

CITY COUNCIL STUDY SESSION MINUTES

September 7, 2010

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a Study Session at 5:35 p.m. in the Municipal Building Conference Room on the 7th day of September, 2010, 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, Kovach, Quinn, Mayor Rosenthal

ABSENT: None

DISCUSSION REGARDING TRANSPORTATION ENHANCEMENT PROGRAM PROJECT OPTIONS TO BE SUBMITTED TO THE OKLAHOMA DEPARTMENT OF TRANSPORTATION.

Every two years the Oklahoma Department of Transportation (ODOT) invites communities to apply for Transportation Enhancements Program (TEP) funds and this presentation explains the purpose and history of a TEP recommended by the City. Mr. Angelo Lombardo, Traffic Engineer, said Staff, the Council Transportation Committee (CTC), and the Bicycle Advisory Committee (BAC) have discussed several possible TEP projects. The four recommended projects, in priority order, include:

1. Downtown Main Streetscape (West End – University Boulevard to the railroad tracks)
2. Legacy Trail Extension – 24th Avenue N.W. (Robinson Street to Rock Creek Road) and 36th Avenue N.W. (Rock Creek Road to Tecumseh Road)
3. State Highway 9 Bicycle Path Project, Phase 2
4. Porter Avenue Streetscape

Mr. Lombardo said the scope of a TEP is very specific, goes beyond traditional transportation projects, and relates to intermodal transportation systems by function, proximity, or impact. He said a TEP must meet one or more of the following enhancement categories:

- Pedestrian and Bicycle Facilities;
- Pedestrian and Bicycle Safety and Education Activities;
- Acquisition of Scenic or Historic Easements and Sites;
- Scenic or Historic Highway Programs;
- Landscaping and Scenic Beautification;
- Historic Preservation; Control/Removal of Outdoor Advertising;
- Rehabilitation and Operation of Historic Transportation Buildings;
- Preservation of Abandoned Railway Corridors;
- Archaeological Planning and Research;
- Mitigation of Highway Runoff and Provision of Wildlife Connectivity; or
- Establishment of Transportation Museums.

Mr. Lombardo said the TEPs are funded at 80% maximum by the Safe, Efficient, Flexible, Effective Transportation Equity Act: a Legacy for the User (SAFETEA-LU) and the funds come through the Surface Transportation Program (STP). He said the TEPs are administered for the United States Department of Transportation by the Federal Highways Administrative (FHWA) and through the Special Projects Branch of ODOT at the state level. Approximately 10% of Oklahoma Federal Surface Transportation Program Funds are used for TEPs. He said the funding works on a cost reimbursement basis, i.e., if the City is given funding for one of these projects, the City bears the cost initially then ODOT will reimburse the City. The cap for Federal funding is limited to \$600,000 on TEPs and the applicant must agree to provide at least 20% matching funds.

The pre-application for a TEP is due by October 1, 2010, and, if accepted, a final application is due by January 3, 2011. Mr Lombardo said approved TEPs will be posted on ODOT's website by June 2011 and funds will be available October 2011.

Mr. Lombardo provided a history of City TEP requests and said, over the years, all were selected except for the Downtown Main Street Improvements Project - West (DMSIPW) submitted in FY0708 and FY0910:

Mr. Lombardo said the TEP process began with Staff providing a preliminary list of potential projects and the BAC ranked the potential multimodal trail projects in priority order to include: 36th Avenue NW Trail, 24th Avenue NW Trail, and SH 9 Phase 2 Trail. He said the CTC also recommended two projects at their scheduled meeting on August 26, 2010, and the Parks Board recently adopted the bike trail project priorities as recommended by the BAC on September 2, 2010. He said all recommendations were discussed and the requests were narrowed to the Downtown Main Street Improvement Project West (University Boulevard to railroad tracks) and Legacy Trail Extension – 24th Avenue NW (Robinson Street to Rock Creek Road) and 36th Avenue NW (Rock Creek Road to Tecumseh Road).

