC SULFATE

BIDDER	COST PER DRY TON
Kemira Water Solutions, Lawrence, KS 12%	$267.22
Kemira Water Solutions, Lawrence, KS 10%	$296.45
General Chemical, Parsippany, NJ	$411.25
Altivia, Houston, TX	No response
Eaglebrook, Oklahoma City, OK.	No response
FE3, Celina, TX	No response

RECOMMENDATION: Due to lack of experience we are unable to predict whether there will be a significant difference in handling and feeding between the 10% solution and 12% solution. We recommend accepting both bids with the understanding that we will purchase the less expensive 12% solution unless it proves to be a problem to handle or feed. We therefore recommend that the bid be awarded to Kemira Water Solutions in the amount of $267.22 per dry ton for 12% solution with an alternate in the amount of $296.45 per dry ton for 10% solution as the lowest and best bidder.

Forwarded By:
Bryan Hapke, Supervisor
Water Treatment Division

City of Norman, OK

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

Master

File Number: BID-1011-86

File ID:	BID-1011-86	**Type:**	Bid	**Status:**	Consent Item
Version:	2	**Reference:**	Item No. 14	**In Control:**	City Council
Department:	Utilities Department	**Cost:**		**File Created:**	05/24/2011
File Name:	Bid 1011-86 Aggregate Stone and Fill Sand			**Final Action:**	

Title:

CONSIDERATION AND AWARDING OF BID NO. 1011-86 FOR THE PURCHASE OF AGGREGATE BASE COARSE STONE AND FILL SAND FOR THE LINE MAINTENANCE DIVISION.

ACTION NEEDED: Acting as the City of Norman and the Norman Utilities Authority, motion to accept or reject all bids meeting specifications on Section 1; and, if accepted, award the bid to Bernie Mathes Trucking, Inc., in the amount of $11.75 per ton as the lowest and best bidder meeting specifications.

ACTION TAKEN: _____

ACTION NEEDED: Acting as the City of Norman and the Norman Utilities Authority, motion to accept or reject all bids meeting specifications on Section 2; and, if accepted, award the bid to Sand Express, Inc., in the amount of $5.25 per ton as the lowest and best bidder meeting specifications.

ACTION TAKEN: _____

Notes:

		Agenda Date:	06/28/2011
		Agenda Number:	14
Sponsors:		**Enactment Date:**	
Attachments:	Bid tab Aggregate Materials	**Enactment Number:**	
Project Manager:	David Hager, Utilities Superintendent	**Hearing Date:**	
Entered by:	paul.johnston@normanok.gov	**Effective Date:**	

History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:

Text of Legislative File BID-1011-86

Body

BACKGROUND: City forces use aggregate materials such as rock and sand daily for pipe bedding and use them as select backfill materials for excavations. This practice is in keeping with standards from American Society for Testing Materials (ASTM), Occupational Safety Health Administration (OSHA), American Water Works Association (AWWA) and other professional organizations and complies with standards set forth by the City Engineer. Other City divisions will purchase on this contract and purchases will be made during the next fiscal year.

The contract proposal for Bid No. 0809-84 was valid until June 30, 2010. The proposal language gives the City the option to renew another year at the same price or until 30 days after notice has been given by the City of its desire to terminate the contract. Contract may be extended on a yearly basis (to a maximum of five years) at the unit bid price upon agreement by both parties.

Section One of Bid No. 0809-84 was awarded to Bernie Mathes Trucking, Inc. for 1 ½ inch aggregate base, and Section Two was awarded to Sand Express, Inc. for fill sand. In 2010, both contractual parties agreed to extend Bid No. 0809-84 for an additional year ending on June 30, 2011.

During the course of contract number 0809-84, the Line Maintenance Division purchased 4,500 tons of 1 ½ inch aggregate base crushed stone and 5,000 tons of fill sand for construction projects and emergency repairs. The Division estimates that purchases under contract number 1011-86 will equal or exceed those made under contract number 0809-84.

DISCUSSION: Bid No. 1011-86 provides for competitive bids on the subject materials. Bids were opened on June 9, 2011. Bid packets were sent to six (6) vendors and bids were received from two (2) vendors. The low bid for Section I, 1 1/2 Inch Aggregate Base crushed stone was $11.75/ton. The low bid for Section II - Fill Sand was $5.25/ton.

RECOMMENDATION: It is recommended that Bid No. 1011-86 for aggregate materials be awarded to the lowest and best bidders as follows:

SECTION I - 1 ½ Inch Aggregate Base awarded to Bernie Mathes Trucking, Inc. for a bid price of $11.75 per ton

SECTION II - Fill Sand awarded to Sand Express, Inc. for a bid price of $5.25 per ton

LINE MAINTENANCE DIVISION - TABULATION OF BIDS
BID NO. 1011-86 – June 9, 2011

Aggregate Materials	Section 1 1 ½ inch per ton Aggregate Base	Section 2 Fill Sand per ton
Bernie Mathes Trucking Wheatland, OK.	11.75	7.95
Sand Express, Inc. Norman,OK	16.50	5.25
Dolese Bros. Company Oklahoma City, OK	No Bid	No Bid
Arbuckle Materials Edmond, OK	No Bid	No Bid
Kinsey Sand and Gravel Noble, OK	No Bid	No Bid
Adkins Trucking & Excavating, Inc. Norman, OK	No Bid	No Bid

RECOMMENDATION: That Bid No. 1011-86 be awarded to Bernie Mathes Trucking, Inc. for 1 ½ inch Aggregate Base and to Sand Express, Inc. for Fill Sand as the best bidders meeting all of the specifications.

Forwarded by: David Hager, Line Maintenance Superintendent

City of Norman, OK

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

Master

File Number: FP-1011-13

File ID:	FP-1011-13	**Type:**	Final Plat	**Status:**	Consent Item
Version:	1	**Reference:**	Item No. 15	**In Control:**	City Council
Department:	Public Works Department	**Cost:**		**File Created:**	10/15/2010
File Name:	FP-Red Canyon Ranch Section 2			**Final Action:**	

Title: CONSIDERATION OF A FINAL PLAT FOR RED CANYON RANCH ADDITION, SECTION 2, AND ACCEPTANCE OF PUBLIC DEDICATIONS CONTAINED THEREIN.

ACTION NEEDED: Motion to approve or reject the final plat for Red Canyon Ranch Addition, Section 2; and, if approved, accept the public dedications contained within the plat; authorize the Mayor to sign the final plat and subdivision and maintenance bonds subject to the City Development Committee's acceptance of all required public improvements and receipt of documentation showing a warranty deed for private parkland is filed of record, and direct the filing of the final plat.

ACTION TAKEN: _____

Notes:

Agenda Date: 06/28/2011

Agenda Number: 15

Sponsors:

Enactment Date:

Attachments: Location Map - Red Canyon, Red Canyon Sect. 2 Final Plat, Staff Report - Red Canyon, Red Canyon Ranch Prelim Plat, Parks Board Mts-Red Canyon, 11-18-10 PC Minutes - Red Canyon FP

Enactment Number:

Project Manager: Ken Danner

Hearing Date:

Entered by: rone.tromble@normanok.gov

Effective Date:

History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Planning Commission	11/18/2010	Recommended for Adoption at a subsequent City Council Meeting	City Clerk Department			Pass

Action Text: Recommended for Adoption at a subsequent City Council Meeting to the City Clerk Department

1	Planning Commission	11/18/2010
1	City Council	06/28/2011

Text of Legislative File FP-1011-13

body

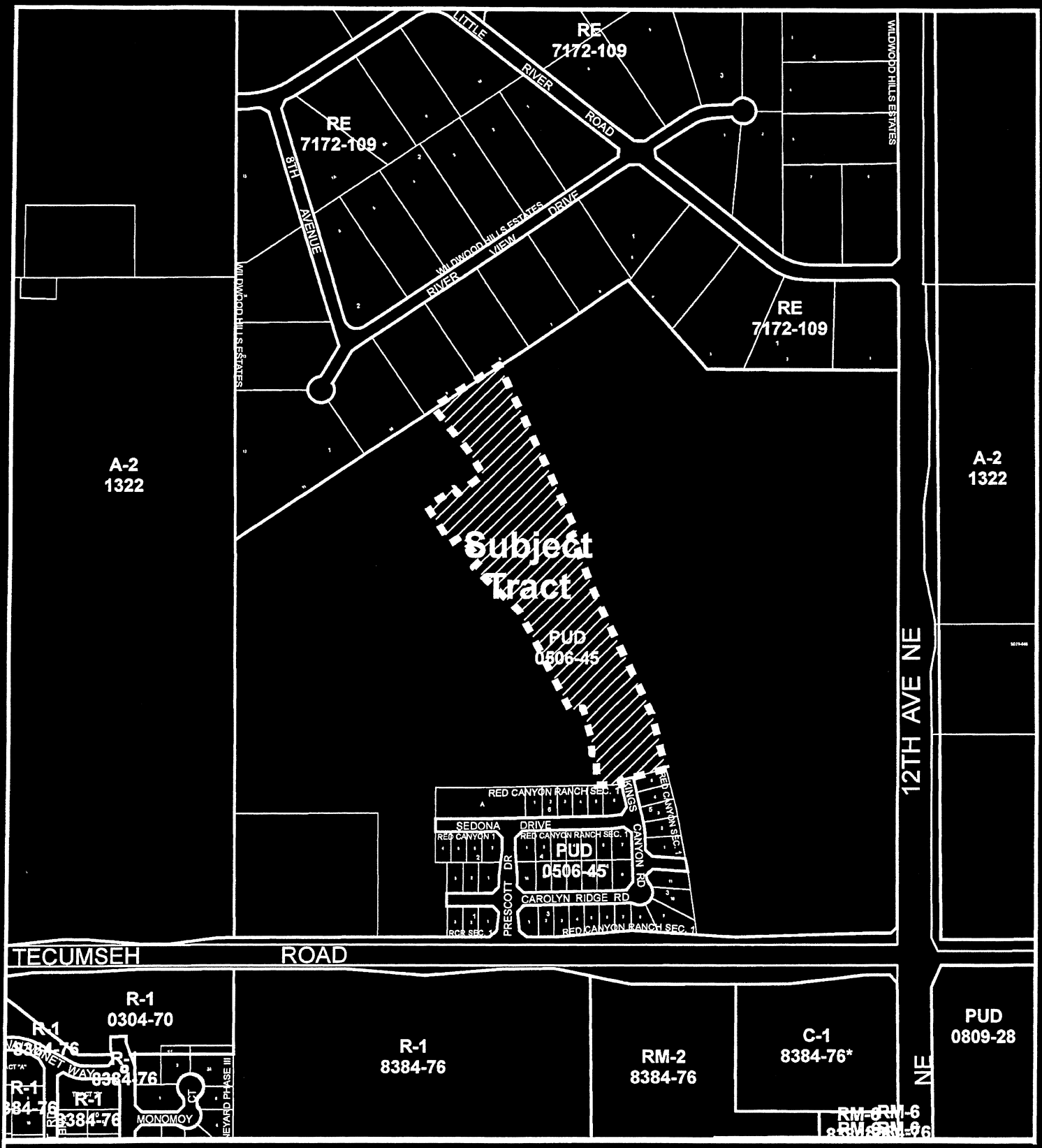
BACKGROUND: This item is a final plat for Red Canyon Ranch Addition, Section 2, a Planned Unit Development and is generally located 850 feet west of 12th Avenue NE and north of East Tecumseh Road. City Council, at its meeting of May 27, 2008, adopted Ordinance No. O-0708-40 placing this property in the Planned Unit Development zoning classification. City Council, at its meeting of May 27, 2008, approved the preliminary plat for Red Canyon Ranch Addition, a Planned Unit Development. Red Canyon Ranch Addition is a 123 acre subdivision consisting of 359 single-family residential lots, 4 large open space lots consisting of 22 acres and 16 commercial/church lots. With the filing of the final plat for Red Canyon Ranch, Section 1, this property consisted of 14.43 acres, 46 residential lots and 1 common lot.

Planning Commission, at its meeting of November 18, 2010, approved the final plat for the Red Canyon Ranch Addition, Section 2, a Planned Unit Development. This property consists of 11.83 acres and 35 single-family residential lots and one open space lot.

DISCUSSION: Construction plans have been reviewed for the required public improvements for this property. The public improvements are under construction. These improvements consist of sidewalks, water mains with fire hydrants, sanitary sewer, drainage, including off plat drainage, and street improvements.

The developer/owner will deed private park land to the Property Owner's Association prior to the final plat being filed of record.

STAFF RECOMMENDATIONS: The final plat is consistent with the approved preliminary plat. Based on the above information. Staff recommends acceptance of the public dedications, approval of the final plat and filing of the final plat subject to a warranty deed for private park and completion of public improvements and the City Development Committee's acceptance of all required public improvements and authorizes the Mayor to sign the final plat and bonds.



Location Map

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.

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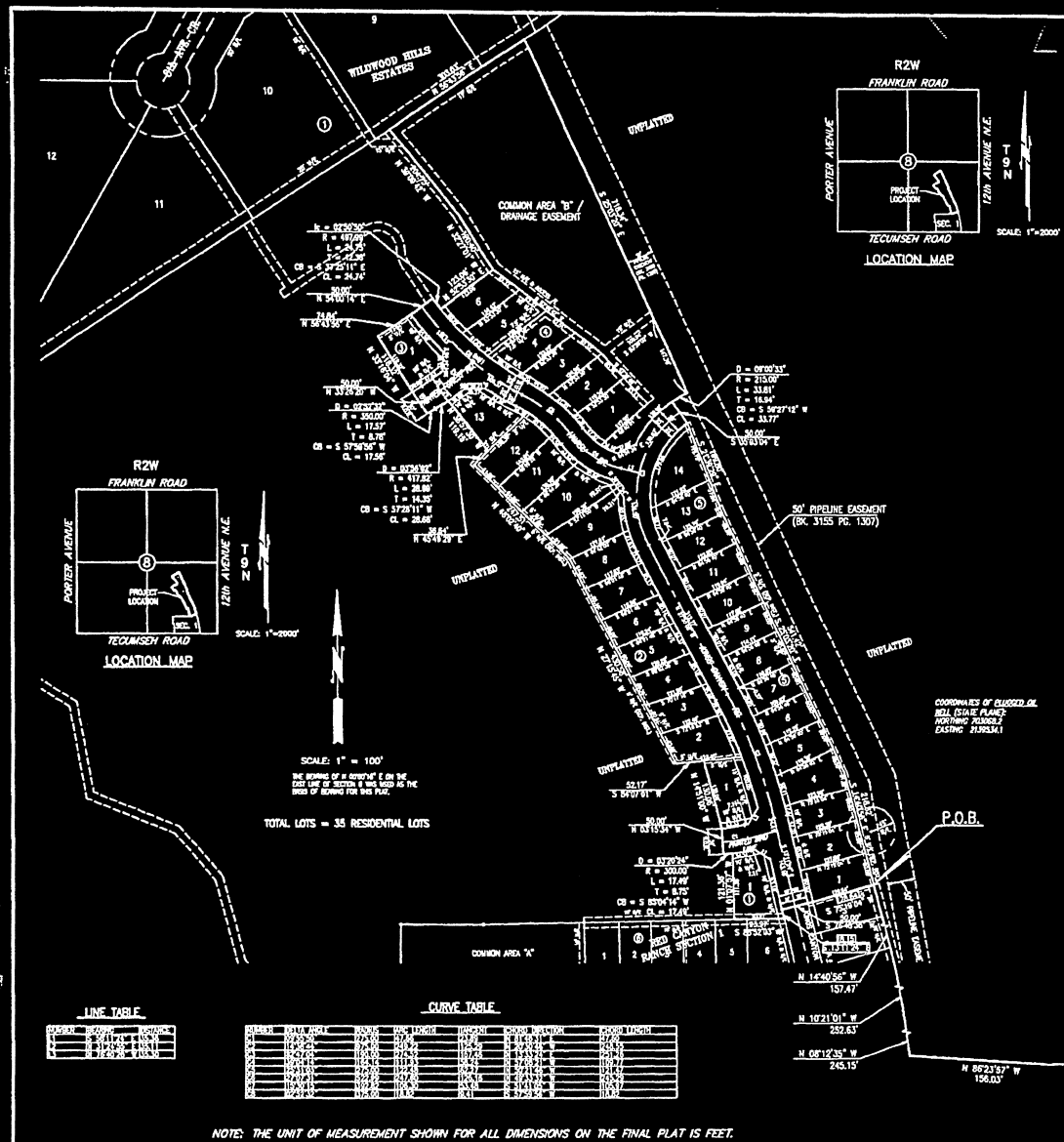
FP-1011-13
Final Plat
RED CANYON RANCH ADDITION, SECTION 2

Owner/Developer: Sweetgrass Communities, L.L.C.
Engineer/Surveyor: SMC Consulting Engineers, P.C.

FINAL PLAT
RED CANYON RANCH SECTION 2
A PLANNED UNIT DEVELOPMENT
A PART OF THE S.E. 1/4, SECTION 8, T9N, R2W, I.M.
NORMAN, CLEVELAND COUNTY, OKLAHOMA



LOCATION MAP

LOCATION MAP

LEGAL DESCRIPTION

A tract of land lying in the Southeast Quarter (S.E. ¼) of Section Eight (8), Township Nine (9) North, Range Two (2) West of the Indian Meridian, Cleveland County, Oklahoma being more particularly described as follows:

COMMENCING at the Southeast Corner of said S.E. 1/4;

THENCE North 00°00'16" East, along the East line of said Southeast Quarter, a distance of 115.00 feet to a point on the Northerly Right of Way line of Tecumseh Road as set out in GRANT OF EASEMENT, recorded in Book 3381, Page 345;

THENCE along said northerly Right of Way line the following five (5) calls;

(1) North 89°52'13" West a distance of 65.00 feet;
(2) South 45°00'50" West a distance of 35.35 feet;
(3) South 89°57'08" West a distance of 95.03 feet;
(4) South 88°18'22" West a distance of 500.22 feet;
(5) North 86°23'57" West a distance of 156.03 feet;

THENCE North 08°12'35" West a distance of 245.15 feet; THENCE North 10°21'01" West a distance of 252.63 feet; THENCE North 14°40'56" West a distance of 157.47 feet to the POINT OF BEGINNING;

THENCE South 75°18'04" West a distance of 128.64 feet; THENCE South 75°40'36" West a distance of 50.00 feet; THENCE South 13°11'24" East a distance of 18.15 feet; THENCE South 88°37'03" West a distance of 53.97 feet; THENCE North 01°07'57" West a distance of 121.38 feet to a point on a non-tangent curve; THENCE along a curve to the right having a radius of 300.00 feet (said curve subtended by a chord which bears South 85°04'14" West a distance of 17.49 feet) with an arc length of 17.49 feet; THENCE North 03°15'26" West a distance of 50.00 feet; THENCE North 14°31'00" West a distance of 130.06 feet; THENCE South 89°07'01" West a distance of 52.17 feet; THENCE North 27°13'45" West a distance of 430.58 feet; THENCE North 46°02'40" West a distance of 247.51 feet; THENCE North 43°49'29" East a distance of 38.84 feet; THENCE North 35°37'30" West a distance of 118.15 feet to a point on a non-tangent curve; THENCE along a curve to the right having a radius of 417.82 feet (said curve subtended by a chord which bears South 57°25'11" West a distance of 28.68 feet) with an arc length of 28.68 feet to a point of reverse curvature; THENCE along a curve to the left having a radius of 350.00 feet (said curve subtended by a chord which bears South 57°39'58" West a distance of 17.56 feet) with an arc length of 17.57 feet; THENCE North 33°28'27" West a distance of 50.00 feet; THENCE North 33°11'06" West a distance of 118.32 feet; THENCE North 56°43'56" East a distance of 74.84 feet; THENCE North 54°09'19" East a distance of 50.03 feet to a point on a non-tangent curve; THENCE along a curve to the left having a radius of 467.90 feet (said curve subtended by a chord which bears South 37°22'11" East a distance of 24.71 feet) with an arc length of 24.73 feet; THENCE North 52°47'27" East a distance of 122.05 feet; THENCE North 37°27'01" West a distance of 120.40 feet; THENCE North 38°05'43" West, a distance of 204.75 feet, to a point on the South boundary line of Wildwood Hills Estates (as filed in Book 10 Page 93); THENCE North 36°43'56" East along said South boundary line a distance of 303.03 feet; THENCE South 23°03'20" East a distance of 718.24 feet to a point on a non-tangent curve; THENCE along a curve to the left having a radius of 215.00 feet (said curve subtended by a chord which bears South 34°27'12" West a distance of 33.77 feet) with an arc length of 33.81 feet; THENCE South 25°13'04" East a distance of 50.08 feet; THENCE South 21°36'29" East a distance of 168.00 feet; THENCE South 25°03'20" East a distance of 541.42 feet; THENCE South 14°40'28" East a distance of 215.82 feet to the POINT OF BEGINNING;

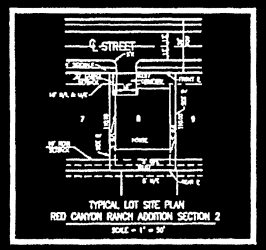
Said tract contains 515,559 square feet or 11.8356 acres more or less.

NOTE: COMMON OPEN SPACE AREAS WILL BE OWNED AND MAINTAINED BY MANDATORY PROPERTY OWNERS' ASSOCIATION.

● UNLESS OTHERWISE NOTED, I.P.'s W/ C.A. 3949 CAPS WERE SET AT ALL PROPERTY CORNERS.

STORM DRAINAGE DETENTION FACILITY EASEMENT

DRAINAGE DETENTION FACILITY EASEMENTS ARE HEREBY ESTABLISHED AS SHOWN TO PROVIDE FOR DETENTION OF STORM SURFACE WATER AND CONSTRUCTED AS APPROVED BY THE CITY ENGINEER. ALL MAINTENANCE WITHIN THE DRAINAGE DETENTION FACILITY EASEMENT SHALL BE THE RIGHT, DUTY, AND RESPONSIBILITY OF THE PROPERTY OWNER(S) IN THE PLAT OF RED CANYON RANCH, SECTION 2, INCLUDE, IF MAINTENANCE IS NEGLECTED OR SUBJECT TO OTHER UNUSUAL CIRCUMSTANCES AND IS DETERMINED TO BE A HAZARD OR THREAT TO PUBLIC SAFETY BY THE CITY ENGINEER, CORRECTIVE MAINTENANCE MAY BE PERFORMED BY THE CONTROLLING JURISDICTION WITH COSTS ASSESSED TO AND BORN UPON SAID PROPERTY OWNER(S). OFFICIALS REPRESENTING THE CONTROLLING JURISDICTION, PUBLIC WORKS DEPARTMENT SHALL HAVE THE RIGHT TO ENTER UPON THE EASEMENT FOR PURPOSES OF PERIODIC INSPECTION AND/OR CORRECTIVE MAINTENANCE OF THE FACILITY. UPON RECEIVING WRITTEN APPROVAL FROM THE CONTROLLING JURISDICTION, PUBLIC WORKS DEPARTMENT, PROPERTY OWNER(S) MAY CONSTRUCT IMPROVEMENTS WITHIN THE EASEMENT PROVIDED THE IMPROVEMENT DOES NOT INTERFERE WITH THE FUNCTION OF THE DETENTION FACILITY.



BENCHMARK: BRASS CAP AT INTERSECTION OF CHANDLER DRIVE AND PAINTED FOREST RD. ELEV. = _____

D/E = DRAINAGE EASEMENT
SW/E = SIDEWALK EASEMENT
PED/E = PEDESTRIAN EASEMENT
LNA = LIMITS OF NO ACCESS
U/E = UTILITY EASEMENT
B/L = BUILDING LINE
-1000- = ADDRESS

LINE TABLE

LINE #	BEARING	DISTANCE
L1	S 13°11'24" E	18.15'
L2	S 75°40'36" W	50.00'
L3	S 13°11'24" E	18.15'
L4	S 75°18'04" W	128.64'

CURVE TABLE

CURVE #	DELTA ANGLE	RADIUS	TANGENT	LENGTH	CHORD BEARING	CHORD LENGTH
C1	03°15'26"	300.00'	8.76'	17.49'	S 85°04'14" W	17.49'
C2	03°07'01"	2400.00'	65.26'	130.06'	S 89°07'01" W	130.04'
C3	27°13'45"	430.58'	104.61'	204.66'	N 27°13'45" W	202.73'
C4	46°02'40"	247.51'	104.61'	198.93'	N 46°02'40" W	193.57'
C5	43°49'29"	50.00'	20.00'	38.24'	N 43°49'29" E	37.32'
C6	04°06'00"	417.82'	14.35'	28.68'	S 57°28'11" W	28.68'
C7	04°06'00"	350.00'	14.35'	28.00'	S 57°28'11" W	28.00'
C8	02°57'30"	350.00'	9.03'	18.06'	S 59°27'12" W	18.06'
C9	03°00'33"	713.00'	18.74'	37.47'	S 59°27'12" W	37.47'
C10	03°00'33"	713.00'	18.74'	37.47'	S 59°27'12" W	37.47'
C11	03°07'01"	2400.00'	65.26'	130.06'	S 89°07'01" W	130.04'
C12	03°15'26"	300.00'	8.76'	17.49'	S 85°04'14" W	17.49'
C13	04°06'00"	417.82'	14.35'	28.68'	S 57°28'11" W	28.68'
C14	04°06'00"	350.00'	14.35'	28.00'	S 57°28'11" W	28.00'
C15	02°57'30"	350.00'	9.03'	18.06'	S 59°27'12" W	18.06'
C16	03°00'33"	713.00'	18.74'	37.47'	S 59°27'12" W	37.47'
C17	03°00'33"	713.00'	18.74'	37.47'	S 59°27'12" W	37.47'
C18	03°07'01"	2400.00'	65.26'	130.06'	S 89°07'01" W	130.04'
C19	03°15'26"	300.00'	8.76'	17.49'	S 85°04'14" W	17.49'
C20	04°06'00"	417.82'	14.35'	28.68'	S 57°28'11" W	28.68'
C21	04°06'00"	350.00'	14.35'	28.00'	S 57°28'11" W	28.00'
C22	02°57'30"	350.00'	9.03'	18.06'	S 59°27'12" W	18.06'
C23	03°00'33"	713.00'	18.74'	37.47'	S 59°27'12" W	37.47'

NOTE: THE UNIT OF MEASUREMENT SHOWN FOR ALL DIMENSIONS ON THE FINAL PLAT IS FEET.

Date: October 11, 2010

SMC Consulting Engineers, P.C.
815 W. Main Street
Oklahoma City, OK 73106

RED CANYON RANCH SECTION 2 P.U.D.
FINAL PLAT
SHEET 2 OF 2

15-2

FINAL PLAT ITEM NO. 5

STAFF REPORT

ITEM: Consideration of a FINAL PLAT for RED CANYON RANCH ADDITION, SECTION 2, A PLANNED UNIT DEVELOPMENT.

LOCATION: Generally located 850-feet west of 12th Avenue NE and north of East Tecumseh Road.

INFORMATION:

1. Owners. Sweetgrass Communities, LLC.
2. Developer. Sweetgrass Communities, LLC.
3. Engineer. SMC Consulting Engineers, P.C.

HISTORY:

1. December 8, 1966. Planning Commission, on a vote of 6-0, recommended to City Council that a portion of this property be rezoned from A-2 to R-1 zoning classifications.
2. December 27, 1966. City Council, on a vote of 6-0, adopted Ordinance No. 1954, rezoning a portion of this property from A-2 to R-1 zoning classification.
3. November 3, 1983. The Norman Board of Parks Commissioners, on a vote of 6-0, voted to accept park land dedication for Woodcrest II Addition.
4. December 15, 1983. Planning Commission, on a vote of 8-0-1, recommended to City Council that this property be placed in R-1 and RM-2, and removed from A-2 and R-1 zoning classifications.
5. December 15, 1983. Planning Commission, on vote of 8-0-1, approved the preliminary plat for Woodcrest II Addition.
6. January 10, 1984. City Council adopted Ordinance No. O-8384-76, placing a portion of this property in R-1 and RM-2, and removing it from A-2 and R-1 zoning classifications.
7. December 15, 1988. Approval of the preliminary plat for Woodcrest II Addition became null and void.

HISTORY (con't)

8. June 14, 2001. Planning Commission, on a vote of 6-0-1, recommended to City Council that a portion of this property be placed in R-1 and RM-2, and removing it from R-1 and RM-2 zoning classifications.

9. June 14, 2001. Planning Commission, on a vote of 6-0-1, recommended to City Council that the preliminary plat for Summerlin Addition be approved.

10. July 25, 2001. City Council adopted Ordinance No. O-0001-68 placing this property in R-1 and RM-2 and removing it from R-1 and RM-2 zoning classification.

11. July 25, 2001. City Council approved the preliminary plat for Summerlin Addition.

12. October 14, 2004. Planning Commission, on a vote of 6-0-1 postponed the request to place this property in a PUD, Planned Unit Development and remove it from R-1 and RM-2 zoning classifications.

13. October 14, 2004. Planning Commission, on a vote of 6-0-1, postponed the preliminary plat for Red Rock Addition at the request of the applicant.

14. March 2, 2006. The Norman Board of Parks Commissioners, on a vote of 7-0, recommended private park land for Red Rock Addition.

15. March 9, 2006. Planning Commission, on a vote of 8-0-1, recommended to City Council that this property be placed in Planned Unit Development and removed from RM-2 and R-1 zoning classifications.

16. March 9, 2006. Planning Commission, on a vote of 8-0-1, recommended to City Council the approval of the preliminary plat for Red Rock Addition with waiver of all requirements for the commercial property.

17. April 25, 2006. City Council postponed Ordinance No. 0-0506-45 that would place this property in Planned Unit Development and R-1 with Special use for a church and remove it from RM-2, R-1 and PL zoning classifications.

18. May 9, 2006. City Council adopted Ordinance No. O-0506-45 placing this property in Planned Unit Development and removing it from RM-2 and R-1 zoning classifications.

19. May 9, 2006. City Council approved the preliminary plat for Red Rock Addition.

20. April 10, 2008. Planning Commission, on a vote of 8-0, recommended to City Council that this property be placed in the Planned Unit Development and removing it from R-1, C-1 and PUD.

HISTORY (con't)

21. April 10, 2008. Planning Commission, on a vote of 8-0, recommended to City Council that Proposals "A" and "B" of the preliminary plat for Red Canyon Ranch Addition, a Planned Unit Development, be approved with alley waiver for the commercial property.

22. May 27, 2008. City Council adopted Ordinance No. O-0708-40 placing this property in the Planned Unit Development.

23. May 27, 2008. City Council approved the preliminary plat (Proposal "B") for Red Canyon Ranch Addition, a Planned Unit Development.

IMPROVEMENT PROGRAM:

1. Fire Protection. Fire hydrants will be installed in accordance with approved plans. Their locations have been approved by the Norman Fire Department.

2. Permanent Markers. Permanent markers will be installed prior to filing of the final plat.

3. Sanitary Sewers. Sanitary sewer mains will be installed in accordance with approved plans and City and Department of Environmental Quality standards.

4. Sidewalks. Sidewalks will be constructed on each lot prior to occupancy.

5. Storm Sewers. Storm sewers and appurtenant drainage structures will be installed in accordance with approved plans and City drainage standards. Storm sewers will be constructed to drain streets and lots. A privately maintained detention facility will be constructed for the conveyance of storm water.

6. Streets. Streets will be constructed in accordance with approved plans and City paving standards.

7. Water Mains. Interior water mains will be installed in accordance with approved plans and City and Department of Environmental Quality standards. There is an existing 24-inch water main adjacent to East Tecumseh Road.

PUBLIC DEDICATIONS:

1. Easements. All required easements are dedicated to the City on the final plat. Additional off plat easements will be required to be submitted by the owner for public improvements located outside the final platted area.

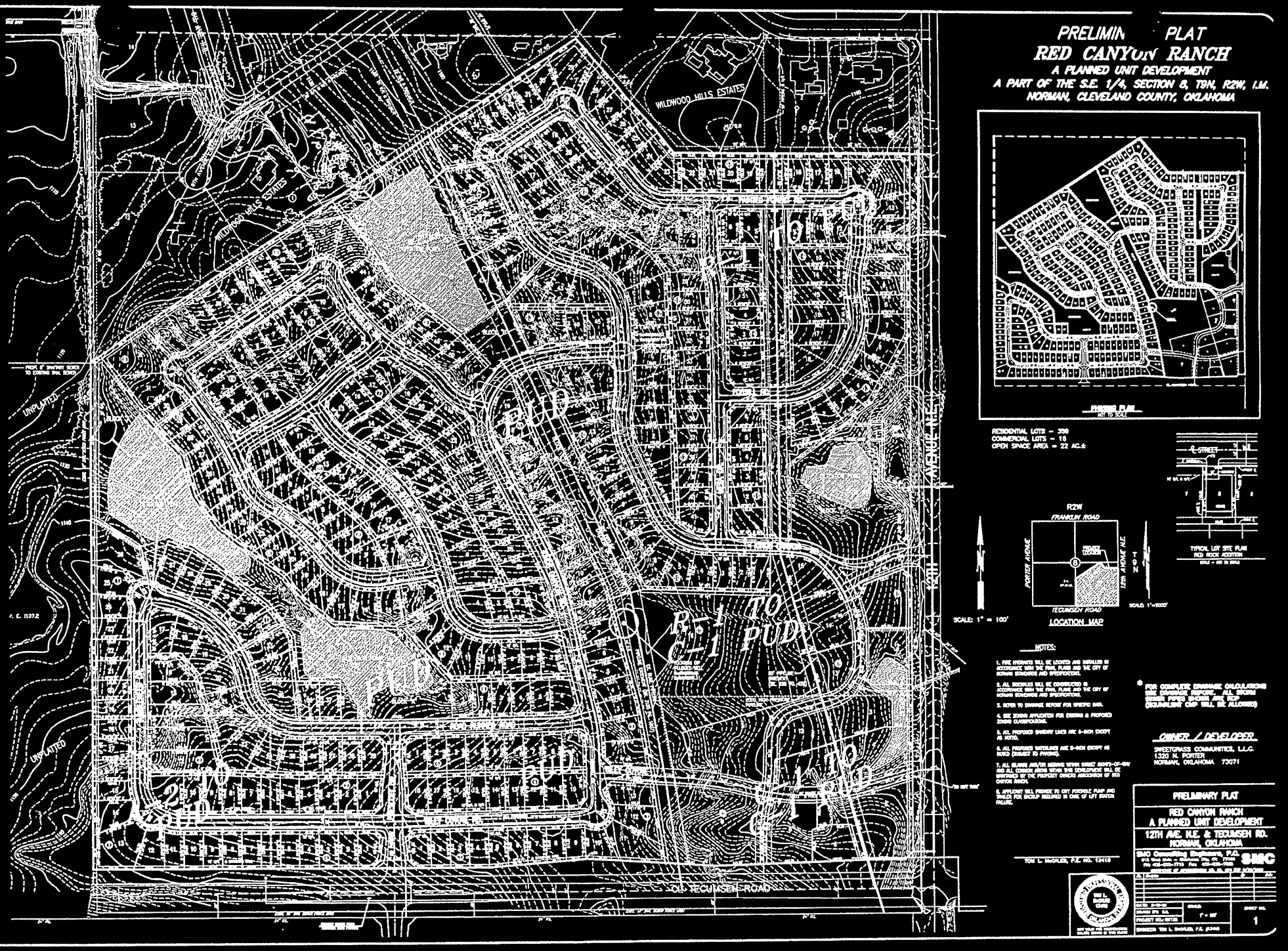
2. Rights-of-Way. Street rights-of-way are dedicated to the City on the final plat.

SUPPLEMENTAL MATERIAL: Copies of a location map, preliminary plat, final site plan and final plat are included in the Agenda Book.

STAFF COMMENTS AND RECOMMENDATION: There are 35 proposed residential lots and one common open space. The property owners association will be responsible for the open space properties which includes a privately maintained detention facility. Staff recommends approval of the final plat for Red Canyon Ranch Addition, Section 2, a Planned Unit Development.

ACTION NEEDED: Approve or disapprove the final site development plan and approve or disapprove the final plat for Red Canyon Ranch Addition, Section 2, a Planned Unit Development.

ACTION TAKEN: _____


PRELIMIN PLAT
RED CANYON RANCH
A PLANNED UNIT DEVELOPMENT
A PART OF THE S.E. 1/4, SECTION 8, T9N, R2W, I.M.
NORMAN, CLEVELAND COUNTY, OKLAHOMA
WILDWOOD HILLS ESTATES
UNPLATTED
UNPLATTED
OLD TECUMSEH ROAD
RESIDENTIAL LOTS = 356
COMMERCIAL LOTS = 16
OPEN SPACE AREA = 22 AC.±
R2W
FRANKLIN ROAD
PORTER AVENUE
12TH AVENUE N.E.
TECUMSEH ROAD
SCALE: 1" = 100'
LOCATION MAP
TYPICAL LOT SITE PLAN
RED ROCK ADDITION
NOTES:
FOR COMPUTER DYNAMIC CALCULATIONS
OWNER / DEVELOPER
SWEETGRASS COMMUNITIES, L.L.C.
1320 N. PORTER
NORMAN, OKLAHOMA 73071
PRELIMINARY PLAT
RED CANYON RANCH
A PLANNED UNIT DEVELOPMENT
12TH AVE. N.E. & TECUMSEH RD.
NORMAN, OKLAHOMA
SMC
1

Staff recommends that Park Board accept the parkland dedication as proposed in the Preliminary Plat of Carrington Place.

Commissioner Campbell asked about the plat and if some of the areas were ponds? Richard McKown the developer was present and able to further answer questions pertaining to the plat and stated that there would also be some private park areas in the addition. Commissioner Campbell stated that he still feels that the area to be dedicated as a park is not in the spirit of a park. There are just walking trails in an area that they could not use for anything else. Mr. McKown stated that where the park resolves itself is a nice spot. The area is large enough to have a practice field in addition to a large play structure without encroaching on the utility easement. In the final planning there will be some more parkland dedicated because there are some street crossings that will be eliminated.

The motion was made by Commissioner Brigham and seconded by Commissioner Ferrier to recommend a land decision for the Carrington Place Addition. The vote was taken with the following results:

YEAH: Chairman Brockhaus and Commissioners Amer, Brigham, Ferrier, Goth and Wynn.

NAY: Commissioner Campbell.

ITEM 7, being:

CONSIDERATION OF PARKLAND DEDICATION REQUIREMENTS FOR THE RED ROCK ADDITION

Red Rock Addition is located in a part of Section 8 Township 9 North, Range 2 West of the Indian Meridian and is located north of Tecumseh Road on the west side of 12th Ave. N.E. The Red Rock Addition is located across the street from Tecumseh Ridge on the north side of Tecumseh Road.

This addition contains 341 lots of single-family residential units. At this density, this addition will generate a parkland dedication requirement of 2.2335 acres.

The Red Rock plat is shown on land which was preliminarily planned by the City years ago to have a park site on the western edge of this proposed addition; along the half section line. It has since been determined that the topography of the area makes this originally-proposed park site unsuitable for parkland. Those additions platted in this area should be done so with this in mind.

The developer now presents a preliminary plat that includes large expanses of open space throughout the addition which will all count towards the requirements of a private park decision for Red Rock—which would be a minimum of 4.4670 acres. The plan, as presented here, includes areas useful as practice sports field(s), playground, trails and as natural/passive park settings. The total area shown to be dedicated as open space/parkland is approximately 17 acres, which is more than 7 times the amount required for a public park in this addition and 4 times the private park requirement.

Staff recommends taking a private park land decision for the Red Rock Addition.

Commissioner Campbell asked if there was any allowance or plans for a parking lot. Developer Richard McKown stated that there were no plans but that he would love to put in a parking lot. Jud Foster stated that he appreciated the comment about the parking and that he thought it was a good idea as well, but that it was not something that we could require. We could pass the suggestion on through the planning commission and city council process and see what happens.

The motion was made by Commissioner Ferrier and seconded by Commissioner Campbell to recommend a private park decision for the Red Rock Addition with the recommendation that a parking area be included at the park site. The vote was taken with the following results:

YEAH:	Chairman Brockhaus and Commissioners Amer, Brigham, Campbell, Ferrier, Goth and Wynn.
NAY:	None

ITEM 8, being:

MISCELLANEOUS

There was no miscellaneous discussion.

ITEM 9, being;

ADJOURNMENT

Commissioner Ferrier made the motion to adjourn and Commissioner Brigham seconded. The vote was taken with the following results:

YEAH:	Chairman Brockhaus and Commissioners Amer, Brigham, Campbell, Ferrier, Goth and Wynn.
NAY:	None

Passed and approved this _____ day of _____ 2006

_____
Phil Brockhaus, Chairperson

Item No. 2, being:
CONSENT DOCKET
Chairman Trachtenberg 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 OCTOBER 14, 2010 REGULAR SESSION MINUTES AND NOVEMBER 4, 2010 STUDY SESSION MINUTES

Item No. 4, being:
FP-1011-12 – CONSIDERATION OF A FINAL PLAT SUBMITTED BY 7-ELEVEN, L.L.C. (CRAFTON TULL ENGINEERING) FOR WOODSLAWN 7-ELEVEN ADDITION, A REPLAT OF C AND H ADDITION AND LOT 1 AND PART OF LOT 2 IN THE WOODSLAWN ADDITION, GENERALLY LOCATED AT THE SOUTHWEST CORNER OF WEST ROBINSON STREET AND NORTH FLOOD AVENUE.

Item No. 5, being:
FP-1011-13 – CONSIDERATION OF A FINAL PLAT SUBMITTED BY SWEETGRASS COMMUNITIES, L.L.C. (SMC CONSULTING ENGINEERS, P.C.) FOR RED CANYON RANCH ADDITION, SECTION 2, GENERALLY LOCATED AT THE NORTHWEST CORNER OF 12TH AVENUE N.E. AND TECUMSEH ROAD.

Item No. 6, being:
FP-1011-14 – CONSIDERATION OF A FINAL PLAT SUBMITTED BY TERRA VERDE DEVELOPMENT, L.L.C. (SMC CONSULTING ENGINEERS, P.C.) FOR GREENLEAF TRAILS ADDITION, SECTION 3, GENERALLY LOCATED ON 12TH AVENUE N.W. APPROXIMATELY ¼ MILE SOUTH OF TECUMSEH ROAD.

*

Chairman Trachtenberg asked if any member of the Planning Commission wished to remove any item from the Consent Docket. There being none, he asked whether anyone in the audience wished to remove any item from the Consent Docket. There being none, he turned to the Planning Commission for discussion.

Jim Gasaway moved to place approval of Item Nos. 3 through 6 on the Consent Docket and approve by one unanimous vote. Tom Knotts seconded the motion.

There being no further discussion, a vote on the motion was taken with the following result:

YEAS	Cynthia Gordon, Diana Hartley, Tom Knotts, Chris Lewis, Curtis McCarty, Roberta Pailes, Andy Sherrer, Jim Gasaway, Zev Trachtenberg
NAYES	None

Recording Secretary Roné Tromble announced that the motion, to place approval of Item Nos. 3 through 6 on the Consent Docket and approve by one unanimous vote, passed by a vote of 9-0.

* * *

Item No. 5, being:
FP-1011-13 – CONSIDERATION OF A FINAL PLAT SUBMITTED BY SWEETGRASS COMMUNITIES, L.L.C. (SMC CONSULTING ENGINEERS, P.C.) FOR RED CANYON RANCH ADDITION, SECTION 2, GENERALLY LOCATED AT THE NORTHWEST CORNER OF 12TH AVENUE N.E. AND TECUMSEH ROAD.

ITEMS SUBMITTED FOR THE RECORD:
1. Location Map
2. Final Plat
3. Staff Report
4. Preliminary Plat

This item was approved as submitted on the Consent Docket by a vote of 9-0.

* * *

City of Norman, OK

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

Master

File Number: K-0910-29 FINAL

File ID:	K-0910-29 FINAL	**Type:**	Contract	**Status:**	Consent Item
Version:	1	**Reference:**	Item No. 16	**In Control:**	City Council
Department:	Utilities Department	**Cost:**		**File Created:**	06/14/2011
File Name:	K-1011-29 Final Acceptance			**Final Action:**	

Title: CONSIDERATION OF FINAL ACCEPTANCE AND FINAL PAYMENT OF CONTRACT NO. K-0910-29 BY AND BETWEEN THE NORMAN UTILITIES AUTHORITY AND WYNN CONSTRUCTION COMPANY, INC., FOR THE WATER TREATMENT PLANT UPGRADE PROJECT, PHASE I.

ACTION NEEDED: Acting as the Norman Utilities Authority, motion to accept or reject the project; and, if accepted, direct final payment in the amount of $25,000 to Wynn Construction Company, Inc.