Mayor Rosenthal asked whether ODOT provided any feedback on why they did not select the DMSIPW in both the 4th and 5th cycles and Mr. Lombardo said the City has requested feedback, ODOT has not yet responded. He said the City will have ODOT comments by the time Staff submits a TEP application. Mr. Lombardo said part of the funding strategy has been to try to capture other federal funds to make all the improvements needed for the DMSIPW. He felt ODOT had not looked favorably on this approach because they are looking for a financial commitment to fund the project as a stand alone project. He said the City will structure the current cycle application a little differently in terms of how the project is divided and scope of work while still trying to obtain additional federal funding.

Mr. Lombardo pointed out that the City does have a history of getting more than one project approved although the City only received funding for one project after submitting two in the 4th and 5th cycles. He said the City of Oklahoma City (OKC) received approval for three projects in the last cycle and pointed out that OKC overmatched their requests, in some cases as close as fifty percent of the cost.

Mr. Lombardo said the TEP for the DMSIPW proposes new sidewalks; curb and gutter; landscaping; cobblestone paving band; street furniture; decorative lighting upgrade; stamped and colored asphalt; and American with Disabilities Act (ADA) ramps that will match the work accomplished in the DMSIP – East project.

The estimated cost for the total project using TEP and STP-UZA funding will be approximately \$1,700,000. Mr. Lombardo said the estimated cost of the TEP project is \$1,042,622 and the 20% local match must be a minimum of \$150,000. He said the City currently has \$442,622, or 46.3% of the project cost included in the capital budget. Mr. Lombardo felt ODOT would look favorably at this local match. He said the final breakdown for the DMSIPW funding scenario would be a total cost of \$1,695,622; maximum Federal TEP Funds in the amount of \$600,000; Federal STP-UZA Funds for the lighting in the amount of \$590,622; local match (CIP Fund 50) in the amount of \$442,622; and the Downtown Merchants could fund the remaining \$75,000. He said discussions have occurred with the Downtown Merchants but have not yet formalized a public/private partnership for the \$75,000 funding. Mr. Lombardo said if all funding is approved, the funding splits for the enhancement portion of the DMSIPW project are 53.7% Federal/\$46.3% Local and the lighting and signal connect portion will be 100% Federal funding from Association of Central Oklahoma Governments (ACOG) STP-UZA.

The second proposed project is the Legacy Trail Extension (LTE) along 24th Avenue NW, from Robinson Street to Rock Creek Road and 36th Avenue NW, from Rock Creek Road to Tecumseh Road. This project extends Legacy Trail to Tecumseh Road including several gaps in segments along 24th Avenue NW and 36th Avenue NW and will connect the Rock Creek Road trail being constructed with the I-35 overpass. Ten foot wide multimodal paths are being constructed on both sides of the road and the bridge, the first location in Norman where pedestrians and/or bicycles can safely cross I-35.

Mr. Lombardo said the LTE will provide multimodal access to Norman Regional Healthplex and eventually to All Saints Catholic School and Ruby Grant Park. He said along with the Rock Creek Road Trail currently under construction, the LTE will provide multimodal access between Downtown Norman and Norman Regional Hospital Healthplex.

The total project cost of the LTE is estimated to be \$750,000 with a 20% match minimum at \$150,000. Mr. Lombardo said potential funding sources for the LTE TEP are \$71,000 from the University North Park Tax Increment Finance District (UNPTIF) for work along 24th Avenue NW; \$60,000 Bike Improvement Project Balance; \$10,000 from Truman School Zone balance; and \$9,000 from the Traffic Calming Program balance.

Mr. Lombardo requested input from Council on the number of TEP applications to be submitted to ODOT and assistance with a list of project priorities as required by ODOT. Councilmember Ezzell felt the City needed to obtain ODOT feedback on the DMSIPW, specifically why the project has been rejected twice, before the TEP applications could be effectively prioritized and said he did like the enhancement on the multimodal transportation. Mr. Lombardo said the City went through the same process last time and submitted two projects, prioritizing the Highway 9 Project over the DMSIPW, which may have played into ODOT's decision. Mayor Rosenthal asked if this DMSIPW proposal had a larger match than previous applications and Mr. Lombardo said yes. Councilmember Quinn said if the City matched more than 20%, it may carry more weight with ODOT's decision and felt the downtown Main Street project needed to be completed. Mr. Lombardo said the City has requested additional information from ODOT to help shed light on why the DMSIPW has been rejected.

Mayor Rosenthal requested Staff continue to explore reasons from ODOT on previous applications and agreed with Councilmember Quinn that the project needed to be completed.

Councilmember Kovach asked if the City should have a "Plan B" in order to submit additional TEPs in case ODOT's feedback indicated the DMSIPW would again not be funded. He said he liked the idea of submitting enough projects in order to have at least two TEPs approved and suggested submitting sidewalk projects around schools. Councilmember Ezzell questioned whether sidewalk projects would be considered "enhancement" projects. Mr. Shawn O'Leary, Director of Public Works, said those projects tend to be ten foot wide bicycle trails rather than the standard five foot sidewalks at schools. Mayor Rosenthal said ODOT may not be able to give a definitive answer on the DMSIPW but any feedback will assist in prioritizing TEPs and felt it would be a mistake if the City eliminated the DMSIPW TEP application. Mr. Lombardo said the DMSIPW can be initially submitted as the number one TEP priority and after ODOT reviews the TEP applications, they can inform the City the likelihood of awarding funding for each request. He said if ODOT feels one TEP project is superior to another then perhaps the City can reprioritize TEP projects at that time.

Mayor Rosenthal said there appears to be a consensus of Council to move forward with the two TEP projects presented. She said if flexibility allows, Staff could change the TEP priority order should something come up during the pre-application process. Mr. O'Leary said Staff will do their best to gather additional input prior to Council's consideration on September 28, 2010. He said Staff will need a couple of weeks to package the TEP projects in a formal application and submit a Resolution adopting and prioritizing the TEPs for Council's consideration on September 28, 2010, in order to meet the October 1, 2010, submittal date. He said submittal of the final application will occur on January 3, 2011.

Items submitted for the record

1. PowerPoint presentation entitled "City of Norman and Oklahoma Department of Transportation - Transportation Enhancement Program 11th Biennial Application Cycle," dated September 7, 2010

DISCUSSION REGARDING NORMAN RECOUPMENT ORDINANCE INCLUDING THE TECUMSEH ROAD RECOUPMENT PROJECT.

Mr. Shawn O'Leary, Director of Public Works, said prior discussion about the Tecumseh Road Project (TRP) Recoupment Ordinance was at a Council Study Session August 25, 2009. He said the key issue was whether the use of revenue sources on a project that are reimbursable to the City preclude use of a recoupment process as a source of revenue for that project. He said the question of whether the City can also have recoupment process if bond funds are used for a project was raised during the Tecumseh Road Recoupment District (TRRD) and said that is precisely the way the previous recoupment ordinance has been interpreted for the last 13 recoupment projects.

Staff previously provided three options for the TRRD at the Council Study Session and Council inquired about the possible impact each option would have on other recoupment projects. He said Council directed Staff to review the Recoupment Ordinance language and the budget impacts of the three options as proposed by Staff.