ACTION TAKEN: _____

Notes:

		Agenda Date:	06/28/2011
		Agenda Number:	16
Sponsors:		**Enactment Date:**	
Attachments:	DW-121A Engineer's Final Acceptance of Project Form.pdf	**Enactment Number:**	
Project Manager:	Chris Mattingly	**Hearing Date:**	
Entered by:	chris.mattingly@normanok.gov	**Effective Date:**	

History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	06/28/2011					

Text of Legislative File K-0910-29 FINAL

Body

BACKGROUND: On July 25, 2006, the Norman Utilities Authority (NUA) approved Contract K-0607-35 with Carollo Engineers (Carollo) to perform a WTP Expansion Evaluation. The results of this report were presented to the NUA at a study session on May 22,

2007 and Carollo recommended a two phase approach to the WTP expansion. On September 25, 2007 the NUA approved Amendment No. 1 to the contract to perform additional studies including a chlorine pilot study, an ozone pilot study, and a detailed electrical evaluation. The findings and available treatment options were presented to the NUA at a study session on December 18, 2007. On June 24, 2009 the NUA approved Amendment No. 2 to the contract to perform final design services for the Phase I WTP Expansion.

On April 14, 2009, the NUA authorized submission of a DWSRF loan application for up to $14 million dollars to the Oklahoma Water Resources Board (OWRB) administered by the DEQ; this additional funding allowed the emergency generator to be added to the Phase I project. As a part of the DWSRF loan process, 30% of the loan amount will be forgiven up to a maximum of $2 million. The DWSRF loan application was submitted to the OWRB on May 8, 2009 and the OWRB approved our loan application on July 14, 2009.

On June 15, 2009, the NUA received DEQ approval of the design documents. On August 25, 2009, the NUA awarded the bid to Wynn Construction Company, Inc. of Oklahoma City and contracts were executed in the amount of $12,250,132. Construction began on August 26, 2009 and was completed by February 28, 2011. Change order No. 1 was approved by the NUA April 13th, 2010 in the amount of $111,856.96 due to unanticipated site soil conditions which led to additional expenses related to pier construction.

DISCUSSION: The project was deemed fully operational February 28, 2011 by our consultant Carollo Engineers, Inc. Carollo has reviewed and recommends final payment for the contractor Wynn Construction, Inc. in the amount of $25,000. This is the final payment of the $12,361,988.96 construction contract K-0910-29.

RECOMMENDATION: Recommend the NUA accept the project and authorize final payment to Wynn Construction, Inc. in the amount of $25,000 for Contract No. K-0910-29.

ENGINEER'S CERTIFICATION OF PROJECT (CONTRACT) COMPLETION

Water System Name: Norman Utilities Authority

DWSRF Project No.: P40-1020801-01

Loan No. ORF – 09-0021 - DW

Contract Number and Name: K-910-29 Norman Water Treatment Plant Expansion – Phase I

Contractor Name: Wynn Construction Company, Inc.

This is to certify that:

1. The Contract (Project) is fully operational and complies with all operational requirements of the approved Plans and Specifications and any related manufacturer requirements.
2. The Contract has been constructed in accordance with the approved Plans and Specifications and applicable laws, rules and regulations;
3. The Contract has passed all tests (including, but not limited to, concrete strength, compaction, bacteriological, hydrostatic, radiography, performance, functionality, etc.) as required per the specifications.
4. The design life of the Contract is to the year 2035 *.
5. The date of construction completion for the Contract is February 28, 2011.
6. The warranty period for the Contract is 2 years beginning on October 1, 2010.
   ☐ Check here for any exceptions and specify items, warranty period and warranty start date in an attachment.
7. All items of construction and operation related to the above referenced Contract are acceptable to the undersigned Engineer.

Signature of Engineer of Record: Thomas O. Crowley, PE

Typed/Printed Name: Thomas O. Crowley P. E.

Title: Professional Engineer

Engineering/Consulting Firm: Carollo Engineers, Inc.

Date: February 28, 2011

* Note: Repayment terms of a loan made from the State Revolving Fund may not exceed the lesser of the loan repayment period (20 or 30 years, typically) from construction completion or the useful life of the project.

City of Norman, OK

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201 West Gray Street
Norman, OK 73069

Master

File Number: K-1011-147 FINAL

File ID:	K-1011-147 FINAL	**Type:**	Contract	**Status:**	Consent Item
Version:	1	**Reference:**	Item No. 17	**In Control:**	City Council
Department:	Parks and Recreation Department	**Cost:**		**File Created:**	06/14/2011
File Name:	Final Acceptance of Walnut Ridge Playground Project			**Final Action:**	

Title: CONSIDERATION OF FINAL ACCEPTANCE AND FINAL PAYMENT OF CONTRACT NO. K-1011-147 BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND REX PLAYGROUND EQUIPMENT FOR THE WALNUT RIDGE PLAYGROUND REPLACEMENT PROJECT.

ACTION NEEDED: Motion to accept or reject the project; and, if accepted, direct final payment in the amount of $2,250 to Rex Playground Equipment.

ACTION TAKEN: _____

Notes:

Agenda Date: 06/28/2011

Agenda Number: 17

Sponsors:

Enactment Date:

Attachments:

Enactment Number:

Project Manager: Mitch Miles, Park Planner

Hearing Date:

Entered by: suzanne.terry@normanok.gov

Effective Date:

History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	06/28/2011					

Text of Legislative File K-1011-147 FINAL

Body

BACKGROUND: On 12 April 2011, City Council approved Contract Number K-1011-147 with Rex Playground Equipment for the Walnut Ridge Park Playground Project for the Parks and Recreation Department. This project included the removal of the old existing playground

equipment and replacement with new swings, climbing unit, slide, see-saw buck-a-bout, safety surfacing and boarders.

The low bid approved by City Council was submitted by Rex Playground Equipment in the amount of $45,000.

DISCUSSION: On 9 June 2011, the Walnut Ridge Park Playground Project was completed by Rex Playground Equipment and inspected by staff. A partial payment was also issued.

RECOMMENDATION: It is recommended that City Council accept this project as complete and authorize final payment in the amount of $2,250 to Rex Playground Equipment. Funding is available in Project No. PR0121, Walnut Ridge Park Playground Equipment (050-9973-451.6101-PR 0121).

City of Norman, OK

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

Master

File Number: K-1011-184

File ID:	K-1011-184	**Type:**	Contract	**Status:**	Consent Item
Version:	1	**Reference:**	Item No. 18	**In Control:**	City Council
Department:	Finance Department	**Cost:**		**File Created:**	06/09/2011
File Name:	K-1011-184 CorVel Healthcare Corporation			**Final Action:**	

Title: CONTRACT NO. K-1011-184: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN AND CORVEL HEALTHCARE CORPORATION TO PROVIDE CERTAIN HEALTH CARE SERVICES FOR WORKERS INJURED ON THE JOB.

ACTION NEEDED: Motion to approve or reject Contract No. K-1011-184 with CorVel Healthcare Corporation ; and, if approved, authorize the execution thereof.

ACTION TAKEN: _____

Notes:

		Agenda Date:	06/28/2011
		Agenda Number:	18
Sponsors:		**Enactment Date:**	
Attachments:	Corvel Contract.PDF	**Enactment Number:**	
Project Manager:	Clint Mercer, Chief Accountant	**Hearing Date:**	
Entered by:	clint.mercer@normanok.gov	**Effective Date:**	

History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	06/28/2011					

Text of Legislative File K-1011-184

Body

BACKGROUND: The City of Norman is responsible under Oklahoma Workers Compensation Statutes (the Statute) to provide medical treatment to employees who incur accidental injuries arising out of and in the course of employment. The Statute establishes a reasonable and customary fee for such services unless a lesser amount can be negotiated and agreed upon by specific parties. The City has contracted with Norman Regional Health

Systems (NRH) at a discounted rate for initial treatment, diagnostic testing and peripheral services such as physical therapy. The City also utilizes specialists such as orthopedic doctors in the course of medical treatment which are not covered in the NRH contract. As part of Staff's continued effort to reduce workers' compensation costs, Staff has looked at various options to lower costs.

DESCRIPTION: CorVel Healthcare Corporation (CorVel) has contracted with multiple medical providers to received discounts off Statute established rates and the City can access those discounts via CorVel's bill review services. CorVel's fee is extracted from the savings they have negotiated with the providers and range from 5% and up depending on the medical provider involved. The City's plan is to access CorVel's discounted prices for specialists not included in the NRH contract mentioned above. The medical providers CorVel has contracted with is extensive and includes many services the City already uses.

CorVel also provides other services that may be of interest to the City. Namely, case management services where a licensed medical professional can be requested to review treatment plans to ensure the most cost effective medical treatment. The City would use those services on an infrequent case-by-case basis.

The City provided CorVel a sample of some of it's various medical costs and a discount of approximately 18.5% was noted from the sample (net of CorVel's estimated fee). It is impossible to determine an exact dollar savings but it is anticipated there will be savings from utilizing CorVel's services.

Many of the providers that CorVel has contracts with are ones the City already utilizes. Therefore, the City benefits from the discounts CorVel has negotiated. As noted, CorVel's fee is paid from the savings the City realizes from the reduction of the fee schedule.

RECOMMENDATION: Staff recommends approval of contract K-1011-184 as attached hereto.

CorVel Healthcare Corporation
Managed Care Services Agreement

This Managed Care Services Agreement (this "Agreement") is entered into as of the Effective Date set forth below, by and between CorVel Healthcare Corporation ("CorVel") and the customer identified below ("Customer") to govern Customer's rights to use certain of CorVel's managed care services. This Agreement consists of and incorporates the following components:

This Cover and Signature Page
General Terms and Conditions
Exhibit A – Selected Managed Care Services & List of Applicable Schedules
Exhibit B – Fees and Payments
Exhibit C – CareMC License Agreement
Exhibit D – CorVel Certificate of Insurance
Schedules – Terms and Conditions of Selected Managed Care Services

1. **Effective Date:** June __, 2011

2. **CorVel Addresses and Contacts:**

CorVel Corporation
10900 Hefner Pointe Drive, Suite 401
Oklahoma City, OK 73120
Attn: LaDonna Williams, District Manager
Phone: 405-254-2441
Fax: 866-915-1115
Email: LaDonna_Williams@CorVel.com

CorVel Corporation
2010 Main Street, Suite 600
Irvine, California 92614
Attn: Director, Legal Services
Phone: (949) 851-1473
Fax: (949) 851-1469
Email: sharon_oconnor@corvel.com

3. **Customer Address and Contact:** City of Norman
201-C West Gray
Norman, OK 73070
Attn: Human Resources
Phone: (405) 366-5482
Fax: (405) 366-5488
Email: Clint.Mercer@NormanOK.gov

By signing below, each party acknowledges his/her agreement with the terms and conditions of this Agreement and represents and certifies that he/she is authorized to sign on behalf of and to bind each of the respective signatories to all of the terms and conditions of this Agreement as of the Effective Date.

CORVEL HEALTHCARE CORPORATION:

By: _____
Name: _____
Title: _____

CITY OF NORMAN:

By: _____
Name: _____
Title: _____

This document contains confidential and proprietary information of the Parties and may not be disclosed or duplicated without the prior written consent of the Parties.

GENERAL TERMS & CONDITIONS

RECITALS

WHEREAS, CorVel is in the business of providing managed care services (the "Managed Care Services"); and

WHEREAS, CorVel has developed a proprietary software solution (the "CareMC Application") which is accessible via the CorVel web site located at URL www.caremc.com (the "CareMC Site"), through which CorVel provides its customers with the option of utilizing certain Managed Care Services online (the "Online Services"); and

WHEREAS, Customer desires to retain CorVel to provide certain Managed Care Services, including Online Services, for the benefit of Customer and its insureds and/or their injured employees; and

WHEREAS, CorVel desires to be so retained by Customer to provide such Managed Care Services and Online Services, all under the terms and conditions set forth in this Agreement.

NOW THEREFORE, for and in consideration of the agreements, covenants, representations and warranties set forth herein, and other good and valuable consideration provided by the parties, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

AGREEMENT

1. MANAGED CARE SERVICES

A. Non-Exclusivity. Unless the parties expressly agree otherwise in writing, CorVel shall be the non-exclusive provider of all Managed Care Services to Customer during the Term of this Agreement.

B. Terms and Conditions of Services. The Managed Care Services chosen by Customer are indicated on Exhibit A of this Agreement and shall be provided by CorVel and utilized by Customer in accordance with the terms and conditions set forth on the applicable Schedules. The terms and conditions under which Customer may access and use the Online Services shall be governed by the terms and conditions set forth on Exhibit C (the "CareMC License Agreement"). In the event of a conflict, the terms and conditions of this Agreement shall prevail.

2. FEES

A. Fees, Billing and Payment. The fees and billing and payment procedures for the Managed Care Services and CareMC Application are set forth on Exhibit B ("Fees").

B. Late Fees. A late fee of two percent (2%) per month or the highest rate allowed under the law, whichever is lower, shall be assessed against overdue amounts.

C. Taxes. All charges and fees exclude taxes. If CorVel is required to pay sales, use, value-added or other taxes resulting from services rendered under this Agreement, then such taxes will be billed to and paid by Customer. Customer shall not be responsible for taxes based on CorVel's income.

D. Customer's Audit Rights. During the Term of this Agreement and for a one (1) year period following the expiration or termination hereof, CorVel shall keep accurate records related to the provision of Managed Care Services and Online Services hereunder. Such records shall be open for audit, at Customer's expense, by Customer or Customer's certified public accountants at the local CorVel office or another location mutually agreed to by the parties for the purpose of verifying CorVel's compliance with the terms and conditions of this Agreement, provided such audits are conducted (i) no more than twice per calendar year, unless required by law, (ii) during CorVel's regular business hours, (iii) upon no less than

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thirty (30) days advance written notice to CorVel, and (iv) Customer or Customer's designee shall provide the results of such audit to CorVel within ten (10) business days including a complete list of all individuals or entities who were provided any CorVel information as a result of such audit and Customer or Customer's designee shall return all materials provided for such audit at the conclusion of the audit. Upon Customer's reasonable written request, no more than twice per calendar year, CorVel agrees to provide Customer with a copy of the results of CorVel's most recent internal SAS 70 or its equivalent the SSAE16 audit, which results shall be CorVel's Confidential Information. Notwithstanding anything to the contrary herein, in no event shall Customer be permitted to audit CorVel's information technology systems or facilities or any other records of CorVel other than claims files related to the provision of Managed Care Services and Online Services hereunder.

E. CorVel's Audit Rights. During the Term of this Agreement and for a three (3) year period following the expiration or termination hereof, Customer shall keep accurate books and records supporting Customer's calculations of the amounts payable to CorVel hereunder and Customer's compliance with its obligations under this Agreement. Such records shall be open for audit by CorVel or CorVel's certified public accountants for the purpose of verifying Customer's compliance with its payment and other obligations under this Agreement provided such audits are conducted (i) no more than twice per calendar year; (ii) during Customer's regular business hours, and (iii) upon no less than thirty (30) days advance written notice to Customer.

3. REPRESENTATIONS, WARRANTIES AND COVENANTS OF CUSTOMER

A. Authority. Customer represents and warrants that (i) it has all necessary corporate power and authority to enter into this Agreement and to perform its obligations hereunder, and the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary corporate actions on its part, (ii) this Agreement constitutes a legal, valid and binding obligation of Customer, enforceable against it in accordance with its terms, and (iii) the execution, delivery and performance of this Agreement will not constitute a violation of any judgment, order or decree or a breach of a material agreement that would materially impair or prevent Customer from complying with its obligations under this Agreement.

B. Authorizations. Customer represents and warrants that (i) it has obtained or shall obtain such authorizations or approvals as are required for CorVel to perform the services described in this Agreement, including but not limited to receiving and disclosing patient-specific data as contemplated hereunder, (ii) it shall maintain the compliance of its workers' compensation program under all applicable laws, (iii) it has obtained and shall maintain during the Term any regulatory approval needed in order for CorVel to perform its obligations hereunder, and (iv) it shall promptly notify CorVel if any such approval is terminated, suspended or otherwise materially limited.

C. Insurance. For the term of this Agreement, CorVel acknowledges that the Customer is self-insured. The Customer agrees to, at CorVel's request, provide documentation related to Customer's Own Risk Workers' Compensation Application and Order.

D. Non-Solicitation. As a material inducement to CorVel to provide the Managed Care Services set forth in the Agreement, Customer agrees that during the Term of this Agreement and for a period of one (1) year after any expiration or termination thereof, Customer shall not, directly or indirectly, recruit or solicit for employment, employ or in any manner engage the services of or otherwise interfere with the employment relationship of any CorVel employee who was in any way involved in providing services to Customer pursuant to the Agreement without the prior written consent of CorVel. In the event Customer breaches this covenant of non-solicitation and non-employment, CorVel shall be entitled to recover the amount of one (1) times annual salary per employee from Customer as liquidated damages. The parties acknowledge that CorVel's actual damages in the event of such a breach by Customer would be

extremely difficult or impracticable to determine and acknowledge that this liquidated damages amount has been agreed upon as a reasonable estimate of CorVel's damages and as CorVel's exclusive remedy against Customer in the event of a breach of this Section 3D by Customer. The parties further agree that in any action brought on account of any alleged breach of this covenant, the prevailing party shall be entitled to recover its reasonable attorneys fees and costs.

4. REPRESENTATIONS, WARRANTIES AND COVENANTS OF CORVEL

A. Authority. CorVel represents and warrants that (i) it has all necessary corporate power and authority to enter into this Agreement and to perform its obligations hereunder, and the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary corporate actions on its part, (ii) this Agreement constitutes a legal, valid and binding obligation of CorVel, enforceable against it in accordance with its terms, and (iii) the execution, delivery and performance of this Agreement will not constitute a violation of any judgment, order or decree or a breach of a material agreement that would materially impair or prevent CorVel from complying with its obligations under this Agreement.

B. Performance. CorVel represents and warrants that (i) it has the necessary knowledge, skills and experience to provide and perform the Managed Care Services in accordance with the Agreement, and (ii) it will perform the Managed Care Services in a diligent, professional and workmanlike manner using an appropriate number of properly trained and qualified individuals and in accordance with applicable industry standards.

C. Insurance. CorVel represents and warrants that it has and agrees that it will maintain at all times during the Term of this Agreement the required professional liability, errors and omissions, workers' compensation, general and auto liability insurance coverages as set forth on the Certificate of Insurance attached hereto as Exhibit D.

5. DISCLAIMERS

A. Coverage and Compensability. CORVEL IS NEITHER A HEALTH CARE PROVIDER NOR A CLAIMS ADMINISTRATOR AND CORVEL DOES NOT MAKE FINAL DETERMINATIONS REGARDING THE COVERAGE OR COMPENSABILITY OF HEALTH CARE SERVICES RENDERED BY HEALTH CARE PROVIDERS TO INJURED PERSONS. THE SERVICES PROVIDED BY CORVEL UNDER THIS AGREEMENT ARE ADVISORY ONLY AND ARE PROVIDED SOLELY TO FACILITATE CUSTOMER'S BUSINESS OPERATIONS. CUSTOMER AND CUSTOMER'S EMPLOYEES AND/OR AGENTS HAVE THE OPTION TO ACCEPT OR REJECT ANY ADVICE OFFERED BY CORVEL HEREUNDER. CORVEL DOES NOT MAKE DETERMINATIONS RELATING TO CUSTOMER'S BUSINESS, INCLUDING, BUT NOT LIMITED TO, THOSE REGARDING THE COVERAGE OR COMPENSABILITY OF HEALTH CARE SERVICES. CUSTOMER SHALL RETAIN FULL RESPONSIBILITY FOR ALL FINAL DETERMINATIONS REGARDING THE PAYMENT OF POLICY BENEFITS.

B. Healthcare Authority. CORVEL AND ITS AGENTS HAVE NO AUTHORITY TO CONTROL OR DIRECT THE HEALTH CARE SERVICES PROPOSED FOR OR PROVIDED TO INJURED PERSONS. THIS AUTHORITY SHALL LIE ONLY WITH THE INJURED PERSON AND HIS/HER TREATING PHYSICIAN IN ANY CASE, AND THOSE INDIVIDUALS MAY ACCEPT, REJECT OR MODIFY ANY ADVISORY DETERMINATIONS MADE BY CORVEL OR ITS AGENTS, EXCEPT INSOFAR AS STATE WORKERS' COMPENSATION LAWS MAY REQUIRE THEM TO FOLLOW THE DETERMINATIONS OF CUSTOMER, CUSTOMER'S AGENTS, A WORKERS' COMPENSATION JUDGE OR REVIEW PANEL, OR ANOTHER THIRD PARTY.

C. No Interference with Practice of Medicine. Neither CorVel nor Customer shall attempt to directly or indirectly, to control, direct or interfere with the practice of medicine by any health care provider.

6. LIMITATION OF LIABILITY

A. Limitation on Damages. CUSTOMER AGREES THAT, EXCEPT WITH RESPECT TO (i) A BREACH BY CORVEL OF ITS OBLIGATIONS UNDER SECTION 9 (*Confidentiality*), AND (ii) CORVEL'S OBLIGATIONS UNDER SECTION 7 (*Indemnification*), IN NO EVENT WILL CORVEL'S MAXIMUM AGGREGATE LIABILITY FOR DIRECT DAMAGES UNDER OR IN CONNECTION WITH THIS AGREEMENT EXCEED THE LESSER OF: (x) THE FEES PAID BY CUSTOMER TO CORVEL HEREUNDER IN THE TWELVE (12) MONTHS PRIOR TO THE DATE FIRST NOTICE IS PROVIDED BY EITHER PARTY REFERENCING A CLAIM HEREUNDER; OR (y) TWO HUNDRED THOUSAND DOLLARS (US$200,000), REGARDLESS OF WHETHER CLAIMS ARE BROUGHT UNDER TORT, CONTRACT, OR ANY OTHER LEGAL OR EQUITABLE THEORY. For purposes of this Section 6(A), the calculation of fees paid to CorVel shall exclude provider fees, pharmacy fees and facility fees which Customer pays to CorVel and CorVel passes through to providers and pharmacies.

B. Exclusion of Damages. EXCEPT WITH RESPECT TO (i) A BREACH BY EITHER PARTY OF ITS OBLIGATIONS UNDER SECTION 9 (*Confidentiality*), (ii) DAMAGES INCLUDED IN CLAIMS THAT ARE THE SUBJECT OF A PARTY'S OBLIGATIONS UNDER SECTION 7 (*Indemnification*), (iii) A BREACH BY CUSTOMER OF THE SCOPE OF THE LICENSE GRANTED IN SECTION 2 OF THE CAREMC AGREEMENT *(License and Restrictions),* AND (iv) DAMAGES ASSOCIATED WITH INFRINGEMENT OR MISAPPROPRIATION OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO LOST PROFITS OR LOST REVENUES) UNDER THIS AGREEMENT. THE FOREGOING EXCLUSION SHALL APPLY REGARDLESS OF WHETHER CLAIMS BROUGHT UNDER OR IN CONNECTION WITH THIS AGREEMENT ARE FORESEEABLE, WHETHER THEY ARE BROUGHT UNDER TORT, NEGLIGENCE, CONTRACT OR ANY OTHER LEGAL OR EQUITABLE THEORY AND WHETHER ANY REMEDY UNDER THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE.

C. Integral Element. The parties acknowledge that the limitations and disclaimers set forth in this Agreement were an integral element in the business arrangement between the parties. The pricing and other terms of this Agreement reflect this allocation of risk and the disclaimers and limitations of liability set forth herein.

7. INDEMNIFICATION

A. Mutual Indemnification. Subject to section 7D below, each party shall defend any third party claim against the other party arising from the death of or physical injury to any person or damage to the indemnified party's property to the extent proximately caused by the negligence of the indemnifying party or its agents or employees, and indemnify and hold harmless the other party and its respective officers, directors and employees from and against damages, liabilities and reasonable costs and expenses, including reasonable legal fees ("Losses") incurred in connection therewith.

B. Indemnification by CorVel. Subject to Section 7D below, CorVel shall defend any third party suit or action against Customer to the extent such suit or action is based on a claim that Customer's permitted use of the CareMC Application under this Agreement constitutes an infringement of a United States patent, trademark, trade name, trade secret, copyright or other United States intellectual property right, and CorVel will pay those Losses finally awarded against Customer in any monetary settlement or final,

non-appealable judgment of such suit or action which are specifically attributable to such claim. This indemnity does not apply to any claims based on Customer's use of the CareMC Application (i) in violation of this Agreement or the Documentation (as defined in the CareMC License Agreement), (ii) in combination with any other software, hardware, network or system where the alleged infringement relates to such combination, or (iii) based on CorVel's compliance with Customer's instructions, designs or specifications where the alleged infringement relates to such compliance. If any portion of the CareMC Application becomes, or in CorVel's opinion is likely to become, the subject of a claim of infringement, then CorVel may, at its option and expense, procure for Customer the right to continue using the CareMC Application or replace or modify the affected portion of the CareMC Application so that it becomes non-infringing. If neither alternative is reasonably available, CorVel may terminate this Agreement. THE FOREGOING STATES CORVEL'S ENTIRE LIABILITY AND CUSTOMER'S SOLE REMEDY FOR INFRINGEMENT CLAIMS.

C. Customer Indemnification. Subject to Section 7D below, Customer shall defend, indemnify and hold harmless CorVel from Losses arising out of or relating to (i) Customer's misuse of, modification to, rejection of or failure to implement on a timely basis any of CorVel's recommendations made hereunder, (ii) acts or omissions by CorVel that were undertaken at the express direction of Customer, (iii) Customer's use of the CareMC Application in violation of the terms of the CareMC License Agreement, (iv) data or content included in or omitted from Customer Data (as defined in the CareMC License Agreement), (v) subject to Section 7A above, any claim by an employee of Customer or Customer's insureds brought against CorVel due to the recommendations made by CorVel hereunder and not caused by a breach by CorVel of its obligations hereunder in providing such recommendations, and (vi) any claim described in Section 7B(i)-(iii) above.

D. Conditions. The parties' indemnification obligations under this Section 7 are contingent upon: (i) the indemnified party giving prompt written notice to the indemnifying party of any claim under this Section (provided, however, that failure to give such notification shall not affect the indemnification provided hereunder except to the extent, and only to the extent, that the indemnifying party shall have been actually prejudiced as a result of such failure), (ii) the indemnifying party having the right, but not the obligation, to assume sole control of the defense or settlement of the claim, and (iii) at the indemnifying party's request and expense, the indemnified party cooperating in the investigation and defense of such claim(s). If the indemnifying party assumes the defense of any claim hereunder, the indemnified party shall be entitled to participate in (but not control) such defense and to retain its own counsel, at its own expense. The indemnifying party shall not settle or consent to an adverse judgment in any such claim that adversely affects the rights or interests of the indemnified party or imposes additional obligations on the indemnified party, without the prior express written consent of the indemnified party.

8. TERM AND TERMINATION.

A. Term. Unless provided otherwise on Exhibit B, the initial term of this Agreement shall begin on the Effective Date and continue for a period of one (1) year from the Effective Date (the "Initial Term"). Thereafter, the Agreement shall be renewed automatically for subsequent one (1)-year terms (each a "Renewal Term"), unless either party gives written notice of its intent to terminate no less than thirty (30) days prior to the end of the then-current term. The Initial Term and any subsequent Renewal Term(s) are collectively referred to herein as the "Term".

B. Termination for Convenience. This Agreement may be terminated by either party for convenience upon ninety (90) days written notice to the other party any time after the expiration of the Initial Term.

C. Termination for Cause. This Agreement may be terminated by either party for cause as follows: (i) upon thirty (30) days written notice if the other party breaches or defaults under any material provision of this Agreement and does not cures such breach prior to the end of such thirty (30) day period, (ii)

effective immediately and without notice if the other party ceases to do business, or otherwise terminates its business operations, except as a result of an assignment permitted under the terms and conditions of this Agreement, or (iii) effective immediately and without notice if the other party becomes insolvent or seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding, or if any such proceeding is instituted against the other and continues for ninety (90) days undismissed, unbonded and undischarged.

D. Effects of Termination. Termination or expiration of this Agreement shall have the following effects: (i) all outstanding unpaid invoices rendered by CorVel shall become immediately payable by Customer and invoices in respect of services provided prior to termination but for which an invoice has not been submitted shall be payable immediately by upon submission of an invoice by CorVel, (ii) all licenses granted to Customer under this Agreement (including any and all Exhibits and Schedules) shall terminate immediately, (iii) all rights of Customer to use the CareMC Application and Online Services shall cease immediately, (iv) CorVel shall provide Customer with any proprietary data belonging to Customer, in the current format in which it is stored at CorVel at the termination of the Agreement, and (v) each party shall promptly return all information, documents, manuals and other materials belonging to the other party, whether in printed or electronic form, except as otherwise provided in this Agreement, including without limitation all Confidential Information of the other party then currently in its possession.

E. Survival. Except to the extent expressly provided to the contrary in this Agreement, any rights to accrued payments, any right of action for breach of the Agreement prior to termination, and the following provisions shall survive the termination of this Agreement: Sections 2B-2E, 3A, 3B, 3D, 4A, 4B, 5, 6, 7, 8E, 9, 10, 11 (as applicable) and the provisions identified the Section of the CareMC License Agreement titled "Effect of Termination".

9. CONFIDENTIALITY

A. Definition of Confidential Information. "Confidential Information" shall mean any non-public data, information and other materials regarding the products, services or business of a party (and/or, if either party is bound to protect the confidentiality of any third party's information, of a third party) provided to either party by the other party where such information is marked or otherwise communicated as being "proprietary" or "confidential" or the like, or where such information should, by its nature, be reasonably considered to be confidential and/or proprietary. Without limiting the foregoing, the parties agree that (i) the CareMC Application, Documentation, CorVel Content (as defined in the in the CareMC License Agreement) and all software, source code, source documentation, inventions, know-how, and ideas, updates and any documentation and information relating thereto constitutes Confidential Information of CorVel, (ii) the Customer Data (as defined in the CareMC License Agreement) constitute Confidential Information of Customer, and (iii) this Agreement, the Exhibits and Schedules attached hereto, and the terms and conditions set forth herein and therein are Confidential Information of both parties.

B. Disclosure and Use of Confidential Information. The Confidential Information disclosed by either party ("Disclosing Party") to the other ("Receiving Party") constitutes the confidential and proprietary information of the Disclosing Party and the Receiving Party agrees to treat such Confidential Information in the same manner as it treats its own similar proprietary information, but in no case will the degree of care be less than reasonable care. The Receiving Party shall use the Confidential Information of the Disclosing Party only in performing under this Agreement and shall retain the Confidential Information in confidence and not disclose it to any third party (except as authorized under this Agreement) without the Disclosing Party's express written consent. The Receiving Party shall disclose the Disclosing Party's Confidential Information only to those employees and contractors of the Receiving Party who have a need to know such information for the purposes of this Agreement, and such employees and contractors must be bound by this Agreement or have entered into agreements with the Receiving Party containing

confidentiality provisions covering the Confidential Information with terms and conditions at least as restrictive as those set forth herein.

C. Exceptions. Notwithstanding the foregoing, the parties' confidentiality obligations hereunder shall not apply to information which: (i) is already known to the Receiving Party prior to disclosure by the Disclosing Party, (ii) becomes publicly available without fault of the Receiving Party, (iii) is rightfully obtained by the Receiving Party from a third party without restriction as to disclosure, (iv) is approved for release by written authorization of the Disclosing Party, (v) is developed independently by the Receiving Party without use of or access to the Disclosing Party's Confidential Information, or (vi) is required to be disclosed by law, rule, regulation, court of competent jurisdiction or governmental order, provided, however, that the Receiving Party shall advise the Disclosing Party of the Confidential Information required to be disclosed promptly upon learning thereof in order to afford the Disclosing Party a reasonable opportunity to contest, limit or assist the Receiving Party in crafting the disclosure, and then such disclosure shall be made only to the extent necessary to satisfy such requirements.

D. Use of Data. Nothing shall prohibit CorVel from using aggregate, non-identifying, statistical data generated through its customers', including Customer, use of the CareMC Application and Online Services for marketing purposes, provided that CorVel shall not use or disclose any such data or information in a manner that would reveal the identity of, or other confidential information concerning, Customer. Such aggregate, non-identifying statistical data could include, without limitation, statistics regarding usage of the CareMC Application and Online Services, the number of case referrals generated through the CareMC Application and Online Services and the efficiencies gained by CorVel customers through their use of the CareMC Application and Online Services.

10. GOVERNING LAW

This Agreement shall be governed by and construed under the laws of the State of Oklahoma.

11. DISPUTE RESOLUTION

A. Negotiation and Escalation of Disputes. In the event of any dispute, controversy or claim arising from or relating to this Agreement or the breach thereof ("Claim"), the parties will attempt in good faith to negotiate a solution to their differences, including progressively escalating any Claim through senior levels of management. If negotiation does not result in a resolution of the Claim within sixty (60) days of the date when one party first notifies the other of the Claim, any party desiring to pursue that Claim may do so through litigation.

12. GENERAL PROVISIONS

A. Contacts for Notices. The parties' contacts for notices to be provided under this Agreement shall be as set forth on the cover pages to this Agreement.

B. Assignment. Neither this Agreement nor any rights, licenses or obligations hereunder, may be assigned by either party without the prior written consent of the non-assigning party. Notwithstanding the foregoing, CorVel may assign this Agreement to any acquirer of all or of substantially all of CorVel's equity securities, assets or business related to the subject matter of this Agreement. Any attempted assignment in violation of this Agreement shall be void and without effect.

C. Severability. Should any term of this Agreement be declared void or unenforceable by any court of competent jurisdiction, such declaration shall have no effect on the remaining terms hereof, which shall continue in full force and effect.

D. Waiver. The failure of either party to enforce any rights granted hereunder or to take action against the other party in the event of any breach hereunder shall not be deemed a waiver by that party as to subsequent enforcement of rights or subsequent actions in the event of future breaches.

E. Relationship of the Parties. The relationship of CorVel and Customer established by this Agreement is that of independent contractor, and nothing contained in this Agreement shall be construed to (i) give either party the power to direct or control the day-to-day activities of the other, (ii) constitute the parties as partners, franchisee-franchiser, joint venturers, co-owners or otherwise as participants in a joint or common undertaking, or (iii) otherwise give rise to fiduciary obligations between the parties.

F. Force Majeure. Except for the obligation to make payments, nonperformance by either party shall be excused to the extent that performance is rendered impossible by war, acts of terrorism, strikes, fire, flood, hurricane, governmental acts or orders or restrictions, failure of suppliers, or any other reason where failure to perform is beyond the control of the non-performing party.

G. Entire Agreement; Amendments. This Agreement, including the Exhibits and Schedules attached hereto constitute the entire, final, complete and exclusive agreement between the parties and supersedes all previous agreements or representations, oral or written, relating to the subject matter of this Agreement. This Agreement may not be modified or amended except in writing signed by a duly authorized representative of each party. Both parties acknowledge having read the terms and conditions set forth in this Agreement and all attachments hereto, understand all terms and conditions, and agree to be bound thereby.

H. Counterparts; Facsimile Signatures. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of a facsimile copy of a manually signed signature to this Agreement shall be deemed to be valid execution of this Agreement by the signatory.

EXHIBIT A
Managed Care Services Selected by Customer

Customer has chosen the Managed Care Services indicated below. The specific terms and conditions that apply to CorVel's provision and Customer's receipt of such Managed Care Services are set forth in the indicated Schedules, which are hereby incorporated by reference into this Agreement.

Service	Selected by Customer (check box if yes)	Applicable Terms & Conditions
Managed Care Services:		
First Report of Loss and Early Intervention Services	☐	Schedule 1
Case Management Services	☑	Schedule 2
Network Solutions:		
Bill Review Services	☑	Schedule 3
w/ On-Site Bill Review Services	☐	Schedule 3-A
w/ Check Writing Services	☐	Schedule 3-B
Enhanced Bill Review	☑	Schedule 3-C
Preferred Provider Network Access Services (PPO)	☐	Schedule 4
Directed Care Services: Independent Medical Exams (IME) Durable Medical Equipment (DME) Medical Imaging Services Transportation and Translation Services Physical and Occupational Therapy	☑	Schedule 5
Pharmacy Benefit Program	☐	Schedule 6
Peer Review/Medical Records Review	☐	Schedule 7
Medicare Reports/Medicare Set Asides	☐	Schedule 8
Clearinghouse	☐	Schedule 9
NCCI Medical Data Call Services	☐	Schedule 10
Advocacy 24/7 Nurse Triage Services	☐	Schedule 11
Medication Review Services	☐	Schedule 12

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SCHEDULE 2

Case Management Services
Terms and Conditions

1. DESCRIPTION OF SERVICES

(a) Case management services are provided to manage a claimant's case in order to identify the most appropriate rehabilitative treatment and/or most cost-effective health care alternatives ("Case Management Services"). Case managers may confer with the adjuster, attending physician, other medical providers, employer(s), attorney(s), the patient and the patient's family.

(b) In certain states if requested by Customer, Case Management Services may include vocational rehabilitation services.

2. DELIVERY OF SERVICES

(a) CorVel shall provide Case Management Services to Customer upon receipt by CorVel of specific requests from Customer, however unless otherwise agreed to by the parties, those cases that meet the case management referral criteria set forth below shall be automatically referred to the appropriate level of Case Management Services indicated.

Case Management Referral Criteria:

[list]

(b) Telephonic Case Management: Telephonic case management ("TCM") includes a four-point contact with claimant, employer, claims professional and provider. CorVel case managers ("CMs") do the following: (i) facilitate communication among all appropriate parties regarding the diagnosis, prognosis and treatment plan provided by claimant's treating physician, (ii) channel or direct claimant to a PPO Network provider as appropriate, (iii) monitor and facilitate treatment planning, (iv) coordinate early return to work, and (v) subsequently provide periodic assessments of treatment and return to work plans. CMs may recommend additional services or coordinate claim closure, as appropriate.

(c) Medical/Field Case Management: CorVel's medical/field case management ("MCM") personnel perform field based case management services as directed by the employer and/or Authorized TPA which may include on-site contact with claimant, employer, and provider, as well as telephonic communication with the claims professional. MCM's provide the CM services set forth in Section A above.

(d) Vocational Case Management: Vocational case management services may include the following: (i) coordinating return to work, (ii) providing job analysis, (iii) assisting with job placement, (iv) providing expert testimony, (v) assisting with job development, (vi) providing job analysis of essential and non-essential duties for employers under the American's With Disabilities Act, (vii) providing vocational testimony, (viii) providing advice regarding job seeking skills, and (ix) providing transferable skills analysis.

(e) Utilization Review:

(i) CorVel's utilization management program reviews proposed inpatient hospital admissions and ambulatory care to determine the appropriateness, frequency, length of stay, and setting for such proposed treatment. In addition, CorVel can monitor and assess the appropriate

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utilization of treatment for all orthopedic and soft tissue injuries requiring ambulatory diagnostics and treatment.

(ii) CorVel nurses make recommendations to the claims adjuster based on nationally accepted medical guidelines, including Optimed Managed Care System, a clinical protocol software; the American College of Occupational and Environmental Medicine (ACOEM) Occupational Medicine Practice Guidelines: Evaluation and Management of Common Health Problems and Functional Recovery in Workers; other nationally accepted treatment practice guidelines, as well as any state mandated treatment guidelines.

(iii) Any nurse recommendations for limitation or denial of care based on lack of medical necessity are reviewed by a CorVel Physician Advisor. The Physician Advisor makes a final recommendation to the claims adjuster to approve or deny. If a final recommendation is made to deny treatment, the treating physician is notified in writing of the decision and the appeals process.

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SCHEDULE 3

Bill Audit, Review and Payment Services
Terms and Conditions

1. DESCRIPTION OF SERVICES

(a) CorVel's proprietary computerized bill review software program enables automated auditing and review of hospital bills ("Hospital Bills") and medical provider bills ("Provider Bills" and, together with Hospital Bills, "Bills").

2. DELIVERY OF SERVICES

(a) Customer's Obligations

(i) During the term of this Agreement, unless agreed to otherwise by the parties in writing, Customer shall utilize CorVel exclusively (even as to Customer) for audit, review and repricing services for Bills related to workers' compensation, auto liability and general liability claims. A breach of the foregoing obligation shall constitute a material breach under this Agreement. Without limiting any other remedies available under law, a breach of the foregoing obligation with respect to PPO (as defined in Schedule 7) Provider Bills will result in immediate termination of all PPO discounts provided by CorVel.

(ii) To facilitate timely processing by CorVel, Customer agrees to deliver to CorVel (A) each Provider Bill no later than ten (10) days after Customer's receipt thereof, and (B) batches of Provider Bills on a daily basis or as volume dictates.

(iii) Customer shall provide Hospital Bills to CorVel for pre-screening to determine the need for an Enhanced Bill Review Audit. If CorVel recommends a Bill Review Audit with respect to a Hospital Bill, and Customer agrees, Customer shall indicate whether CorVel shall perform a Enhanced Bill Review Audit (as further described on Schedule 3-C) on such Hospital Bill.

(iv) Customer shall process PPO Provider reimbursements within fourteen (14) days from receipt of the corresponding Bill Review Audit analysis from CorVel.

(b) CorVel's Obligations

(i) CorVel shall provide Bill Review Services described herein to Customer upon receipt of specific requests from Customer. In the absence of instructions from Customer to the contrary, which CorVel must approve, Bill Review Services shall be performed as described herein.

(ii) Bill Review Services shall be completed within five (5) business days of CorVel's receipt from receipt by CorVel of all necessary billing information from Customer ("Complete Billing Information").

(iii) CorVel shall pre-screen, at no charge to Customer, all Hospital Bills to determine the need for a Enhanced Bill Review Audit. PPO-related Hospital Bills shall be pre-screened prior to the time CorVel performs PPO repricing services to determine the need for an Enhanced Bill Review Audit. Where applicable, CorVel shall provide the appropriate hospital bill audit services involving both PPO and non-PPO providers. Where applicable, CorVel shall provide its hospital bill auditing Enhanced Bill Review service, or line item bill review service as set forth in Schedule 3-C.

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(iv) CorVel will be responsible for monitoring, "flagging" and returning to Customer duplicate copies of a Bill ("Duplicates").

(v) Any conflicts or complaints from medical providers ("Complaints") concerning Bill Review Services completed by CorVel initially will be handled directly by CorVel. CorVel will provide an initial response to a Complaint within one (1) business day following the date on which CorVel received the Complaint. CorVel will send a written response to the complainant within five (5) working days that summarizes the nature of the Complaint and the steps CorVel has taken to resolve it. A copy of this response will be sent to the attention of the designated Customer representative. Different or more specific parameters of CorVel's authority to respond to and resolve Complaints hereunder may be agreed to the parties. Further, Customer shall have the right, but not the obligation, at any time, to interject itself into a Complaint between CorVel and a medical provider and to resolve the Complaint in a manner acceptable to Customer at its sole discretion. Notwithstanding the foregoing, Customer shall retain full responsibility for payment of all benefits and any other expenses or services required to be paid or provided under applicable policies or state and federal workers' compensation laws.

(vi) CorVel agrees to supply Customer, at no additional cost, in the format in which it is then customarily stored by CorVel, a transmission or tape reflecting the results of the Bill Review Services provided hereunder. Such data shall be provided as to further allow for the application of Bill Review fees to the individual claim file, the preparation of insured specific savings reports and the payment of Bill Review fees.

(c) Scanning Services

(i) CorVel shall provide Optical Character Recognition ("OCR") Services set forth herein to Customer on request of Customer. Upon receipt of such request CorVel shall scan all bills and attached medical notes delivered to CorVel necessary for providing Bill Review services within seventy-two (72) business hours of CorVel's receipt of such information. Customer shall mark and date/time stamp the claims as instructed by CorVel.

(ii) Subject to applicable law and obtaining any required authorizations, CorVel also shall provide OCR Services for such additional claim-related documentation as Customer reasonably requests, for example, case notes, peer review information and independent medical examinations.

(iii) All material scanned by CorVel hereunder shall be accessible to Customer on the Internet pursuant to CorVel's CareMC Agreement with Customer.

(d) Loan of Scanner. The following provisions shall apply if CorVel provides to Customer a scanner (the "Loaned Scanner") for use at Customer's facility in connection with the Managed Care Services provided by CorVel to Customer pursuant to this Agreement:

(i) Customer shall use the Loaned Scanner only at its facility and only in connection with the Managed Care Services provided by CorVel, and for no other purpose. Customer shall be responsible for maintenance of the Loaned Scanner while in its possession.

(ii) The Loaned Scanner shall at all times remain the sole property of CorVel. Customer may not allow any security interest, lien, tax lien or other encumbrance (collectively, "Encumbrances") to be placed on the Loaned Scanner. Customer shall give CorVel immediate written notice should any third party attempt to place or place any Encumbrance on the Loaned Scanner.

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(iii) In the event Customer desires to have a backup scanner to protect against unavailability of the Loaned Scanner, Customer may acquire a scanner at its expense, provided such scanner shall comply in all respects to CorVel's requirements therefor.

(iv) Immediately upon termination or expiration of the Original Agreement, as amended, Customer shall return the Loaned Scanner to CorVel, at CorVel's expense. Customer shall be fully liable for any damage to the Loaned Scanner that occurs while in Customer's possession, reasonable wear and tear excepted.