Mr. O'Leary said the Recoupment Ordinance was adopted in February 1997, revised in 2002, and addresses gaps in paving that occur when owners of adjoining property do not all develop at the same time. He said the Ordinance allows the City to "up front" the development cost and recoup the cost later and owners reimburse the City only if property is platted and developed within twenty years after the recoupment ordinance is adopted by Council. The ordinance encourages the property owners to dedicate right-of-way (ROW) that would have been dedicated in the normal development process and allows the developers to pay their fair share of adjacent street costs. Mr. O'Leary said Council allocated \$1.3 million in General Funds in 1997 to start up the Recoupment Fund and the Ordinance recognizes property owners are responsible for the initial cost of arterial streets abutting their property, including ROW, utilities, and construction. He said the ordinance allows the City to fund such improvements from the Capital Fund and to recover the out-of-pocket cost through a recoupment district. The Recoupment Ordinance requires a Resolution to declare the recoupment district and another Resolution to declare the final costs. Recoupment fees are reduced by 20% per year after the 15th year and waived if property is not platted and developed within 20 years.

Nineteen Recoupment projects have been approved since 1997, the total fees assessed have been \$3,001,408 and the City has collected \$361,635 in recoupment fees. Mr. O'Leary said 13 of the projects have final cost resolutions and six are pending final cost resolutions, with TRPs being two of the six. Mr. O'Leary noted recoupment projects are all different and have different costs in terms of ROW, utilities, and construction.

Mr. O'Leary highlighted the three options presented to Council in August 2009 as follows:

- ✓ **Option 1: *Cancel All Tecumseh Recoupment Districts:*** Pros: Addresses concerns of objecting property owners. Cons: Maximum City budget impact of \$677,720 and complexities of refund process
- ✓ **Option 2: *Equitable Distribution of Bond Funds to All Phases:*** Pros: Addresses some concerns of objecting property owners. Cons: Loss of City revenues; complexities of refund process; not provided for under Norman Recoupment Ordinance; and creates inequities in other City funding sources.
- ✓ **Option 3: *Adopt Final Recoupment Resolution as Proposed for Phases IIIB & IIIC:*** Pros: Complies with past application of Recoupment Ordinance; potential to replenish City Recoupment Fund (\$384,170); and equity with Phases I and IIIA. Cons: Does not address concerns of objecting property owners; objecting property owners may legally challenge a Recoupment Ordinance.

Councilmember Ezzell said if the City's collection rate is 12%; the actual figure for Option 1 should be \$80,000 instead of \$677,720 and Mr. O'Leary said that may be correct since the City is not collecting 100%. He said the \$677,720 figure is the "upper" end of the impact.

Mr. O'Leary felt Option 2 was not done because the TRP will have taken 22 years from its conception in 1997 to completion in 2013. He feels Council's thinking in 1997 was to spend the bond funds primarily on Phase I resulting in fewer bond funds available for the remaining TRPs. Councilmember Ezzell said this would seem to present an inherent inequity in this process. He said if property owners were lucky enough to be on the front end of the TRP they benefited by paying less recoupment because of the off-set of the bond funds, but if a property owner is on the back end of the TRP process they will not receive the same benefit. Mr. O'Leary said the City did spend some of the bond funds on ROW and engineering for the entire project and the TRP is the anomaly in the entire 19 Recoupment projects, stating it is the only recoupment project to date that has taken 22 years to complete, cost \$32 million, and was constructed in five phases.

Mr. Jeff Bryant, City Attorney, highlighted potential recoupment ordinance amendments to Council as follows:

- Clarify project improvement costs are not subject to recoupment any time bond funds or non-city funds not subject to repayment are used for any portion of a project; or
- Clarify project improvement costs funded by General Obligation (GO) bond funds and non city funds are not subject to repayment by City and can not be added to the recoupable costs total; and eliminate "utility adjustments or relocation" costs from the recoupable costs total;
- Determine whether clarifying ordinance amendments would be prospective in nature – meaning they would only apply to future recoupment districts.

Mr. Bryant said Staff met with a developer concerned about applying bond funds pro-rata and added language to the proposed ordinance "proceeds from GO Bonds that are to be applied to a voter approved project shall be applied pro-rata on a linear foot basis to all property owners abutting the project when calculating recoupable project costs." He said the City anticipated a large portion of the TRP would never be a recoupable project since most of that area is in the flood plain; i.e., the west end going out towards Western and 60th Avenue N.W.; therefore the City felt it would not make sense to create a recoupment project because development would not likely be done within the twenty year timeline. Mr. Bryant said when the City applied the GO Bond funds on a lineal foot basis through the entire project it actually ended up resulting in a greater assessment to some of the property owners that had recoupment projects established. He said this points out some of the difficulties into trying to do a "one size fits all" recoupment projects through this ordinance whereas when ever there if bond funds available they must be spread out on a pro-rata basis throughout the recoupment project. He said as Mr. O'Leary mentioned earlier, not all recoupment projects are created equal, some have large tracts and perhaps not suitable for recoupment; some have a different mix of funding, i.e., County, ACOG, GO Bonds, and recoupment. He said if Council would like Staff to move forward with the proposed draft language it does try to apply the bond funds on a lineal foot basis throughout the entire project.

Mr. Bryant said another proposed amendment deletes the verbiage "utility adjustment or relocation" in Section 16-603(a). Therefore the City would not recoup those fees which are normally a development fee. He said it is sometimes difficult to encourage a property owner to donate ROW because the ROW donation would occur anyway if the property were going to be developed and then for the City to come back later and access the property owners additional utility relocation fees is tough. He said it is a delicate balance and Staff is open to whatever Council feels is appropriate.

Councilmember Kovach said he was concerned about proposed language and asked Staff if language could be crafted to exclude the University North Park Tax Increment Funds (UNPTIF), since an element of the UNP Project Plan includes recoupment funds. Mr. Bryant said the UNP Project Plan would probably fall into the category of funds for which the government would not be subject to repay the City. He said if the City opted to utilize TIF funds for a portion of a project that would normally be subject to recoupment they would be excluded and if the City opted to not utilize TIF funds they would be included. Councilmember Dillingham asked why would specific TIF language be needed and Councilmember Kovach said because the project plan calls for a lot of the projects in the TIF district to be paid for with the recoupment ordinance and if the City was going to reduce the amount coming from those properties and increase the amount that will be going on the TIF.

Councilmember Kovach said in the UNPTIF District Project Plan there is a section that discusses some of the roadway projects are anticipated to use recoupment fees to help fund the road improvements. Mr. Bryant introduced Ms. Emily Pameroy with Dan Batchelor's firm and said she was involved in drafting the UNPTIF District Project Plan. Ms. Pameroy said she was not aware of that particular provision in the UNPTIF Project Plan and said she would check over the Plan while Council continued discussion. Mr. Bryant said the City had discussed early in the process using a recoupment ordinance to do the Rock Creek Overpass but chose not to do so because the fees were waived for Embassy Hotel Conference Center, and after going through the project plan amendment process which allowed some of the TIF funds to be allocated for Rock Creek Road. Mayor Rosenthal clarified that property was not in the TIF District and Mr. Bryant said yes. Councilmember Ezzell said he was concerned about the inequities of future TRP and if the "pro-rata" language is not used, how can the City assure future participants equitable disbursements. Mr. Bryant said Council could choose to do so prospectively and it would not affect future TRP and Staff has discussed the need to use flexibility with the Public Works and Finance Departments if bond funds needed to be spent in a timely manner in order to avoid arbitrary issues. He felt the proposed language addresses that particular issue because it discusses when calculating recoupable project costs therefore he does not feel it would prohibit the City from spending bond funding in a timely manner. Councilmember Ezzell said based on the ordinance language could the City do the accounting reconciliation and spend the bond money however the City chooses and Mr. Bryant said yes, the language allows the approach of what property owners will pay will be equalized without hampering the spending timeline of the bond funds.

Councilmember Cubberley said one way to control the bond funds is to be more specific in terms the project the City is actually targeting instead of a general program that has a twenty year plus timeline. He said the TRP has gone on for years in terms of new authorizations and new federal and state monies and the City should be much more targeted in the scope of the project when using GO Bond(s).