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SCHEDULE 3-C

Enhanced Bill Review Services (Professional Review Services; Hospital Bill Line Item Bill Review Services; Negotiation Services) Terms and Conditions

1. DESCRIPTION OF SERVICES

(a) Professional Review Services. CorVel will provide professional review services for all Hospital Bills (inpatient and outpatient) in excess of two thousand five-hundred dollars ($2,500) including:

(i) review and analysis of charges for multiple billing, bundling, data errors, and upcoding of procedures with no Fee Schedule values;

(ii) review of bills, records, and documentation by a nurse and/or coder;

(iii) separation of charges not related to the injury;

(iv) diagnostic related group validation (i.e., verification that the diagnostic related group billed is appropriate for the services rendered); and

(v) cost shifting of revenue and CPT codes.

(b) Hospital Line Item Bill Review Services. CorVel's Enhanced Bill Review services are performed on Hospital Bills (inpatient and outpatient) in excess of two thousand five-hundred dollars ($2,500) and consist of (i) a line-by-line comparison of the charges actually billed by a particular hospital to usual and customary charges imposed by other hospitals within a pre-designated geographic area, and (ii) for Hospital Bills with charges that fall outside of any pre-contracted discounts or fee schedules, a thorough examination and analysis of the hospital's pricing.

(c) Negotiation Services. CorVel will provide negotiation services with respect to all Hospital Bills (inpatient and outpatient) in excess of two thousand five-hundred dollars ($2,500). CorVel will contact the provider for agreement of the negotiated rate. A signed agreement regarding such rates will be maintained by CorVel. CorVel will use its commercially reasonable efforts to enter into an agreement regarding negotiated rates in accordance with a mutually agreed upon schedule.

2. DELIVERY OF SERVICES

(a) Unless CorVel otherwise notifies Customer, CorVel shall complete Enhanced Bill Review Services and return the audited Hospital Bills to Customer, together with a written summary of any adjustments to identified overcharges, within ten (10) business days from receipt of Bills.

(b) Savings for the Enhanced Bill Review Services shall be:

(i) for states having a state mandated Fee Schedule: (A) the bill amount in the Fee Schedule; less (B) the bill amount resulting from the Enhanced Bill Review Services.

(ii) for states not having a state mandated Fee Schedule: (A) the medical provider's original bill amount; less (B) the bill amount resulting from the Enhanced Bill Review Services.

(c) Customer Responsibilities

(i) Customer shall pay bills reviewed by CorVel in a timely manner in accordance with all state guidelines, and agrees to waive any bill audit and/or other retrospective reviews regarding all bills for which CorVel has secured a reduction from the original billed charges.

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(ii) Customer will identify all bills that are not eligible for Enhanced Bill Review Services due to: (A) compensability; (B) a pre-negotiated rate with Customer or other previously established discount; (C) services that are "review only" due to litigation or other non-payment issues; and (D) duplicate bills.

(d) If a medical provider questions the adjustment and/or balance bills the patient, and the claim payor notifies CorVel of such communication, CorVel will provide documentation of its findings. If the hospital provides corrective or qualifying information sufficient to alter our original adjustments, CorVel will revise its report, advise the claim payor of the new, corrected adjustment. Only in the event of a successful appeal of the reduction of the bill by the medical provider shall Customer be entitled to receive a credit for the portion of the fee previously charged for the amount of the adjustment successfully appealed.

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SCHEDULE 5

Directed Care Services
Terms and Conditions

I. PAYMENT FOR DIRECTED CARE SERVICES

(a) Customer will pay CorVel for services provided hereunder at the rates set forth in Schedule 1 attached hereto. Rates reflect the amount payable to the CorVel network provider for providing Covered Services and the amount payable to CorVel for its services provided hereunder and represent a discounted total. Customer shall pay CorVel the full contract rate amount.

(b) Customer shall pay CorVel for services rendered within twenty (20) days of the date of receipt by Customer of an invoice from CorVel. Payments not received within the twenty (20) day time frame indicated shall be subject to interest at a rate equal to the lesser of prime plus 2% or the highest rate permitted by applicable law. Interest shall accrue through the actual date of payment.

(c) CorVel reserves the right to amend the rates set forth herein by notifying Customer of such amendment in writing, and Customer shall, if such amendment is unacceptable, have thirty (30) days from the date said notice is received to reject such amendment by delivery of written notice of rejection to CorVel. If CorVel does not receive such notice of termination within such thirty (30) day period, the amendment to the rates shall be deemed accepted by Customer and this Agreement shall continue in full force and effect, as so amended.

II. INDEPENDENT MEDICAL EXAMINATION SERVICES (IME)

(a) **DESCRIPTION OF SERVICES.**

(i) CorVel shall provide access, and deliver the services described in this Schedule 5 in connection with such access, to a panel of medical professionals who have been credentialed by CorVel as "Credentialed Providers" and who will perform Independent Medical Examinations (IMEs).

(b) **DELIVERY OF SERVICES.**

(i) CorVel shall arrange for IMEs at the request of Customer.

(ii) CorVel shall work only with Credentialed Providers under this Agreement. "Credentialed Providers" are medical professionals with respect to whom CorVel has performed, its standard credentialing process. CorVel shall also verify that the medical professionals who are Credentialed Providers meet all applicable statutory and/or legal requirements regarding who can conduct an IME.

(iii) CorVel shall require medical professionals who are providing IMEs to comply with CorVel's reporting and communications requirements.

(iv) CorVel shall ensure that IMEs are assigned to providers and performed by such providers in accordance with applicable law. CorVel will schedule the IME with

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the type of medical expert requested. For example, if an orthopedic surgeon is requested, an orthopedic surgeon must be scheduled, not a general practitioner who deals with soft tissue type injuries. If CorVel does not have an IME medical professional in the requested geographic area or in the requested specialty, CorVel will contact the Customer file handler for advice on how to proceed.

(v) CorVel shall ensure that the IME appointment is scheduled within 2 business days of receipt of request or in accordance with applicable State law. CorVel will send appropriate communication to the Customer file handler, claimant, and claimant's legal counsel (when necessary) regarding such scheduling. CorVel will place a reminder call to the claimant 1 – 2 business days prior to the IME appointment. CorVel claimant attended the scheduled IME appointment. CorVel will re-schedule any IME appointment no-shows by the claimant and notify the Customer file handler within 2 business days. If a second IME appointment no-show should occur, CorVel shall contact Customer file handler unless locally CorVel is aware that no additional IME exam appointments should be scheduled.

(vi) CorVel shall deliver to Customer completed IME reports within 7 business days from the date of the exam. Prior to such delivery to Customer, CorVel shall complete its quality review of such report. All reports shall comply with applicable state law.

(vii) CorVel shall provide Customer quarterly activity reports within _____ (__) business days following the applicable quarter.

III. Durable Medical Equipment (DME)

(a) **DESCRIPTION OF SERVICES**

(i) CorVel agrees to make durable medical equipment services ("DME Services") available through CareMC to Customer's customers. The services will be available in every area where CorVel has a fully established network. CorVel will provide Customer with updated PPO Network directories through CareMC.

(ii) CorVel will provide training materials to Customer claims adjusters and case managers to inform those with referral responsibilities of the appropriate process for accessing CorVel reduced rates, at no cost to Customer.

(iii) CorVel will handle DME Services according to the following Customer Services Procedures:

(1) Referral Processing (faxed or called in, or received via CareMC)

A. Obtain all relevant information to process referral from party placing order (i.e. case manager, adjuster, physician's office).

B. Input data in CorVel Medical Manager System.

(2) Orders are fulfilled using local, preferred equipment distributors, and billing and reimbursement for each transaction is automatically processed.

(b) **DELIVERY OF SERVICES**

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(i) CorVel will coordinate delivery of all services from the time of referral to delivery to patient through the CorVel Call Center. The CorVel Call Center coordinates services from 7:00AM to 9:00PM EST Monday through Friday except for public holidays.

(ii) Customer Responsibilities. Customer shall pay fees for DME Services within twenty (20) days of receipt of CorVel's invoice therefor.

IV. Medical Imaging Services

(a) DESCRIPTION OF SERVICES – Preferred Provider Organization (PPO) Network

(i) CorVel agrees to make Medical Imaging Services and scheduling services available through its Medical Imaging PPO Networks to Customer's customers for injured workers. The services will be available in every area where CorVel has a fully established network.

(ii) CorVel will customize the PPO Network to meet the needs of Customer's customers. CorVel will request opinions and preferences from Customer claims adjusters and case managers and will use every effort to recruit requested providers into the PPO Network at CorVel's preferred rates.

(iii) CorVel will provide Customer with updated PPO Network directories on at least a quarterly basis to those Customer offices that request PPO directories, at no cost to Customer.

(iv) CorVel will provide training materials to Customer claims adjusters and case managers to inform those with referral responsibilities of the appropriate process for accessing CorVel reduced rates, at no cost to Customer.

(v) CorVel will handle Medical Imaging Services referrals according to the following Customer Services Procedures:

(1) Referral Processing (faxed or called in)

A. Obtain all relevant information to process referral from party placing order (i.e. case manager, adjuster, physician's office).

B. Input data in CorVel Medical Manager System.

(2) Assign appropriate center to the referral based on locality, procedure, client/physician preference and patient conditions.

(3) Perform pre-screening of patients as deemed appropriate.

(4) Schedule at facility appropriate to patient conditions/client requirements.

(5) Contact patient to advise of scheduled appointment date, time and location.

(6) Fax appointment confirmation to case manager, adjuster, and referring physician indicating date and time of procedure, type of procedure, and center name, address and phone number.

(7) Within 24 to 48 hours after completion of procedure, fax medical reports to appropriate parties.

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(b) **DESCRIPTION OF SERVICES – Second Opinion Program**

(i) CorVel will provide a second reading of any questioned MRI, CT or Bone Scan by a second board certified radiologist through its second opinion program. This second reading is available for diagnoses resulting from medical imaging examinations that were scheduled by CorVel at a CorVel Network Provider. This second opinion reading will be provided free of charge.

(ii) In the event a Customer adjuster believes a second opinion is required for an MRI, CT or Bone Scan, the adjuster will call CorVel at 1-800-414-4MRI (4674) to request the second opinion. CorVel will ask the adjuster for the patient's name, the name and phone number of the center who conducted the examination, and the adjuster's name and phone number.

(iii) CorVel will contact the center that performed the medical imaging examination and request that the films be sent to a CorVel board certified radiologist for review.

(iv) In some cases, a release of responsibility may be requested by the MRI center that conducted the study. If so, CorVel will contact the Customer claims adjuster to arrange for a release to be sent via fax to the MRI center. Once release is obtained, CorVel will instruct the MRI center to send the films by two-day carrier.

(v) CorVel's computerized scheduling program will diary each referral for second opinion and monitor the status of each request. CorVel will enter the data obtained into the CDL system and run quality assurance reports twice daily to monitor the status of each second opinion requested and assure that it is being handled in an expedient manner.

(vi) CorVel will then inform the board certified radiologists that a review is requested. CorVel will request that the second opinion be completed within two business days from receipt of the films.

(vii) CorVel will continue to monitor the status of the second opinion and will place calls to the radiologists to confirm that the films were received and that the second opinion will be completed on time.

(viii) The second opinion report will be faxed to CorVel's attention, which in turn will fax the report to the Customer claims adjuster. This will allow CorVel to confirm that the second opinion was completed and is legible.

(ix) CorVel will select and provide for Customer a panel of board certified radiologists who have met CorVel credentialing criteria and who will handle all volume of second opinions requested by Customer.

(c) **REPORTS**

(i) CorVel will prepare region specific and aggregate management reports for Customer that show savings per claims adjuster, per case manager, and per branch office location. The reports will summarize the activity of all case managers and claims adjusters as they relate to referring claimants to CorVel, the amount that would be paid under workers' compensation, the amount paid under

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the CorVel program, and the percentage of savings realized. CorVel will furnish these reports to Customer quarterly, and annually.

(d) **RELEVANT DEFINITIONS FOR MEDICAL IMAGING SERVICES**

(i) "Claimants" are those persons entitled to coverage pursuant to a workers' compensation insurance policy or program administered by a Customer.

(ii) "Health Care Provider" means a duly licensed physician, imaging technician, hospital, clinic or other facility, or any other person or entity who furnishes Medical Imaging Services to a Claimant.

(iii) "Medical Imaging Services" are those medical imaging services provided pursuant to a workers' compensation insurance policy or program administered by Customer.

(iv) "Network Provider" means a Medical Imaging Service Provider who is part of a PPO Network of selected Medical Imaging Service Providers who contractually agree with CorVel to provide Medical Imaging Services to Claimants at negotiated discount rates.

V. TRANSPORTATION AND TRANSLATION SERVICES

(a) **DESCRIPTION OF SERVICES**

(i) CorVel agrees to make Transportation and Translation Services and scheduling services available through its CorVel Directed Care Networks to Customer's customers for injured workers. The services will be available in every area where CorVel has a fully established network.

(ii) CorVel will customize the CorVel Directed Care Network to meet the needs of Customer's customers.

(iii) CorVel will provide training materials to Customer claims adjusters and case managers to inform those with referral responsibilities of the appropriate process for accessing CorVel reduced rates, at no cost to Customer.

(iv) CorVel will handle Transportation and Translation Services referrals according to the following Customer Services Procedures:

(1) Referral Processing (faxed or called in)

A. Obtain all relevant information to process referral from party placing order (i.e. case manager, adjuster, physicians office).

B. Input data in Medical Manager, CorVel CareMC or CorVel Web portals.

(2) Assign appropriate Transportation and /or translation provider to the referral based on locality.

(3) Schedule to patient conditions/client requirements.

(4) Contact patient to advise of scheduled appointment date, time and location.

(b) **DELIVERY OF SERVICES**

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(i) Transportation and Translation can usually be scheduled same day (dependant on location) of an appointment.

(ii) Cancellation of Transportation and Translation must be called into CorVel a minimum of four (4 ½) hours prior to the appointment time or a cancellation fee will be charged.

(iii) Transportation can be scheduled via a car, wheelchair lift vehicle, ambulance, airplane, bus or train. Airport pickups can be scheduled. Hospital pickups can be scheduled.

(iv) Hotel accommodations can be made for overnight orders.

(v) Transportation and Translation can be scheduled in all fifty (50) states including Alaska and Hawaii

(vi) Wheelchairs and other medical equipment needed along with transportation are available at additional fees

(vii) Price quotes available

(viii) Pre-arranged weekend (Saturday, Sunday & Holidays) services available.

(ix) Our translation companies can schedule on-site and telephonic interpretation for over 200 languages

(x) Translation and transcription of documents is available; (5 business days required)

(xi) Telephonic interpretation is available

(xii) Desktop publishing is available

(xiii) Sign language interpreters are available with a 3 day notice

(xiv) Payment Terms: CorVel will be paid for Covered Services, which CorVel provides to Covered Persons, the reimbursement rates are: one hundred percent (100%)

(c) Customer shall pay CorVel for services rendered within twenty (20) days of the date of receipt by Customer of an invoice from CorVel. Payments not received within the twenty (20) day time frame indicated shall be subject to interest at a rate equal to prime plus 2%. Interest shall accrue through the actual date of payment.

VI. PHYSICAL AND OCCUPATIONAL THERAPY

(A) **Description of Service**

The CorVel Physical Therapy program focuses on rehabilitation while controlling utilization and managing medically necessary treatments. Through a comprehensive program of scheduling, reporting, clinical oversight by CorVel therapy clinical reviewers (licensed PT/OT professionals), and network management, CorVel provides an effective and efficient program for therapy treatment. CorVel Therapy Program offers one national toll free number for referrals and case inquiries from the customer file handler or the claimant. In addition, CorVel offers online referrals and claims management opportunities, such as reviewing therapy activity notes, reviewing milestones as they are

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met, therapy documentation, and submitting online referrals through CareMC and CorVel websites. The CorVel therapy provider network consists of credentialed physical and occupational therapy providers who are managed based on performance in regards to clinical outcome measures including: patient satisfaction, functional restoration, pain improvement, impact on utilization, savings and return to work. Our network providers perform skilled PT/OT therapy, including hand therapy, aquatic therapy, Functional Capacity Evaluations, and Work Hardening and Conditioning programs. Additionally, CorVel Therapy program schedules the patient in the facility within 3 business days of receipt of authorization, as a means to facilitate healing and return to work.

(B) DELIVERY OF SERVICE

(i) CorVel shall arrange for PT/OT services at the request of Customer.

(ii) CorVel shall work only with Credentialed Providers under this Agreement. "Credentialed Providers" are therapy professionals with respect to whom CorVel has performed, its standard credentialing process.

(iii) CorVel shall require medical professionals who are providing standard therapy services, such as hand therapy, aquatic therapy, Functional Capacity Evaluations, and Work Hardening and Conditioning programs to comply with CorVel's reporting and communications requirements.

(iv) CorVel will schedule the therapy service with the type of therapy professional requested. If CorVel does not have a therapy professional in the requested geographic area or in the requested specialty, CorVel will contact the Customer file handler for advice on how to proceed.

(v) CorVel shall ensure that the therapy appointment is scheduled within 3 business days of receipt of authorization of request. CorVel will send appropriate communication to the Customer file handler, claimant, and claimant's legal counsel (when necessary) regarding such scheduling and when CorVel claimant attended the scheduled therapy initial evaluation. CorVel will re-schedule any initial evaluation appointment no-shows by the claimant and notify the Customer file handler within 2 business days.

(vi) CorVel shall provide Customer quarterly activity reports within fifteen (15) business days following the applicable quarter.

(vii) CorVel will invoice customer directly for therapy services.

(viii) Customer Responsibilities. Customer shall pay fees for therapy Services within twenty (20) days of receipt of CorVel's invoice therefor.

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EXHIBIT B
Fees

(1) During Initial Term. Fees during the Initial Term of this Agreement shall be as follows:

Bill Review Fees:

Type of Bill Review	*Cost*
Bill Review	$1.25 per line, 2 line minimum 25% of Network Solutions
Full Duplicate Bill	No Charge
State EDI	No Charge, Included
Full Scanning/OCR	No Charge

Case Management Fees:

Case Management will be billed for actual time units of 1/6 hour. Unless otherwise agreed to, we will not accept any other minimum transaction time.

Billing guidelines as outlined for Field/Telephonic Case Management will be followed.

Telephonic or Field Medical Case Management by RN (With Approval of Payor)	**$82/hr (OK)**
Review	
Initial File Review	**.1 to .5**
Medical Record Review	**.1 (1-3pgs) - .5**
Visits	
Visit Hospital (CAT CASES) (Unless authorized by adjuster and documented in CareMC)	**Up to 2.0**
Visit with Client at appointment (Unless authorized by adjuster and documented in CareMC)	**.5**
Visit with MD and Client at appointment (Unless authorized by adjuster and documented in CareMC)	**Up to 1.5**
Visit with Clinic Staff (appointment scheduling/records etc)	**.1 to .2**
Visit with Client's Family	**.2**

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(Unless authorized by adjuster and documented in CareMC)	
Wait MD	**1.0 max**
(Unless authorized by adjuster and documented in CareMC)	

Reports	
Status Report (every 30 days)	**up to 1.0**
Preparing billing/invoices	No Charge
Closure Report	**up to 1.0**

Letters	
Faxing Documents	**.1**
E-mail	**.1**
(Includes e-mail to or from the adjuster)	
Letters (Routine letters)	**.1 to .5**
Review Letters (Incoming only)	**.1**

Telephone

(Must specifically describe the parties and purpose of the phone call in the CareMC entry. Any lengthy phone calls should also be documented and supported)

Calls (Routine)	**.1 to .3**
Consult type calls to Clmnt, Dr, PT etc.	**.1 to .5**
Calls to Adjuster	No Charge
Long Distance Charges	No Charge
Cost of Call	No Charge
Attempted Call	No Charge
Leave Message on Machine	No Charge

Travel and Mileage

(Anything in excess of billed maximums must be authorized by adjuster and documented in CareMC)

Maximum Travel Time	**Up to 3.0 One-Way** **Up to 6.0 Round-Trip**
Mileage figured from OKC or Tulsa office to appointment	**IRS Rates**

OTHER SERVICES AVAILABLE:

VOCATIONAL ASSESSMENT/REHABILITATION	**$85/hr + IRS mileage rate**
INDEPENDENT MEDICAL EXAMS	**$85/hr + Physician Fee**
NURSE FILE REVIEW	**$85/hr**

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(2) Fees During Renewal Terms: CorVel shall increase the Fees associated with Managed Care Services annually on the effective date of the Renewal Term. Such increase shall be equal to the lower of: (i) three percent (3%) or (ii) the percentage increase in "CPI" for the immediately available preceding twelve (12) month period plus two percent (2%). For the purposes of this Agreement, "CPI" means the Consumer Price Index U.S. City Average for Urban Wage Earners and Clerical Workers, All Items, of the United States Bureau of Labor Statistics (1982-1984=100). If the manner in which such CPI as determined by the Bureau of Labor Statistics is substantially revised, an adjustment will be made in such revised index which would produce results equivalent, as nearly as possible, to those which would have been obtained had the CPI not been so revised. If the 1982-1984 average is no longer used as the index of 100, such change shall constitute a substantial revision.

(3) Fees for Additional Professional Services: If Customer requires any additional professional services from CorVel relating to the Managed Care Services or the CareMC Application, including but not limited to integration of the CareMC Application with EDI or other Customer systems, Customer shall submit a written request to CorVel for such services. CorVel shall, in good faith, consider providing such services at its then-current professional services fee rate and standard terms and conditions.

(4) Fees Adjustments for Regulatory Changes or Changes in Business: If, at any time during the Term of this Agreement, regulatory or legislative changes or other business conditions impact CorVel's business operations and add to or impact CorVel's costs of providing the Services, CorVel may (a) increase its fees for one or more Services upon written notice to Customer, or (b) terminate this Agreement upon ninety (90) days written notice to Customer.

(5) Billing and Payments for Pharmacy Benefits Program: CorVel will invoice Customer daily for all fees related to the Pharmcy Benefits Program. Payment shall be due within seven (7) days of the date of CorVel's invoice. Invoices will reasonably detail the computation of the fees owed.

(6) Billing and Payments for DME Services. CorVel will invoice Customer daily for all fees related to the DME Services. Payment shall be due within twenty (20) days of the date of CorVel's invoice. Payment shall be due within twenty (20) days of the date of CorVel's invoice. Invoices will reasonably detail the computation of the fees owed.

(7) Billing and Payments for Other Fees: CorVel will invoice Customer monthly for all fees other than those related to the Pharmacy Benefits Program. Payment shall be due within thirty (30) days of the date of CorVel's invoice. Invoices will reasonably detail the computation of the fees owed.

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EXHIBIT C
CareMC License Agreement

This CAREMC LICENSE AGREEMENT (the "CareMC License Agreement") is incorporated by reference into the Managed Care Services Agreement (the "Master Agreement") to which it is attached. The parties acknowledge and agree that the terms and conditions under which the Managed Care Services are provided by CorVel and received by Customer shall be governed by the Master Agreement (including without limitation all additional Exhibits and applicable Schedules attached thereto), while the terms and conditions under which Customer may access and use the Online Services shall be governed by the terms and conditions of this CareMC License Agreement. All defined terms used herein and not otherwise defined shall have the meaning ascribed to such terms in the Master Agreement.

1. ACCESS TO THE CAREMC APPLICATION

A. Registration Information. Prior to accessing the CareMC Application, Customer shall provide CorVel with certain registration information requested therein ("Registration Information"). Customer covenants that the Registration Information Customer provides will be true, accurate, current and complete and will be updated as necessary to it so.

B. Passwords and Levels of Access. As soon as practicable after the execution of this Agreement, CorVel shall create a unique username and password for each individual Authorized User identified by Customer as requiring access to the Online Services. Customer shall then designate two groups of Authorized Users. The first group of Authorized Users ("Restricted Users") shall have access to only the data available on the CareMC Site that relates to claims specific to that Authorized User and such other data that Customer specifically requests in writing be accessible to such Authorized User. The second group of Authorized Users ("Non-Restricted Users") shall have access to all data available on the CareMC Site that relates to claims specific to Customer. Access by Individual Users and Non-Restricted Users to data available on the CareMC Site shall be subject in all cases to any limitations imposed by applicable law.

C. PHI Data. Authorized Users shall have access to all data available through the CareMC Application, including data that constitutes or contains "protected health information" ("PHI Data") as such term is defined in 45 CFR Section 164.501 of the regulations promulgated by the U.S. Department of Health and Human Services under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), but shall only have access to PHI Data to the extent necessary for Customer to render payment on a claim, and then only to those portions or amounts of PHI Data that are determined by CorVel, in its sole discretion, to be the minimum necessary for Customer to render payment on such claim.

D. Security of Passwords. Customer acknowledges and agrees that it shall be solely responsible for (i) selecting Authorized Users, (ii) assigning the various levels of authority and access each Authorized User may have to the CareMC Application, Online Services and Customer Data, including by determining which Authorized Users shall be Non-Restricted Users, (iii) ensuring that only Authorized Users have access to the passwords provided by CorVel or changed by Authorized Users, (iv) implementing a system to control, track and account for all passwords, (v) strictly maintaining the confidentiality and integrity of all passwords and levels of authority among Authorized Users, and (vi) ensuring that Authorized Users shall at all times comply with the terms and conditions of this Agreement. Customer further agrees that it shall notify CorVel immediately in writing if the security or integrity of a password has been compromised. CorVel will provide reasonable cooperation to Customer in the event of a security breach. Such support will include but not be limited to suspending service for passwords whose security or integrity has been violated. Passwords may be changed at any time by Authorized Users, and must be changed at least once every ninety (90) days.

E. Customer Data. Responsibility for ensuring that the content and data provided by or for Customer ("Customer Data") to be entered into the CareMC Application by CorVel is accurate and reflects Customer's requirements lies solely with Customer. All data generated by and through Customer's use of the CareMC Application and Online Services shall reside on CorVel's server. CorVel reserves the right to temporarily suspend access to any Customer Data that it determines, in its sole discretion, violates the terms and conditions of this CareMC License Agreement or any applicable laws.

F. Customer Representations. Customer represents that (i) it has the legal authority to provide the Customer Data to CorVel hereunder, and (ii) it is fully aware and knowledgeable of and shall comply with its duties and responsibilities with respect to the privacy and confidentiality of medical records and protected health information under applicable federal and state laws, including but not limited to those imposed by HIPAA. Upon written notice to Customer, CorVel may modify or temporarily suspend Customer's access to and use of the CareMC Application, Online Services and/or CareMC Site as necessary to comply with any law or regulation.

2. LICENSE AND RESTRICTIONS

A. Limited License. Subject to the terms and conditions of this CareMC License Agreement, CorVel grants to Customer during the License Term (as defined in Section 5A below) a limited, non-exclusive, non-transferable, non-sublicensable license to access and use, and allow Authorized Users to access and use, the CareMC Application via the CareMC Site solely for

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Customer's own internal business use and operations. Customer shall access and use the CareMC Application in accordance with the user's guides and online instruction provided to Customer by CorVel ("Documentation") and all applicable laws, statutes, rules and regulations.

B. Restrictions. Customer shall not, and shall not allow Authorized Users or any third party to (i) rent, lease, re-license or otherwise provide access to the CareMC Application or Online Services to any third party, (ii) alter, modify or create derivative works of the CareMC Application, (iii) use any reverse compilation, decompilation or disassembly techniques or similar methods to determine any design structure, concepts and construction method of the CareMC Application or replicate the functionality of the CareMC Application for any purpose, or (iv) copy the CareMC Application or any content, materials, information and other data provided by CorVel on the CareMC Site or used in providing the Online Services ("CorVel Content") and/or Documentation without CorVel's prior written consent.

C. Third Parties. Customer shall not allow any third party to have access to the CareMC Application or Online Services without prior written consent of CorVel and ensuring that (i) such third party enters into a legally enforceable written agreement with CorVel, or (ii) such third party enters into a legally enforceable written agreement with Customer consistent with the terms of this CareMC License Agreement and which shall include terms at least as protective of CorVel as the following Sections of this CareMC License Agreement: Sections 1A-1F, 2B, 2D, 3B, and 4A-4E.

D. Ownership and Changes. CorVel owns and shall retain all right, title and interest in and to the CareMC Application, Documentation, CareMC Site, Online Services, CorVel Content and any intellectual property rights inherent therein or arising therefrom. In addition to CorVel's rights in the individual elements of the CorVel Content, CorVel owns a copyright in the selection, coordination, arrangement and enhancement of the CorVel Content. Neither Customer nor any Authorized User shall obtain any ownership rights, express or implied, or any other rights other than those expressly set forth herein in the CareMC Application, Documentation or CorVel Content. CorVel reserves the right, at any time in its sole discretion and without liability to Customer, to delete or change features of the CareMC Application, CareMC Site or Online Services provided such changes do not materially alter the functionality of the CareMC Application.

E. Compliance Monitoring and Audits. CorVel may monitor and perform remote audits of Customer's use of the CareMC Application and CareMC Site for the purpose of verifying that Customer and Authorized Users are using the CareMC Application in compliance with the terms of this CareMC License Agreement. CorVel reserves the right to temporarily suspend Customer's or any Authorized User's access to the CareMC Application in the event Customer or such Authorized User engages in, or CorVel in good faith suspects is engaged in, any unauthorized conduct. To the extent CorVel requires access to Customer's facilities to conduct an audit hereunder, Customer agrees to provide such access upon reasonable advanced notice and during Customer's regular business hours.

3. INFRASTRUCTURE, MAINTENANCE AND SUPPORT

A. CorVel Infrastructure Obligations. Subject to Customer's compliance with the terms and conditions of this CareMC License Agreement, CorVel shall be responsible for providing and maintaining the hardware, software and other equipment required to host the CareMC Application for Customer ("CareMC Infrastructure"). The CareMC Infrastructure is subject to modification by CorVel from time to time for purposes such as adding new functionality, maximizing operating efficiency and upgrading hardware, provided such modifications shall not in the aggregate degrade the performance of the Online Services utilized by Customer. Customer acknowledges and agrees that such modifications may require changes to Customer's Internet access and/or telecommunications infrastructure to maintain Customer's desired level of performance. CorVel shall give Customer reasonable prior written notice of any required modifications.

B. Customer Infrastructure Obligations. Except for the CareMC Infrastructure, which will be provided by CorVel, Customer shall be responsible for obtaining and maintaining all hardware, software, equipment, Internet access and/or telecommunications services and other items or services furnished by third party venders or providers ("Third Party Providers") required to enable Customer to access and use the CareMC Application and CareMC Site as contemplated hereunder.

C. Support. CorVel will provide general support regarding questions on the CareMC Application via email and by telephone from Monday through Friday between the hours of 5:00 a.m. and 6:00 p.m. Pacific Standard Time, excluding holidays.

D. Scheduled Maintenance. CorVel will use reasonable efforts to (i) perform any scheduled downtime outside of Customer's normal business hours, (ii) notify Customer of all scheduled downtimes at least seventy-two (72) hours in advance, and (iii) perform software updates to the CareMC Application with minimal disruption to Customer's use of the Online Services.

E. System Monitoring. CorVel will use reasonable efforts to continuously monitor its web servers and database servers to ensure that they are functioning properly.

F. Security. CorVel will implement and use reasonable efforts to maintain secure systems through the use of firewalls, virtual private networks (VPN) and other security technologies. Any security violations that affect the data of Customer will be promptly reported to Customer.

G. Disaster Recovery and Backup. CorVel will use reasonable efforts to perform nightly backups of essential data on its web servers and database servers. CorVel has implemented third party backup and restoration technology to enable high speed recovery of data. CorVel utilizes redundant load balanced Win 2000 servers for 24x7, 365 day access, except for regularly scheduled system maintenance and upgrade processes. SQL Server databases are hosted on clustered servers offering fall-over capability, redundant communication links, and load balanced application servers. Backup tapes are restored into a test

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environment not less than quarterly to confirm validity of backups. The CareMC Site has redundant inbound Internet and Intranet connectivity.

4. APPLICATION SPECIFIC DISCLAIMERS

A. Disclaimers. TO THE EXTENT ALLOWED BY APPLICABLE LAW, EXCEPT FOR THE LIMITED WARRANTIES DESCRIBED IN THE MASTER AGREEMENT, CORVEL MAKES NO OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, AND EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, GOOD TITLE, SATISFACTORY QUALITY AND NONINFRINGEMENT.

B. Internet Usage. Customer acknowledges that the Internet is essentially an unregulated, insecure and unreliable environment, and that the ability of Customer to access and use the CareMC Application is dependent on the Internet and hardware, software and services provided by various Third Party Providers. CORVEL SHALL NOT BE RESPONSIBLE FOR CUSTOMER'S INABILITY TO ACCESS OR USE THE CAREMC APPLICATION TO THE EXTENT CAUSED BY FAILURES OR INTERRUPTIONS OF ANY HARDWARE, SOFTWARE OR SERVICES PROVIDED BY CUSTOMER OR THIRD PARTY PROVIDERS.

C. CareMC Application. CUSTOMER ACKNOWLEDGES AND AGREES THAT CORVEL DOES NOT WARRANT THAT THE CAREMC APPLICATION OR ONLINE SERVICES ARE ERROR FREE, THAT CUSTOMER WILL BE ABLE TO ACCESS OR USE THE CAREMC APPLICATION OR ONLINE SERVICES WITHOUT PROBLEMS OR INTERRUPTIONS, OR THAT THE CAREMC SITE AND CAREMC APPLICATION ARE NOT SUSCEPTIBLE TO INTRUSION, ATTACK OR COMPUTER VIRUS INFECTION.

D. Third Party Web Sites. Customer's (and Authorized Users') use of third-party web sites linked to or advertised on the CareMC Site is at Customer's own risk and subject to the terms and conditions of use for such third party sites. CORVEL IS NEITHER RESPONSIBLE NOR LIABLE FOR, DIRECTLY OR INDIRECTLY, AND DOES NOT ENDORSE ANY THIRD-PARTY ADVERTISEMENTS PLACED ON THE CAREMC SITE OR, WITH RESPECT TO ANY THIRD-PARTY SITES ACCESSED THROUGH THE CAREMC SITE, ANY (i) CONTENT ON SUCH THIRD PARTY SITES, INCLUDING, WITHOUT LIMITATION, ANY PRODUCT OR SERVICE OFFERED THEREON, (ii) ACTIVITY OR TRANSACTION IN WHICH CUSTOMER ENGAGES ON ANY THIRD PARTY SITE, OR (iii) USE OF COOKIES ON ANY THIRD PARTY SITE.

E. Network Intrusions. CUSTOMER AGREES THAT CORVEL WILL NOT BE LIABLE FOR DAMAGES ARISING FROM ANY BREACH, UNAUTHORIZED ACCESS TO, MISUSE OF, OR INTRUSION INTO, CUSTOMER DATA RESIDING ON CORVEL'S SERVER(S) OR ANY NETWORK USED BY CUSTOMER TO THE EXTENT SUCH DAMAGES WERE BEYOND CORVEL'S REASONABLE CONTROL.

5. LICENSE TERM AND TERMINATION

A. License Term. This CareMC License Agreement shall be effective as of the Effective Date and, unless terminated earlier as provided below, shall automatically terminate upon expiration or termination of the Master Agreement (the term of this CareMC License Agreement, the "License Term").

B. Termination for Convenience. Either party shall have the right to terminate this CareMC License Agreement for any reason or for no reason, upon ninety (90) days written notice to the other party.

C. Termination for Cause. This CareMC License Agreement may be terminated by either party for cause as follows: (i) upon thirty (30) days written notice if the other party breaches or defaults under any material provision of this Agreement and does not cures such breach prior to the end of such thirty (30) day period, (ii) effective immediately and without notice if the other party ceases to do business, or otherwise terminates its business operations, except as a result of an assignment, as permitted under the terms and conditions of this CareMC License Agreement, or (iii) effective immediately and without notice if the other party becomes insolvent or seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding, or if any such proceeding is instituted against the other (and not dismissed within ninety (90) days).

D. Effect of Termination. Expiration or termination of this CareMC License Agreement shall have the following effects: (i) CorVel shall provide Customer with any proprietary data belonging to Customer, in the current format in which it is stored at CorVel at the termination of this CareMC License Agreement, (ii) all licenses granted under this CareMC License Agreement shall terminate immediately, (iii) all rights to use the CareMC Application and Online Services shall cease immediately, and (iv) each party shall promptly return all information, documents, manuals and other materials belonging to the other party related to this CareMC License Agreement, whether in printed or electronic form, including without limitation all confidential information of the other party then currently in its possession, provided each party may retain one (1) copy of such materials for archival purposes.

E. Survival. Except to the extent expressly provided to the contrary herein or in the Master Agreement, any right of action for breach of the CareMC License Agreement prior to termination, and the following provisions shall survive the termination of this CareMC License Agreement: Sections 1B-F, 2B, 2D, 4 and 5E

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EXHIBIT D
CorVel Certificate of Insurance

(provided separately – to be attached)

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City of Norman, OK

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

Master

File Number: K-1011-186

File ID:	K-1011-186	**Type:**	Contract	**Status:**	Consent Item
Version:	1	**Reference:**	Item No. 19	**In Control:**	City Council
Department:		**Cost:**	$185,000.00	**File Created:**	06/21/2011
File Name:	Contract for Morain property purchase			**Final Action:**	

Title: CONTRACT NO. K-1011-186: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN AND MORAIN PROPERTIES IN THE AMOUNT OF $185,000 FOR THE PURCHASE OF PROPERTIES IN THE GREENBELT FLOOD PLAIN LOCATED AT 809 EAST COMANCHE, 815 EAST COMANCHE, 121 SOUTH COCKRELL, 123 SOUTH COCKRELL AND 114-116 SOUTH CARTER, ALL WITHIN THE CITY LIMITS OF CITY OF NORMAN AND BUDGET APPROPRIATION.

ACTION NEEDED: Motion to approve or reject Contract No. K-1011-186; and, if approved, authorize the execution thereof and the City Attorney to execute any and all documents to effectuate the purchase of the property and appropriate $225,000 from the Project No. PR0040, Greenbelt Fund (050-9175-452.60-01) to .

ACTION TAKEN: _____

Notes:

		Agenda Date:	06/28/2011
		Agenda Number:	19
Sponsors:		**Enactment Date:**	
Attachments:	Attachment 1 Contract of Sale of RE	**Enactment Number:**	
Project Manager:	Blaine Nice	**Hearing Date:**	
Entered by:	denise.johnson@normanok.gov	**Effective Date:**	

History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	06/28/2011					

Text of Legislative File K-1011-186

Body

BACKGROUND: As part of the Norman 2025 Plan and the Storm Water Master Plan, one of the goals identified was to "protect environmentally sensitive lands that are generally the least suitable for development, especially flood prone areas . . . ." In 2000 City Council began appropriating funds into the Greenbelt Acquisition Fund. Further, in Resolution No. R-1011-93, the Norman City Council established criteria for prioritizing the use of Greenbelt Acquisition Funds, including the protection, preservation, and restoration of natural flood plains throughout Norman which serve to protect life and property from damage.

The above listed properties have been identified as structures targeted for buyout as part of the SWMP solution to reduce flooding dangers. They were among the 15 structures so identified in the Storm Water Master Plan.

DESCRIPTION: Several months ago, the City Attorney's office was advised that the properties in question were the subject of a foreclosure action by First Bank and Trust Company (the Bank). City Staff contacted representatives of the Bank and the legal counsel involved in the foreclosure expressing an interest in acquiring these properties as part of the City's goal of acquiring properties within the floodway. The floodway is the area of a stream corridor which ideally should remain free of structures or other impediments so as to allow proper detention and drainage of storm water. Each of these properties is within the floodway and has flooded on more than one occasion. If Council approves acquisition of the properties, City Staff will pursue donating salvageable properties to Habitat for Humanity or other appropriate organizations.

Once the foreclosure action was completed, the mortgage holder, i.e., First Bank, acquired the properties at a Sheriff's Sale. That Sheriff's Sale has been confirmed and the Bank is now in a position to sell the properties. A 2007 appraisal values the properties at $223,000. The details of the potential property acquisition were discussed with City Council at an Executive Session on June 14, 2011. Subsequent to that meeting, the City Attorney's office negotiated with the Bank, and they indicated a willingness to sell the property for $185,000.

Attached hereto is a proposed Real Estate Purchase Contract proposed by the Bank. The purchase of the property would be on an "as is" basis and the closing would be within 60 days of the approval of the contract by the City Council. FYE1011 Budget contains a balance of $389,836 in the Greenbelt Fund. It is estimated that demolition of the properties for floodplain improvement purposes would be in the neighborhood of $20,000-$40,000. The fund balance is sufficient to cover both the acquisition and the demolition of structures on the properties.

RECOMMENDATION: Pursuant to discussions with City Council at the June 14, 2011, Executive Session, attached hereto as Attachment 1 is a proposed Contract for Sale of Real Estate between First Bank and Trust Company and the City of Norman for the purchase of the properties listed herein. If it is Council's desire to move forward with the purchase of these properties, it is recommended that the attached Contract be approved and authorize the City Attorney's office to take the necessary action to execute documents to acquire these properties. Further, it is recommended that Council approve an allocation from the Greenbelt Acquisition Project (account 050-9175-452.60-01) $185,000 for the purchase of the properties and an additional $40,000 for the demolition of structures on the properties.

CONTRACT OF SALE OF REAL ESTATE

This contract is entered into between _____ (Seller(s)) and _____ (Buyer(s)).

Upon approval of this Contract by both Seller and Buyer, evidenced by their signatures hereto, a valid and binding contract of sale shall exist, the terms and conditions of which are as follows:

1. **SALE**: Seller agrees to sell and convey to Buyer by Warranty Deed and Buyer agrees to purchase the following described real estate (the "Property") located in _____ County, Oklahoma together with all improvements thereon, if any, in their present condition, ordinary wear and tear expected, and including the following personal property:

Legal Description:

Property Address:

2. **PURCHASE PRICE**: The total purchase price is _____ payable by Buyer as follows: _____ on execution of the Contract, receipt of which is acknowledged by Seller as earnest money and part payment of the purchase price; and the balance of the purchase price in cash, cashier's check or certified check upon delivery of deed (the "Closing"), unless otherwise provided in Paragraph 8 hereof.

3. **TITLE:** Upon full and complete payment as specified and fulfillment of all the stipulations herein, the Seller shall execute a deed of conveyance with the usual covenants and warranty to the Buyer together with abstract showing merchantable title in and to the Property.

4. **Taxes and Prorations:** (A) The Seller shall pay in full (I) all special assessments against the Property upon the date of Closing, whether or not payable in installments; (II) all taxes, other than general ad valorem taxes for the current calendar year which are a lien on the Property upon the date of Closing; and (III) the cost of any item of workmanship or material furnished on or prior to the date of Closing which is or may become a lien on the Property. (B) Unless otherwise specified in paragraph B, the following items shall be prorated between the Seller and the Buyer as of the date of Closing; (I) rents, if any, and (II) general ad valorem taxes for the current calendar year, provided that, if the amount of such taxes has not been fixed, the proration shall be based upon the rate of levy for the previous calendar year.

5. **Condition of Property:** Buyer agrees to accept the Property "AS-IS" in its present condition.

6. **Closing:** The Closing shall be held on or before _____. If valid title objections require correction, Closing shall be extended for 30 days. Unless otherwise agreed in writing, possession shall be transferred at closing.

7. **BREACH OR FAILURE TO CLOSE:** Subject to the provisions herein, if , after the Seller has performed Seller's obligations under this Contract, and if within five (5) days after the date specified for Closing under paragraph 6 the Buyer fails to make the payments or to perform any other obligation of the Buyer under this Contract, then all sums theretofore paid on the purchase price shall, at the option of the Seller, be retained as such or as liquidated damages for the breach of this Contract by the Buyer. The Seller and Buyer agree that such amount is a reasonable amount for liquidated damages and that it would be impractical and extremely difficult to determine actual damages. If the condition in paragraph 2 are met, or waived, the Buyer shall perform all of the obligations of Buyer hereunder, and if Seller breaches this Contract or fails to perform any of Sellers obligations hereunder, then buyer shall be entitled to cancel and terminate this Contract, return the abstract to Seller and receive a refund of the earnest money.

8. **SPECIAL CONDITIONS:**

9. **EFFECT:** This contract shall be executed in triplicate and, when executed by both Seller and Buyer, shall be binding upon and inure to the benefit of Seller and Buyer, their heirs, legal representatives, successors and assigns. This Contract sets forth the complete understanding of Seller and Buyer and supercedes all previous negotiations, representations and agreements between them and their agents. This Contract can only be amended or modified by a written agreement signed by Seller and Buyer. In executing this Contract, both Seller and Buyer agree to the terms of the Receipt contained below.

Approved by Seller(s) this ____ day of _____

Name(s): _____

Signature(s): _____

Address: _____

Phone #: _____

Approved by Seller(s) this _____day of _____

Name(s): _____

Signature(s): _____

Address: _____

Phone #: _____

City of Norman, OK

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

Master

File Number: R-1011-133-1

File ID:	R-1011-133-1	**Type:**	Resolution	**Status:**	Consent Item
Version:	1	**Reference:**	Item No. 20	**In Control:**	City Council
Department:		**Cost:**	$150,000.00	**File Created:**	06/23/2011
File Name:	WaterSmart Grant			**Final Action:**	

Title: RESOLUTION NO. R-1011-133: A RESOLUTION OF THE NORMAN UTILITIES AUTHORITY AUTHORIZING THE CHAIRMAN TO SUBMIT A BUREAU OF RECLAMATION (BOR) GRANT APPLICATION FOR WATERSMART ADVANCED WATER TREATMENT PILOT AND DEMONSTRATION PROJECT GRANTS.

ACTION NEEDED: Acting as the Norman Utilities Authority, motion to adopt or reject Resolution No. R-1011-133; and, if adopted, direct submission thereof to the Bureau of Reclamation.

ACTION TAKEN: _____

Notes:

		Agenda Date:	06/28/2011
		Agenda Number:	20
Sponsors:		**Enactment Date:**	
Attachments:	Resolution, Grant Summary	**Enactment Number:**	
Project Manager:	Mark Daniels	**Hearing Date:**	
Entered by:	brenda.hall@normanok.gov	**Effective Date:**	

History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	06/28/2011					

Text of Legislative File R-1011-133-1

Body

BACKGROUND: The Norman Utilities Authority (NUA) is continuing to research and develop cost effective means to provide short and long-term solutions to our water supply needs. One alternative not yet fully examined is to attempt to reclaim groundwater wells no longer in service, by pumping to adjacent drainage ways and allowing the water to flow to

Lake Thunderbird for treatment at our water treatment plant (WTP). The wells in question are generally along US Highway 77 and have been inoperative since implementation of the Arsenic Rule in 2006.

In early 2011, the United States Geological Survey (USGS) advised the NUA of potential grant funding for a project of this nature. We have been discussing this potential project for several months and the adopted Fiscal Year Ending 2012 (FYE12) budget appropriates funds totaling $150,000 (USGS Aquifer Study) as a 50% match to BOR WaterSMART funding.
Additionally, the proposed FYE12 budget will appropriate $300,000 to complete an update to our Strategic Water Supply Plan that was adopted in 2001. The proposed WaterSMART grant, if selected by BOR for funding, will document the feasibility of one potential alternative for long-term water supply, i.e. ground water augmentation of Lake Thunderbird.
In addition, the Central Oklahoma Master Conservancy District (COMCD) is currently soliciting proposals from consulting firms to study the environmental effects and cost feasibility of augmenting Lake Thunderbird from sources such as SE Oklahoma, Kaw Reservoir, the proposed Scissortail Reservoir; the Canadian River and wastewater treatment plant effluents (water reuse). COMCD staff generally supports augmentation of Lake Thunderbird.

DISCUSSION: To be eligible for the WaterSMART grant, the application and supporting documentation had to be received by the BOR by May 11, 2011. The USGS and Utilities staff drafted the project summary entitled "Pilot Study to Evaluate the Natural Attenuation of Arsenic and Selected Trace Elements in Groundwater, Norman, OK". On May 11, 2011, the USGS and NUA staff finalized the project summary and the Grant Application Package and submitted the same via the GRANTS.GOV webpage.
As a part of the application process, an official resolution adopted by the NUA must be submitted which verifies the following:

1. The identity of the official with legal authority to enter into an agreement;
2. the governing body has reviewed and supports the application submitted;
3. the capability of the applicant to provide the amount of funding specified in the plan; and
4. that the applicant will work with BOR to meet established deadlines for entering into a cooperative agreement.

The project, if funded by BOR, will examine regulatory hurdles such as the need to permit the discharge of groundwater to a stream and ownership rights to the pumped groundwater. Upon completion of the study, the environmental impacts of discharging groundwater to a stream, such as erosion of stream banks due to increased stream water flow, the quantity of pumped groundwater lost due to evaporation, and the uptake of minute concentrations of metals in soils/sediments should be resolved.
As shown on page 15 of the project summary, the grant proceeds of $300,000 will reimburse USGS costs for labor, soil and water sampling, and laboratory and publishing costs for the pilot study. The NUA will match BOR funding up to a maximum of $150,000; the adopted Fiscal Year Ending 2012 (FYE12) budget appropriates $150,000 for this project entitled "USGS Aquifer Study". The grant application package, project summary, and proposed

Resolution R-1011-133 are attached.

STAFF RECOMMENDATION: Recommend the NUA approve Resolution No. R-1011-133 authorizing the Chairman to sign grant application forms (as well as other forms and documents related to the grant application) and supporting the project concept, project funding and the schedule of work.

RESOLUTION NO. R-1011-133

A RESOLUTION OF THE NORMAN UTILITIES AUTHORITY AUTHORIZING THE CHAIRMAN TO SUBMIT A WATERSMART: ADVANCED WATER TREATMENT PILOT AND DEMONSTRATION PROJECT GRANT APPLICATION TO THE BUREAU OF RECLAMATION.

1. WHEREAS, the Norman Utilities Authority (NUA) desires to increase its potable water supply for the City of Norman to meet citizen water demands; and

2. WHEREAS, numerous water wells supplying water to the City of Norman were made unusable for potable water purposes with the implementation of the Arsenic Rule in January 2006; and

3. WHEREAS, the NUA in cooperation with the United States Geological Society (USGS) has developed a pilot project which may allow water from currently unusable water wells to be utilized as a raw water supply to augment Lake Thunderbird; and

4. WHEREAS, the proposed City of Norman budget for Fiscal Year Ending June 30, 2012, includes $150,000 for the project entitled "USGS Aquifer Study" as a match for $150,000 in Bureau of Reclamation (BOR) grant funds as per Funding Opportunity Announcement R11SF80351; and

5. WHEREAS, a grant application for a WaterSMART: Advanced Water Treatment Pilot and Demonstration Project Grant has been prepared jointly by the NUA and the USGS.

NOW, THEREFORE, BE IT RESOLVED BY THE NORMAN UTILITIES AUTHORITY:

6. That the NUA supports submission of the attached application for a WaterSMART: Advanced Water Treatment Pilot and Demonstration Project Grant as prepared jointly by the NUA and the USGS on May 11, 2011 and authorizes the Chairman of the NUA to enter into a cooperative agreement with the BOR and that the NUA will work to meet established deadlines defined in the cooperative agreement.

7. Further, the NUA proposes to provide funding of $150,000 as a 50% match to BOR grant funding upon adoption of the City of Norman budget on June 14, 2011.

PASSED AND ADOPTED this _____ day of _____, 2011.

_____
Cindy Rosenthal, Chairman

ATTEST:

_____
Brenda Hall, Secretary

Pilot Study to Evaluate the Natural Attenuation of Arsenic and Selected Trace Elements in Groundwater, Norman, OK

Submitted By:

Norman Utilities Authority, 201 W Gray, PO Box 370, Norman, OK 73069

Mark Daniels, City of Norman, Utilities Engineer and Project Manager

mark.daniels@normanok.gov, telephone 405-366-5377, fax 405-366-5447

Chris Mattingly, City of Norman, Water Treatment Superintendent

In cooperation with the U.S. Geological Survey, Oklahoma Water Science Center, Oklahoma City, OK

Mark Becker, Hydrologist, USGS

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Pilot Study to Evaluate the Natural Attenuation of Arsenic and Selected Trace Elements in Groundwater, Norman, OK

Executive Summary

05/10/2011

Norman Utilities Authority, City of Norman, Cleveland County, Oklahoma in cooperation with the U.S. Geological Survey, Oklahoma Water Science Center, Oklahoma City, OK

This project is closely aligned with the BOR Funding Opportunity Announcement (No. R11SF80351) to provide the City of Norman with an increased water supply that will provide for their long term water sustainability. A cost-effective approach to treat naturally occurring arsenic in groundwater using stream sediments to promote natural attenuation will be demonstrated in this proposed pilot project.

The purpose of this study is to determine the potential for natural attenuation of arsenic and other trace elements as a means to increase local water supplies by bringing underused and abandoned public supply wells back online in a cost-effective manner. Arsenic is a common element in rocks that make up the earth's crust and commonly is strongly associated with iron minerals. Arsenic exists at low concentrations in many hydrogeologic settings and can occur naturally at concentrations high enough to be detrimental to human health. Arsenic in water has long been a source of concern because of toxic and carcinogenic effects. In January 2001, the U.S. Environmental Protection Agency (EPA) reduced the MCL for arsenic in drinking water from 50 to 10 micrograms per liter (μg/L). That reduction was in response to recent information on the risk of lung and bladder cancers. The new MCL became effective January 2006. About 5 % of water systems in the United States, serving about 11 million people, were likely to exceed the new MCL. Arsenic removal technologies investigated by the U.S. EPA prior to implementation of the new MCL focused of sorption of arsenic on activated alumina or iron resins. Although inexpensive compared to other available arsenic removal technologies (such as coprecipitation with iron), arsenic removal using sorptive resins requires significant capital expenditure, and operational costs including possible disposal of the used resin as a hazardous waste. A number of simple inexpensive arsenic removal systems have been developed for use in rural areas of developing countries. These systems rely on locally available materials and some of these systems take advantage of the fact that alumina and iron oxides are naturally occurring and abundant. Alumina and iron oxide coatings are ubiquitous on mineral grains in soils and alluvial deposits. Mixing groundwater with sediment containing alumina and iron oxides, regardless of the setting, may provide the capacity to reduce arsenic concentrations on a large scale. In Oklahoma, water produced from parts of the Central Oklahoma aquifer (COA) has arsenic

concentrations exceeding the MCL. The elevated levels of arsenic have affected the availability of groundwater to a number of communities. Mobilization of arsenic and other trace elements in the COA are the result of geochemical conditions within the aquifer. Specific groundwater flowpaths produce alkaline conditions (pH's in excess of 8.5), oxidize arsenic, chromium, and uranium which are present in the iron oxides and hydroxides within the sediments, increasing the solubility of these elements and increasing the concentrations in the groundwater. Many communities in Central Oklahoma such as Guthrie, Edmond, and Norman, rely on a mixture of surface water and groundwater for their local supplies. Norman, Oklahoma is an ideal test case to determine the potential for natural attenuation of arsenic and selected trace elements because of the availability of idle wells with high arsenic concentrations. Norman's potential for exploiting their groundwater resources without significant expense has been diminished due to the lowering of the MCL for arsenic and the potential for lower MCL's for chromium and uranium. A pilot study evaluating the potential for natural attenuation of arsenic in groundwater by pumping water from high-arsenic wells into streams is needed to determine the feasibility of such a low-cost remediation method. Selected public supply wells owned by the City of Norman will be discharged into the Little River above Lake Thunderbird, a public supply reservoir. A 10-week period of data collection is proposed in which pertinent data would be collected prior to, during, and after pumping to determine: 1) changes in chemistry of the well water as it flows down the river, 2) losses to evapotranspiration (ET) and channel seepage during the test, and 3) potential for dilution or sorption of selected trace elements such as arsenic and other selected trace elements onto the sediment. Discharging groundwater into the Little River would provide the City of Norman a low-maintenance, low-cost solution to arsenic contamination of well water requiring a minimal amount of water-treatment infrastructure.

The duration of project is approximately 18 months but in no case will exceed 24 months. The estimated completion date is December 31, 2012, assuming a start date of August 1, 2011

Background Data

The purpose of this study is to determine the potential for natural attenuation of arsenic and other trace elements to increase local water supplies by bringing underused and abandoned public supply wells back online in a cost-effective manner. Discharging groundwater into a stream will potentially alter the water chemistry, facilitating sorption of arsenic and necessary water-sediment interaction that would promote sorption of arsenic to sediment minerals.

Arsenic is a common element in rocks that make up the earth's crust (Hem, 1970) and commonly is strongly associated with iron minerals. Arsenic exists at low concentrations in many hydrogeologic settings and can occur naturally at concentrations high enough to be detrimental to human health. Arsenic compounds have been widely used as medicines, herbicides, poultry feed supplements, and in a wide range of industrial applications. Although arsenic exists in nature in the -3, 0, +3, and +5 valence states, only arsenic (III) and arsenic (V) (As III and As V, respectively) are significant in aqueous solutions (Rai and Zachara, 1984). As III is the stable form of arsenic in reduced (oxygen absent) water, and As V is the stable form in oxygenated water. As III and As V may co-occur in water because conversion of As III to As V, or As V to As III, are slow reactions (Welch and others, 1988). Although As III is more toxic

than As V, both As III and As V are toxic and the Maximum Contaminant Level (MCL) is for total arsenic (As III plus As V).

Arsenic in water has long been a source of concern because of toxic and carcinogenic effects. In January 2001, the U.S. Environmental Protection Agency (EPA) reduced the MCL for arsenic in drinking water from 50 to 10 micrograms per liter (μg/L). That reduction was in response to recent information on the risk of lung and bladder cancers (Morales et al., 2000). The new MCL became effective January 2006. Arsenic is naturally occurring in some sources of water supply at concentrations in excess of 10 μg/L. Tiemann (2001) estimated that about 5 % of water systems in the United States, serving about 11 million people, were likely to exceed the new MCL. Arsenic in excess of the MCL is expected more frequently in groundwater supplies than in surface-water supplies, and is of particular concern in parts of New England, the interior plains, and the western United States (Focazio, et al., 1999; Federal Register, 2001; Welch et al., 2000; Ryker, 2001).

Arsenic removal technologies investigated by the U.S. EPA prior to implementation of the new MCL focused of sorption of arsenic on activated alumina or iron resins (Chen and others, 2004). Although inexpensive compared to other available arsenic removal technologies, such as coprecipitation with iron, arsenic removal using sorptive resins requires significant capital expenditure, and operational costs including possible disposal of the used resin as a hazardous waste (Chen and others, 2004). A number of simple inexpensive arsenic removal systems have been developed for use in rural areas of developing countries (Khan, and others, 2000; Cornejo and others, 2008; Di and Monnell, 2009). These systems rely on locally available materials and some of these systems take advantage of the fact that alumina and iron oxides are naturally occurring and abundant in the environment. However, these approaches are limited to the size and scope of water supplies typical for rural areas in developing countries.

Sorption of arsenic on naturally occurring alumina and iron oxide coatings on mineral grains in the unsaturated zone has been observed during groundwater recharge (Izbicki and others, 2008). Sorption occurred at rates sufficient for arsenic removal in municipal supplies. Alumina and iron oxide coatings are ubiquitous on mineral grains in soils and alluvial deposits. The occurrence of coatings is largely a function of surface area associated with fine-grained deposits. Izbicki and others (2008) suggested that thick unsaturated zones having abundant alumina and iron oxides associated with paleosol development would be a favorable setting for natural attenuation of arsenic during infiltration through the unsaturated zone. These soils and sediments are not unlike the sediments found in streams, meaning that streambed sediments could remove arsenic in a similar manner to sediments in unsaturated zones. Mixing groundwater with sediment containing alumina and iron oxides, regardless of the setting, may provide the capacity to reduce arsenic concentrations on a large scale. Although removal of arsenic through natural attenuation of arsenic was demonstrated, the physical and chemical factors that control sorption were not thoroughly investigated by Izbicki and others (2008). Those factors need to be understood at the field and laboratory scale to establish guidelines, methodologies, and regulatory approval to implement natural attenuation treatments before the approach will have widespread transfer value to other areas.

In Oklahoma, water produced from parts of the Permian Garber Wellington aquifer (also known as the Central Oklahoma aquifer or COA) has arsenic concentrations exceeding the MCL. These arsenic exceedances affect the availability of groundwater to a number of communities. Other trace elements such as chromium, selenium, and uranium also occur in elevated concentrations in

the groundwater; however, they generally do not exceed the MCL. Near Norman, Oklahoma, groundwater produced from many of the public supply wells exceeds the arsenic MCL. In addition, the Environmental Working Group (2011) reported that Norman, Oklahoma had the highest concentration of hexavalent chromium (Cr VI) of drinking water tested in 31 U.S. cities. Although there is an MCL of 100 micrograms per liter for total chromium, there is not currently an MCL for Cr VI. Mobilization of arsenic and other trace elements are the result of geochemical conditions within the COA. These geochemical conditions are a product of fluid-rock interactions along flowpaths in the aquifer. The oxidizing and alkaline (pHs > 8.5) geochemical conditions promote the solubility of arsenic, chromium, and uranium present in the iron oxides and hydroxides that occur naturally within the aquifer. The increased solubility of these elements results in increasing concentrations in the groundwater (Schlottman and others, 1998).

Many communities in Central Oklahoma such as Guthrie, Edmond, and Norman, rely on a mixture of surface water and groundwater for their local supplies. Norman, Oklahoma, is an ideal test case to determine the potential for natural attenuation of arsenic and selected trace elements because of the availability of wells with high arsenic concentrations. Norman's potential for exploiting their groundwater resources without significant expense has been diminished due to the lowering of the MCL for arsenic and a possibility that lower MCL's for chromium and uranium may be established. A pilot study evaluating the potential for natural attenuation of arsenic in groundwater through flow in surface streams is needed to determine the feasibility of such a low-cost remediation method.

Location and Setting

The central Oklahoma region has a population of approximately 1 million at present (2011). The State's population is expected to increase 30 percent by 2060. Growing cities such as Norman need to locate water supplies that will yield sufficient amounts of good-quality water, which can meet new Federal drinking water standards for arsenic.

Norman, Oklahoma is located in Cleveland County 10 miles south of Oklahoma City (figure 1 and 2). The U.S. Census in 2006 Norman reported the population to be 102,827. Public water supplies in Norman are a mixture of treated surface water from Lake Thunderbird and groundwater from the COA. Norman has removed numerous public supply wells that exceeded the MCL for arsenic. Some of these wells are used intermittently for irrigation or blended to reduce the concentrations of arsenic in delivered water.

Parkhurst and others (1996) provide a comprehensive assessment of the water quality, geochemistry, and geohydrology of the COA. The COA consists of a series of Permian-age rocks consisting of sandstones, siltstones, and mudstones. Most groundwater is produced from sandstones within the Garber Sandstone and Wellington Formation which underlie about 3,000 square miles in central Oklahoma (figs. 1 and 2). Dip of the aquifer is westward at about 50 feet per mile. Overlying the Garber and Wellington is the Hennessey Group which mainly consists of mudstones and siltstones that and acts as a leaky-confining unit.

The headwaters of the Little River (fig. 2) are located north and west of Norman. The river flows eastward and becomes one of the principle tributaries into Lake Thunderbird. Ephemeral in the uppermost reaches of the basin, the Little River's baseflow is maintained by discharge from the COA. Above Lake Thunderbird, the Little River is deeply incised and can maintain substantial flow within the channel. Unconsolidated alluvial sediment within the channel consists of fine sands, silts, and clays from the weathering of the Permian bedrock of the COA.

Sorption of Arsenic

Resin technology currently used on commercial treatment systems is based upon the sorption of arsenic on alumina, iron, and manganese oxides. These oxides are ubiquitous and occur naturally on mineral particle surfaces in sedimentary rocks, sediments, and soils.

Factors such as oxidation state, pH, and the presence of competing ions can affect the sorption of arsenic. As III and As V have different absorption characteristics because of their valences (Rai and Zachara, 1984). In general, As V is more strongly sorbed than As III. Maximum sorption of As III occurs between pH 7 and 9, whereas sorption of As V is highest at low pH and decreases at pH's between pH 7 and 9 (Rai and Zachara, 1984). The current range of pH of waters in the Little River is unknown at this time. Groundwater exposed to atmospheric conditions may equilibrate with CO_2, potentially lowering the pH. Phosphate competes with arsenic for sorption sites and the presence of natural organic matter also decreases sorption. Currently, no major sources of dissolved organic matter or phosphate such as widespread agriculture or wastewater treatment plant discharges are in the upper reaches of the Little River. Other ions, especially oxianions, such as those of chromium or vanadium, are elevated in concentration and may compete with arsenic for sorption sites.

Sorption of arsenic from water to alluvial deposits has been observed in unsaturated alluvium at an artificial recharge site by Izbicki and others, 2008b, and to soils at other sites McGeehan and others; 1998; Gimenez and others, 2007; Kniewald and Fiket, 2007. Those reports have shown that sorption occurs within days under oxic, alkaline conditions and that naturally occurring alumina, iron, and manganese oxides have similar sorptive properties as synthetic sorbents.

Figure 1. Location of the geology of Central Oklahoma and the location of the Cities of Norman and Oklahoma City.

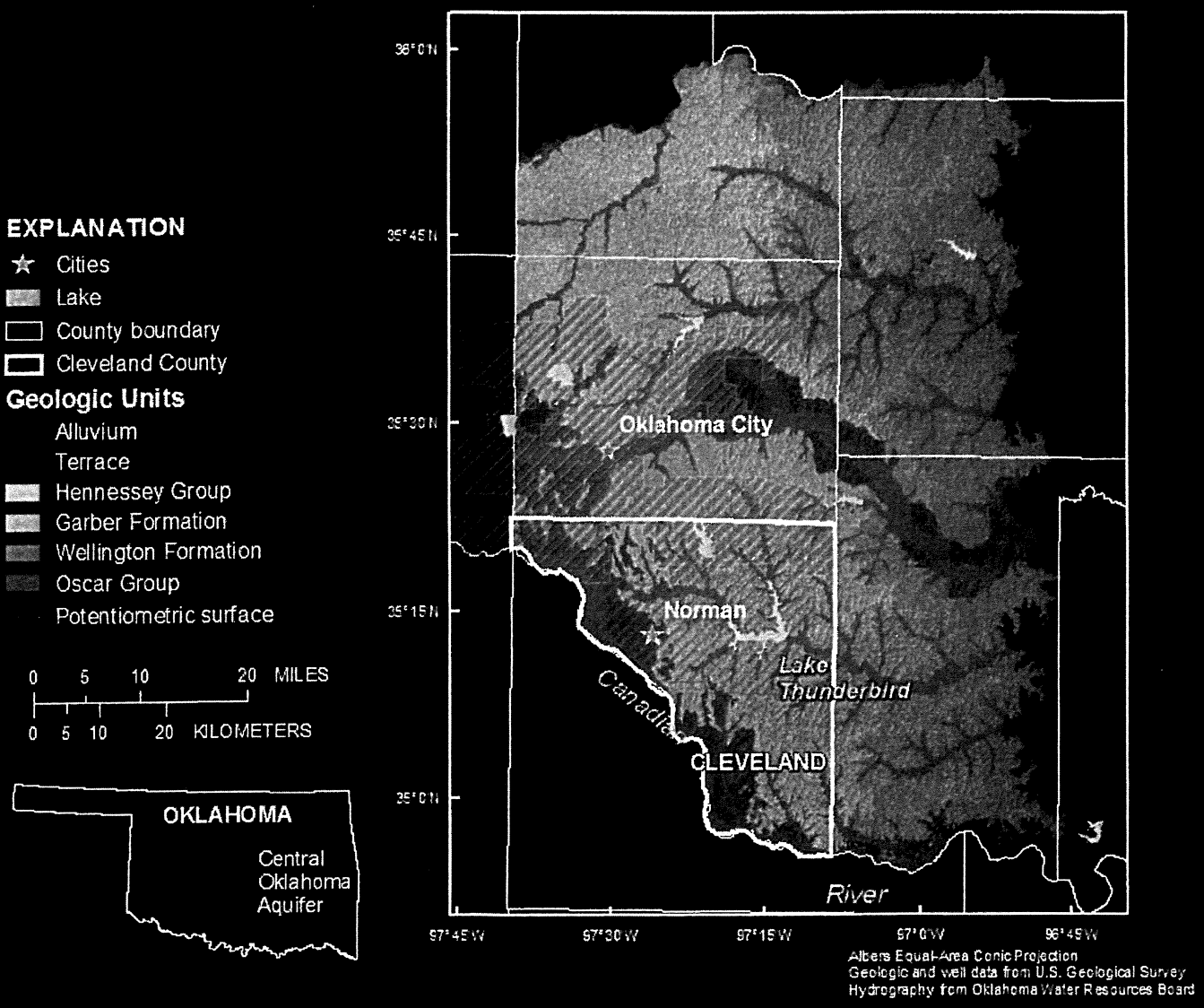


Figure 1. Location of the City of Norman Oklahoma.

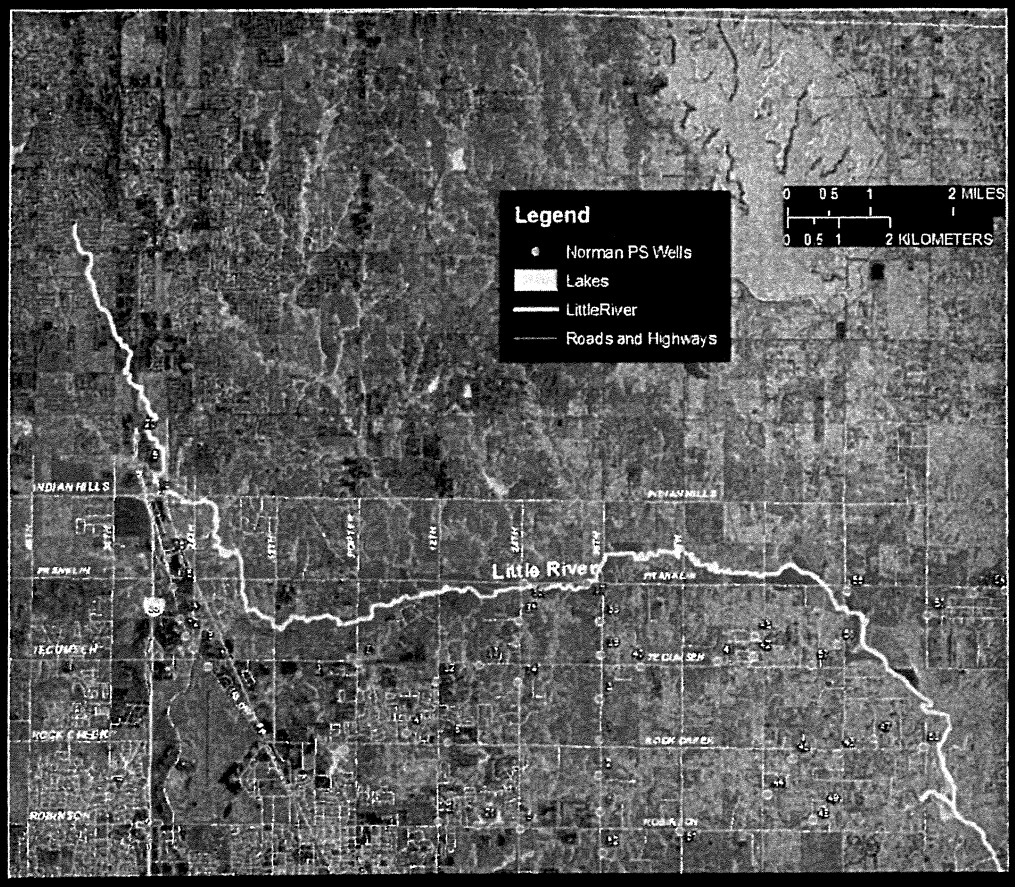


Figure 2 Map showing the City of Norman Oklahoma, location of the Little River, and public supply wells as green dots.

Objective

The purpose of this study is to determine the potential for natural attenuation of arsenic and other trace elements to increase local water supplies by bringing underused and abandoned public supply wells back online in a cost-effective manner. Discharging groundwater into a stream will potentially alter the water chemistry, facilitating sorption of arsenic and necessary water-sediment interaction that would promote sorption of arsenic to sediment minerals. During a 2-week period, public supply wells in Norman, Oklahoma having arsenic concentrations ranging from 50 to 90 µg/L will be pumped and discharged into the Little River above Lake Thunderbird. Prior to, during, and following the discharge of water to the Little River, (1) sediment, (2) instantaneous discharge, and (3) water-quality data will be collected to determine the efficacy of using the stream to provide the media for natural attenuation of arsenic and selected trace elements. If the data indicates that this approach to bring underused or idle wells back online is effective, a longer-term, larger-scale demonstration project will be proposed for future funding.

Data will be collected for four weeks prior to and following pumping and for two weeks during the pumping (a total of 10 weeks). All data collected will be entered into the USGS National Water Information System (NWIS) database. The duration of the project will be two years during which data will be collected, analyzed, and a USGS Scientific Investigations Report will be published describing the observed changes in flow, sediment chemistry, and water quality.

Benefits to the City of Norman

This study is the initial phase of a potential long-term solution for treatment of arsenic in groundwater. Discharging groundwater into the Little River would provide the City of Norman a low-maintenance, low-cost solution to arsenic contamination of well water requiring a minimal amount of infrastructure. Such results would potentially increase the water supply to the city with the current infrastructure in place. The City of Norman has a substantial investment in public supply wells that are underutilized or idle due to arsenic concentrations exceeding the MCL. Currently, 11 wells are idle or underused representing an investment of approximately $4.4M. With a limited supply of water, Norman will need to evaluate alternate water sources to meet future demands. One option would be to purchase southeast Oklahoma water with Oklahoma City at an estimated cost of $360M for infrastructure prorated over 40 years.

Treating groundwater at wellheads would require significant infrastructure and annual operational and maintenance costs. Current treatment technologies being tested by Norman add approximately $1.35 per 1,000 gallons cost to the public. Treatment systems also generate a waste stream that requires the disposal of potentially hazardous waste.

Increasing the safe yield to Lake Thunderbird could provide a benefit not only to Norman but other communities that are dependent on the lake as a public water supply source. Although the groundwater pumped will not substantially increase lake levels it would reduce net loss from municipal withdrawals.

Future growth for Norman will depend on the available public supplies of water. With the potential uncertainty for climate change, it is to the benefit that Norman takes advantage of all potential means of expanding the local water supplies in a cost-effective manner. The strategy of pumping idle water wells into drainages to reduce trace elements and increase supplies creates many potential avenues to implement green technologies. An example of a green option that Norman could implement with this approach would be to use wind or solar energy to pump wells since the demand on wells is no longer directly dependent on the wells pumping directly into the distribution system.

Other communities in Central Oklahoma such as Guthrie and Edmond as well as other smaller communities and public supply utilities could benefit from this study. Many smaller communities and public water utilities are affected by the lowering of MCL for arsenic and are faced with additional costs to expand their water supplies. Resources to implement expensive treatment systems are not possible and a cost-effective approach using natural attenuation would be beneficial.

Prior Working Relationships with Reclamation

Norman has had a long successful relationship with Reclamation primarily through the presence of "The Norman Project" or Lake Thunderbird completed in 1960 and successfully managed by the Central Oklahoma Master Conservancy District (COMCD) of which the City of Norman is one of three member cities.

Technical Project Description

Approach

A proof of concept pilot study will be conducted to obtain data that will assist in the determination of the viability of natural attenuation of arsenic and selected trace elements in groundwater. This study will utilize underused or idle public supply wells with arsenic concentrations above the MCL. Selected public supply wells owned by the City of Norman will be discharged into the Little River above Lake Thunderbird, a public supply reservoir. A 10-week period would collect data prior to, during, and after pumping to determine: 1) changes in chemistry of the well water as it flows down the river, 2) losses to evapotranspiration (ET) and channel seepage during the test, and 3) potential for dilution or sorption of selected trace elements such as arsenic and other selected trace elements on to the sediment.

One month before the wells start pumping water into the Little River, sediment and instantaneous discharge data will be collected from the river to determine current conditions. For one month following completion of the test, water, sediment, and instantaneous stream discharge data will be collected to determine post-pumping conditions in the river bed. Wells selected for pumping will have arsenic concentrations above the MCL and will be located in close proximity to the river. Sediment will be analyzed for a selected set of trace elements (Table 1, Garbarino and others, 2002). Water will be analyzed for physical parameters, filtered major ions (Fishman and others, 1989; Fishman, 1993), filtered trace elements, unfiltered trace elements, (Garbarino and others, 1998,2001,2002,2006; Garbarino, 1999; Hoffman and others, 1996; and Fishman and Friedman, 1989)) and arsenic speciation (arsenite and arsenate) (Garbarino and others, 2006; Table 1). Surface water samples will also be analyzed for suspended sediment concentrations. Stream and lake sediment will be analyzed for trace element concentrations using a portable Niton XL3t 950 x-ray fluorescence (XRF) analyzer (Table 1). Protocols for XRF analysis will follow EPA Method 6200. All water samples will be analyzed by the USGS National Water Quality Lab (NWQL) in Lakewood, Colorado. Suspended sediment analysis will be done at the USGS Sediment Lab in Rolla Missouri. Discharge measurements will be made prior to the collection of surface-water samples.

Table 1 List of parameters that will be analyzed in sediment and water from wells, the Little River, and Lake Thunderbird.

Parameter Name		
XRF Analysis for Sediment	Filter and Unfiltered Trace Elements for Water	Filtered Major Ions and Arsenic Speciation for Water
Aluminum	Aluminum	Calcium
Antimony	Antimony	Chloride
Arsenic	Arsenic	Fluoride
Barium	Barium	Iron
Beryllium	Beryllium	Magnesium
Boron	Boron	Manganese
Cadmium	Cadmium	pH, laboratory
Chromium	Chromium	Potassium
Cobalt	Cobalt	Residue, 180 degrees Celsius (TDS)
Copper	Copper	Silica
Iron	Iron	Sodium
Lead	Lead	Sulfate
Lithium	Lithium	
Manganese	Manganese	Arsenite [As(III)], Arsenic
Mercury	Mercury	Arsenate [As(V)], Arsenic
Molybdenum	Molybdenum	
Nickel	Nickel	
Selenium	Selenium	
Silver	Silver	
Thallium	Thallium	
Uranium, natural	Uranium, natural	
Vanadium	Vanadium	
Zinc	Zinc	

Method for Evaluating Pre-Pumping Conditions

Sediment samples will be collected at 30 sites in the Little River channel between Hwy 77 and NE 60th Avenue. Sampling will occur during the month prior to wells discharging into the stream. Samples will be collected at bridge crossings at both upstream and downstream locations of each crossing. Sediment will be sampled to a depth no greater than six inches, sealed in a plastic bag, and refrigerated until analyzed. Sample sites will be surveyed to allow return to the same locations after pumping for post-pumping sample collection.

Prior to pumping well water into the Little River, cores from Lake Thunderbird will be obtained to determine the current concentration of trace elements in the lakebed sediment. Four cores will be collected to a maximum depth of three feet below the lake bottom using a gravity piston coring device. All coring sites will be north of Alameda Drive where the Little River discharges into Lake Thunderbird. Sites will be surveyed to allow future repeat sampling at the sites if necessary. Following collection, cores will be sealed and frozen until they can be analyzed.

Cores will be analyzed at the USGS Oklahoma Water Science Center by dividing the core into 10 equal depth sections, drying, and analyzing for trace elements by XRF.

Two locations will be selected for measuring streamflow and to operate temporary streamgages. One site is located where the Little River crosses NE 48th Avenue. The other site will be where the river crosses at NW 12th Avenue. Both of these sites will be downstream of the discharging public supply wells. These temporary streamgages will record stage only and would begin recording data 30 days prior to the discharge of water into Little River. Discharge will be measured and samples collected at the two sites six times prior to the pumping.

Stream-water samples will be collected at both temporary gages six times prior to pumping water into Little River. Water samples will be taken at the sites where the cores will be obtained in Lake Thunderbird. A total of four water samples would be collected from the bottom of the water column. Water samples would be analyzed for physical parameters (dissolved oxygen, pH, specific conductance, temperature, turbidity), filtered major ions, filtered trace elements, whole water trace elements, arsenic III, arsenic V, and suspended sediment. Water will be analyzed by the USGS National Water Quality Laboratory in Lakewood, Colorado. Suspended sediment will be analyzed for sand/clay splits and total suspended sediment concentration by the USGS in Rolla, Missouri.

Method for Evaluating Pumping Conditions

Municipal wells used for the study will be selected based upon the proximity to the Little River, easement available to allow discharge to flow to river, and level of arsenic in the produced water. The number of wells selected for the experiment will be determined by well yields. A target goal is to pump 2-4 acre-feet per day. To achieve this volume, the cumulative pump rate would be approximately 500-1,000 gallons per minute.

To document losses from ET and streambed infiltration, two temporary gages will continuously monitor and record stream stage. Instantaneous discharge measurements will be made at four locations every other day for the duration of the pumping period.

Wells will pump and discharge into the Little River continuously for two weeks. During this time, water from the each well and the Little River will occur twice a day every other day through the pumping period at the two gage sites. Water samples would be analyzed for physical parameters (dissolved oxygen, pH, specific conductance, temperature, and turbidity), filtered major ions, filtered trace elements, whole water trace elements, arsenic III, arsenic V, and suspended sediment. Water will be analyzed by the USGS National Water Quality Laboratory in Lakewood, Colorado. Suspended sediment will be analyzed for sand/clay splits and total concentration by the USGS in Rolla, Missouri.

Evaluation of Post-Pumping Conditions

A duplication of the data collection efforts for the pre-pumping conditions, with the exception of the lake sediment coring and analysis, will be performed for post-pumping conditions. Data collection will be done over one month following the cessation of pumping from the public supply wells. Concentrations of arsenic and selected trace elements will be evaluated to determine the magnitude of change throughout the three stages of the test. Sediment will be evaluated to detect changes in concentrations of arsenic and selected trace elements to determine if the two-week pumping period could be identified. Discharge measurements and stream stage will be analyzed to assess the amount of loss in the stream to ET or streambed seepage.

Suspended sediment samples will be collected to determine if the amount of sediment being transported throughout the pumping period is significantly different during pumping and non-pumping conditions.

Evaluation Criteria

This study is designed to evaluate the potential for natural attenuation of arsenic and selected trace elements in groundwater discharged into a stream flowing into a public supply reservoir. Comparisons of the prior-to-pumping and post-pumping concentrations to the pumping concentrations will provide an estimate of the effectiveness of this approach. Arsenic toxicity concentrations cited in the literature will be compared to field data to determine whether arsenic concentrations in the river would be sufficiently high to adversely affect aquatic ecosystems. These values will only provide guidelines for this pilot study. Toxicity testing will need to be performed for arsenic and selected trace elements in the Little River in future studies. Loss of pumped water through ET and streambed infiltration will be evaluated using the data collected from the two temporary streamgages and the repetitive discharge measurements taken during the study. Sediment collected prior to and following the pumping phase from the same sites will be evaluated for differences in the concentrations of arsenic and other selected trace elements.

No. A1-Potential Quantity of Water Produced

Ten or more Norman water wells are currently inactive for potable water purposes or underutilized as irrigation wells. For the purpose of this project, it is assumed that ten existing water wells could be re-piped to discharge to the Little River, or tributaries thereof. These wells could produce a discharge of approximately 8 ac-ft per day or an annual quantity of 2,920 ac-ft to delivered to Lake Thunderbird for treatment at the existing City of Norman water treatment Plant (WTP).

No. A2 -Percentage of Water Supply Imbalance

Projected water need for the City of Norman is 24 million gallons per day (MGD) or approximately 73.6 ac-ft/day by the year 2060. If successful, this project will provide approximately 8 ac-ft per day of additional water supply or 11% to the projected shortfall. The 24 MGD shortfall assumes the existing water supply will not be further reduced by the proposed re-evaluation of the total chromium MCL.

No. A3 -Likelihood that the proposal will lead to a "New" Sustainable Source of Water

This proposal will allow untreated groundwater that is currently unsuitable for public water supply to be conveyed to Lake Thunderbird for treatment.

No. B1-Implementing Renewable Energy Improvements

Renewable energy from wind and solar may be utilized to power wells in the future if this pilot project becomes fully implemented. Potential Energy savings cannot be quantified at this time.

No. B2-Increasing Energy Efficiency in Water Management

Energy efficiencies may be obtained in the future if this pilot project be becomes fully implemented.

No. C-Relationship of Project to Current AWT Applications and Reclamations Research Goals.

The proposed approach would lower costs of arsenic treatment at each wellhead and allow the City of Norman to re-use existing groundwater pumping infrastructure. Norman would also reduce costs for increasing the water supply by purchasing from outside entities.

No. D1-Readiness to Proceed

This project will require very little preparation time to start. Wells are in place and equipment is available for data collection. The data collection activities are routine for the USGS and the wells are ready to pump to the Little River through the current blowoff apparatus. See Table 2 for a timeline of the project. Matching funds will be available July 1.

No. D2-Qualification of the Management Team

City of Norman

Mark Daniels P.E., Utilities Engineer, 32 years experience in water/wastewater projects (see attached resume).

Chris Mattingly P.E., Water Treatment Superintendent, 17 years experience in water/wastewater projects.

U.S. Geological Survey

Mark Becker, Hydrologist, Oklahoma Water Science Center (See attached resume)

James Greer, Hydrologic Technician, Oklahoma Water Science Center

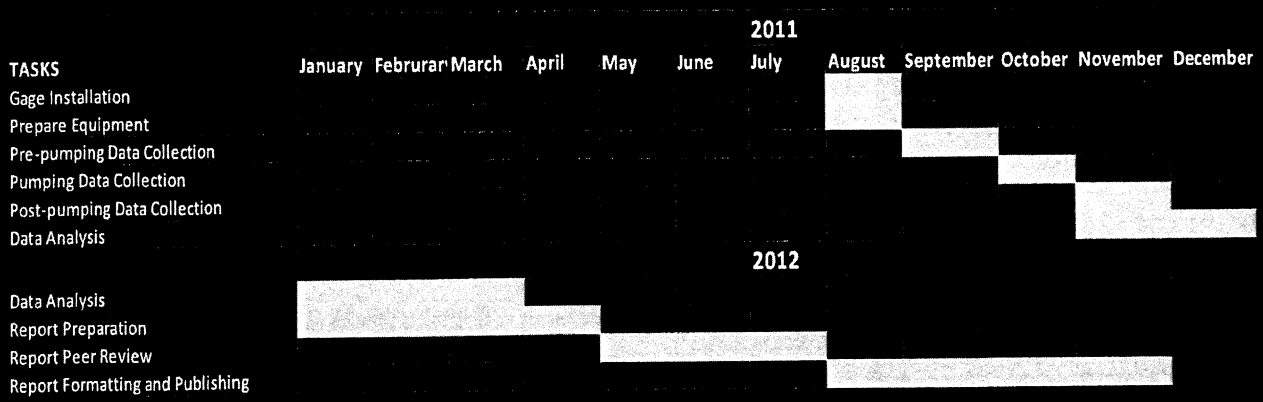
QA/QC

In order to minimize bias in the data, all water and sediment samples will be collected as described by Wilde and others (1997-2010). Discharge measurements will be performed as described by Rantz et al., 1982. EPA Method 6200 for the analysis of soils and sediment by XRF recommends that 10 percent of split samples be analyzed by inductively coupled plasma-mass spectroscopy (ICP-MS). Sediment splits will be sent to the USGS NWQL lab for analysis of arsenic and selected trace elements to determine the level of bias and precision provided by the XRF. Additionally, each sediment sample will be measured three times with the XRF and concentrations will be averaged to assure that a single measurement does not bias the results for any given sample. All instrument calibrations will be recorded and maintained in the records.

Report

Data and analysis will be published in a USGS Scientific Investigations Report within 24 months from the time the grant is awarded and funding received. The report will be published online and printed. It is assumed that funding will be made available in August, 2011. A timeline showing major components of the study is found in Table 2

Table 2 Timeline for major components of proposed pilot study of evaluating the natural attenuation of arsenic in groundwater pumped into the Little River, Norman, Oklahoma.



Post-Project Benefits

Recognizing the sensitivity of the public and regulatory agencies to pumping groundwater with known concentrations of arsenic into a public waterway, this study will be of a short duration. However, this short experiment should answer some fundamental questions about the feasibility of the approach. If the public and state regulatory agencies are satisfied that no endangerment to the biota or physical setting is demonstrated with this preliminary assessment, then the conceptual framework can move forward with recommendations to perform a long-term demonstration project. If the outcome of this pilot project appears promising, other communities in Oklahoma may consider this approach as a potential option to meet their water needs and reduce the cost of treatment for arsenic.

Potential Environmental Impacts

Potential impacts on environmental health and physical characteristics on the stream are unknown; however, ancillary data suggests that the effects will be small or insignificant. Loading of arsenic from the wells will be relatively low compared to the concentration in the rock (parts per million (mg/kg) concentrations in the rock matrix versus parts per billion (ug/L) concentrations in the water). Arsenic concentrations measured in the Rush Springs sandstone, a Permian bedrock aquifer in southwest Oklahoma, is generally around 20 parts per million (Jessica Magers, personal communication, 2011). The concentrations of arsenic in the rocks of the COA are quite possibly equal to or higher than the Rush Springs Sandstone.

Required Permits and Approvals

A temporary discharge permit will need to be obtained from the Oklahoma Department of Environmental Quality. A temporary waiver or variance will be required from the Oklahoma Water Resources Board (OWRB). OWRB has designated the Little River a sensitive water supply and discharge of groundwater into the waterway will need to be reviewed.

Funding Plan and Letters of Commitment-

City of Norman has budgeted $150,000 for the local share of the project that will become available July 1, 2011. There are no time constraints on the funding. The money has been

included in the proposed FY12 budget which will be formally adopted June 14, 2011. No in-kind contributions are included. There are no additional funding partners. See attached budget sheet.

Non-Federal Entities	
City of Norman	$150,000.00
Requested Reclamation Funding	$150,000.00
Total Project Funding	$300,000.00

Table 3. Summary of non-Federal and Federal funding sources.

Official Resolution

Chairman of Norman Utilities Authority, Cindy Rosenthal,will authorize submission of this application at the next meeting which will be June 14, 2011. This document will be forwarded at that time.

Budget Proposal

Budget Narrative

USGS is the contractor for all activities. City of Norman will not incur any direct or indirect costs. All salaries, materials, and analytical costs will be incurred by USGS. Unit costs in Table 4 include indirect assessments of contractor.

Table 4 Project budget.

Budget Item Description	$/Unit	Quantity	Recipient Funding	Reclamation Funding	Total Cost
Labor USGS					
Hydrologist-GS12- Mark Becker, Project Chief	$80.12	1800	$72,104	$72,104	$144,207
Hydrologic Technician GS11	$67.30	400	$13,459	$13,459	$26,919
Analyses (USGS)					
ICP-MS for Trace Elements in Water	$1,090	28	$15,267	$15,267	$30,533
ICP-MS for Trace Elements in Sediment	$240	10	$1,202	$1,202	$2,403
Suspended Sediment	$56	25	$701	$701	$1,402
Temporary Streamgages	$8,012	2	$8,012	$8,012	$16,023
Supplies (filters, bottles, ice, tubing, etc)	$8,012	1	$4,006	$4,006	$8,012
Sample Shipping	$2,403	1	$1,202	$1,202	$2,403
Vehicles(GSA, Interior)	$4,006	1	$2,003	$2,003	$4,006
Scientific Publishing Network	$64,092	1	$32,046	$32,046	$64,092
					$300,000

City of Norman, OK

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

Master

File Number: R-1011-135

File ID:	R-1011-135	**Type:**	Resolution	**Status:**	Consent Item
Version:	1	**Reference:**	Item No. 21	**In Control:**	City Council
Department:	Planning and Community Development Department	**Cost:**		**File Created:**	06/10/2011
File Name:	R-1011-135 Support Miller Valentine Group			**Final Action:**	

Title: RESOLUTION NO. R-1011-135: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, SUPPORTING MILLER VALENTINE GROUP IN ITS ENDEAVOR TO CONSTRUCT UP TO A 50 UNITS OF SENIOR HOUSING, LOCATED ON BRANDYWINE LANE.

ACTION NEEDED: Motion to adopt or reject Resolution No. R-1011-135.

ACTION TAKEN: _____

Notes:

Agenda Date: 06/28/2011

Agenda Number: 21

Sponsors:

Enactment Date:

Attachments: Cover Letter Brandywine senior housing 6-11, Brandywine senior housing location maps, Brandywine senior housing site plan, Brandywine senior housing site plan with unit type, Miller Valentine Group brochure, Miller Valentine Groups Experience list, R-1011-135 Support Miller Valentine

Enactment Number:

Project Manager: Linda Price, Revitalization Manager

Hearing Date:

Entered by: linda.price@normanok.gov

Effective Date:

History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	06/28/2011					

Text of Legislative File R-1011-135

Body

BACKGROUND: The federal government, acting through the Oklahoma Housing Finance Agency, has created tax credit rules for allocation of tax credits on a national basis for new housing and rehabilitation of existing housing that is intended to assist in providing affordable housing. To gain approval for the tax credits, local support of the project is required.

DISCUSSION: Miller Valentine Group has requested that the City Council adopt Resolution R-1011-135 in support of a specific application to construct up to fifty apartments for seniors on Brandywine Lane to be named Brandywine Senior Residence. This location is west of 24th Avenue S.E. and north of Lindsey. The company has developed and continues to operate similar developments in five states including Ohio, Indiana, North Carolina, Kentucky, and Pennsylvania. [Attachments include a list of the company's portfolio of projects, a copy of their brochure, and resumes of the company owners as well as site plans and locations maps of the proposed project, a cover letter and the resolution.] This housing will be privately owned, and will not be exempt from property taxes.

The City of Norman's 2010-2014 Consolidated Plan included priority housing needs, including the need for affordable senior rental housing. Statistics indicated that, depending on income level, 54.5-58.4% of elderly 1-2 person households have housing problems due to the poor quality of the housing and/or the housing is not affordable. Many of these households are paying over 50% of their income on their housing. Over 750 elderly households in Norman were shown to need decent, safe and affordable housing.

The rules of the tax credit program dictate that certain points will be awarded to the application if it is supported by Resolution from the City indicating that the development would provide needed housing of an affordable nature. Because the award of such tax credits is on a limited and very competitive basis, the applicant is seeking every possible means to gain support for this project. One hundred percent of the units will be offered to tenants earning at or below sixty percent of the area median income, and all units will be for persons sixty-two years old or older.

RECOMMENDATION: Because of the demonstrated need for additional affordable senior housing as indicated in the Consolidated Plan that was approved in 2010, compliance with zoning, and compliance with the Publicly Assisted Housing Master Plan, Staff recommends approval of the applicant's request for Council to approve said Resolution for support of this project.

Miller-Valentine Group
9349 WaterStone Blvd.
Cincinnati, Ohio 45249
513-774-8400
513-683-6165 Fax

June 8, 2011

City of Norman
City Clerk
P.O. Box 370
201 West Gray
Norman, OK 73070

Re: Resolution of Support

Dear Mr./Ms. City Clerk:

Miller-Valentine Apartments III, LLC is interested in building up to 50-units of multifamily rental housing, targeted to low- to moderate-income elderly citizens in Norman, to be named Brandywine Senior Residence. The proposed development will be located in the City limits of Norman at 909 Brandywine Lane, Norman, Oklahoma, 73701 (parcel #: NC29 COL14 1 3 001). The proposed development will consist of a mix of one-, two-, and three-bedroom unit designs.

We are also investigating a joint venture partnership with a local non-profit in Norman.

The development will be financed in part with Low Income Housing Tax Credits (LIHTC). The LIHTC application requires a Resolution of Support from the City in which the development is being proposed.

We respectfully request to be placed on the Agenda for the City Council Meeting to be held June 28, 2011.

To help expedite this request, I have included the following items:

- Resolution of Support – Draft Language
- Location Map of Site
- List of Developments Completed by our company
- Company Resume

Please contact me at your earliest convenience to discuss this request. My phone number is 937-681-1798 and my e-mail is Kevin.hogan@mvg.com.

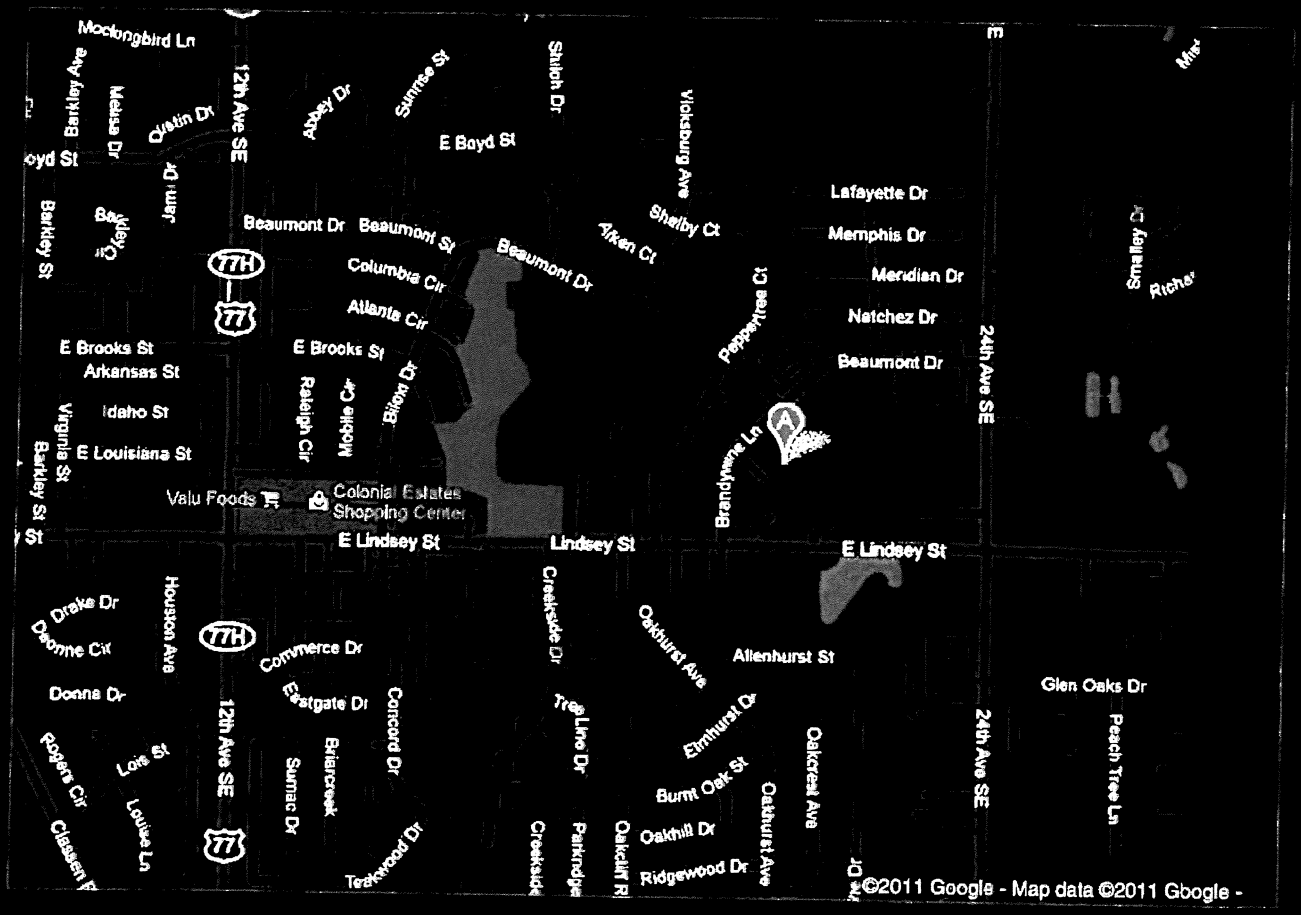
Sincerely,

Kevin Hogan
Senior Developer

total real estate solutions
www.mvg.com

Google maps

To see all the details that are visible on the screen, use the "Print" link next to the map.



Google maps

To see all the details that are visible on the screen, use the "Print" link next to the map.

SBA

Maptitude for the Web 3.62.00

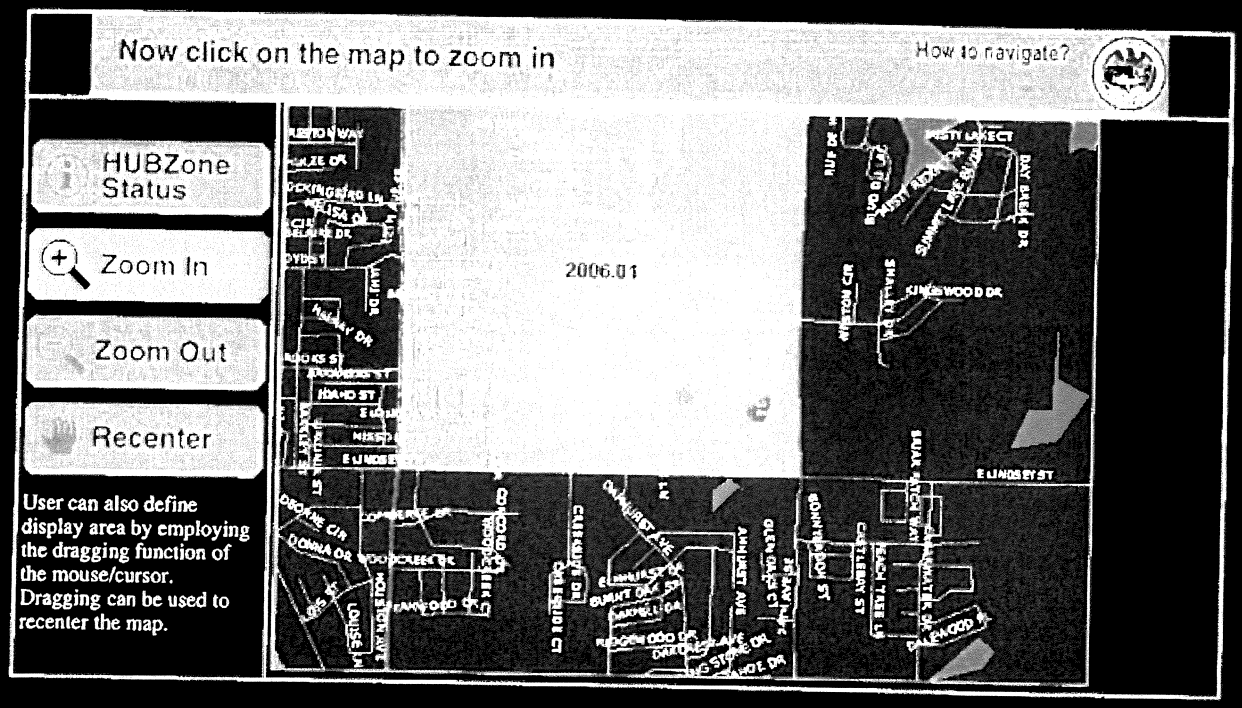
HUBZone Program

U.S. Map | Address-Town-County Search | Help | Text-Only Version

DETERMINATION OF WHETHER AN ADDRESS IS IN A HUBZONE

909 Brandywine Lane, norman OK is located in Census Tract "40027200601" which IS HUBZone qualified.

The map below shows the relationship of this address (marked with a star) to qualified HUBZone areas. Below the map, you may find information on why the address was found to be in a HUBZone Area.



BASIS OF HUBZONE DETERMINATION

Is the address located in a Metropolitan Area?	*YES*
Is the address located in a qualified or redesignated census tract?	**YES**
Is the address located in a BRAC Commission-closed former military base?	**NO**
Is the address located in a Difficult Development Area?	**NO**
Is the address located in an Indian Country area?	**NO**

If your firm's principal office is located in this area which is qualified as a HUBZone (Principal office means the location where the greatest number of the concern's employees at any one location perform their work.,13 CFR PART 126.103), you are encouraged to apply for the HUBZone Empowerment Contracting Program.

BRANDYWINE SENIOR RESIDENCE

Crafton Tull
architecture | engineering | surveying

BRANDYWINE SENIOR RESIDENCE

Crafton Tull
architecture | engineering | surveying

Miller Valentine Group

total real estate solutions

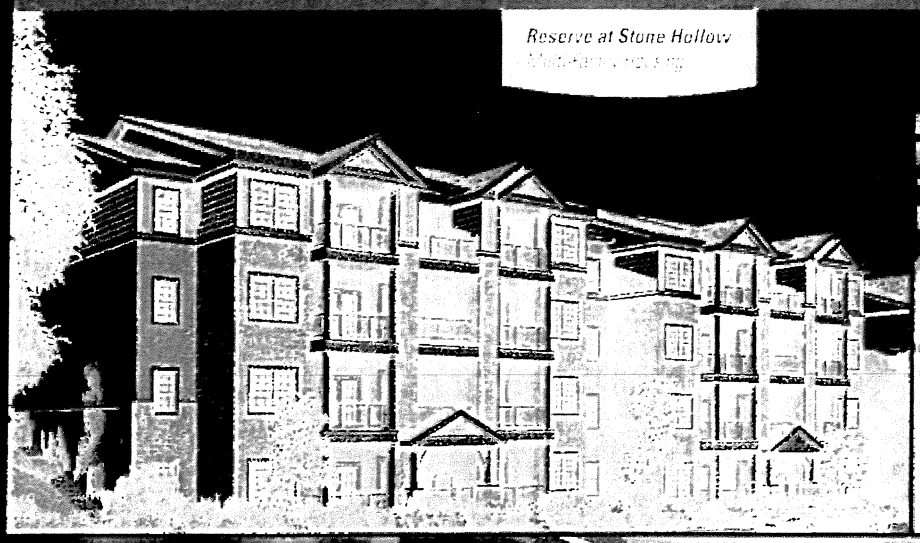
MV Residential

BUILDING BETTER COMMUNITIES RELATIONSHIPS

TOTAL SUPPORT FROM CONCEPT TO REALITY

MV RESIDENTIAL HAS BEEN DEVELOPING, BUILDING, AND MANAGING CUSTOMIZED QUALITY HOUSING FOR MORE THAN 20 YEARS. EACH PROJECT REFLECTS THE LIFESTYLES OF ITS RESIDENTS, AND EACH MIRRORS OUR COMMITMENT TO DELIVER VALUE-ADDED HOUSING SOLUTIONS THROUGH EVERY STEP OF THE PROCESS – FROM CONCEPT TO REALITY.

BUT MV RESIDENTIAL BUILDS MUCH MORE THAN HOUSING ALTERNATIVES. WE ALSO BUILD RELATIONSHIPS, LONG-TERM RELATIONSHIPS THAT BRING YOU THE BENEFIT OF OUR ACCUMULATED EXPERIENCE AND EXPERTISE. WE'VE BEEN ABLE TO DEVELOP AND MAINTAIN THOSE LASTING RELATIONSHIPS FOR TWO CRUCIAL REASONS: FIRST, WE LISTEN TO YOU; THEN WE PROVIDE JUST THE RIGHT BLEND OF PRODUCTS AND SERVICES THAT MEET YOUR UNIQUE REQUIREMENTS.


Reserve at Stone Hollow
Multifamily Housing

Properties at Wright Field
Military Housing

Park Place at Lytle
Luxury Condominiums

Livingston Exterior
Interstate Commerce by Miller-Valentine Group

Ashton Interior
Luxury Condominiums by Miller-Valentine Group

A spectrum of services and support
MV Residential brings you a growing array of services, including:

- Feasibility studies
- Site selection and acquisition
- Project design and value-added engineering
- Financial return analysis
- Housing credit financing expertise
- Not-for-profit consulting
- Property and asset management
- Debt and equity placement
- Design/build construction services

And we bring that spectrum of support to the housing products we build:

- Multi-family properties
- Single-family homes
- Senior living
- Historic renovations
- Student housing
- Military family housing

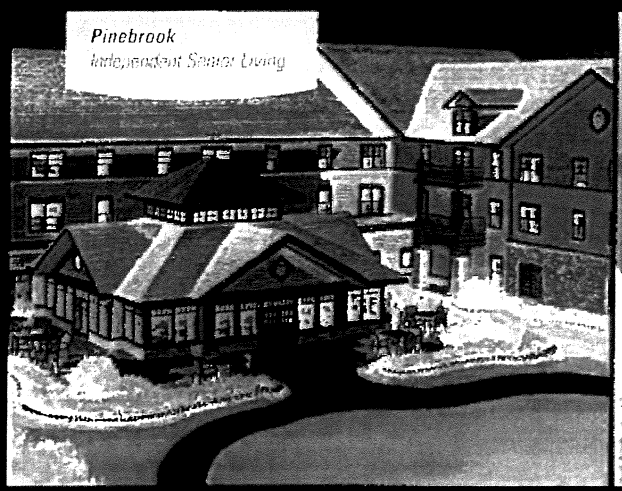
Free yourself from the maze
Many MV Residential clients, particularly not-for-profit organizations, do not have the internal resources to meet the ever-changing challenges of the development process, site plan approvals or local governmental requirements. MV Residential can help. Our total support capabilities allow us to become your staff, taking the burden of cutting through red tape off your shoulders – and freeing your personnel from the maze of regulations, restrictions and bureaucracy. Our full-service solutions mean we can help you identify the right financing option for your development:

- Construction and permanent debt placement
- Equity placement
- Local/state secondary debt/grant financing
- HUD 221(D) loans
- Bridge loans and gap financing
- Tax-exempt and 501 C(3) bonds
- Financial modeling

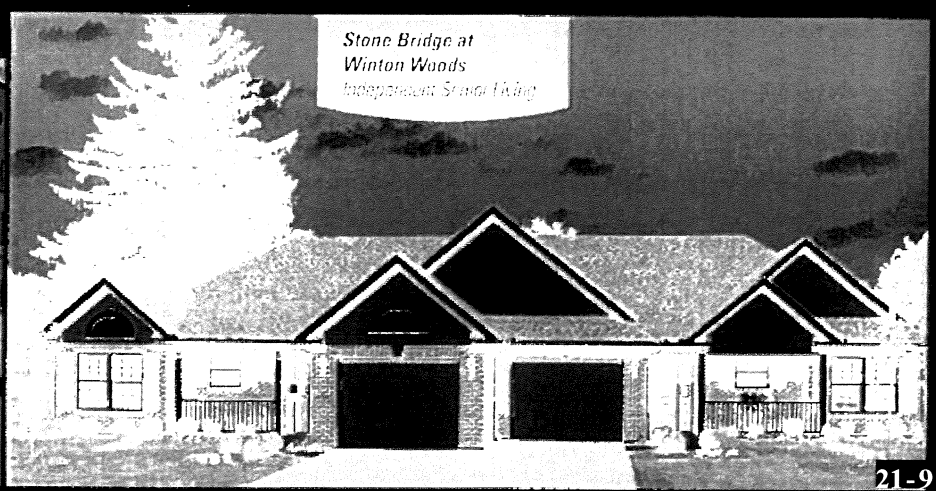
And our expertise in not-for-profit services allows us to guide you through the complex housing credit process, helping you with:

- Deal structuring
- Housing credit applications
- Resident services
- Debt and equity structuring
- For-profit/not-for-profit joint ventures

"We built with Miller-Valentine Group because of their stellar reputation in the area. We believe they will stand behind their promises to us because their reputation is on the line. We also love their floorplans because they fit our lifestyle. The design of their kitchens, decks, patios and finished lower levels are perfect for entertaining. Everyone at Miller-Valentine has been great to work worth from our sales person to the tradesmen working onsite. This is our first time building and we can truly say it has been an enjoyable experience." ***Phil and Pam Black***



Pinebrook
Independent Senior Living



Stone Bridge at Winton Woods
Independent Senior Living

experienceexpertiseexcellence

Miller Valentine Group

total real estate solutions

MV Residential has provided experience and expertise in multi-family and single-family housing, development and property management. As part of Miller-Valentine Group, a leader in commercial real estate since 1963, MV Residential serves clients across the country with a continuing commitment to quality and integrity in the structures we build and the services we deliver. We are proud of the long-standing relationships we've built with clients through the years, traveling with them as they expand their operations throughout the United States.

Our Total Real Estate Solutions include:

- Design/build construction
- Development
- Management
- Brokerage
- Leasing
- Financing

Our construction and real estate capabilities cover:

- Multi-family and single-family housing
- Senior living
- Military family housing
- Student housing
- Educational facilities
- Healthcare facilities
- Religious facilities
- Municipal buildings
- Research and development
- Historical renovation

On the cover:
Stone Falls of Ada
Multi-Family Housing

1-877-684-7687
www.mvg.com

Cincinnati, OH
Columbia, SC
Dayton, OH

mvg.com

Experience Spreadsheet

Name: Miller-Valentine Group (Residential Development)

Apartment Name, City, State	# of Units	Placed In Service	Type of Participation: Developer/Contractor Owner	Property type: rehab, new construction or adaptive re-use
Harbour Cove Cincinnati, OH Tax Credit	66	1996	Developer	New Construction
Harmony Senior Village Williamsburg, OH Tax Credit	30	2007	Developer	New Construction
Mallard Glen Amelia, OH Tax Credit	96	2001	Developer	New Construction
Riverview Bluffs New Richmond, OH Tax Credit	36	2006	Developer	New Construction
Alexandra Walnut Hills, OH Tax Credit	83	2002	Developer	Rehab
Aspen Grove Middletown, OH Tax Credit	84	1997	Developer	New Construction
Deer Run Lawrenceburg, IN Tax Credit	84	1995	Developer	New Construction
Indian Trace Oxford, OH Tax Credit	84	1998	Developer	New Construction
Cedar Trail Bellbrook, OH Tax Credit	132	1996	Developer	New Construction
Cobblegate Square Moraine, OH Tax Credit	132	1997	Developer	New Construction
Fox Run Trotwood, OH Tax Credit	144	1998	Developer	New Construction
Mercy Siena Village Dayton, OH Tax Credit	108	1997	Developer	New Construction
Pheasant Run Dayton, OH Tax Credit	75	2004	Developer	New Construction
Timbercreek Springboro, OH Tax Credit	60	1996	Developer	New Construction
Timber Ridge Riverside, OH Tax Credit	72	1997	Developer	New Construction

Name: Miller-Valentine Group (Residential Development)

Apartment Name, City, State	# of Units	Placed In Service	Type of Participation: Developer/Contractor Owner	Property type: rehab, new construction or adaptive re-use
Timberlake Vandalia, OH Tax Credit	144	2000	Developer	New Construction
Bent Tree Piqua, OH Tax Credit	84	1997	Developer	New Construction
Brookstone Bellefontaine, OH Tax Credit	96	2000	Developer	New Construction
Cedar Wood Mansfield, OH Tax Credit	96	2000	Developer	New Construction
Eagles Point Kenton, OH Tax Credit	72	1999	Developer	New Construction
Normandy Ridge Wapakoneta, OH Tax Credit	84	1998	Developer	New Construction
Oak Wood Lexington, OH Tax Credit	84	2000	Developer	New Construction
Faith Community Crestline, OH Tax Credit	41	2008	Developer	New Construction
The Landings II Gastonia, NC Tax Credit	48	2000	Developer	New Construction
Madison Place Gastonia, NC Tax Credit	76	2003	Developer	New Construction
Pinecrest Walkertown, NC Tax Credit	80	2007	Developer	New Construction
Steele Creek II Charlotte, NC Tax Credit	48	2001	Developer	New Construction
Twin Cedars II Hickory, NC Tax Credit	72	2001	Developer	New Construction
Villas at Twin Cedars Hickory, NC Tax Credit	40	2005	Developer	New Construction
Autumn Wood Village Toledo, OH Tax Credit	48	2003	Developer	New Construction

Name: Miller-Valentine Group (Residential Development)

Apartment Name, City, State	# of Units	Placed In Service	Type of Participation: Developer/Contractor Owner	Property type: rehab, new construction or adaptive re-use
Autumn Wood Village II Toledo, OH Tax Credit	42	2004	Developer	New Construction
Breckenridge Findlay, OH Tax Credit	72	1998	Developer	New Construction
Deer Creek Delphos, OH Tax Credit	84	1999	Developer	New Construction
Glen Arbors Napoleon, OH Tax Credit	72	1999	Developer	New Construction
Meadow Creek Bryan, OH Tax Credit	96	2000	Developer	New Construction
The Meadows at Grand Lake Celina, OH Tax Credit	60	1999	Developer	New Construction
New Lima Homes Lima, OH Tax Credit	60	2005	Developer	New Construction
Quail Run Van Wert, OH Tax Credit	60	1998	Developer	New Construction
Waterbury Decatur, IN Tax Credit	84	1999	Developer	New Construction
Hunters Oak Greenville, OH Tax Credit	72	1999	Developer	New Construction
Jefferson Homes Dayton, OH Tax Credit	40	2005	Developer	New Construction
Ridgewood Heights Dayton, OH Tax Credit	40	2003	Developer	New Construction
Sunlight Homes Dayton, OH Tax Credit	33	2006	Developer	New Construction
Sycamore Creek Sidney, OH Tax Credit	96	2000	Developer	New Construction
Walnut Ridge Indianapolis, IN Tax Credit	78	2005	Developer	Rehab

Name: Miller-Valentine Group (Residential Development)

Apartment Name, City, State	# of Units	Placed In Service	Type of Participation: Developer/Contractor Owner	Property type: rehab, new construction or adaptive re-use
Washington Square Dayton, OH Tax Credit	39	2007	Developer	New Construction
Wind Ridge Tipp City, OH Tax Credit	84	1997	Developer	New Construction
Bridge Street Landing Chillicothe, OH Tax Credit	84	2000	Developer	New Construction
Holly Hills Jackson, OH Tax Credit	72	2001	Developer	New Construction
Hurth Portsmouth, OH Tax Credit	39	2004	Developer	Rehab
Cooks Crossing Milford, OH Market Rate	132	1988	Developer	New Construction
Carriage Station Cincinnati, OH Market Rate	64	1990	Developer	New Construction
Tall Timber Cincinnati, OH Market Rate	108	1990	Developer	New Construction
Pine Ridge Logan, OH Tax Credit	72	2006	Developer	New Construction
Scioto Woods Chillicothe, OH Tax Credit	72	1998	Developer	New Construction
Scioto Woods II Chillicothe, OH Tax Credit	84	2004	Developer	New Construction
Tamarack Trace Florence, KY Market Rate	264	1997	Developer	Rehab
Stoney Ridge Estates Dayton, OH Tax Credit	25	2008	Developer	New Construction
Walkers Ridge Hempfield Township, PA Tax Credit	84	2008	Developer	New Construction
Walnut Run Cortland, OH Tax Credit	40	2008	Developer	New Construction

Name: Miller-Valentine Group (Residential Development)

Apartment Name, City, State	# of Units	Placed In Service	Type of Participation: Developer/Contractor Owner	Property type: rehab, new construction or adaptive re-use
Lake Towne Senior Village Lake Township, OH Tax Credit	43	2008	Developer	New Construction
Timber Glen Batavia, OH Market Rate	108	1989	Developer	New Construction
Timber Glen II Batavia, OH Market Rate	72	1997	Developer	New Construction
Valley Creek Cincinnati, OH Market Rate	71	1992	Developer	New Construction
Woodridge Limited Fairfield, OH Market Rate	240	1987	Developer	New Construction
Woodridge Point Fairfield, OH Market Rate	96	1984	Developer	New Construction
Stonecreek Moraine, OH Market Rate	132	1997	Developer	New Construction
Hoover Place Dayton, OH Tax Credit	144	1999	Developer	New Construction
Indian Trace II Oxford, OH Market Rate	76	1999	Developer	New Construction
Bent Tree II Piqua, OH Market Rate	24	1999	Developer	New Construction
Mercy Franciscan at Winton Woods Springfield Township, OH Tax Credit	73	2000	Developer	Rehab
The Landings I Gastonia, NC Market Rate	108	2000	Developer	New Construction
Deerfield Crossing Lebanon, OH Market Rate	96	2001	Developer	New Construction
Mallard Landing Marion, OH Market Rate	96	2001	Developer	New Construction
Mill Pond Muncie, IN Market Rate	120	2000	Developer	New Construction

Name: Miller-Valentine Group (Residential Development)

Apartment Name, City, State	# of Units	Placed In Service	Type of Participation: Developer/Contractor Owner	Property type: rehab, new construction or adaptive re-use
Sandhurst Zanesville, OH Market Rate	120	2002	Developer	New Construction
Windsor Place Beavercreek, OH Market Rate	72	2000	Developer	New Construction
Grand Place Dayton, OH Tax Credit	70	2001	Developer	Rehab
Honey Creek Greenwood, IN Market Rate	120	2002	Developer	New Construction
River Crossing Charlotte, NC Market Rate	132	2002	Developer	New Construction
The Landings at Steele Creek Charlotte, NC Market Rate	72	2002	Developer	New Construction
Twin Cedars I Hickory, NC Market Rate	36	2001	Developer	New Construction
Joyce Avenue Homes Columbus, OH Tax Credit	31	2003	Developer	New Construction
The Properties at Wright Field Dayton, OH Market Rate	1536	2006	Developer	New Construction
Wright Place Xenia, OH Tax Credit	92	2004	Developer	New Construction
YWCA of Hamilton Apartments Hamilton, OH Tax Credit	38	2004	Developer	Rehab
Daystar Estates Detroit, MI Tax Credit	50	2005	Developer	New Construction
Lofts at Hoover Dayton, OH Tax Credit	40	2007	Developer	New Construction
Ohio Avenue Commons Dayton, OH Tax Credit	27	2008	Developer	Rehab
Sherwood Glen Reidsville, NC Tax Credit	56	2007	Developer	New Construction

Name: Miller-Valentine Group (Residential Development)

Apartment Name, City, State	# of Units	Placed In Service	Type of Participation: Developer/Contractor Owner	Property type: rehab, new construction or adaptive re-use
South Saginaw Homes Saginaw, MI Tax Credit	49	2007	Developer	New Construction
Villas of Wayne Trail Defiance, OH Tax Credit	42	2007	Developer	New Construction
Queen Esther's Village Canton, OH Tax Credit	33	2008	Developer	New Construction
Derby Hills Georgetown, KY Market Rate	144	1998	Developer	New Construction
Mercy Siena Cottages Dayton, OH Market Rate	12	2003	Developer	New Construction
Oakwood Village Springfield, OH Market Rate	10	2003	Developer	New Construction
St. Leonard Cottages Centerville, OH Market Rate	31	1998	Developer	New Construction
St. Leonard North-Phase I Centerville, OH Market Rate	24	2004	Developer	New Construction
St. Leonard North-Phase II Centerville, OH Market Rate	22	2004	Developer	New Construction
McKnight Terrace Middletown, OH Market Rate	60	1998	Developer	New Construction
One Lincoln Park Kettering, OH Market Rate	254	1996	Developer	New Construction
Lincoln Park Manor Kettering, OH Market Rate	90	1996	Developer	New Construction
University Place Dayton, OH Market Rate	48	2002	Developer	New Construction
Trillium Place Columbus, OH Market Rate	218	2001	Developer	New Construction
Reserve at Stone Hollow Charlotte, NC Market Rate	194	2008	Developer	New Construction

Name: Miller-Valentine Group (Residential Development)

Apartment Name, City, State	# of Units	Placed In Service	Type of Participation: Developer/Contractor Owner	Property type: rehab, new construction or adaptive re-use
Stone Falls of Ada Ada Twsp., MI Market Rate	210	2008	Developer	New Construction
WaterStone Landing Perrysburg, OH Market Rate	288	2009	Developer	New Construction
Twin Towers Dayton, OH Tax Credit	90	2009	Developer	New Construction
St. Rita Senior Garfield Heights, OH Tax Credit	63	2009	Developer	New Construction
The Rising at Phoenix Dayton, OH Tax Credit	33	2009	Developer	New Construction
Wauseon Senior Village Wauseon, Ohio Tax Credit	48	2010	Developer	New Construction
Pinebrook Milford, OH Market Rate	125	2009	Developer	New Construction
Eaton Senior Village Eaton, OH Tax Credit	44	2010	Developer	New Construction
Allegheny Pointe Allegheny Twsp., PA Tax Credit	52	2010	Developer	New Construction

Residential Projects Placed-in-Service	112
Residential Units Placed-in-Service	10730
Tax Credit Projects Placed-in-Service	76
Tax Credit Units Placed-in-Service	5201

Resolution

R-1011-135

A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, SUPPORTING MILLER VALENTINE GROUP IN ITS ENDEAVOR TO CONSTRUCT UP TO A 50 UNITS OF SENIOR HOUSING, LOCATED ON BRANDYWINE LANE.

§ 1. WHEREAS, Brandywine Senior Residence, LLC., is proposing to construct up to a 50-unit housing development to be located in the City limits of Norman at 909 Brandywine Lane, Norman, Oklahoma, 73701 (parcel #: NC29 COL14 1 3 001); and

§ 2. WHEREAS, the Brandywine Senior Residence, LLC. will dedicate 100% of the total residential units in the Development to elderly residents (62+); and

3. WHEREAS, the Brandywine Senior Residence, LLC. will dedicate 100% of the total residential units in the development to elderly (62+) citizens that are at or below the 60% Area Median Income level; and

4. WHEREAS, the City of Norman supports economic development and promotes affordable housing for the benefit of the citizens of Norman, and

NOW, THEREFORE, BE IT RESOLVED BY COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

5. That the City Council supports favorable consideration to be given for a tax credit award for this Development.

6. Be it further resolved that it is noted that the proposed development is consistent with the City of Norman's affordable housing strategies and comprehensive plan.

PASSED AND ADOPTED this _____ day of _____, 20__.

_____
Mayor

ATTEST:

_____
City Clerk

City of Norman, OK

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

Master

File Number: R-1011-137

File ID:	R-1011-137	**Type:**	Resolution	**Status:**	Consent Item
Version:	1	**Reference:**	Item No. 22	**In Control:**	City Council
Department:	Fire Department	**Cost:**	$702.00	**File Created:**	06/14/2011
File Name:	R-1011-138 Budget Transfer			**Final Action:**	

Title: RESOLUTION NO. R-1011-137: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, TRANSFERRING $702 FROM THE FIRE INVESTIGATION LIABILITY ACCOUNT TO PURCHASE A BULLET PROOF VEST FOR THE FIRE DEPARTMENT.

ACTION TAKEN: _____

Notes:

Agenda Date: 06/28/2011

Agenda Number: 22

Sponsors:

Enactment Date:

Attachments:

Enactment Number:

Project Manager: James Fullingim, Fire Chief

Hearing Date:

Entered by: devra.smith@normanok.gov

Effective Date:

History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	06/28/2011					

Text of Legislative File R-1011-137

body

BACKGROUND: The Fire Department periodically receives restitution related to arson cases. It is requested that Council review and consider the following item for acceptance and use by the Norman Fire Department. On April 12, 2011, City Council accepted restitution in the total amount of $2,734.00 and the money was deposited into Revenue Other: Fire Investigation account (#010-0000-227.24-27).

DISCUSSION: Monies received as restitution in arson cases are typically used to purchase supplies or equipment that is used in the investigation of fires. Norman Fire Department Inspectors are C.L.E.E.T. certified and commissioned through the Norman Police Department

as law enforcement officers. As such they do carry firearms and utilize bulletproof vests when necessary.

RECOMMENDATION: It is recommended that $702.00 be transferred from Revenue Other: Fire Investigation account (#010-0000-227.24-27) to Other Supplies/Materials/Fire Investigation account (#010-6442-422.31-20) to be used to purchase a bulletproof vest.

Resolution

R-1011-137

A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, TRANSFERRING $702 FORM THE FIRE INVESTIGATION LIABILITY ACCOUNT TO PURCHASE A BULLET PROOF VEST FOR THE FIRE DEPARTMENT.

§ 1. WHEREAS, the Fire Department periodically receives restitution related to arson cases; and

§ 2. WHEREAS, restitution has been received restitution totaling $2,734 and the money was deposited in to Fire Investigation; and

§ 3. WHEREAS, Norman Fire Department Inspectors are commissioned through the Norman Police Department as law enforcement officers and carry firearms and utilize bulletproof vests when necessary.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

§ 4. That $702 be transferred from Other/Fire Investigation (010-0000-227.24-27) to Other Supplies/Materials/Fire Investigation (010-6442-422.41-20) to be used to purchase a bulletproof vest.

PASSED AND ADOPTED this 28th day of June, 2011.

ATTEST:

_____
Mayor

_____
City Clerk

City of Norman, OK

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

Master

File Number: GID-1011-40

File ID:	GID-1011-40	**Type:**	Settlement	**Status:**	Consent Item
Version:	1	**Reference:**	Item No. 23	**In Control:**	City Council
Department:	Legal Department	**Cost:**		**File Created:**	06/14/2011
File Name:	Settlement Resolution of Terry Case			**Final Action:**	

Title: RESOLUTION OF NGUYEN V. JOHN TERRY AND CITY OF NORMAN, CASE NO. CIV-10-0196-R, FOR SETTLEMENT OF MEDICAL BILLS IN THE AMOUNT OF $11,000.

ACTION NEEDED: Motion to approve or reject Resolution of Nguyen v. John Terry and City of Norman, Case No. CIV-10-0196-R, for settlement of medical bills in the amount of $11,000; and, if approved, direct payment to Norman Regional Health System in the amount of $11,000.

ACTION TAKEN: _____

Notes:

		Agenda Date:	06/28/2011
		Agenda Number:	23
Sponsors:		**Enactment Date:**	
Attachments:	Terry Settlement Agenda Item	**Enactment Number:**	
Project Manager:	Rick Knighton, Assistant City Attorney	**Hearing Date:**	
Entered by:	jayme.rowe@normanok.gov	**Effective Date:**	

History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	06/28/2011					

Text of Legislative File GID-1011-40

Body

BACKGROUND: On April 26, 2011, Council approved the proposed settlement in the case referenced above and other associated cases. Nguyen incurred medical bills which totaled approximately $110,000. As noted in the prior agenda item, the proposed settlement included the City working with Norman Regional Health System to resolve Mr. Nguyen's outstanding medical bills incurred as a result of the incident. City staff negotiated separately with Norman

Regional Health System regarding these bills and reached an agreed reduction of these medical bills to the amount of $11,000. This reduction is similar to what would be allowed under Medicare payment schedules.

RECOMMENDATION: It is believed this proposed settlement of Mr. Nguyen's medical bills is fair, reasonable and in the best interest of the City. This settlement amount will be paid from Account No. 010-2251-415.47-18 which funds have been appropriated by Council for purposes of resolving claims against the City. If you have questions or need additional information, please let me know.

CITY COUNCIL AGENDA
APRIL 26, 2011

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

Item No. 57

Text File Number: GID-1011-30

Introduced: 4/15/2011 by Jeff Bryant, City Attorney
Version: 1
Current Status: Consent Item
Matter Type: Settlement

Title

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.

ACTION NEEDED: Motion to approve or reject the City Attorney's recommendation; and, if approved, authorize the City Attorney's Office to effectuate the settlements.

ACTION TAKEN: _____

Body

Background: Each of the cases set forth below arise out of former Norman Police Officer John Terry's response to a "be on the lookout" (BOLO) call which ultimately resulted in Terry using deadly force on an unarmed naked suspect:

City of Norman v. John Terry and FOP Lodge 122, Case No. SD-107788 was filed on May 27, 2009 in Cleveland County District Court by the City. This case challenges an arbitrator's decision reinstating Terry's employment with the City as a police officer. The trial court granted summary judgment in favor of Terry. The trial court's decision was appealed to the Oklahoma Court of Civil Appeals. On March 31, 2011, the Court of Civil Appeals affirmed the trial court's decision. The City has asked the Oklahoma Supreme Court to consider the case by filing a petition for certiorari. The proposed settlement requires that this petition be dismissed.

Nguyen v. John Terry and City of Norman, Case No. CIV-10-0196 R was filed on February 25, 2010 in the United States District Court for the Western District of Oklahoma by the suspect that Terry Shot, Sang Van Nguyen. In his Amended Complaint, Nguyen alleges excessive force and failure to provide timely medical first aid care under federal law against Terry and negligence in shooting and failing to provide medical care under state law against the City. Nguyen prays that the Court enter judgment against Terry on the negligence claims if he was not acting in the course and scope of his employment.

Terry v. City of Norman, Case No. CJ-2010-1051-L was filed in Cleveland County District Court on May 28, 2010 by Terry. This case alleges a breach of contract claim against the City. A motion to dismiss was filed by the City. The hearing on the City's motion to dismiss was continued to permit the parties to explore settlement.

Terry v. City of Norman, Phil Cotten, Glenn Dobry, Kent Ritchie, and Steve Lewis, Case No. CIV-10-1042 D was filed on September 23, 2010 in the United States District Court for the Western District of Oklahoma by Terry. This case alleges federal claims for procedural and substantive due process against the City, Chief Cotten, Captain Dobry, Major Ritchie, and City Manager Lewis.

A judicial settlement conference was held before United States Magistrate Judge Doyle W. Argo on April 7, 2011. The proposed settlement reached as a result of the settlement conference includes, *inter alia*, Terry's resignation, a monetary payment to Terry in the amount of $173,704, and a $40,000 monetary payment to Nguyen, part of which to be paid by the City and the remainder to be paid by Terry. The monetary payment to Terry is slightly less than the City's cost for back pay Terry would be entitled to if the arbitration decision is not reversed. The proposed settlement also includes payment of Nguyen's medical bills. City staff has negotiated separately with Norman Regional Hospital regarding these bills. Because this matter involves pending litigation, the merits of this settlement offer were discussed during an executive session on April 12, 2011.

Recommendation: It is believed the proposed settlement is fair, reasonable and in the best interest of the City. It is recommended that the settlement of this matter be approved by City Council, that the City Manager be authorized to finalize the settlement, and that this office be directed to reduce the settlement amount to judgment in accordance with 51 O.S. §159 and 62 O.S. §362. The settlement amount will then be placed on the property tax rolls for collection over the next three years. This procedure will minimize the impact of the settlement on the general fund. If you have questions or need additional information, please let me know.

1 The City's contribution to the Nguyen settlement will require at least $15,000. Terry's contribution to the Nguyen settlement is a minimum of $15,000 and the remainder is still being negotiated.

City of Norman, OK

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

Master

File Number: O-1011-58

File ID:	O-1011-58	**Type:**	Ordinance	**Status:**	Non-Consent Items
Version:	1	**Reference:**	Item No. 24	**In Control:**	City Council
Department:	Finance Department	**Cost:**		**File Created:**	05/31/2011
File Name:	O-1011-58 Establishing General Fund Operation Reserve Fund			**Final Action:**	

Title: ORDINANCE NO. O-1011-58: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AMENDING ARTICLE VIII, SECTIONS 8-103 AND 8-104 OF CHAPTER 8 OF THE CODE OF THE CITY OF NORMAN PROVIDING FOR THE ESTABLISHMENT OF GENERAL FUND OPERATING RESERVE REQUIREMENTS, ESTABLISHMENT OF GENERAL FUND EMERGENCY RESERVE REQUIREMENTS, CREATION OF A NET REVENUE STABILIZATION ("RAINY DAY") FUND, ESTABLISHING REQUIREMENTS FOR FUNDING OF THE NET REVENUE STABILIZATION FUND, ESTABLISHING RESTRICTIONS ON THE APPROPRIATION AND USE OF NET REVENUE STABILIZATION FUND BALANCES; AND PROVIDING FOR THE SEVERABILITY THEREOF.

ACTION NEEDED: Motion to adopt or reject Ordinance No. O-1011-58 upon Second Reading section by section.

ACTION TAKEN: _____

ACTION NEEDED: Motion to adopt or reject Ordinance No. O-1011-58 upon Final Reading as a whole.

ACTION TAKEN: _____

Notes:

Agenda Date: 06/28/2011

Agenda Number: 24

Sponsors:

Enactment Date:

Attachments: O-1011-58, O-1011-58 Annotated, Pert Exc April 20 2011 Finance Comm Minutes, Pert exc May 18 2011 Finance Comm Minutes

Enactment Number:

Project Manager: Anthony Francisco, Director of Finance

Hearing Date:

Entered by: Ellen.Usry@NormanOK.gov **Effective Date:**

History of Legislative File

Ver-sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	06/14/2011	Introduced and adopted on First Reading by title only				
	Action Text:	Introduced and adopted on First Reading by title only					
1	City Council	06/14/2011					
1	City Council	06/28/2011					

Text of Legislative File O-1011-58

Body

BACKGROUND: The City of Norman has, since fiscal year 1987-88, established Reserve Policies with the adoption of fiscal year budgets. The most recent policy sets an "Operating Reserve Policy…to reserve a portion of fund balance equal to 8 percent of each fund's operating expenditures each fiscal year budget to protect service delivery from an unexpected revenue loss or expenditure requirement and also to ensure favorable bond ratings." In the General Fund, the City has established a policy of appropriating 2 percent of General Fund expenditures in an Emergency Reserve account to be able to better respond to immediate expenditure needs in cases of emergency (or "unforeseen circumstances"). These policies have followed generally accepted standards of financial prudence.

In recent years, the City of Norman has drawn down its General Fund balance, as operating expenditures have exceeded operating revenue. This is an imprudent practice because if this condition continues at some point in time, the City of Norman will not have any fund balance available to respond to unforeseen circumstances (revenue declines or unexpected expenses), bond ratings will be negatively impacted, and statutory requirements for positive fund balance in each fund could be violated.

In February, 2009, the Governmental Accounting Standards Board (GASB) issued its Statement Number 54 (effective July 1, 2011): "Fund Balance Reporting and Governmental Fund Type Definitions". Under these new requirements for Generally Accepted Accounting Principles, the City of Norman will be required to make several changes to its fund structure and fund balance classifications. In general, GASB #54 gives new direction to fund types, and expands the classifications of fund balance in governmental funds from "Reserved" and "Unreserved" to five categories:

- Non-Spendable Fund Balance
- Restricted Fund Balance
- Committed Fund Balance
- Assigned Fund Balance

- Unassigned Fund Balance

The guiding principle of these fund balance classifications is the "extent to which the government is bound to honor constraints on the specific purposes for which amounts in the fund can be spent."

DISCUSSION: Council gave direction to Finance staff to prepare formal policies in Ordinance form codifying the City's reserve policies and complying with GASB #54. Direction was given to establish a separate "Rainy Day Fund" which could not be used except in unusual circumstances. The proposed Ordinance would establish a Net Revenue Stabilization or "Rainy Day" Fund, which would have minimum fund balance of three percent (3%) of annually budgeted General Fund expenses, a target fund balance of 4.5% of General Fund expenses and a maximum fund balance of six percent (6%) of annual General Fund expenses. The Ordinance would also require a minimum General Fund Operating Reserve fund balance of three percent (3%) of General Fund expenses and would require that the two percent (2%) Emergency Reserve allocation be included in future year budgets. Under the proposed Ordinance, Net Revenue Stabilization Fund balance could only be appropriated for expenditure by the City Council if at least one of the following circumstances is met:

- The General Fund Operating Reserve fund balance is projected to fall below one percent (1%) of budgeted expenditures. This condition could be brought about by shortfalls in revenues and/or by unexpected expenditures. It is expected that if the City's General Fund balance is projected to fall to such a low level, actions will have been taken to remedy the situation over time, but the "Rainy Day Fund" could be used to stabilize the General Fund and protect the delivery of basic services in the near term.

- A natural or man-made disaster has occurred, as declared by the Mayor of Norman AND the Governor of Oklahoma or the President of the United States; AND the City of Norman has spent or obligated to spend the two percent Emergency Reserve account in the General Fund.

- A major one-time or capital expenditure has been necessitated, such as for major repairs to or replacement of City of Norman facilities (e.g., a City building has been destroyed by fire or major City computer equipment has been damaged beyond repair by an electrical power surge).

The Ordinance requires that if the "Rainy Day Fund" balance is drawn down below the three percent minimum level at any time, the Council will take action to restore the minimum balance within three years. It is anticipated that fund balances in the Net Revenue Stabilization Fund will be classified as "Committed" fund balances under GASB 54 standards, and General Fund Operating Reserve fund balances will be classified as "Unassigned" fund balances.

The Net Revenue Stabilization Fund balance will be built through transfers from the General Fund or other City governmental funds (not enterprise, fiduciary, proprietary or trust Funds). These transfers could be generated through existing fund balances in excess of the policy-mandated levels in the General Fund, through anticipated revenues in excess of annually budgeted levels, or through transfers of budget allocations that are not anticipated to be used for their budgeted purpose. In effect, the City will have three years to build the "Rainy Day" fund balance to at least the three percent level upon the passage of this Ordinance, and the proposed fiscal year 2011-2012 budget may include transfers to establish a beginning fund balance in the Rainy Day Fund.

RECOMMENDATION: Staff recommends that the Reserve Policy Ordinance be adopted.

O-1011-58

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AMENDING ARTICLE VIII, SECTIONS 8-103 AND 8-104 OF CHAPTER 8 OF THE CODE OF THE CITY OF NORMAN PROVIDING FOR THE ESTABLISHMENT OF GENERAL FUND OPERATING RESERVE REQUIREMENTS, ESTABLISHMENT OF GENERAL FUND EMERGENCY RESERVE REQUIREMENTS, CREATION OF A NET REVENUE STABILIZATION ("RAINY DAY") FUND, ESTABLISHING REQUIREMENTS FOR FUNDING OF THE NET REVENUE STABILIZATION FUND, ESTABLISHING RESTRICTIONS ON THE APPROPRIATION AND USE OF NET REVENUE STABILIZATION FUND BALANCES; AND PROVIDING FOR THE SEVERABILITY THEREOF.

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

§ 1. That Article VIII, Section 8-103 of Chapter 8 of the Code of the City of Norman shall be amended to read as follows:

Sec. 8-103. Creation of Reserve Funds.

This article creates Reserve Funds for the general purposes of: ensuring the ongoing operations of the City of Norman's General Fund in times of extraordinary expenses or revenue shortfalls; addressing emergency expenditure requirements; and/or addressing unforeseen major capital facility maintenance needs. The City's General Fund shall have an unappropriated Operating Reserve Fund Balance of at least three percent (3%) of annually budgeted expenditures, in addition to an appropriated Emergency Reserve account of two percent (2%) of annually budgeted expenditures. It is recognized that Council may still adopt an annual budget in compliance with the Oklahoma Municipal Budget Act if the Operating Reserve and the Emergency Reserve do not meet the reserve requirements set out herein. The City shall also have and there is hereby established a Net Revenue Stabilization Fund (to also be referred to as the "Rainy Day Fund") that may be funded from revenues in excess of budgeted revenue projections, transfer of appropriations for expenditures that are less than budgeted allocations, and/or from existing General Fund Balance. When the Operating Reserve and Emergency Reserve requirements are met, the City of Norman shall budget for and/or make transfer appropriations to the Net Revenue Stabilization Fund from the General Fund or other City of Norman governmental funds until the Fund Balance of the Net Revenue Stabilization Fund reaches an amount not less than three percent (3%) but not more than six percent (6%) of annually budgeted General Fund expenditures in the then-current budget year.

§ 2. That Article VIII, Section 8-104 of Chapter 8 of the Code of the City of Norman shall be amended to read as follows:

Sec. 8-104. Use of Appropriated Net Revenue Stabilization Fund Balances; Requirements to Maintain Net Revenue Stabilization Fund Balances.

(a) Definitions. Unless otherwise stated in this article, the terms defined in the most recently-amended Oklahoma Municipal Budget Act (11 O.S., Section 17-201 ET. Seq.) apply herein. The Net Revenue Stabilization Fund may also be known as or titled the "Rainy Day Fund" .

(b) Appropriation of Net Revenue Stabilization Fund Balances.

(1) The City Council cannot appropriate Net Revenue Stabilization ("Rainy Day") Fund Balances without the affirmative majority vote of the City Council Members.

(2) Net Revenue Stabilization Fund Balances can only be appropriated in instances in which: (i) unexpected expenses are incurred within the City of Norman General Fund due to natural or man-made disasters, as declared by the President of the United States or the Governor of Oklahoma, and the Mayor of Norman; and the General Fund Emergency Reserve appropriation has been expended or obligated for expenditure; OR (ii) the General Fund Operating Reserve is projected to be drawn down to a level below one percent (1%) of annually budgeted expenditures, due to sustained revenue fluctuations or unexpected expenditures; OR (iii) critical, non-programmed one-time capital expenditures are required for the maintenance, replacement, construction or improvement of City of Norman buildings or infrastructure.

(c) Maintenance of Net Revenue Stabilization Fund Balance. At any time that the Net Revenue Stabilization Fund Balance is below the required three percent (3%) of annually budgeted General Fund expenditure level, the Council shall take action to restore the Fund Balance to its required level within three years of the occurrence of the shortfall, and will seek to maintain the Fund at four and one-half percent (4.5%) of annually budgeted General Fund expenditures.

(d) In conjunction with the Council's required acceptance of the Comprehensive Annual Financial Report, the Finance Director shall reconcile any revenue or expenditure projections that resulted in transfers into or withdrawals from the Net Revenue Stabilization Fund with actual stated budgetary year-end results and shall, to the extent practicable, rebalance the allocations accordingly.

(e) The City Manager or her/his designee is authorized and directed to establish procedures and policies to implement this article.

* * *

§ 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

of _____, 2011.

_____
Cindy Rosenthal, Mayor

NOT ADOPTED this _____ day

of _____, 2011.

_____
Cindy Rosenthal, Mayor

ATTEST:

_____
Brenda Hall, City Clerk

O-1011-58

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AMENDING ARTICLE VIII, SECTIONS 8-103 AND 8-104 OF CHAPTER 8 OF THE CODE OF THE CITY OF NORMAN PROVIDING FOR THE ESTABLISHMENT OF GENERAL FUND OPERATING RESERVE REQUIREMENTS, ESTABLISHMENT OF GENERAL FUND EMERGENCY RESERVE REQUIREMENTS, CREATION OF A NET REVENUE STABILIZATION ("RAINY DAY") FUND, ESTABLISHING REQUIREMENTS FOR FUNDING OF THE NET REVENUE STABILIZATION FUND, ESTABLISHING RESTRICTIONS ON THE APPROPRIATION AND USE OF NET REVENUE STABILIZATION FUND BALANCES; AND PROVIDING FOR THE SEVERABILITY THEREOF.

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

§ 1. That Article VIII, Section 8-103 of Chapter 8 of the Code of the City of Norman shall be amended to read as follows:

Sec. 8-103.~~Reserved~~. Creation of Reserve Funds.

This article creates Reserve Funds for the general purposes of: ensuring the ongoing operations of the City of Norman's General Fund in times of extraordinary expenses or revenue shortfalls; addressing emergency expenditure requirements; and/or addressing unforeseen major capital facility maintenance needs. The City's General Fund shall have an unappropriated Operating Reserve Fund Balance of at least three percent (3%) of annually budgeted expenditures, in addition to an appropriated Emergency Reserve account of two percent (2%) of annually budgeted expenditures. It is recognized that Council may still adopt an annual budget in compliance with the Oklahoma Municipal Budget Act if the Operating Reserve and the Emergency Reserve do not meet the reserve requirements set out herein. The City shall also have and there is hereby established a Net Revenue Stabilization Fund (to also be referred to as the "Rainy Day Fund") that may be funded from revenues in excess of budgeted revenue projections, transfer of appropriations for expenditures that are less than budgeted allocations, and/or from existing General Fund Balance. When the Operating Reserve and Emergency Reserve requirements are met, the City of Norman shall budget for and/or make transfer appropriations to the Net Revenue Stabilization Fund from the General Fund or other City of Norman governmental funds until the Fund Balance of the Net Revenue Stabilization Fund reaches an amount not less than three percent (3%) but not more than six percent (6%) of annually budgeted General Fund expenditures in the then-current budget year.

§ 2. That Article VIII, Section 8-104 of Chapter 8 of the Code of the City of Norman shall be amended to read as follows:

Sec. 8-104. ~~Reserved.~~ Use of Appropriated Net Revenue Stabilization Fund Balances; Requirements to Maintain Net Revenue Stabilization Fund Balances.

(a) Definitions. Unless otherwise stated in this article, the terms defined in the most recently-amended Oklahoma Municipal Budget Act (11 O.S., Section 17-201 ET. Seq.) apply herein. The Net Revenue Stabilization Fund may also be known as or titled the "Rainy Day Fund".

(b) Appropriation of Net Revenue Stabilization Fund Balances.

(1) The City Council cannot appropriate Net Revenue Stabilization ("Rainy Day") Fund Balances without the affirmative majority vote of the City Council Members.

(2) Net Revenue Stabilization Fund Balances can only be appropriated in instances in which: (i) unexpected expenses are incurred within the City of Norman General Fund due to natural or man-made disasters, as declared by the President of the United States or the Governor of Oklahoma, and the Mayor of Norman; and the General Fund Emergency Reserve appropriation has been expended or obligated for expenditure; OR (ii) the General Fund Operating Reserve is projected to be drawn down to a level below one percent (1%) of annually budgeted expenditures, due to sustained revenue fluctuations or unexpected expenditures; OR (iii) critical, non-programmed one-time capital expenditures are required for the maintenance, replacement, construction or improvement of City of Norman buildings or infrastructure.

(c) Maintenance of Net Revenue Stabilization Fund Balance. At any time that the Net Revenue Stabilization Fund Balance is below the required three percent (3%) of annually budgeted General Fund expenditure level, the Council shall take action to restore the Fund Balance to its required level within three years of the occurrence of the shortfall, and will seek to maintain the Fund at four and one-half percent (4.5%) of annually budgeted General Fund expenditures.

(d) In conjunction with the Council's required acceptance of the Comprehensive Annual Financial Report, the Finance Director shall reconcile any revenue or expenditure projections that resulted in transfers into or withdrawals from the Net Revenue Stabilization Fund with actual stated budgetary year-end results and shall, to the extent practicable, rebalance the allocations accordingly.

(e) The City Manager or her/his designee is authorized and directed to establish procedures and policies to implement this article.

* * *

§ 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

of _____, 2011.

_____
Cindy Rosenthal, Mayor

ATTEST:

_____
Brenda Hall, City Clerk

NOT ADOPTED this _____ day

of _____, 2011.

_____
Cindy Rosenthal, Mayor

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

FINANCE COMMITTEE MINUTES
May 18, 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 18th day of May, 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 Al Atkins, Council Member Jim Griffith, Council Member Steve Lewis, City Manager Anthony Francisco, Finance Director Suzanne Krohmer, Budget Manager Clint Mercer, Chief Accountant Roger Gallagher, Council Member-elect Dave Spaulding, Council Member-elect Jeff Bryant, City Attorney Kent Ritchie, Major, NPD Jerry Risenhoover, Citizen Andrew Knittle, Norman Transcript

DISCUSSION REGARDING ORDINANCES ESTABLISHING OPERATING, CAPITAL, AND DEBT RESERVES

Anthony Francisco discussed and reviewed handout of the draft Ordinance.

- Codifies requirement for a 2% Emergency Reserve allocation in General Fund
- Codifies minimum General Fund balance of 3% of expenditures
- Establishes Net Revenue Stabilization Fund
- Mayor – put "Rainy Day Fund" after Net Revenue Stabilization Fund
- NR Stabilization Fund receives revenue from:
    - Excess General Fund revenue
    - Below-budget expenditure transfers
    - Existing General Fund balance
    - Transfers from other City funds
- General Fund balance requirements must be met before NR Stabilization Fund is funded
- NR Stabilization Fund balance minimum of 4% of General Fund expenditures; 4.5% target; and 6% maximum

- Super-majority vote requirements to appropriate General Fund balance (if NR Stabilization Fund balance requirements are unmet) and/or to appropriate NR Stabilization Fund balance
    - Simple majority votes are required by City Charter – 5 Council members unless a Charter change is needed/wanted
- Codifies requirements for appropriation of NR Stabilization Fund balance:
    - Extraordinary expenses due to disasters declared by President of U.S. or Mayor; OR
    - GF Operating Reserve Fund balance is projected to fall below 1% of expenditures OR
    - Extraordinary one-time or capital expenses required for maintenance, construction or improvements of City of Norman buildings or infrastructure
    - Codifies requirement to restore Net Revenue Stabilization Fund balance to at least 3% within two years of any shortfall
    - Codifies requirement to reconcile actual General Fund balance position when CAFR is accepted, and make practicable adjustments to NR Stabilization Fund balance
    - Under GASB 54, General Fund balance would probably be "Unassigned", and NR Stabilization Fund balance would probably be "Committed"
- NR Stabilization Funds – no appropriated funds, just fund balance
- GASB – "Extraordinary" definition – very rare occurrence – once every 20 years
- These 3 requirements are "permissive" in nature
- Extraordinary disaster vs. expenses
- Put "and" instead of "or" to include Mayor and add Governor
- Atkins – add "existing" City of Norman buildings
- Instead of "extraordinary" use "critical non-programmed"
- Ezzell, by proxy, - 5% revenue decline as an additional requirement
- Dillingham – if revenues decrease so many months - requirement to restore
- Cubberley wants 3 years
- Cubberley – how Emergency Reserve works in tandem with Rainy Day Fund
- Dillingham – move forward with changes
- Committee recommends a study session on Ordinance on June 1st with rest of Council

Items submitted for the record

1. Draft – Proposed Ordinance prepared by Anthony Francisco, Finance Director
2. Summary of Proposed Reserve Policy Ordinance and Financial Data prepared by Anthony Francisco, Finance Director

DISCUSSION REGARDING FUTURE USES OF PUBLIC SAFETY SALES TAX PROCEEDS

- Assign some priorities now, or after surplus declared?
- Want a 6 month set-aside of personnel expenses in case PSST not renewed

City of Norman, OK

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

Master

File Number: O-1011-53

File ID:	O-1011-53	**Type:**	Zoning Ordinance	**Status:**	Non-Consent Items
Version:	1	**Reference:**	Item No. 25	**In Control:**	City Council
Department:	Public Works Department	**Cost:**		**File Created:**	03/28/2011
File Name:	WQPZ Zoning Amendment O-1011-53			**Final Action:**	

Title: ORDINANCE NO. O-1011-53: 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 adopt or reject Ordinance No. O-1011-53 upon Second Reading section by section.

ACTION TAKEN: _____

ACTION NEEDED: Motion to adopt or reject Ordinance No. O-1011-53 upon Final Reading as a whole.

ACTION TAKEN: _____

Notes:

Agenda Date: 06/28/2011

Agenda Number: 25

Sponsors:

Enactment Date:

Attachments: O-1011-53, O-1011-53 Annotated, Exhibit A to O-1011-53, Ordinance Timeline updated April 22, 2011, WQPZ Staff Report, 4-14-11 PC Minutes-WQPZOD, April 8 PCDC Minutes, March 8 Conference minutes, February 11 PCDC Minutes

Enactment Number:

Project Manager: Bob Hanger, Storm Water Engineer

Hearing Date:

Entered by: rone.tromble@normanok.gov

Effective Date:

History of Legislative File

Ver-sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Planning Commission	04/14/2011					
1	City Council	05/10/2011	Introduced and adopted on First Reading by title only				
	Action Text:	Introduced and adopted on First Reading by title only					
1	City Council	05/10/2011					
1	City Council	05/24/2011					
1	City Council	05/31/2011	Postponed		06/28/2011		
	Action Text:	Postponed until June 28, 2011					
1	City Council	05/31/2011					
1	City Council	06/28/2011					

Text of Legislative File O-1011-53

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. 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. The ordinances were presented to Planning Commission for a vote on April 14, 2011.

Following the April Planning Commission meeting, there was an allegation that there was a deficiency in the notice for the Water Quality Protection Zoning Overlay District Ordinance that was heard by the Planning Commission in April. Although the Overlay District does not change the underlying zoning designation, Staff felt it was prudent to provide notice as if it was a zoning change to avoid any potential legal challenges based on procedural errors and to refocus discussion of these items to the policy considerations. Therefore, Planning staff asked for a Special Meeting of the Planning Commission to reconsider the ordinances with the appropriate notice being provided in accordance with our code provisions as they pertain to zoning changes. Although published and mailed notice is only required for changes to the zoning ordinance, Staff opted to give notice for both ordinances related to the Water Quality Protection Zone so that citizens potentially affected by either of the ordinances could be heard. The Planning Commission is scheduled to hold the public hearing on June 23, 2011. Minutes from the June meeting will be provided separately.

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 streamside erosion, infiltration of storm water runoff, control of sedimentation, and restoration and maintenance of the chemical, physical and biological integrity of water resources.

Discussion The ordinances before 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. The buffer is generally an area that is natural and vegetated; however, in order to address fire risk, staff worked with the Norman Fire Department to require a level of maintenance for any portion of the buffer that is within 30 feet of a combustible structure. *(O-1011-52, Section 19-514D, E).* While the ordinance calls for a drainage easement to be donated to the City for these buffers, nothing in the ordinance requires a trail or general public access to these areas. *(O-1011-52, Sections 19-411G and 19-514B).* The purpose of the easement is to allow City crews access to inspect and address and maintenance issues with the buffer and the stream itself. *(O-1011-52, Section 19-514C).*

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 steep 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 Planning Commission, several things have been incorporated to insure flexibility. First, the buffer width discussed above will be reduced for first-order stream 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 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.

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.

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 or development already completed as of the effective date of this ordinance.

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.

l. *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.

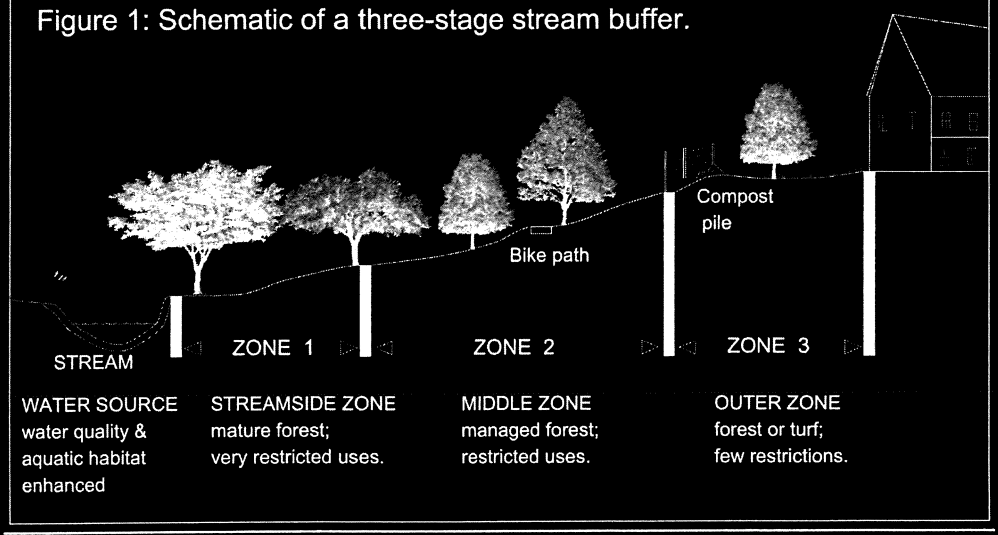
5. Three Buffer Zone System: The WQPZ shall be composed of three distinct zones on each side of the stream, with each zone having its own set of allowable uses and vegetative targets as specified herein. (See Figure 1 below)

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.

Figure 1: Schematic of a three-stage stream buffer.



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 shall 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 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 applicant 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

of _____, 2011.

_____
Cindy Rosenthal, Mayor

NOT ADOPTED this _____ day

of _____, 2011.

_____
Cindy Rosenthal, Mayor

ATTEST:

_____
Brenda Hall, City Clerk

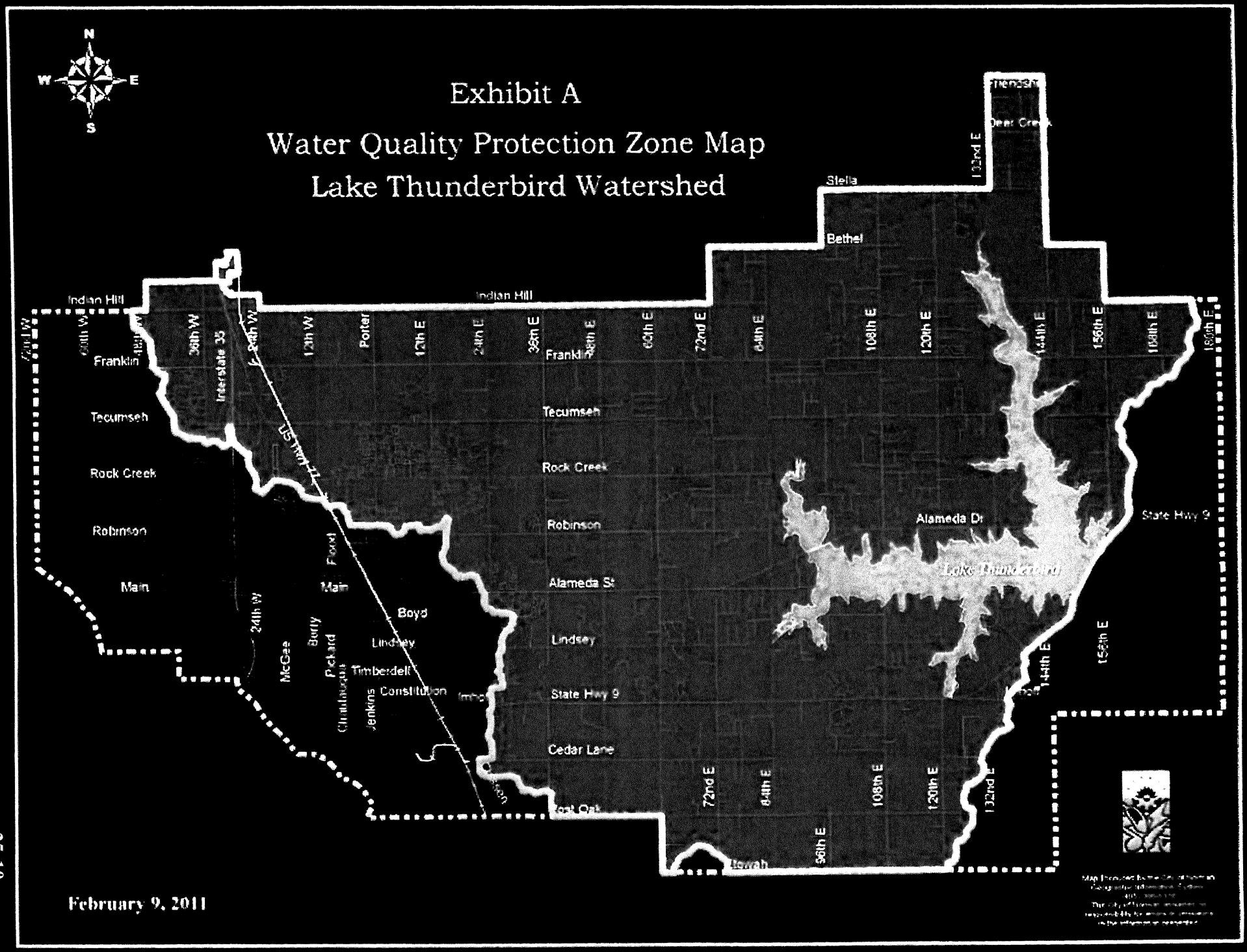


Exhibit A
Water Quality Protection Zone Map
Lake Thunderbird Watershed
N
S
E
W
Indian Hill
Franklin
Tecumseh
Rock Creek
Robinson
Main
Alameda St
Lindsey
State Hwy 9
Cedar Lane
Boyd
Timberdell
Constitution
Interstate 35
US Hwy 77
Porter
Stella
Bethel
Alameda Dr
Lake Thunderbird
36th W
24th W
12th W
12th E
24th E
36th E
48th E
60th E
72nd E
84th E
96th E
108th E
120th E
132nd E
144th E
156th E
168th E
180th E
February 9, 2011

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   d. Voluntary urban nutrient management;
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   g. Extended detention-enhanced;
   h. Retention basins;
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   j. Soaking trench;
   k. Infiltration trench;
   l. Storm water pond;
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   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;
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   f. Street sweeping;
   g. Fertilizer restrictions.

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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.

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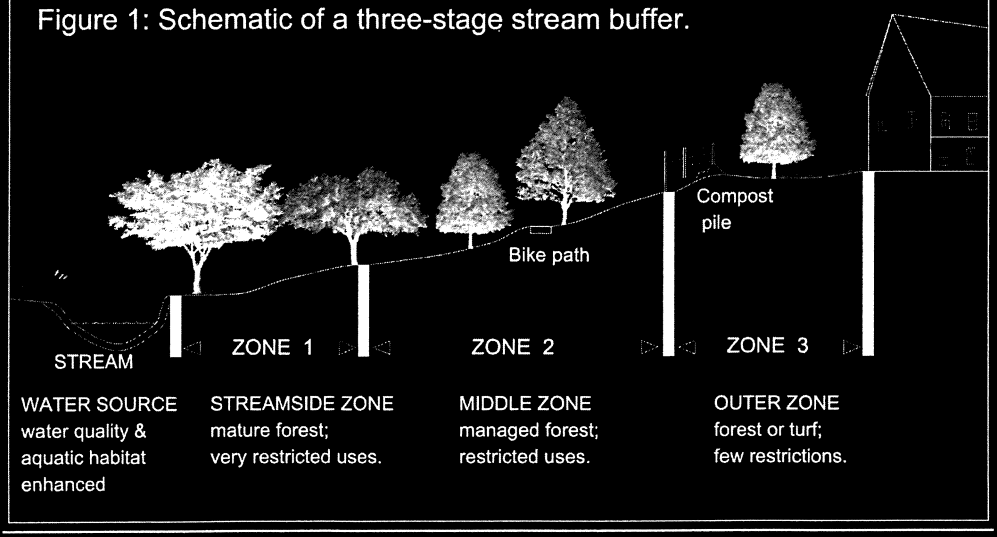
b. Zone 2, Middle Zone: The area beginning at the outer edge of Streamside Zone and extending horizontally the number of feet equal to 67% of the remainder of the distance of the designated WQPZ on that particular side of the stream.

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.

Figure 1: Schematic of a three-stage stream buffer.



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 shall 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 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 applicant 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

of _____, 2011.

_____
Cindy Rosenthal, Mayor

NOT ADOPTED this _____ day

of _____, 2011.

_____
Cindy Rosenthal, Mayor

ATTEST:

_____
Brenda Hall, City Clerk

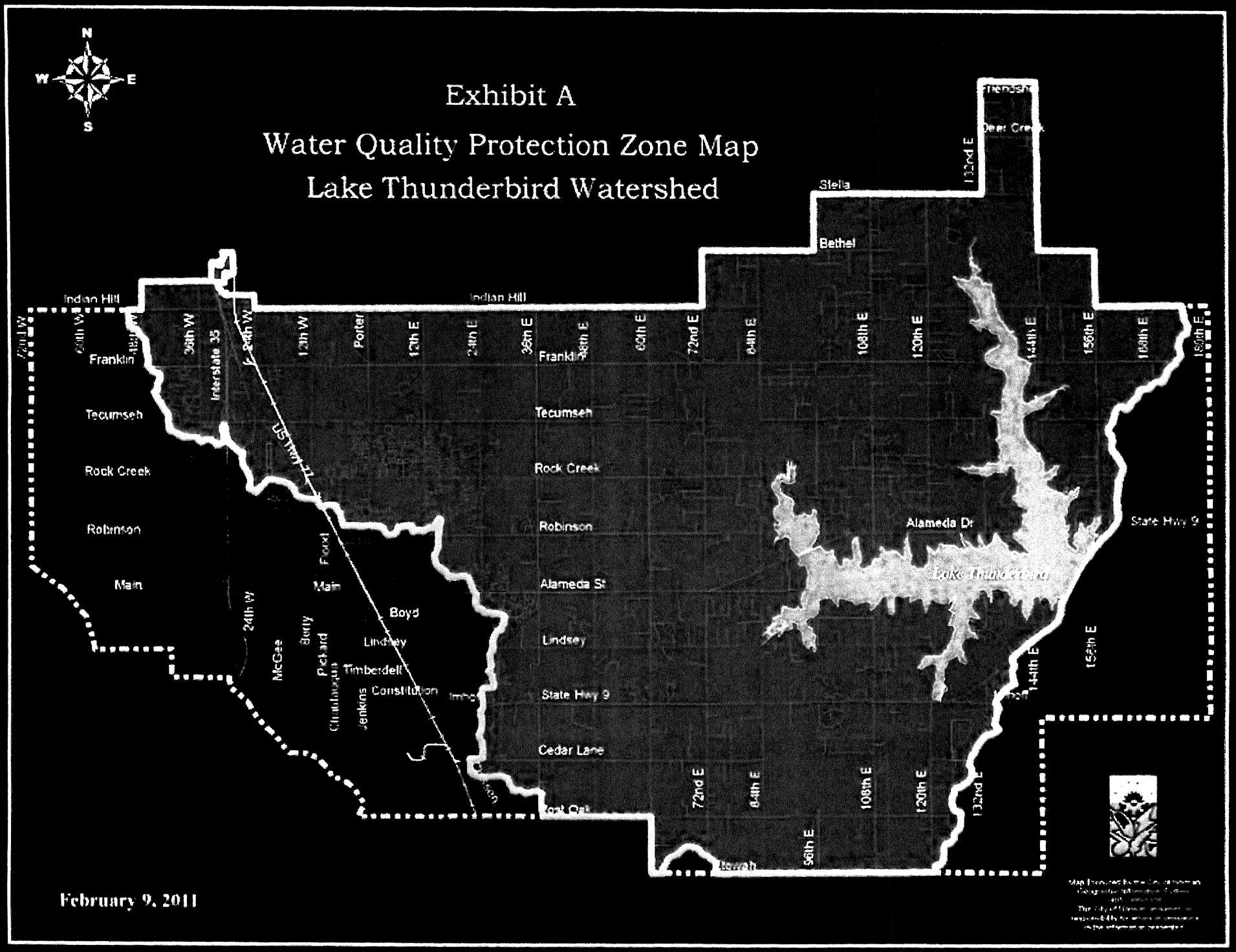


Exhibit A

Water Quality Protection Zone Map

Lake Thunderbird Watershed

February 9, 2011

TIMELINE OF WQPZ ORDINANCES (updated 4-22-11)

	Key Components	Developer Concerns
SWMP Recommendations – Final Plan Accepted by Council, Nov. 10, 2009	• Dedication of Stream Planning Corridors (Full Build-Out Floodplain), building restricted • Additional 15ft buffer for possible trails and additional filtering in Suburban Residential and Country Residential areas • Justifiable variances that would allow alternative approaches that could be shown to achieve similar water quality, flood control, and recreational opportunity • For developments that do not dedicate the SPC because of being granted a variance, the runoff capture and treatment volume requirement should be increased to 0.7 inch of runoff	• Mandatory dedication of full-build out floodplain • Mandatory dedication of 15 foot buffer, particularly if for a trail • Must have a variance process for engineered alternatives • Maintenance of SPC/buffer – POA's shouldn't be required to maintain detention ponds

Draft Ordinances presented to Task Force – Feb. 11, 2011	• Drainage easement or dedicated ROW of Water Quality Protection Zone (WQPZ)
	• WQPZ – choice (by developer) of either FEMA FP plus 100 feet OR 100 feet of any USGS blue line stream OR Full Build Out Floodplain with increases for certain slopes
	• Variation Process (Ch. 19) to WQPZ requirements
	  o Buffer averaging allowed to recover lost lots
	  o Alternate engineered solution with same effect
	  o Error in applicable WQPZ designation (for ex. FBF)
	• Variance process (Ch. 22) to use restrictions
	  o Reduction in lot size
	  o Transfer of development density
	• POA would maintain only non-structural controls i.e. non-engineered aspects of buffer
	• Explicit language that dedication of WQPZ does not grant public access to the area i.e. no mandatory trails or trail access
	• Affidavit from POA required to ensure maintenance of non-structural controls
	• Applicable to all new construction and development
		• Should only be applicable to preliminary plats, not new building permits
		• Need to be allowed to challenge FBF designation in SWMP maps
		• WQPZ definition – don't like "preferably undisturbed and natural"
		• Don't like new variation process in Ch. 19

Draft Ordinances presented to Task Force – February 21, 2011	• Base width of WQPZ – greater of either x feet in length or FBF • Language added to clarify the ordinances are only intended to affect new developments, not previously approved plats	• Concerned about prohibiting all septic systems and all parts of septic systems • Don't like the requirement of affidavits • Would prefer a line drawn for POA responsibility at beautification; City maintain everything else • Some publications recommend on-site inspection for 1st and 2nd order streams especially – the ordinance relies only on topographic maps • Should address fertilizer use • Don't like variations process or applicable factors in Ch. 19 • Storm water detention not allowed in WQPZ
Draft Ordinances presented to Task Force – March 7, 2011	• Top of Bank definition changed to include verification through site inspection • Variation process in Ch. 19 changed to more closely align with existing considerations; removed language about process, burden and term of variation	• Need to allow for in-channel detention • Shouldn't have to go through variation process when engineered solutions are adequate • Concerned about removal of FEMA floodplain plus 100 feet option for WQPZ because very little area of FP in 1st and 2nd order streams
Draft Ordinances presented to Task Force – March 21, 2011	• WQPZ base width determined by greater of x feet from top of bank, FBF, or FEMA floodplain • Increase in width due to slope simplified, less onerous • Automatic reduction in base width of WQPZ to no less than 50 feet in urban areas upon showing engineered solution will achieve 75% reduction in nitrogen and 58% reduction in phosphorus • Variation still required for reduction in width in non-urban areas or for reduction to less than 50 feet • In channel detention ponds allowed in WQPZ • Storm water detention no longer prohibited in WQPZ	• Would like aerobic septic systems (sprinklers) to hit zone 3 of WQPZ • Don't like 100 foot buffer approach • Pollutant removal goal may not be applicable in urban areas • Buffer definition does not say how to maintain ** Heiple Ordinance Presented to Task Force • Enhanced BMP definition • Applicable only in Little River Watershed • Mandatory Buffer – 10 feet either side of intermittent stream; 20 feet either side of perennial streams • No full build consideration • Allowance for relaxing City standards for subdivision to allow for LID strategies • Pollutant Removal Efficiencies table from EPA • Based on assumption that 85% of pollutants are found in the first flush

Draft Ordinances Dated March 31, 2011	• WQPZ base width determined by greater of 100 feet from top of bank, FBF or FEMA floodplain • Automatic reduction for first-order streams to no less than 50 ft (never less than FBF) if other method achieves 75% reduction in nitrogen and 58% reduction in phosphorus • Removed affidavit requirement • Incorporated Heiple "buffer" definition • Incorporated Heiple language for relaxing City standards to allow for LID strategies • Added reference to Pollutant Removal Efficiencies from SWMP (EPA table tailored to Norman) • Septic system spray heads may spray into Zone 3 of WQPZ • Added language to provide clarity that engineered solutions may suffice for buffer • Language added to provide maintenance goals for buffer depending on zone • Reference to LID manual	• Willing to agree to 25 foot buffer from top of bank • Perceived as a back door to trails/greenbelt • Don't like the variations process in 19-601(B) being decided by Public Works director • Don't want pollutant removal success measured by looking at how bad upstream properties are • 19-601(B)(1)(e) – would not allow stream restoration projects • Ordinance should encourage low impact development • Want language that deals with those preliminary plats that expire and large amounts of money/infrastructure have already been constructed – not fair to apply new regulations • Don't like reference to Pollutant Removal Efficiencies from SWMP in 19-411(D)
Draft Ordinances Dated April 4, 2011 (PC Study Session)	• Added more explicit language to 19-514(B) to make it clear that this ordinance should not be interpreted as a mandate for a public trail system • Variation process in 19-601(B) modified to allow appeal from Public Works Director to City Council • Changed language in 19-601(B)(1)(e) to allow variations that result in disruption to natural terrain for stream restoration purposes • Added statement to 19-411(H) that explicitly encourages utilization of low impact development strategies	
Draft Ordinances Dated April 12, 2011 (PC Meeting)	• Changed reference in 19-411(D) from SWMP Pollutant Removal Efficiencies to ISWM Pollutant Removal Efficiencies (more current)	• Buffers are not effective in the traditional curb and gutter development • Ordinance will not improve drainage control coming off of houses • Fire risk

Draft Ordinances Dated April 22, 2011	• Modified language for reduction of fire risk to key it combustible structures • Added definition of combustible structures • Added language in variation process to allow for a variation from the requirements for expired preliminary plats where infrastructure was constructed in last 5 years under a previously approved plat.	• Best Management Practice definition felt by some task force members to be too specific; Heiple desires specificity • 19-514(B) – the language should be more direct • Need definition of Low Impact Development • Concerned about setback of 500 feet for raised septic system – uncertainty as to what a raised septic system is, setback too far for a typical septic system • Would like it to be a right, not a variation, that an expired preliminary plat for which any infrastructure was put in, would not have to comply with ordinances • Variation process needs to be clarified re: applicability of the minimum pollutant removal percentages
Ordinances for Council Agenda	• Changed Best Management Practices definition to include specifics related to both non-structural controls and structural controls • Changed 19-514(B) to be directly say that dedication of WQPZ to City does not convey a right of public access and is not a public trail unless stated explicitly in the granting document • Added definition of low impact development (combined portions of EPA and Low Impact Development Center definitions) • Added definitions for "raised septic system" and "raised mound septic system" to ensure 500 foot setback would not be incorrectly applied to a typical system but instead would apply to a alternative system (DEQ term). • Clarified language in 19-601(B) to ensure same standard of pollutant removal is applied	

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.[1]

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 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.[2] 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.

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[1] Thomas R. Schueler, The Architecture of Urban Stream Buffers, Watershed Protection Techniques, Volume 1, No. 4, Summer 1995, pg. 155-163.
[2] Office of Ocean and Coastal Resource Management, Vegetated Riparian Buffers and Buffer Ordinances.

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. Pailes 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 recommunicated 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 24th. 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 24th 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 24th 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 feet 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-til 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 21st century would not even be recognizable to a man that worked in a sewage plant of the early 20th 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 48th 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 it he 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 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.

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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

Support

June 14, 2011

City of Norman
201 West Gray Bldg A
Norman OK 73069

Re: Ordinances 0-1011-52 WQPZ
0-1011-53 WQPZ

To Whom It May Concern,

I live in the proposed district of the above ordinances, and am very much IN FAVOR of protecting our water quality. This should have been done years ago, as it has been proven our water is one of the worst in the metro area. I hope the city will pass this and ADHERE to it. I am hoping this is not lip service only as some other passages have been in the past.

Good quality water is necessary to maintain life for humans as well as animals and plant life. I hope that the City has enough initiative to take this action seriously and find ways to make our water safe.

Sincerely,

Marguerite Huey Larson
1432 Huron
Norman OK 73071

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-15-11 9M

25-67

From: Michael Jones
To: Norman City Council
Subject: Proposed WQPZ Zoning Overlay District
Date: **6/17/11**

"Dear Norman City Council, Please accept this letter as my notice to protest the proposed WQPZ Zoning Overlay District that is going to overlay onto my private property. As a citizen of our wonderful Norman community, I appreciate very much my City working towards solutions for a clean long term water supply and hope that you will continue to do so. However, please consider that I do not agree with this particular harsh method of declaring a new and widely expanded flood plain across many private properties in Norman.

The proposed WQPZ floodplain overlay district will negatively affect my property value. In the event that I ever sell my property, or try to obtain financing on it, I will have to disclose that my property is in the WQPZ Zoning Overlay District, and then will have to determine if the new floodplain covers my property, and if so, where the extent of the new floodplain is on my property. The notice I received from the City states that my zoning will not change, however, I understand that the proposed zoning ordinance would severely prohibit virtually all uses on the areas of newly declared flood plain, such as prohibiting buildings, accessory buildings, pavement, driving of vehicles across it (unless emergency or maintenance), clearing of vegetation, and the like. I object to these restrictions against my property to the extent they cover my property.

I understand there are many other effective solutions to address water quality and solutions that would engage all of Norman in this effort. I encourage the City to please explore those before the City takes the extraordinary step to condemn a new expanded flood plain across vast numbers of specific private properties.

Michael Jones
2920 Summit Hill Road
Norman. Oklahoma 73069

Michael Jones

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-17-11

June 16, 2011

The City of Norman
201 West Gray, Bldg. A
Norman, OK 73069-73070

To Whom It May Concern:

We are writing to protest the proposed amendment to Chapter 22, (Zoning Ordinance) to create a Zoning Overlay District for the Water Quality Protection Zone.

We have land on 24th Ave. N.W. and Indian Hill Road that has been in the family since the Land Run. This land was passed down from our great-grandfather, to our grandmother, to our mother and now the current generation. We have 2 more generations to pass down this land to.

Not too many years ago, you required us to move our fence on Indian Hill Road in order to straighten out the road. We did so, but are still paying taxes on the land you took from us and you have yet to do the work we were forced to give up our land for.

The new Zoning Ordinance quotes that we will retain title to our property but yet we have to allow city workers access to our land. It also states that we would not be able to use this part of our property for construction or feedlots. The proposed footage will take up a good deal of our back yard area that we use to store our equipment. We live in an agriculture area, we should be able to do what we want with our own property with no restrictions.

This ordinance, if it allows trees to be cut down along the banks, will cause a serious erosion problem.

Our land is all behind fences and locked gates. We have the gates for the purpose of keeping people off the land and to protect our property. We do not allow hunting, fishing or trapping on any part of our property. In this zoning ordinance we would be required to allow the City of Norman workers on our land and that leaves our land unprotected when we have to have open gates.

Once again, I state that we are opposed to this proposed amendment.

Sincerely,

Billie Ray and Glynda Baird

Billie Ray and Glynda Baird

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6/17/11

June 16, 2011

The City of Norman
201 West Gray, Bldg. A
Norman, OK 73069-73070

To Whom It May Concern:

We are writing to protest the proposed amendment to Chapter 22, (Zoning Ordinance) to create a Zoning Overlay District for the Water Quality Protection Zone.

We have land on 24th Ave. N.W. and Indian Hill Road that has been in the family since the Land Run. This land was passed down from our great-grandfather, to our grandmother, to our mother and now the current generation. We have 2 more generations to pass down this land to.

Not too many years ago, you required us to move our fence on Indian Hill Road in order to straighten out the road. We did so, but are still paying taxes on the land you took from us and you have yet to do the work we were forced to give up our land for.

The new Zoning Ordinance quotes that we will retain title to our property but yet we have to allow city workers access to our land. It also states that we would not be able to use this part of our property for construction or feedlots. The proposed footage will take up a good deal of our back yard area that we use to store our equipment. We live in an agriculture area, we should be able to do what we want with our own property with no restrictions.

This ordinance, if it allows trees to be cut down along the banks, will cause a serious erosion problem.

Our land is all behind fences and locked gates. We have the gates for the purpose of keeping people off the land and to protect our property. We do not allow hunting, fishing or trapping on any part of our property. In this zoning ordinance we would be required to allow the City of Norman workers on our land and that leaves our land unprotected when we have to have open gates.

Once again, I state that we are opposed to this proposed amendment.

Sincerely,

Ronald and Doris Kay Jackson-McKinney-Stevens

Ronald and Doris Kay Jackson-McKinney-Stevens

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6/17/11

Justin Beddo

3823 NW Pioneer Street• Norman, OK 73072• Phone: 405.217.9198

Date: June 15, 2011

Planning and Community Development Department
210 West Grey, Bldg. A
P.O. Box 370
Norman, OK 73069 73070

Dear Sir or Madam:

I, the undersigned resident of Marlatt Addition (Lot 15, Block 3) and investment owner (Lot 2 Block 7) do certify and enter a written protest against city ordinances 0-1011-52 and 0-1011-53. I would like to see the ordinances specifically say these changes are grandfathered and will not effect any residents/ property owners with final plats in any way including lot line adjustments or changes. I have experienced the city's attempted land grab first hand after having city criminal charges filed against me for refusing to clean out a creek. The incident cost me and two other property owners $5,000 each to hire an engineer and attorney plus $500.00 to post bond. The city offered to drop the charges in exchange for easement of the creek on the west side of my property. The creek wasn't the problem, it was the city's culverts under the road and after they were replaced the drainage issue was solved.

Ordinance 0-1011-52 specifically states: Sec. 19-411 Water Quality Protection Standards ; 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. I. Water Pollution Hazards 3 Drainfields from onsite sewage disposal and treatment systems (i.e., septic systems) must be setback 200ft from any stream or waterbody. 4. Raised septic systems and raised mound septic systems must be setback 500ft from any stream or waterbody.

In addition, Ordinance 0-1011-53 specifically defines buffer zones and what cannot be located in the buffer zones including septic systems. I would like both proposed ordinances to state existing septic systems do not apply.

Sincerely,

Justin Beddo
Resident and Investment Owner

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-17-11

June 7, 2011

Planning Commission,City of Norman
c/o City Clerk, City of Norman
201 West Gray,
Norman, OK 73070

Members of Planning Commission:

This is written to protest the zoning ordinances amendment and subdivision ordinance amendments :
(0-1011-52 WQPZ Subdivision Regulation Amendment)
(0-1011-53 WQPZ Zoning Overlay District)

These ordinances devalue private property and greatly restrict personal use of private property.

Having dealt with zoning ordinances and regulations in the building of our house I know first hand that rules ALREADY in place are onerous and a burden to development. It took 5 months to get permit to build our house.

While I am not a builder, but a Chiropractor, it is well known by builders and contractors that Norman ordinances are a major headache and a source of great difficulty as things currently stand.

These ordinances and others to follow can lead to public access to private property and increased expense to property owners.

As a Republican I am standing for less government and regulation and not more restriction to our rights.

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-17-11

Page 19 of ordinance amendment 0-1011-52 talks of reduction in nitrogen and phosphorus which lead to restriction of fertilizer for agriculture use. With the cost of fertilizer these days farmers are not going to put excessive amounts of fertilizer on. But farmers using minimum fertilizer will not stop bureaucrats responsible for implementing your rules from restricting farmers and reducing their income.

These ordinances are very detailed and still say nothing. This is an incremental step to restrict property owners rights.

I have a lot of objections to this ordinance.

Thanks for any consideration,

G Brown

Gary Brown, BA, BS, DC
100 E. Indian Hills Rd.
Norman, OK 73071
(405) 517-0121

June 16, 2011

From: Katherine A Cocks
600 Summit Park Ct.
Norman, OK 73071

To Whom It May Concern: (city clerk about WPQZ)

I recently received a letter stating that my home would come under a new water quality protection zoning overlay. The letter that was sent out contained information that honestly was not useful to me at all. It was a legal notice that I am sure you are required to do by law, but I no nothing about what it means and how it will affect my property and property values. Already we are seeing some devaluation in our homes from the economy and I do not want an ordinance approved that might cause further problems with that and trying to sell our homes. According to our homeowners association this WPQZ would cause legal headaches and require all of us to purchase flood insurance and would make it more difficult to sell our homes. Unless you can send out a notice stating the impact of this WPQZ on our homes and what it actually means and how it will be implemented I will strongly oppose this amendment and vote against anyone who votes for it.

Thanks,

Katherine A Cocks
Homeowners at above address.

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-17-11

City Clerk

201 West Gray Street

Norman, OK 73069

June 16, 2011

City Clerk:

I am writing this letter to "**PROTEST**" to the "NOTICE OF ZONING ORDINANCE AMENDMENT TO CREATE A ZONING OVERLAY DISTRICT AND SUBDIVISION ORDINANCE AMENDMENT TO PROVIDE STANDARDS AND REQUIREMENTS FOR A DESIGNATED WATER QUALITY PROTECTION ZONE". Surely, there is a better way to handle this problem. Remember, this is Norman, Oklahoma, not San Francisco.

Max A. Meek

116 Summit Bend

Norman, Oklahoma 73071

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-17-11

June 16, 2011

City of Norman
Planning Commission
201 West Gray, Bldg A
P.O. Box 370
Norman, OK 73069

Dear Planning Commission Members:

I am writing this letter to formally protest the City of Norman's approval of an amendment to Chapter 22 of the "Code of the City of Norman" to create a Zoning Overlay District in the Lake Thunderbird Watershed area.

I believe that property owners have a constitutional right to do their properties as we wish. I am very troubled by the fact that the City of Norman wishes to force upon it citizens- without their approval- this zoning overlay district without a specific plan in place. We have had no notice as to EXACTLY what will happen with this new overlay district. I strongly believe that the City of Norman government is starting to practice eminent domain at the expense of its citizens in a very large area. I also strongly believe that this will set a very bad precedent for the City and its citizens and wonder if this is just a first step to stronghold the Norman residents and drive them away and limit future growth.

I am disturbed by the fact that your letter states the "zoning overlay district will apply to all new construction and/or new development in the boundaries of the Water Quality Protection Zone." These kinds of regulations will stop/slow development of the City of Norman, slow the economy and slow the growth of revenues of our City as new residents will have no new homes in north and east Norman in which to live.

I cannot believe that the City cannot find another way of fixing Lake Thunderbird without "stealing" residents property and livelihoods from them, because I believe the City of Norman employs knowledgeable personnel that can solve problems with water quality in such a manner that it does not require this re-zoning on so many residents of the City of Norman and more than 84,600 acres of land in the City limits.

Kimberly Baxter
City of Norman resident

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-17-11

June 15, 2011

City of Norman
Planning Commission
201 West Gray, Bldg A
P.O. Box 370
Norman, OK 73069

Dear Planning Commission Members:

We are writing this letter to formally protest the City of Norman's approval of an amendment to Chapter 22 of the "Code of the City of Norman" to create a Zoning Overlay District in the Lake Thunderbird Watershed area.

We own several properties in the Lake Thunderbird Watershed and we believe that as property owners we have a constitutional right to do with our properties as we wish. We are in the cattle ranching business, have cattle on each of our properties and currently hold some of our property that our cattle graze for future home speculation for ten acre tracts. Frankly, we are disturbed by the fact that your letter states the "zoning overlay district will apply to all new construction and/or new development in the boundaries of the Water Quality Protection Zone." In addition, we are construction business owners in the City of Norman and further regulation of land usage will surely have a negative impact on the economy of Norman and growth of City of Norman revenues from lack of new homes being built in City limits.

We believe the City of Norman employs knowledgeable personnel (engineers) that can solve problems with water quality in such a manner that it does not require this re-zoning on so many residents of the City of Norman and more than 84,600 acres of land in the City limits.

Marilyn Sendelbach
Raymond Sendelbach
Raymond and Marilyn Sendelbach
Lifelong City of Norman residents

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-17-11

June 15, 2011

City of Norman
Planning Commission
201 West Gray, Bldg A
P.O. Box 370
Norman, OK 73069

Dear Planning Commission Members:

I am writing this letter to formally protest the City of Norman's approval of an amendment to Chapter 22 of the "Code of the City of Norman" to create a Zoning Overlay District in the Lake Thunderbird Watershed area.

I own several properties in the Lake Thunderbird Watershed and I believe that as property owners we have a constitutional right to do with our properties as we wish. I used to be the cattle ranching business and currently hold some of my property that for future home speculation for ten acre tracts. Frankly, I am disturbed by the fact that your letter states the "zoning overlay district will apply to all new construction and/or new development in the boundaries of the Water Quality Protection Zone."

I believe the City of Norman employs knowledgeable personnel (engineers) that can solve problems with water quality in such a manner that it does not require this re-zoning on so many residents of the City of Norman and more than 84,600 acres of land in the City limits.

Otto Hansmeyer
Lifelong City of Norman resident (99 years)

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-17-11

15 June 2011

Ms. Brenda Hall, City Clerk
City of Norman
P.O. Box 370
201 W. Gray St.
Norman, OK 73069

Dear Ms. Hall:

We are writing to register our opposition to the planned Water Quality Management Plan, specifically Ordinances O-1011-52 and O-1011-53. Our concerns are two.

First, because the definitions of a Full Build-Out Floodplain and of a Water Quality Protection Zone (each a part of the WQMP) effectively declare areas affected by the WQMP to be floodplains, the value of such property—including Summit Lakes Addition—will be affected adversely.

Second, because mortgage holders frequently require that their properties within a floodplain be insured against flooding, we Summit Lakes residents might see our premiums go up by $450 - $3500 annually. Some of us could reduce this impact by obtaining an elevation license, but doing so costs $500 - $600.

In short, the economic impact of the proposed WQMP is alarming.

We do recognize the importance of water quality. Our home is on the main lake in the Summit Lakes Addition. We love to see the varieties of waterfowl in our yard, and we enjoy watching successful anglers. Consequently we use fertilizers and weed killers sparingly. And for the same reasons the Summit Lakes Property Owners Association makes maintenance of water quality in the lakes an ongoing priority.

Lake Thunderbird must be protected, but the WQMP is problematic in that it caters to the lowest common denominator. In other words, all are punished because a few offend. We trust that the Norman City Council will find a way to protect the watershed without penalizing responsible stewards of the environment.

Thank you for your attention.

John and Carol Drayton
200 Summit Lakes Blvd.
Norman, OK 73071
(405) 360-2479

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-20-11

June 19, 2011

Dear CITY OF NORMAN,

You are being notified, that I, David Kempf, owner of deeds of lands from the State of Oklahoma in the Norman city limits, do oppose and protest the Water Quality Protection Zoning Overlay District with which you propose to encumber my land. I also oppose and protest any and all other encumberances you may propose in the future. I oppose and protest any existing encumberances you may have on my land due to ordinances adopting either the Norman 2020 Land Use Plan and the Norman 2025 Land Use Plan.

David Kempf
317 Towry Drive
Norman, OK 73069

Tel 405-360-9100

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-20-11 YM

CITY OF NORMAN
201 WEST GRAY
BUILDING A
PO BOX 370
NORMAN, OKLAHOMA 73069

GENTLEMEN:

I HAVE RECEIVED YOUR NOTICE OF ZONING ORDINANCE AMENDMENT TO CREATE A ZONING OVERLAY DISTRICT AND SUBDIVISION ORDINANCE AMENDMENT TO PROVIDE STANDARDS AND REQUIREMENTS FOR A DESIGNATED WATER QUALITY PROTECTION ZONE.

THIS LETTER IS TO REGISTER TO BOTH THE CITY COUNCIL AND ANY AND ALL ZONING AND WATER QUALITY DEPARTMENTS THAT I AM CERTAINLY **NOT IN FAVOR OF ANY ADDITIONAL ZONING OR WATER OVERLAY DISTRICTS BEING FORMED NOR IMPOSED ON PROPERTY WE OWN.**

THERE IS NOTHING TO BE GAINED BY THIS PROPOSAL AND EVERYTHING TO BE LOST BY MORE GOVERNMENT IMPOSITION INTO OUR PRIVATE PROPERTY AND WATER RIGHTS.

DO YOU NOT THINK THAT WE, AS PRIVATE OWNERS, CARE MORE ABOUT THE SURROUNDING AREA AND WATER THAN YOU AS OUR PUBLIC SERVANTS? WE HAVE MORE TO LOOSE AND MORE TO GAIN WITH ANY ACTION TAKING PLACE REGARDING OUR PROPERTY.

I DO NOT BELIEVE THAT YOUR MAIN CONCERN REGARDING THIS PROPOSAL IS IN OUR BEST INTEREST. GOVERNMENT AT ALL LEVELS -- NATIONAL, STATE, COUNTY AND LOCAL COMMUNITIES -- HAVE PROVED OVER AND OVER AGAIN THAT THEY ARE UNABLE TO RUN THEMSELVES, MUCH LESS THE LIVES AND FUTURES OF ITS CITIZENS.

I DECLARE AGAIN THAT I PROTEST THE ZONING AMENDMENT TO CREATE A ZONING OVERLAY DISTRICT AS WELL AS THE AMENDMENT TO PROVIDE STANDARDS AND REQUIREMENTS FOR A WATER QUALITY PROTECTION ZONE.

PLEASE SEE THAT MY OPINION IS EXPRESSED TO ALL DEPARTMENTS THAT HAVE ANY CONNECTION TO THESE ISSUES.

SINCERELY,

Sharon K. Winn

SHARON K. WINN, TRUSTEE
AUBRA D. BLACK REV. LIVING TRUST
18025 CIDER MILL DRIVE
WILDWOOD, MO. 63038

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-20-11 TM

Randall G. McGuire
2450 72nd Ave SE
Norman, OK 73026

City of Norman
Norman Planning Commission
201 W. Gray St.
Norman, OK 73069

To whom it may concern:

As a resident of rural east Norman I live on property that will be affected by certain provisions of the proposed Storm Water Master Plan (SWMP). After reviewing the plan documents and attending a presentation at City Hall concerning the SWMP, I can in no way support the SWMP and urge this plan not be adopted. This plan goes way too far in limiting and denying certain property rights of individual property owners. This just seems one step closer to the City of Norman implementing a plan to acquire property by use of imminent domain. Again, I urge in the strongest sense this plan not be adopted.

Sincerely,

Randall G. McGuire

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-20-11 2M

6/19/2011

City of Norman
Planning and Community Development Department

Ref: Water Quality Protection Zoning Ordinances
Ordinance 0-1011-52 WQPZ Subdivision Regulation Amendment
Ordinance 0-1011-53 WQPZ Zoning Overlay District

These ordinances should not be approved.
I talked to Bob in the Norman Planning Department last week and he assured me I would not be affected by these ordinances unless I went to develop my property that has about a mile of Rock Creek running through it. (Between 48th avenue N.E. to 60th avenue N.E.) Should I decide to develop, property affected by zoning ordinance would become worthless and that is several acres in this case. I did not hear from Bob on who would pay me fair market value for property taken due to the zoning ordinance. I had to pay fair market value for this property and I need to be given fair market value if property is taken.

Even if I leave the property in current use the ordinances will affect the value of the property because of the limitation put on property by these ordinances. These are some of the reasons that the ordinances should not be approved.

Elmer Bruehl

Elmer Bruehl
4607 East Rock Creek Road
Norman, OK 73026

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6/20/11

20 June 2011

I Rhonda J. Dean as the homeowner at 420 Baron Drive, Norman, Ok 73071, submit in writing my opposition to the Zoning Ordinance amendments:

O-1011-52 WQPZ and
O-1011-53 WQPZ

Rhonda J Dean

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-20-11

June 20, 2011

To the City council of the City of Norman and all interested parties:

Yes, indeed I protest this obvious land grab scheme by the City. It cures none of the problems it is purported to repair and creates a plethora of new ones. With the exception of Franklin Rd., there are very few flood problems on the east side of Norman. Let's fix McGee and Lindsey and 10 mile flat if we need to discuss flooding.

Why do we need a greenbelt system connecting the whole city? What part of the population will utilize this? Who is responsible for upkeep and liability on these greenbelts? Since when is it alright to just seize private property without compensation to the legal owner? And seizure is exactly what this amounts to. The landowner is deprived of the use of his property.

What about pesticide/mosquito spray on farms? Is that permitted? Will the golf courses be exempt?

What about grape vineyards, are they exempt?

What about the affected land owners who received no letter about the SWMP? Not that I feel the letter was truly informative, but it was better than nothing.

I equate the pernicious activities of the city government of late, to those of young thugs hanging out in parking lots doing drive by grabs of seemingly defenseless senior ladies purses.

June McLaughlin

2701 E. Rock Creek Rd.
Norman, OK

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-20-11 9M

June 20, 2011

To: The Planning Commission of the City of Norman

This is to inform you that I protest the planned amendment to Chapter 22 (Zoning Ordinance) and also protest the planned amendment to Chapter 19 (Subdivision Ordinance) of the Code of the City of Norman.

Water wells, septic tanks, and livestock restrictions are all personal property usage rights that will be infringed upon by these amendments. This is an agriculturally zoned property, not residential.

There is already an established and documented flood plain in this area.

The flood plain provisions mean nothing if they are not universally enforced.

I have personally been affected by the actions of a developer who built a dirt road/dam effectively changing the flow of run-off water and the entire landscape on the south side of my property. Although his road/dam soon was flooded out, the current drought highlights the problems he caused and the rainwater runoff no longer flows directly into the lake. This change in the flow of the water was brought to the attention of the City Planner when the developer began trying to rearrange the lake but no enforcement action was taken at that time or since.

Another instance of a developer being allowed to disregard the flood plain resulted in a petition which eventually forced the developer to buy several homes that he flooded.

The citizens of Norman should insist on all developers and citizens following current regulations before implementing new regulations on the pretext of water quality.

I look forward to the meeting on June 23, 2011.

Cordially,

Dana Fields

Dana Fields
405-606-5850
Fax 405-522-1298

Post-it® Fax Note 7671 | Date 6/20 | # of pages ▶ 1
To Norman Planning Commission | From Dana Fields
Co./Dept. | Co.
Phone # | Phone # 329-0107
Fax # 366-5445 | Fax # 522-1298

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-20-11 DM

Stephanie & Bryan Seldon
2909 Misty Ridge Drive
Norman, OK 73071

June. 20, 2011

To Whom It May Concern,

We would like to formally protest the Water Overlay Zoning Project. I plan on attending the future City Council Meetings to discuss this situation further. Thanks for your time.

Sincerely,

Stephanie Seldon

(405) 292-0116

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-20-11 DM

The City of Norman
201 West Gray, Bldg. A
Norman, OK 73069

Planning & Community Development Dept.
June 17th, 2011

To Whom it May Concern,

We, Marc and Naomi Brown, of 5800 72nd Avenue, would like to submit our formal opposition of the ZONING ORDINANCE AMENDMENT TO CREATE A ZONING OVERLAY DISTRICT AND SUBDIVISION ORDINANCE AMENDMENT.

Sincerely,

Marc & Naomi Brown
5800 72nd Ave. NE
Norman, OK 73026

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-20-11 PM

The City of Norman
201 West Gray, Bldg. A
Norman, OK 73069

Planning & Community Development Dept.
June 17th, 2011

To Whom it May Concern,

I, James Swaner, of 5750 72nd Avenue, would like to submit my formal opposition of the ZONING ORDINANCE AMENDMENT TO CREATE A ZONING OVERLAY DISTRICT AND SUBDIVISION ORDINANCE AMENDMENT.

Sincerely,

James Swaner
5750 72nd Ave. NE
Norman, OK 73026

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-20-11

25-89

I, The undersigned, do formally object to the proposed City of Norman Ordinances O-1011-52 and O-1011-53 for the following reasons:

- Objection: Every inhabitant of the re-zoning proposed by the ordinances was not notified by mail of the ordinances or their potential effects and boundaries
- Objection: The proposed ordinances are an affront to private property rights
- Objection: By declaring certain portions of private property to be unusable for any or all purposes and failing to provide just compensation for this, the city is, in effect, taking the land from the owner.
- Objection: The proposed ordinances are unfair in that the supposed benefits are to be enjoyed by every citizen of Norman, but only those in the Thunderbird watershed are required to pay for it.
- Objection: By forcing compliance with "engineered solutions" to stormwater drainage issues, many property owners may be driven into financial hardship
- Objection: The ordinances are unreasonable in that they are based on the 100 year flood event
- Objection: The mechanisms for funding and enforcing the ordinances were not fully explained.

- Objection:

- Objection:

- Objection:

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-20-11 GM

Signature of City of Norman Resident
Patricia E Montgomery

Date
6/19/11

Phone
447-3322

Address
2550 108th Ave NE
Norman, OK 73026

I, The undersigned, do formally object to the proposed City of Norman Ordinances O-1011-52 and O-1011-53 for the following reasons:

- Objection: Every inhabitant of the re-zoning proposed by the ordinances was not notified by mail of the ordinances or their potential effects and boundaries
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- Objection: By declaring certain portions of private property to be unusable for any or all purposes and failing to provide just compensation for this, the city is, in effect, taking the land from the owner.
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- Objection: By forcing compliance with "engineered solutions" to stormwater drainage issues, many property owners may be driven into financial hardship
- Objection: The ordinances are unreasonable in that they are based on the 100 year flood event
- Objection: The mechanisms for funding and enforcing the ordinances were not fully explained.

- Objection: The ordinances are unconstitutional and are a violation to property rights.

- Objection: People will not be able to afford to build a house on their own land. (or make improvements)

- Objection:

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-20-11 ME

Signature of City of Norman Resident Rachel McCormick

Date 6/19/11

Phone (405) 321-6270

Address 5302 N Maa Circle
Norman, OK 73026

25-91

I, The undersigned, do formally object to the proposed City of Norman Ordinances O-1011-52 and O-1011-53 for the following reasons:

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- Objection: The proposed ordinances are an affront to private property rights
- Objection: By declaring certain portions of private property to be unusable for any or all purposes and failing to provide just compensation for this, the city is, in effect, taking the land from the owner.
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- Objection: The ordinances are unreasonable in that they are based on the 100 year flood event
- Objection: The mechanisms for funding and enforcing the ordinances were not fully explained.

- Objection:

- Objection:

- Objection:

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OF THE CITY CLERK
ON 6-20-11

Signature of City of Norman Resident

Sharon L. Myers

Date

6/19/11

Phone

321-8774

Address

4610 E. Franklin Rd.

I, The undersigned, do formally object to the proposed City of Norman Ordinances O-1011-52 and O-1011-53 for the following reasons:

- Objection: Every inhabitant of the re-zoning proposed by the ordinances was not notified by mail of the ordinances or their potential effects and boundaries
- Objection: The proposed ordinances are an affront to private property rights
- Objection: By declaring certain portions of private property to be unusable for any or all purposes and failing to provide just compensation for this, the city is, in effect, taking the land from the owner.
- Objection: The proposed ordinances are unfair in that the supposed benefits are to be enjoyed by every citizen of Norman, but only those in the Thunderbird watershed are required to pay for it.
- Objection: By forcing compliance with "engineered solutions" to stormwater drainage issues, many property owners may be driven into financial hardship
- Objection: The ordinances are unreasonable in that they are based on the 100 year flood event
- Objection: The mechanisms for funding and enforcing the ordinances were not fully explained.

- Objection:

- Objection:

- Objection:

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-20-11 mc

Ashley M. Hughes
Signature of City of Norman Resident

06-20-2011
Date

9610 N. Moa Circle
Norman, Okla. 73026
Address

405-360-1772
Phone

Norman Plywood, Inc.
Ronald Baker
P.O. Box 1688
Norman, OK 73070

June 19, 2011

City of Norman
P.O. Box 370
Norman, OK 73070

Dear City Council Members and City Officials:

I protest the passage of the two zoning ordinances that are being proposed by the City Council, to rezone the east side of Norman (Ordinance O-1011-52 WQPZ and Ordinance O-1011-53 WQPZ). These ordinances represent an unfair burden on the Norman citizens in general since it does not address the other communities in the Lake Thunderbird watershed, which contribute more pollutants than Norman does. These ordinances also represent an unfair burden on the Norman citizens in East Norman since no ordinance is being suggested that would limit the activities of West Norman with respect to storm water runoff, i.e. use of herbicides, fertilizers, and pesticides within the city center. Any ordinance that unfairly burdens the citizens to the benefit of other Norman citizens and also other communities is basically unfair.

It is unclear just what the zoning plan is supposed to accomplish. It is ostensibly being enacted to support the Storm Water Master Plan (SWMP), but it is unclear as to what problem the SWMP addresses. Is it the water quality of Lake Thunderbird, street flooding in various parts of the central community, or establishing greenbelt areas in East Norman? Or it is all three? The SWMP does not address any of these issues well and should be re-accomplished before the city goes to the draconian step of implementing a sweeping zoning change without a clear objective.

Because of this lack of clarity, the ordinances also represent an impermissible taking of personal property rights by the city. A close reading of the present SWMP, dated October 2009, shows a financial budget of approximately $9M-$10M per year to implement the plan. According to the financial analysis of the SWMP, there is a line item for "trail construction" of approximately $1.2M/year. It is arguable that the city has the right to prevent citizens from various legal uses of their land and to take away these rights for the city, but to then allow the city a proactive use of those rights for their own purposes, e.g. to build hiking and biking trails, goes beyond the powers of the city. This interferes with our property rights and individual constitutional rights. This impermissible taking of property rights will result in a number of lawsuits and expense to the city in asserting this assumption of property rights. These zoning ordinances, in following the recommendations listed in the SWMP, seem to be directed towards setting up a network of hiking and biking trails in east Norman. It might be more advisable to put these measures to a vote of the people, in order to gauge the level of interest in, say,

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OF THE CITY CLERK
ON 6/20/11

establishing trails for the purpose of getting from one point in the city to another instead of strictly recreational use.

The zoning ordinances should be held in abeyance until other, less stringent measures have been investigated. After studying the SWMP, we cannot find if any of these less stringent measures have been considered. It is similar to finding that the cigarette lighter of your car is defective and then deciding to buy a new car because of it. Enacting these zoning ordinances takes the most drastic step possible without examining the alternatives. No other alternative to stringent zoning measures seems to have been examined. A number of such alternatives come to mind, such as, for example:

- educating landowners as to proper fertilization and herbicide practices;
- controlling the times that pesticides and herbicides can be used, much like the permits for burn days are controlled by the city;
- offering incentives for landowners to voluntarily build detention ponds on their property to capture runoff water;
- requiring landowners to offer the city a first option to purchase on a prorated basis land affected by the zoning ordinances at the same price that an arm's length buyer offers for the land;
- measuring runoff pollutants (nitrogen, phosphorous) in order to charge offending landowners for the actual point pollution that they may be contributing; and so on.

Another suggestion that doesn't seem to have been investigated is, instead of a draconian zoning ordinance, to use the monies being budgeted for the SWMP to build a lake water purification plant in order to fix the pollution problem at the end point rather than at the beginning. Such a solution would be less expensive than operating 10 years at the budget suggested in the SWMP. It could be funded by a general obligation bond issue like the current plan requires, but the bonds could be allocated by some means to all the contributors to the Lake Thunderbird water problem. There are numerous processes that can be used to clean up lake water.

The zoning ordinances represent an overbroad restriction of activities on the affected land area. The prohibition of using pesticides is of particular concern, since it represents a public health hazard. The spread of diseases by ticks has been known for some time, but with the increase of the deer population in East Norman, the growth of the tick population, and the presence of various diseases in the tick population (i.e. Lyme Disease, Rocky Mountain Spotted Fever, Babesiosis, Ehrlichiosis, Micoplasm Fermentins, Tularemia, Bartonella, Encephalitis, and the like) have necessitated the use of pesticides to keep the tick population in check. To prevent the responsible use of pesticides to control ticks could possibly contribute to a future health problem for the city of Norman.

The prohibition of activities on the zoned lands has not been thoroughly thought through and can lead to many unforeseen consequences. For example, there are numerous

invasive plant species, e.g. the Western Red Cedar, that are encroaching upon our Norman land area. Many areas are blanketed with the tree to the point where nothing else will grow under or around them. This is because they absorb all the water that falls on their area and prevent it from nourishing the plants under it, as well as shade the ground from sunlight. Without the foliage to hold the soil, erosion running through an area blanketed with red cedar will take away the topsoil, cause silting of our waterways, and result in the need for more frequent dredging of the lake so that it remains a viable reservoir. Selective removal of red cedar would seem to be desirable, but the zoning ordinance would prevent such activities. Furthermore, there are other invasive species that take over large areas, and compete with and replace native plant life. One such species is Ceresa Lespedeza. This legume was imported in the 30's to prevent soil erosion and to provide cattle with forage. However, it has spread unchecked; rapidly replacing native plants, and does not contribute appreciably to the landscape. It can be killed by spraying with herbicides or mowing before it has had a chance to produce seed in late June, but without such controls, it will take over an area. I am aware of other such non-native plants that are similarly invasive. A prohibition on the use of herbicides and other removal methods for such plants could result in a seriously adverse affect on the native habitat.

The zoning ordinances will prevent the proactive use of a number of activities that might otherwise mitigate the runoff problem, e.g. planning of water-loving trees such as pecans, terracing, dam building to capture runoff water for personal use, mowing brush to remove wildfire dangers, etc. All these activities would be performed by the landowner at his/her own expense for his/her own benefit and would also contribute to the cleanliness of storm water runoff. However, they will be prevented by this zoning ordinance.

The zoning ordinances will not fix the problem that they are purported to fix, namely, improvement of the quality of Lake Thunderbird water. Norman, both east and west, contributes less than fifty percent of the runoff into the lake, with the remainder coming from other communities in the watershed such as Moore, Del City, and Oklahoma City. The zoning of the Norman areas will not fix the problem since these other communities will continue to contribute their share to the lake water.

The amount of pollution has not been assigned to any point source, but has been extensively modeled for only the Norman contributions. Thus it has not been established that any Norman area is responsible for any portion of the lake water pollution; this is at present only an assumption based on modeling and the experiences in other communities, so Norman "must" be contributing something. However, this has not been established in quantifiable numbers based upon actual measurement. Therefore these zoning ordinances are being set up without any positive connection to actual pollution, only a theoretical value. A better solution would be to measure actual contributions and penalize those responsible. Until that occurs, an expansive zoning solution is unwarranted.

In conclusion, it is apparent that the two zoning ordinances that are being proposed for a vote of the Norman City Council have not been thoroughly investigated by the planning commission. While the SWMP has been out since October, 2009, it was not widely known by the citizens until recently when approval has been requested. The planning commission has not done a good enough job in obtaining a buy-in by Norman citizens.

Furthermore, three council members who will be leaving office in July will be voting on these measures, but these departing council members will not have to live with the consequences of their vote or be held accountable. At a minimum, the vote should at least be delayed until their replacements take office and study the problem. Having a fresh set of eyes to look at the situation can often prove to be beneficial and there is not good reason why this should not happen.

The charge has been made that it is only the "greedy developers" who object to these ordinances for their own profit motive. A vast majority of the people living in East Norman are private citizens who don't want to have their property rights encumbered in this manner. This "greedy developer" objection is just a red herring on the part of those favoring the ordinance. The city can control development in other ways if they want to, e.g. granting permits and approving plats, without going to the extreme solution of zoning the entire east side.

Therefore, I respectfully request that these zoning ordinances be postponed until other, less invasive alternatives be considered and evaluated for feasibility.

Sincerely,

Ronald Baker
President of Norman Plywood, Inc.
Norman, Oklahoma

James and Mallory Harvey
321 84th Avenue NE
Norman, OK 73026

We protest the passage of the two zoning ordinances that are being proposed by the City Council, to rezone the east side of Norman. These ordinances represent an unfair burden on the Norman citizens in general since it does not address the other communities in the Lake Thunderbird watershed, which contribute more pollutants than Norman does. These ordinances also represent an unfair burden on the Norman citizens in East Norman since no ordinance is being suggested that would limit the activities of West Norman with respect to storm water runoff, i.e. use of herbicides, fertilizers, and pesticides within the city center. Any ordinance that unfairly burdens the citizens to the benefit of other Norman citizens and also other communities is basically unfair.

It is unclear just what the zoning plan is supposed to accomplish. It is ostensibly being enacted to support the Storm Water Master Plan (SWMP), but it is unclear as to what problem the SWMP addresses. Is it the water quality of Lake Thunderbird, street flooding in various parts of the central community, or establishing greenbelt areas in East Norman? Or it is all three? The SWMP does not address any of these issues well and should be reaccomplished before the city goes to the draconian step of implementing a sweeping zoning change without a clear objective.

Because of this lack of clarity, the ordinances also represent an impermissible taking of personal property rights by the city. A close reading of the present SWMP, dated October 2009, shows a financial budget of approximately $9M-$10M per year to implement the plan. According to the financial analysis of the SWMP, there is a line item for "trail construction" of approximately $1.2M/year. It is arguable that the city has the right to prevent citizens from various legal uses of their land and to take away these rights for the city, but to then allow the city a proactive use of those rights for their own purposes, e.g. to build hiking and biking trails, goes beyond the powers of the city. This impermissible taking of property rights will result in a number of lawsuits and expense to the city in asserting this assumption of property rights.

These zoning ordinances, in following the recommendations listed in the SWMP, seem to be directed towards setting up a network of hiking and biking trails in east Norman. It might be more advisable to put these measures to a vote of the people, in order to gauge the level of interest in, say, establishing trails for the purpose of getting from one point in the city to another instead of strictly recreational use.

The zoning ordinances should be held in abeyance until other, less stringent measures have been investigated. After studying the SWMP, we cannot find if any of these less stringent measures have been considered. It is similar to finding that the cigarette lighter of your car is defective and then deciding to buy a new car because of it. Enacting these zoning ordinances takes the most drastic step possible without examining the alternatives. No other alternative to stringent

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zoning measures seems to have been examined. A number of such alternatives come to mind, such as, for example:

- educating landowners as to proper fertilization and herbicide practices;
- controlling the times that pesticides and herbicides can be used, much like the permits for burn days are controlled by the city;
- offering incentives for landowners to voluntarily build detention ponds on their property to capture runoff water;
- requiring landowners to offer the city a first option to purchase on a prorated basis land affected by the zoning ordinances at the same price that an arm's length buyer offers for the land;
- measuring runoff pollutants (nitrogen, phosphorous) in order to charge offending landowners for the actual point pollution that they may be contributing; and so on.

Another suggestion that doesn't seem to have been investigated is, instead of a draconian zoning ordinance, to use the monies being budgeted for the SWMP to build a lake water purification plant in order to fix the pollution problem at the end point rather than at the beginning. Such a solution would be less expensive than operating 10 years at the budget suggested in the SWMP. It could be funded by a general obligation bond issue like the current plan requires, but the bonds could be allocated by some means to all the contributors to the Lake Thunderbird water problem. There are numerous processes that can be used to clean up lake water; a short Google search will reveal page after page of processes, projects, success stories, and so forth which bear on the problem of how to clean up water contaminated with excessive nitrogen and phosphorous.

The zoning ordinances represent an overbroad restriction of activities on the affected land area. The prohibition of using pesticides is of particular concern, since it represents a public health hazard. The spread of diseases by ticks has been known for some time, but with the increase of the deer population in East Norman, the growth of the tick population, and the presence of various diseases in the tick population (i.e. Lyme Disease, Rocky Mountain Spotted Fever, Babesiosis, Ehrlichiosis, Micoplasm Fermentins, Tularemia, Bartonella, Encephalitis, and the like) have necessitated the use of pesticides to keep the tick population in check. We live near Lake Thunderbird and contracted Lyme Disease in 2001 and 2004 from tick bites on our property. We finally were able to get rid of the problem after spending $70,000 over a two year period on medical treatment. We further have direct knowledge of at least two individuals who live within five miles of us who have contracted Lyme Disease or Rocky Mountain Fever and died. To prevent the responsible use of pesticides to control ticks could possibly contribute to a future health problem for the city of Norman.

The prohibition of activities on the zoned lands has not been thoroughly thought through and can lead to many unforeseen consequences. For example, there are numerous invasive plant species, e.g. the Western Red Cedar, that are encroaching upon our Norman land area. Many areas are blanketed with the tree to the point where nothing else will grow under or around them. This is because they absorb all the water that falls on their area and prevent it from nourishing the plants under it, as well as shade the ground from sunlight. Without the foliage to hold the soil, erosion running through an area blanketed with red cedar will take away the topsoil, cause silting of our waterways, and result in the need for more frequent dredging of the lake so that it remains a viable reservoir. Selective removal of red cedar would seem to be desirable, but the zoning ordinance would prevent such activities. Furthermore, there are other invasive species that take over large areas, and compete with and replace native plant life. One such species is Ceresa Lespedeza. This legume was imported in the 30's to prevent soil erosion and to provide cattle with forage. However, it has spread unchecked; rapidly replacing native plants, and does not contribute appreciably to the landscape. It can be killed by spraying with herbicides or mowing before it has had a chance to produce seed in late June, but without such controls, it will take over an area. I am aware of other such non-native plants that are similarly invasive. A prohibition on the use of herbicides and other removal methods for such plants could result in a seriously adverse affect on the native habitat.

The zoning ordinances will prevent the proactive use of a number of activities that might otherwise mitigate the runoff problem, e.g. planning of water-loving trees such as pecans, terracing, dam building to capture runoff water for personal use, mowing brush to remove wildfire dangers, etc. All these activities would be performed by the landowner at his/her own expense for his/her own benefit and would also contribute to the cleanliness of storm water runoff. However, they will be prevented by this zoning ordinance.

The zoning ordinances will not fix the problem that they are purported to fix, namely, improvement of the quality of Lake Thunderbird water. Norman, both east and west, contributes less than fifty percent of the runoff into the lake, with the remainder coming from other communities in the watershed such as Moore, Del City, and Oklahoma City. The zoning of the Norman areas will not fix the problem since these other communities will continue to contribute their share to the lake water.

The amount of pollution has not been assigned to any point source, but has been extensively modeled for only the Norman contributions. Thus it has not been established that any Norman area is responsible for any portion of the lake water pollution; this is at present only an assumption based on modeling and the experiences in other communities, so Norman "must" be contributing something. However, this has not been established in quantifiable numbers based upon actual measurement. Therefore these zoning ordinances are being set up without any positive connection to actual pollution, only a theoretical value. A better solution would be to measure actual contributions and penalize those responsible. Until that occurs, an expansive zoning solution is unwarranted.

In conclusion, it is apparent that the two zoning ordinances that are being proposed for a vote of the Norman City Council have not been thoroughly investigated by the planning commission. While the SWMP has been out since October, 2009, it was not widely known by the citizens until recently when approval has been requested. The planning commission has not done a good enough job in obtaining a buy-in by Norman citizens. Furthermore, three council members who will be leaving office in July will be voting on these measures, but these departing council members will not have to live with the consequences of their vote or be held accountable. At a minimum, the vote should at least be delayed until their replacements take office and study the problem. Having a fresh set of eyes to look at the situation can often prove to be beneficial and there is not good reason why this should not happen.

The charge has been made that it is only the "greedy developers" who object to these ordinances for their own profit motive. A vast majority of the people living in East Norman are private citizens who don't want to have their property rights encumbered in this manner. This "greedy developer" objection is just a red herring on the part of those favoring the ordinance. The city can control development in other ways if they want to, e.g. granting permits and approving plats, without going to the extreme solution of zoning the entire east side.

Therefore, we would respectfully request that these zoning ordinances be postponed until other, less invasive alternatives be considered and evaluated for feasibility.

Sincerely,

James F. Harvey

Mallory R. Harvey

James F. Harvey

Mallory R. Harvey

June 20, 2011

To: The City of Norman

RE: Proposed Water Quality Protection Zoning Overlay District

I, my sister, my two children and my sister's son, own 298 acres in the area included on your map. It is located in the area of Rock Creek Road and 36th Avenue NE.

I moved to this land when I was 8 years old and I am now 78 years old. My parents, my sister, and I worked like slaves trying to make a living and pay for the land. One night in 1965, after much protest, we went to bed in the country and woke up in the City of Norman. At that time, the City told us of how much "good" they were going to do for us. Shortly after that, they started talking about a lake called "Thunderbird". After much protest, and taking some of the best farmland in the county to build the lake, they then decided they would drill some new water wells on 36th Avenue. It just so happened that two were drilled on our land. The City of Norman paid a single payment to my parents of $1600.00 for both wells and the land they sit on. They pumped and continue to pump water out from under our land. The City continues to drill new wells and currently pays land owners $800.00 a month for water.

So at present, I cannot think of many good things the City of Norman has done for us. They continue to legislate how we can use the land we pay taxes on and have worked so hard for. They control how many acres we sell, what we can build, and demand a 17 foot easement in order to obtain a building permit.

If the City is concerned about the quality of water at Lake Thunderbird, then they should have bought the whole county when the lake was being constructed and prices were less expensive.

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These proposed easements are very restrictive. A portion of our farm will be inaccessible with this proposal. Are there any proposed restrictions at Little River State Park regarding boating, camping, swimming, etc?

I cannot understand why the citizens of East Norman should have to forfeit their land because the citizens of West Norman are concerned about the quality of water in Lake Thunderbird. If the quality of the water is of such great concern, my suggestion to you is to break the dam and drill more $800.00 per month water wells or being a program to recycle you waste water. If neither of these solutions is feasible, you can purchase the land in the Lake Thunderbird watershed for $20,000.00 per acre for undeveloped land, homes and other structures at market value. Then the citizens who have lived their lives and raised their families in this area can move on and leave you with your lake.

Eugene W. Hansmeyer

Eugene W. Hansmeyer

Joe B. Lawter, P.C.
Attorney-At-Law
104 West Gray St.
Norman, Oklahoma 73069

TELE: 405/321-0760 • FAX: 405/329-5949 • EMAIL: jblawter@aol.com

June 16, 2011

City of Norman
201 West Gray, Bldg. A
PO Box 370
Norman, Oklahoma 73070

RE: OBJECTION TO 0-1011-52 WQPZ SUBDIVISION REGULATION AMENDMENT and O-1011-53 WQPZ Zoning Overlay District

Dear Sir or Madame:

I represent Gene Clinkenbeard, Teresa Hamra, Debra Hoover and Lisa Lawter in regard to their objection to the proposed amendment to create a zoning overlay district and subdivision ordinance amendment to limit land use for a designated water quality protection zone. My clients are lifelong citizens of Norman and operate a farm at Franklin Rd. and East 24th Ave. in Norman.

Please accept this letter as formal notice that my clients object to the proposed amendments as being an overly broad, unreasonable and unduly burdensome on landowners within the proposed zone.

The proposed draconian restrictions on land proposed by the City are not supported by the evidence or by the law. The land use restrictions are not the best or the most efficient way to improve the quality of water for the City of Norman. In fact, the proposed water quality protection zone is a marginally effective method which will cost a few selected private citizens of Norman, hundreds of thousands of dollars to implement.

Under the proposed amendments, the costs to improve city water will not be borne equally by all citizens of Norman. It is clear, the vast majority of the cost and burden of water improvement proposed by the City of Norman would be placed on a few individual landowners in the affected zone.

The proposed restrictions would render hundreds of acres of land as unusable as farm land or as land that could be developed in the future. This would have a devastating

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effect on the value of the property of all landowners subject to the restrictions.

The proposal would effectively condemn hundreds of acres of property, without compensation of any sort to the landowner. This action would amount to the unlawful government "taking" of land from a private citizens.

My clients would request that the City act in a more responsible and reasonable manner. If the City of Norman makes the final determination that it is in the best interest of the entire community to set aside hundreds of acres of land to protect the city water supply, then the **entire community,** not just a few landowners, should bear the burden and cost of lawfully acquiring of the necessary property for the benefit of the Norman water supply.

The passage of the current proposed amendments, without any compensation, would amount to a drastic land grab by the City of Norman. It would have a devastating impact upon my clients and all landowners subjected to the water district land use restrictions. My client's property could not be effectively used to produce income. Moreover, It would drastically lower the property value for resale.

My clients and their family have used the affected land as a farm for decades. The land use was approved. Zoning was proper. The proposed amendments seeks to change that lawful use, and in effect, condemn the property without compensation. In my opinion, such an effort by the City of Norman is not proper and will not stand up to legal scrutiny.

My clients would respectfully request that the City of Norman reject the current proposed amendments to create a zoning overlay district and a designated water quality protection zone.

Sincerely,

Joe B. Lawter

JBL:dh

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OF THE CITY CLERK
ON 6/20/11

Planning Commission, City Council, City attorney: Thank you for your time and effort. However, I would like to provide input and object to the current Storm Water Management Plan and its associated ordinances. Please set the current plan and its associated ordinances aside and postpone or reevaluate presenting it to the City Council for a vote.

1) The Ordinances are vague and The Courts will likely find this plan to be "void for vagueness". An easy obvious example of vague language in the ordinances being: Stream definition: as "identified through site inspection" Such language has no objective standard and is vague. Any inspector can designate any land a "stream".
2) No data other than some modeling report indicates the buffer areas are sized correctly. While similar plans have been implemented in other regions there has been no evidence (other than a best guess modeling report) showing pollution or storm water will be reduced with this plan?
3) While there is data showing increased concentration of pollution in a "reservoir" there is no data showing ANY pollution is occurring from the lands surrounding the Norman portion of the watershed. (ALL reservoirs collect "stuff", it is their function. They will continue to collect "stuff" with or without this plan. Logic would indicate that IF pollution is occurring it is coming from large urban areas upstream. To impose this plan and ordinances with no data indicating East Norman lands created the problem is an irresponsible, arbitrary, and punitive taking, based merely on landownership. Once again illegal as there has not been show to be a substantial governmental need to take these lands (other than a best guess modeling report)
4) This is not a complete set of ordinances please complete the plan and its associated ordinances before attempting to pass a partial plan and ordinances.
5) While courts have found that zoning can be used to restrict use, the SWMP indicates that the city will not merely restricting use but will actually be taking this land for "recreational" opportunities (It says this in the plan). This will easily arise to the level of a taking. The litigation, and it loss, be

burdensome on the city. While this will not invalidate the SWMP it will require the city to begin paying for ALL the land possibly encapsulated in the SWMP areas. Are you ready to burden the taxpayers of Norman with the purchase of the East Norman lands?

6) This plan and ordnances have no mechanism to management of invasive plant species, and furthermore it prohibits the landowners from doing so. Landowners will find themselves needing to bring action forcing the city adequately to care for the land, is the city ready to pay to manage this land from plant species? If the city does manage the owners lands the SWMP will likely rise to the level of a taking and if the city doesn't manage the land the city will be creating a public hazard and responsible for injuries and crop invasion of invasive species.
7) This plan has no management of pest species. Is the city financially ready to begin managing pests such as mosquitoes and ticks, immediately? Is the city currently able to afford and accomplish such an undertaking? Is the city willing to pay medical costs if it fails to manage pests and protect its citizens from hazards the city has created?
8) The city has done a terrible job of seeking public input on this issue. (If it were a trash rate increase we would get many letters.) Many of us find this to be a dishonest abuse of power. I hope we are wrong.
9) The cost and funding of this plan is absurd. It is easy to impose your will on people when little of the money is yours and likely NONE on the land being taken is yours. Your marketing in the SWMP is pathetic, you are selling this plan like a used car salesmen. Statements in the plan such as: the impervious surface FEE costs only about $6 per month unless you want any options such as a paved driveway, an out building, or a shed those options will cost you more. Be honest - This plan costs the taxpayers 83 million dollars! Are you out of your minds! Fortunately, in Oklahoma if it walks like a duck it is likely a duck and this impervious surface FEE will be found to be an illegal tax
10) City Council: You try to say the evil developers don't want this, I notice from public records; some of you took campaign money from those developers. You come across as hypocrites that are attempting to steal

something that isn't yours. If in good conscience you vote for this you should be ashamed of yourself.

11) This is really two plans: A storm water plan and a pollution plan. It is ineffective and dishonest to attempt to address them in a single plan.

12) Planning commission: The question has been asked if you are merely minions of the City Council or are you really trying to manage storm water or pollution in a correct and effective manner. If you are attempting to do this correctly set the current plan aside, pursue more public input, use real not merely modeled data, and seek the least burdensome alternatives. The courts will likely find this plan does not currently do this.

13) It is the city attorneys' job to protect and defend the city from lawsuits. In my opinion, if the city attorney advises you to proceed with voting on this plan he is not only supporting a liberal land grab he would be giving you bad advice that would come bad to bite ANYONE running for any elected office in Norman, its wards, or its judicial districts

No one on the rural areas believes clean water is a bad thing. As a matter of fact most people in the rural areas drink well water and are far more careful than the urban residents when applying chemicals. Yet this appears to be an attack on rural property rights. This plan does not appear to be about storm water management or clean water. It is really about taking land for a greenbelt path system. Be honest. Set this plan aside and let's make one that protects all our rights while still protecting our waters.

David W. Houck, J.D.

PO Box 6521

Norman OK 73070

6-19-11

TERESA L. HAMRA

June 20, 2011

City of Norman Planning Commission
Norman, OK 73069

Dear City of Norman Planning Commission:

I am a co-owner of 240 acres at Franklin and NE 24th in Norman and I am against the proposed amendments to Chapter 22 (Zoning Ordinance) and Chapter 19 (Subdivision Ordinance).

I believe these amendments will not solve the problems with our water. A significant portion of the run-off is from outside of Norman city limits and cannot be controlled by the City of Norman. Only a portion of the run-off is from Norman. The problem will still exist if only future policies are addressed without addressing current policies. Maybe no fertilizer should be allowed by anyone in Norman. This would be fairer to all, but even this would not stop the run-off from outside of Norman.

I am also concerned that the City of Norman would consider trying to do this without any compensation to the property owners. More time and discussion is needed to be sure all are heard. I question why there is a rush to push this through before June 30th.

I am asking each planning commission member to vote against these amendments.

Sincerely,

Teresa L. Hamra

Teresa L. Hamra

506 Cherry Creek Drive, Norman, Oklahoma 73072
(405) 360-2294
thamra@cox.net

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TERESA SHEBESTER

506 Cherry Creek Drive, Norman, Oklahoma 73072
(405) 360-2294

June 20, 2011

Norman Planning Commission
Norman, OK 73069

Dear Norman Planning Commission:

I own property at 421 Mimosa Drive in Norman. I am against the proposed amendments to Chapter 22 (Zoning Ordinance) and Chapter 19 (Subdivision Ordinance).

The City of Norman should not be trying to do this without paying the property owners. Norman residents are not the only ones whose run-off feeds into our water supply. We cannot control those outside of Norman.

Why the rush without more discussion? This needs to be fair for everyone. These amendments as presented are not fair to everyone and will not solve our water problems.

Please vote against these amendments.

Sincerely,

Teresa Shebester

Teresa Shebester

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6/16/11

A note from ...

Ms Alexandra J Herzog

FILED IN THE OFFICE OF THE CITY CLERK ON 6-20-11

Dear City Council:

I hereby protest the passing of Ordinance O-1011-52 WQPZ & Ordinance O-1011-53 WQPZ.

I do not want any or part of my property in the City of Norman to be used by the city for the uses set out in the above ordinances. I want to retain Soul control of my property (unless generously compensated for) for the city's use.

I do not approve of the City of Norman's plan to use people's personal property for their purposes & yet insist the property owner continue to pay taxes on said "confiscated property".

I believe these ordinances should be put on a ballot for the citizens of Norman to vote on.

Thank you.

Alexandra Herzog

C220323

Ms Alexandra J Herzog
PO Box 5448
Norman OK 73070-5448

Donna Davenport
2908 Summit Hill Rd
Norman, OK 73071

June 16, 2011

City Of Norman Clerk
201 West Gray St.
Norman, OK 73069

Dear City Clerk:

I am writing to express my concerns regarding the forthcoming vote by our city council on the Storm Water Master Plan and Water Quality Protection Zone.

As a Realtor in this community and resident in Summit Lakes, I am vexed by the rush to pass this legislation. I am disappointed the City has not done more to educate the citizenry on what the passage of this legislation will mean to the individual homeowners. I live in the highest point in Cleveland County. If our area floods the entire Cleveland County district will be under water. I do not want to have to bear an additional cost for flood insurance when it does not make sense to have flood insurance in the first place. This can adversely impact the resale value of my property.

What appalls me the most is the fact I feel I do not understand the ramifications of Council passing this legislation. I respectfully request the vote be postponed for a time so that the City can educate the public about what this would mean to each citizen and allow public hearings to be held prior to the council voting.

I applaud the City Council's efforts to protect water quality; however, I believe we need informed citizens first and foremost. Why not take a planned approach to implementing the entire plan? Why the rush to vote this through at this moment?

I resent the government's further encroachment on my property by imposing this flood zone overlay on my property without any input from me. I don't feel the City has provided me with enough evidence, education or reasons to justify this kind of heavy handed imposition of a flood plane over a large portion of the city which affects so many residents.

Thank you for your time. I appreciate your consideration. I know this is not an easy decision. That is exactly why I think more time, effort and consideration be put forth to explore the issues and bring the public into the discussion with the experts so the citizens of this city can understand what it is that is trying to be accomplished before council votes to implement this legislation.

Yours truly,

Donna Davenport

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ON 6-20-11 GM

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OF THE CITY CLERK
ON 6/20/11

June 20, 2011

Letter of Protest

Submitted by Robyn Vrana
4100 68th Ave NE
Norman, Ok 73026

I protest the City of Norman using privately owned property for public access; ie Greenbelt trails allowing general populace access to private property as mentioned in Chapters 19 and 22 Zoning and Subdivision Ordinances.

Ordinance O-1011-52 WQPZ
Ordinance O-1011-53 WQPZ

As an American citizen, I have the right to own private property as ~~part~~ stated in the U. S. Constitution, "life, liberty, and the pursuit of happiness."

I already pay taxes to support parks in which the public can gather (and litter if they so desire). If bicyclists wish riding trails, they should pay a user fee to pay for bike lanes.

The run-off problem has been created by poor planning over time; allowing too much land covered by concrete. I am not willing to pay, nor allow my land to be trampled by people who don't honor the land nor its resources. S25-113 Vrana

Via Facsimile 366-5418

June 20, 2011

The City of Norman
201 West Gray, Bldg. A
PO Box 370
Norman, OK 73069

Re: Proposed Ordinances O-1011-52 WQPZ and O-1011-53 WQPZ

To Whom It May Concern:

This letter is to protest the proposed ordinances listed above. The proposed ordinances language is not clear with regard to its applicability to agricultural property. Specifically, it is not clear as to how the regulations for the proposed Water Quality Protection Zone will apply to existing crop and pasture land. These activities include plowing, planting crops, spraying pesticides, managing farm ponds, clearing brush, feeding livestock, and building barns or other agricultural facilities.

Additionally, I have concerns about public access being granted on property adjacent to my property, the creation of right-of-way easements on my property, and how that may affect public access or trespassing on my property.

Livestock and crop production exist within the Norman City limits and are an important part of the local economy. The proposed ordinances should be explicit with regard to how normal agricultural production practices may continue unaltered within the proposed Water Quality Protection Zone.

Thank you for your consideration in this matter.

Mike Argo

Mike Argo

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-20-11

Donna Jackson

5800 24th Avenue N. W. • Norman, OK 73069

June 20, 2011

The City of Norman
201 West Gray, Bldg. A
PO Box 370
Norman, OK 73069

Re: Proposed Ordinances O-1011-52 WQPZ and O-1011-53 WQPZ

To Whom It May Concern:

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Donna Jackson

Donna Jackson

Sent by Fax to 366-5418

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-20-11

I, The undersigned, do formally object to the proposed City of Norman Ordinances O-1011-52 and O-1011-53 for the following reasons:

- Objection: Every inhabitant of the re-zoning proposed by the ordinances was not notified by mail of the ordinances or their potential effects and boundaries
- Objection: The proposed ordinances are an affront to private property rights
- Objection: By declaring certain portions of private property to be unusable for any or all purposes and failing to provide just compensation for this, the city is, in effect, taking the land from the owner.
- Objection: The proposed ordinances are unfair in that the supposed benefits are to be enjoyed by every citizen of Norman, but only those in the Thunderbird watershed are required to pay for it.
- Objection: By forcing compliance with "engineered solutions" to stormwater drainage issues, many property owners may be driven into financial hardship
- Objection: The ordinances are unreasonable in that they are based on the 100 year flood event
- Objection: The mechanisms for funding and enforcing the ordinances were not fully explained.

- Objection: I Object to the city of Norman wanting to take away my rights without letting me (a voting citizen) vote on law that will ~~effect~~ affect me.
- Objection:

- Objection:

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-20-11 MC

Signature of City of Norman Resident

Amy McCormick

Date 06/19/11

Phone 364-1997

Address

5206 Moa Circle Norman, OK 73026

25-116

I, The undersigned, do formally object to the proposed City of Norman Ordinances O-1011-52 and O-1011-53 for the following reasons:

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- Objection:

- Objection:

- Objection:

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-30-11 TM

Signature of City of Norman Resident

Michael Myers

Date

6/19/2011

Phone

321-8714

Address

4610 E. Franklin Rd.

I, The undersigned, do formally object to the proposed City of Norman Ordinances O-1011-52 and O-1011-53 for the following reasons:

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- Objection:

- Objection:

- Objection:

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-20-11 [illegible]

Signature of City of Norman Resident

Andrew Myers

Date

6/19/2011

Phone

321-8774

Address

4610 E. Franklin Rd.

I, The undersigned, do formally object to the proposed City of Norman Ordinances O-1011-52 and O-1011-53 for the following reasons:

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- Objection:

- Objection:

- Objection:

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-20-11 DMC

Signature of City of Norman Resident

Sarah M. Myers

Date

6/19/11

Phone

321-8774

Address

4610 E. Franklin Road.
Norman, OK 73026

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- Objection: The mechanisms for funding and enforcing the ordinances were not fully explained.

- Objection: These ordinances would prevent me being able to mow my own property. I would not be able to have livestock of any kind. These are unreasonable
- Objection: and unnecessary requirements.

- Objection:

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-20-11 TM

Signature of City of Norman Resident Mark Montgomery

Date 6-18-11

Phone 447-3322

Address 2550 108th Ave NE
Norman

25-120

I, The undersigned, do formally object to the proposed City of Norman Ordinances O-1011-52 and O-1011-53 for the following reasons:

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- Objection: The mechanisms for funding and enforcing the ordinances were not fully explained.

- Objection: The broadness of the language, would enable politicians and judges too much freedom to meet personal objects at the expense of those that would be impacted.
- Objection: Norman would adversely affected aesthetically because residents would forego improvements to their property, rather than deal with the cost and time involved with compliance to these ordinances.
- Objection:

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-20-11 MC

Signature of City of Norman Resident

Joshua M Emick

Date

06/14/2011

Phone

(405) 321-6270

Address

5302 Moa Circle

25-121

I, The undersigned, do formally object to the proposed City of Norman Ordinances O-1011-52 and O-1011-53 for the following reasons:

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- Objection:

- Objection:

- Objection:

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-20-11 7PM

Signature of City of Norman Resident
Thomas L. Myers

Date
6-19-11

Phone
321-8774

Address 4610 E. Franklin Rd
Norman, OK 73026

25-122

I, The undersigned, do formally object to the proposed City of Norman Ordinances O-1011-52 and O-1011-53 for the following reasons:

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- Objection: The mechanisms for funding and enforcing the ordinances were not fully explained.

- Objection: This should be the vote of the people - not just City Council.

- Objection:

- Objection:

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-20-11 2m

Signature of City of Norman Resident
Dawn M. McCormick

Date
June 19, 2011

Phone
364-1997

Address
5906 Mea Circle
Norman, Okla. 73026

25-123

I, The undersigned, do formally object to the proposed City of Norman Ordinances O-1011-52 and O-1011-53 for the following reasons:

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- Objection: The mechanisms for funding and enforcing the ordinances were not fully explained.

- Objection: This is being done at the end of the term of several of the current City Council Members & should have been left for the incoming Council.
- Objection:

- Objection:

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6-20-11 JM

Signature of City of Norman Resident Robert M Cornwell Date 06-19-2011

Phone 405-364-1997

Address 5206 Moa Circle
Norman, OK 73026

25-124

To the City of Norman –

We protest the Zoning Overlay District amendments.

I've been to some of these meetings, and I still don't understand all of what this will mean to property owners. I don't feel I was properly notified or informed about the details of these plans. I also feel that voting on this right before our new ward leaders take their spots is a bad idea. They will be responsible for this plan, shouldn't they have a say in things?

Bobby + Christine Stevens
3801 108th AVE SE
Norman, OK. 73026

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6/20/14

Bobby Glenn Stevens
Christie D. Stevens

I protest against the water quality Protection zone project. I was not even notified by mail ~~by~~ the by the city employees. I found out second hand through a friend about what the city plans to do with land I own. Also I don't approve of the putting in wells 500 ft deep when my well is 160 ft deep. This makes me think the city plans on steeling my water and then selling down the road when I'm dry. I will have to pay to get city water put in. This project does not make sense to the people that live in this zone.

3400 Little Pond
Norman OK 73026

William J Newman III

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6/20/11

To the City of Norman –

Concerning your vague letter informing me of the Zoning Overlay District.

I protest these plans & the hastey way you plan to pass them. We deserve more information & the right to decide what happens with our property.

Dorothy M Stevens

4115 E. Cedar Ln.
Noble, OK. 73068

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6/20/14

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6/20/11

6-19-2011

I protest the Storm water master Plan & the overlay district plan.

Selina Credille

13526 Mesquite Rd.
Norman OK 73026

City of Norman, OK

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

Master

File Number: O-1011-52

File ID:	O-1011-52	**Type:**	Ordinance	**Status:**	Non-Consent Items
Version:	1	**Reference:**	Item No. 26	**In Control:**	City Council
Department:	Public Works Department	**Cost:**		**File Created:**	03/28/2011
File Name:	WQPZ SubRegs Amendment O-1011-52			**Final Action:**	

Title: 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.

ACTION NEEDED: Motion to adopt or reject Ordinance No. O-1011-52 upon Second Reading section by section.

ACTION TAKEN: _____

ACTION NEEDED: Motion to adopt or reject Ordinance No. O-1011-52 upon Final Reading as a whole.

ACTION TAKEN: _____

Notes:

Agenda Date: 06/28/2011

Agenda Number: 26

Sponsors:

Enactment Date:

Attachments: O-1011-52, O-1011-52 Annotated, O-1011-52 Timeline 5-11-11, WQPZ Staff Report from PC meeting, 4-14-11 PC Minutes-WQPZOD, April 8 PCDC Minutes, March 8 Conference minutes, February 11 PCDC Minutes

Enactment Number:

Project Manager: Bob Hanger, Storm Water Engineer

Hearing Date:

Entered by: rone.tromble@normanok.gov

Effective Date:

History of Legislative File

Ver-sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Planning Commission	04/14/2011					
1	City Council	05/10/2011	Introduced and adopted on First Reading by title only				
	Action Text:	Introduced and adopted on First Reading by title only					
1	City Council	05/10/2011					
1	City Council	05/24/2011					
1	City Council	05/31/2011	postpone	City Clerk Department	06/28/2011	06/28/2011	
	Action Text:	postpone to the City Clerk Department due back on 6/28/2011					
1	City Council	05/31/2011					
1	City Council	06/28/2011					

Text of Legislative File O-1011-52

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. 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. The ordinances were presented to Planning Commission for a vote on April 14, 2011.

Following the April Planning Commission meeting, there was an allegation that there was a deficiency in the notice for the Water Quality Protection Zoning Overlay District Ordinance that was heard by the Planning Commission in April. Although the Overlay District does not change the underlying zoning designation, Staff felt it was prudent to provide notice as if it was a zoning change to avoid any potential legal challenges based on procedural errors and to refocus discussion of these items to the policy considerations. Therefore, Planning staff asked for a Special Meeting of the Planning Commission to reconsider the ordinances with the appropriate notice being provided in accordance with our code provisions as they pertain to zoning changes. Although published and mailed notice is only required for changes to the zoning ordinance, Staff opted to give notice for both ordinances related to the Water Quality Protection Zone so that citizens potentially affected by either of the ordinances could be heard. The Planning Commission is scheduled to hold the public hearing on June 23, 2011. Minutes from the June meeting will be provided separately.

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 streamside erosion, infiltration of storm water runoff, control of sedimentation, and restoration and maintenance of the chemical, physical and biological integrity of water resources.

Discussion The ordinances before 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. The buffer is generally an area that is natural and vegetated; however, in order to address fire risk, staff worked with the Norman Fire Department to require a level of maintenance for any portion of the buffer that is within 30 feet of a combustible structure. *(O-1011-52, Section 19-514D, E).* While the ordinance calls for a drainage easement to be donated to the City for these buffers, nothing in the ordinance requires a trail or general public access to these areas. *(O-1011-52, Sections 19-411G and 19-514B).* The purpose of the easement is to allow City crews access to inspect and address and maintenance issues with the buffer and the stream itself. *(O-1011-52, Section 19-514C).*

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 steep 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 Planning Commission, several things have been incorporated to insure flexibility. First, the buffer width discussed above will be reduced for first-order stream 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 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.

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.

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.

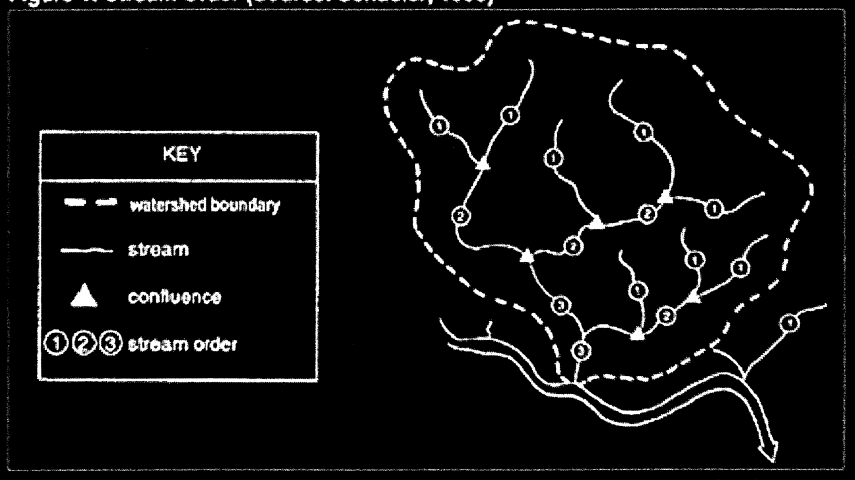
NN. *Site development plan:* A plan drawn at a scale of not less than fifty (50) feet equal one (1) inch which shows the topographic characteristics of the site not more than a one (1) foot contour interval in the urban areas and not more than two (2) feet contour intervals in the rural areas; the location 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 be 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 will 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)

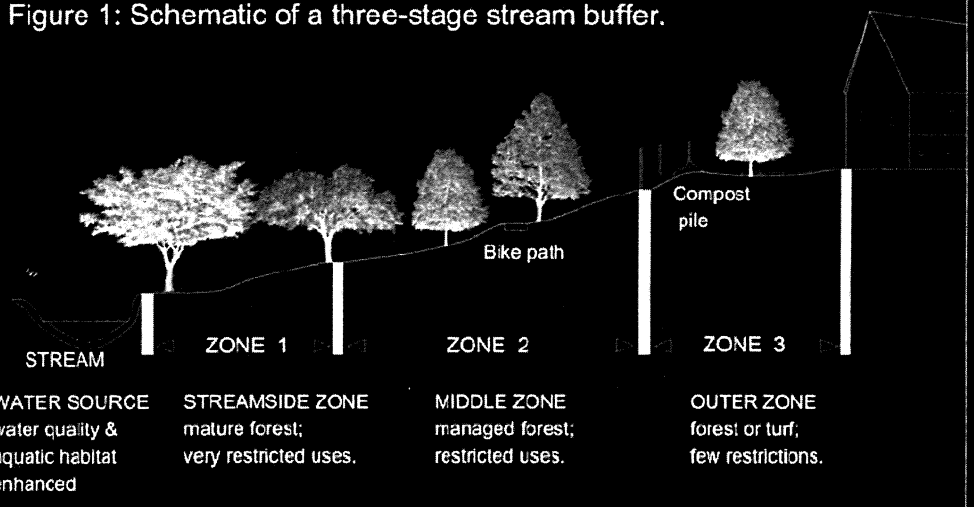
5. Solid waste landfills or junkyards—(600 feet)

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.)

Figure 1: Schematic of a three-stage stream buffer.



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 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 (regardless of the underlying zoning designation) 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 from the strict application of the WQPZ requirements herein may be granted when strict application would result in substantial hardship or inequity and when the tract to be subdivided:

   a) Is of an unusual size or shape, or

   b) Has existing storm water infrastructure that was installed in the previous five (5) years subject to a previously approved preliminary plat, or

   c) Is surrounded by development or unusual conditions not created by the subdivider.

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.

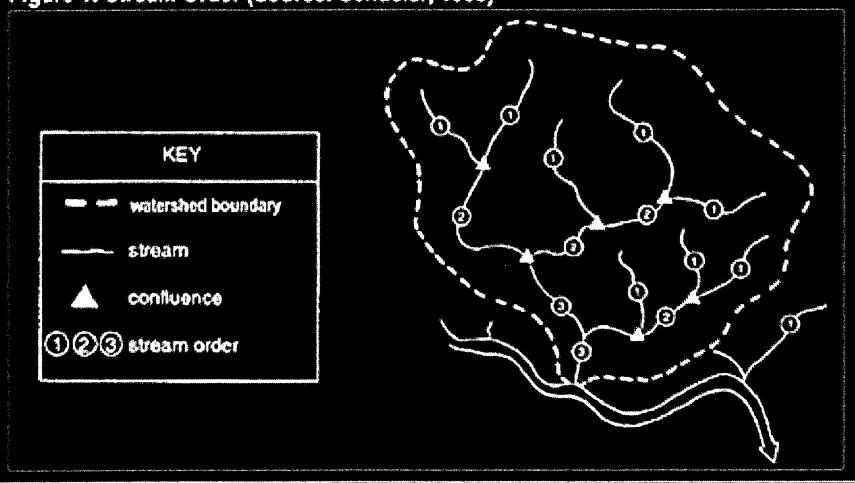
NN. *Site development plan:* A plan drawn at a scale of not less than fifty (50) feet equal one (1) inch which shows the topographic characteristics of the site not more than a one (1) foot contour interval in the urban areas and not more than two (2) feet contour intervals in the rural areas~~at a contour 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 be 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 ~~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 will 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)

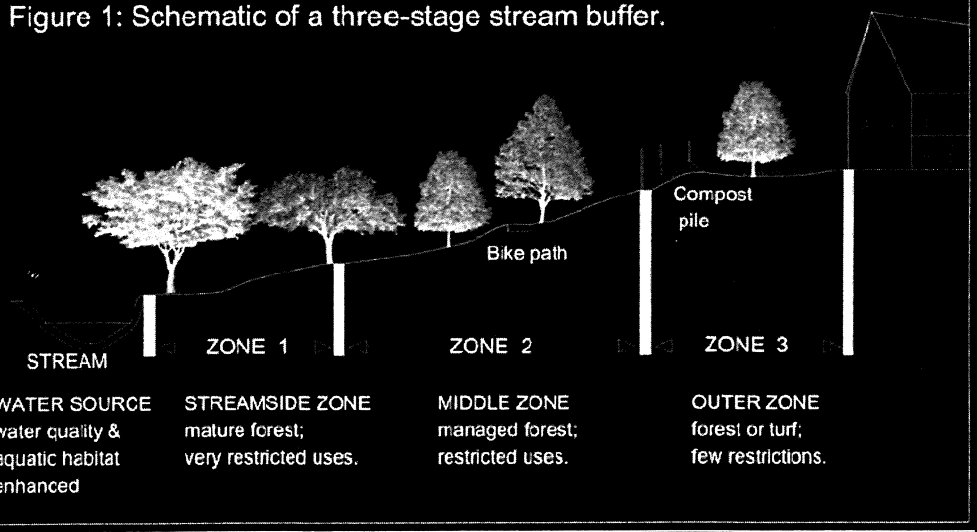
5. Solid waste landfills or junkyards—(600 feet)

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.)

Figure 1: Schematic of a three-stage stream buffer.



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 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 (regardless of the underlying zoning designation) 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 from the strict application of the WQPZ requirements herein may be granted when strict application would result in substantial hardship or inequity and when the tract to be subdivided:

   a) Is of an unusual size or shape, or

   b) Has existing storm water infrastructure that was installed in the previous five (5) years subject to a previously approved preliminary plat, or

   c) Is surrounded by development or unusual conditions not created by the subdivider.

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.

_____
Cindy Rosenthal, Mayor

NOT ADOPTED this _____ day

of _____, 2011.

_____
Cindy Rosenthal, Mayor

ATTEST:

_____
Brenda Hall, City Clerk

TIMELINE OF WQPZ ORDINANCES (updated 4-22-11)

	Key Components	Developer Concerns
SWMP Recommendations – Final Plan Accepted by Council, Nov. 10, 2009	• Dedication of Stream Planning Corridors (Full Build-Out Floodplain), building restricted • Additional 15ft buffer for possible trails and additional filtering in Suburban Residential and Country Residential areas • Justifiable variances that would allow alternative approaches that could be shown to achieve similar water quality, flood control, and recreational opportunity • For developments that do not dedicate the SPC because of being granted a variance, the runoff capture and treatment volume requirement should be increased to 0.7 inch of runoff	• Mandatory dedication of full-build out floodplain • Mandatory dedication of 15 foot buffer, particularly if for a trail • Must have a variance process for engineered alternatives • Maintenance of SPC/buffer – POA's shouldn't be required to maintain detention ponds

Draft Ordinances presented to Task Force – Feb. 11, 2011	• Drainage easement or dedicated ROW of Water Quality Protection Zone (WQPZ)
	• WQPZ – choice (by developer) of either FEMA FP plus 100 feet OR 100 feet of any USGS blue line stream OR Full Build Out Floodplain with increases for certain slopes
	• Variation Process (Ch. 19) to WQPZ requirements
	  o Buffer averaging allowed to recover lost lots
	  o Alternate engineered solution with same effect
	  o Error in applicable WQPZ designation (for ex. FBF)
	• Variance process (Ch. 22) to use restrictions
	  o Reduction in lot size
	  o Transfer of development density
	• POA would maintain only non-structural controls i.e. non-engineered aspects of buffer
	• Explicit language that dedication of WQPZ does not grant public access to the area i.e. no mandatory trails or trail access
	• Affidavit from POA required to ensure maintenance of non-structural controls
	• Applicable to all new construction and development
		• Should only be applicable to preliminary plats, not new building permits
		• Need to be allowed to challenge FBF designation in SWMP maps
		• WQPZ definition – don't like "preferably undisturbed and natural"
		• Don't like new variation process in Ch. 19

Draft Ordinances presented to Task Force – February 21, 2011	• Base width of WQPZ – greater of either x feet in length or FBF • Language added to clarify the ordinances are only intended to affect new developments, not previously approved plats	• Concerned about prohibiting all septic systems and all parts of septic systems • Don't like the requirement of affidavits • Would prefer a line drawn for POA responsibility at beautification; City maintain everything else • Some publications recommend on-site inspection for 1st and 2nd order streams especially – the ordinance relies only on topographic maps • Should address fertilizer use • Don't like variations process or applicable factors in Ch. 19 • Storm water detention not allowed in WQPZ
Draft Ordinances presented to Task Force – March 7, 2011	• Top of Bank definition changed to include verification through site inspection • Variation process in Ch. 19 changed to more closely align with existing considerations; removed language about process, burden and term of variation	• Need to allow for in-channel detention • Shouldn't have to go through variation process when engineered solutions are adequate • Concerned about removal of FEMA floodplain plus 100 feet option for WQPZ because very little area of FP in 1st and 2nd order streams
Draft Ordinances presented to Task Force – March 21, 2011	• WQPZ base width determined by greater of x feet from top of bank, FBF, or FEMA floodplain • Increase in width due to slope simplified, less onerous • Automatic reduction in base width of WQPZ to no less than 50 feet in urban areas upon showing engineered solution will achieve 75% reduction in nitrogen and 58% reduction in phosphorus • Variation still required for reduction in width in non-urban areas or for reduction to less than 50 feet • In channel detention ponds allowed in WQPZ • Storm water detention no longer prohibited in WQPZ	• Would like aerobic septic systems (sprinklers) to hit zone 3 of WQPZ • Don't like 100 foot buffer approach • Pollutant removal goal may not be applicable in urban areas • Buffer definition does not say how to maintain ** Heiple Ordinance Presented to Task Force • Enhanced BMP definition • Applicable only in Little River Watershed • Mandatory Buffer – 10 feet either side of intermittent stream; 20 feet either side of perennial streams • No full build consideration • Allowance for relaxing City standards for subdivision to allow for LID strategies • Pollutant Removal Efficiencies table from EPA • Based on assumption that 85% of pollutants are found in the first flush

Draft Ordinances Dated March 31, 2011	• WQPZ base width determined by greater of 100 feet from top of bank, FBF or FEMA floodplain • Automatic reduction for first-order streams to no less than 50 ft (never less than FBF) if other method achieves 75% reduction in nitrogen and 58% reduction in phosphorus • Removed affidavit requirement • Incorporated Heiple "buffer" definition • Incorporated Heiple language for relaxing City standards to allow for LID strategies • Added reference to Pollutant Removal Efficiencies from SWMP (EPA table tailored to Norman) • Septic system spray heads may spray into Zone 3 of WQPZ • Added language to provide clarity that engineered solutions may suffice for buffer • Language added to provide maintenance goals for buffer depending on zone • Reference to LID manual	• Willing to agree to 25 foot buffer from top of bank • Perceived as a back door to trails/greenbelt • Don't like the variations process in 19-601(B) being decided by Public Works director • Don't want pollutant removal success measured by looking at how bad upstream properties are • 19-601(B)(1)(e) – would not allow stream restoration projects • Ordinance should encourage low impact development • Want language that deals with those preliminary plats that expire and large amounts of money/infrastructure have already been constructed – not fair to apply new regulations • Don't like reference to Pollutant Removal Efficiencies from SWMP in 19-411(D)
Draft Ordinances Dated April 4, 2011 (PC Study Session)	• Added more explicit language to 19-514(B) to make it clear that this ordinance should not be interpreted as a mandate for a public trail system • Variation process in 19-601(B) modified to allow appeal from Public Works Director to City Council • Changed language in 19-601(B)(1)(e) to allow variations that result in disruption to natural terrain for stream restoration purposes • Added statement to 19-411(H) that explicitly encourages utilization of low impact development strategies	
Draft Ordinances Dated April 12, 2011 (PC Meeting)	• Changed reference in 19-411(D) from SWMP Pollutant Removal Efficiencies to ISWM Pollutant Removal Efficiencies (more current)	• Buffers are not effective in the traditional curb and gutter development • Ordinance will not improve drainage control coming off of houses • Fire risk

Draft Ordinances Dated April 22, 2011	• Modified language for reduction of fire risk to key it combustible structures • Added definition of combustible structures • Added language in variation process to allow for a variation from the requirements for expired preliminary plats where infrastructure was constructed in last 5 years under a previously approved plat.	• Best Management Practice definition felt by some task force members to be too specific; Heiple desires specificity • 19-514(B) – the language should be more direct • Need definition of Low Impact Development • Concerned about setback of 500 feet for raised septic system – uncertainty as to what a raised septic system is, setback too far for a typical septic system • Would like it to be a right, not a variation, that an expired preliminary plat for which any infrastructure was put in, would not have to comply with ordinances • Variation process needs to be clarified re: applicability of the minimum pollutant removal percentages
Ordinances for Council Agenda	• Changed Best Management Practices definition to include specifics related to both non-structural controls and structural controls • Changed 19-514(B) to be directly say that dedication of WQPZ to City does not convey a right of public access and is not a public trail unless stated explicitly in the granting document • Added definition of low impact development (combined portions of EPA and Low Impact Development Center definitions) • Added definitions for "raised septic system" and "raised mound septic system" to ensure 500 foot setback would not be incorrectly applied to a typical system but instead would apply to a alternative system (DEQ term). • Clarified language in 19-601(B) to ensure same standard of pollutant removal is applied	

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.[1]

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 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.[2] 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.

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[1] Thomas R. Schueler, The Architecture of Urban Stream Buffers, Watershed Protection Techniques, Volume 1, No. 4, Summer 1995, pg. 155-163.
[2] Office of Ocean and Coastal Resource Management, Vegetated Riparian Buffers and Buffer Ordinances.

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. Pailes 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 recommunicated 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 24th. 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 24th 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 24th 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 feet 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-til 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 21st century would not even be recognizable to a man that worked in a sewage plant of the early 20th 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 48th 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 it he 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 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.

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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 fi 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 of Norman, OK

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

Master

File Number: R-1011-120

File ID:	R-1011-120	**Type:**	Resolution	**Status:**	Non-Consent Items
Version:	1	**Reference:**	Item No. 27	**In Control:**	City Council
Department:	Public Works Department	**Cost:**		**File Created:**	05/11/2011
File Name:	R-1011-120 SWMP			**Final Action:**	

Title: RESOLUTION NO. R-1011-120: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA ADOPTING THE STORM WATER MASTER PLAN FINAL REPORT DATED OCTOBER 2009.

ACTION NEEDED: Motion to adopt or reject Resolution No. R-1011-120.

ACTION TAKEN: _____

Notes:

		Agenda Date:	06/28/2011
		Agenda Number:	27
Sponsors:		**Enactment Date:**	
Attachments:	R-1011-120	**Enactment Number:**	
Project Manager:	Bob Hanger, Storm Water Engineer	**Hearing Date:**	
Entered by:	kathryn.walker@normanok.gov	**Effective Date:**	

History of Legislative File

Ver-sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	05/24/2011					
1	City Council	05/31/2011	postpone	City Clerk Department	06/28/2011	06/28/2011	
	Action Text:	postpone to the City Clerk Department due back on 6/28/2011					
1	City Council	05/31/2011					
1	City Council	06/28/2011					

Text of Legislative File R-1011-120

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. 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. The ordinances were presented to Planning Commission for a vote on April 14, 2011.

Following the April Planning Commission meeting, there was an allegation that there was a deficiency in the notice for the Water Quality Protection Zoning Overlay District Ordinance that was heard by the Planning Commission in April. Although the Overlay District does not change the underlying zoning designation, Staff felt it was prudent to provide notice as if it was a zoning change to avoid any potential legal challenges based on procedural errors and to refocus discussion of these items to the policy considerations. Therefore, Planning staff asked for a Special Meeting of the Planning Commission to reconsider the ordinances with the appropriate notice being provided in accordance with our code provisions as they pertain to zoning changes. Although published and mailed notice is only required for changes to the zoning ordinance, Staff opted to give notice for both ordinances related to the Water Quality Protection Zone so that citizens potentially affected by either of the ordinances could be heard. The Planning Commission is scheduled to hold the public hearing on June 23, 2011. Minutes from the June meeting will be provided separately.

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 streamside erosion,

infiltration of storm water runoff, control of sedimentation, and restoration and maintenance of the chemical, physical and biological integrity of water resources.

DISCUSSION:

Ordinances. The ordinances before 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. The buffer is generally an area that is natural and vegetated; however, in order to address fire risk, staff worked with the Norman Fire Department to require a level of maintenance for any portion of the buffer that is within 30 feet of a combustible structure. *(O-1011-52, Section 19-514D, E).* While the ordinance calls for a drainage easement to be donated to the City for these buffers, nothing in the ordinance requires a trail or general public access to these areas. *(O-1011-52, Sections 19-411G and 19-514B).* The purpose of the easement is to allow City crews access to inspect and address and maintenance issues with the buffer and the stream itself. *(O-1011-52, Section 19-514C).*

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 steep 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 Planning Commission, several things have been incorporated to insure flexibility. First, the buffer width discussed above will be reduced for first-order stream 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 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.

Adoption of the SWMP. When the SMWP was presented to City Council in November 2009, Council's decision to accept certain aspects of SWMP rather than adopt the plan was largely due to significant trepidation in the community about the SPC recommendations contained in the plan. This trepidation is the reason why development of these ordinances was one of the first items for Staff to develop in the Action Plan adopted by Council. The next major action item for Staff to begin working on is approval of a storm water utility rate structure by the voters in Norman. One of the major accomplishments of the SWMP was to identify the capital projects and applicable scope necessary to achieving the City's goals. Adoption of the SWMP as a policy document will enable Staff to move forward with the capital projects portion of the Plan. Resolution No. R-1011-120 formally adopts the Storm Water Master Plan.

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 and prevent property damage due to flooding, while also striking the appropriate balance with development rights and goals. Staff feels it is the appropriate time to adopt the SWMP as the guidance it provides for the capital projects and Storm Water Utility will be key as Staff moves forward.

Staff recommends Council adopt Resolution No. R-1011-120.

R-1011-120

A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA ADOPTING THE STORM WATER MASTER PLAN FINAL REPORT DATED OCTOBER 2009 AND SETTING THE IMPLEMENTATION OF A STORM WATER UTILITY AS THE NEXT STORM WATER RELATED COUNCIL PRIORITY.

§ 1. WHEREAS, uncontrolled storm water run-off may cause pollution to the drinking water supply and threaten private property with flood damage, erosion, and declining property values; and

§ 2. WHEREAS, the City of Norman is required to meet Phase II Storm Water regulations as promulgated by the Environmental Protection Agency; and

§ 3. WHEREAS, the City of Norman is currently facing the degradation of water in Lake Thunderbird as a result of run-off of nitrogen, phosphates, and sediments which have resulted in a designation of the lake as an "impaired water body"; and

§ 4. WHEREAS, the City of Norman has undertaken a comprehensive review and analysis of flooding, water quality, and erosion over a period of four years aimed at reducing flooding dangers, protecting water quality, enhancing the environment and advancing recreational opportunities; and

§ 5. WHEREAS, the City has received a Storm Water Master Plan with detailed data maps, analysis of hydrologic and hydraulic modeling, flood prone soils, and water quality, all of which are valuable for planning purposes and future policy development; and

§ 6. WHEREAS, the City has sought input from the citizens of Norman by providing opportunity for submission of written comments and for attendance and comment at a series of public meetings; and

§ 7. WHEREAS, a Storm Water Utility, as discussed in the Storm Water Master Plan, will be a key step in providing enhanced maintenance of creeks and existing storm water detention facilities, as well as completing a number of important capital projects that will reduce flooding and erosion throughout the urbanized area of Norman; and

§ 8. WHEREAS, the Storm Water Master Plan contains three rate options to fund the enhanced maintenance of creeks and storm water detention facilities, as well as the recommended capital projects; and

NOW, THEREFORE, BE IT RESOLVED BY COUNCIL OF THE CITY OF NORMAN, OKLAHOMA,

§ 9. That the City of Norman hereby adopts the Storm Water Master Plan Final Report, dated October 2009, as the basis for development of future policy and regulations; and

§ 10. That the Council of the City of Norman acknowledges the adoption of the Storm Water Master Plan does not impose at this time any new fees and that all utility rates are by City Charter subject to a vote by Norman residents; and

§ 11. That the Council of the City of Norman establishes that the next priority for City-wide storm water management is to analyze and formulate the most appropriate rate structure for the Storm Water Utility and to pursue approval of said rate structure by the voters of the City of Norman.

PASSED AND ADOPTED this _____ day of _____, 2011.

_____
Mayor

ATTEST:

_____
City Clerk