Mr. O'Leary said the possible impact of the recommended ordinance amendments include: clarification of Recoupment Ordinance relative to use of bond funds; continued collection of recoupment fees for construction costs and ROW costs; collection of up to 40% fewer recoupment fees on most projects, by dropping "utility relocation and adjustment" costs; resolves Tecumseh Road Recoupment objections, as they relate only to "utility relocation and adjustment" costs; and if applied prospectively, potential refund costs from previous recoupment district of up to \$247,700.

Mr. O'Leary said the remaining issues of the TRP include: construct Phase II (60th Avenue N.W. [Western]), which is not anticipated to be a recoupment project; Council consideration of final recoupment Resolution, Phase IIIB (portion including Sysco); Council consideration of final recoupment Resolution, Phase IIIC (12th Avenue NW to 12th Avenue NE). Mayor Rosenthal asked Staff if the new language would apply to projects not yet finalized and Mr. Bryant said yes because the final resolution declaring costs would not come into effect until after this ordinance was amended. Mayor Rosenthal asked if some of the recoupable amounts would be affected on those projects already finalized.

Councilmember Cubberley asked about the rationale for deleting utility relocation costs and said even though it is City utilities, the City has to spend money to relocate. Mr. O'Leary said the utility relocation that occurs are typically on the federal projects and many times, the development properties have already built a portion of the utilities; unfortunately, they built them in areas where they needed to be relocated and the developers feel they are getting double taxation for the same utility costs. Another argument is that the utility relocations should be paid by the utility company. Mayor Rosenthal asked if language could be added to catch instances where a developer installs infrastructure and the City makes them relocate so the City will have a way to deal with these exceptional cases without making an exception to the rule. Mr. Bryant said he felt the utility adjustments could be a recoupable cost and the City could carve out that exception. Councilmember Cubberley felt uncomfortable changing the ordinance because of this one issue and Councilmembers agreed and Councilmember Dillingham

asked what could be done instead. Mr. Bryant said Staff can move forward with the final recoupment resolutions for Phase III B and C and remove the utility relocation from those projects that meet the criteria discussed. Councilmember Cubberley asked how many recoupment projects with the final resolution in place involve utility relocations and Mr. O'Leary said approximately ten. Councilmember Cubberley felt it would be better for the City to address that specific situation and eliminate utilities from the entire project. Mayor Rosenthal said direction to Staff will be to proceed with the ordinance amendment including the prorata clause and try to reach a settlement in this particular case, which makes a strong argument that the policy should include utility adjustments for relocation.

Items submitted for the record

1. Memorandum dated September 2, 2010, from Jeff Bryant, City Attorney, and Shawn O'Leary, Director of Public Works, to Honorable Mayor and Councilmembers
2. PowerPoint presentation entitled "Norman Recoupment Ordinance Including Tecumseh Road Project," City Council Conference dated September 7, 2010
3. Draft Ordinance
4. Pertinent excerpts from City Council Conference minutes of August 25, 2009

DISCUSSION REGARDING UNIVERSITY NORTH PARK TAX INCREMENT FINANCE DISTRICT ECONOMIC DEVELOPMENT.

Mr. Bryant said tonight's discussion involves the Norman Economic Development Coalition (NEDC) acquiring the first economic development tract in the UNPTIF. He said in 2006, the project plan identified economic development as a component of the UNPTIF, which made it eligible since the property was in an enterprise zone. He provided a history of the progress of the economic development component. He said the final plat for the UNPTIF Corporate Center was approved by Council in 2008 and Development Agreement No. 4 authorized the use of the tax increments to fund economic development and referenced three components of the project plan, which were the 10% retail sales tax increment, the ad valorem tax from the economic development tract, and the economic development sales tax increment.

Mr. Bryant said economic development costs of the UNPTIF are intended to foster special employment opportunities for Norman including the cost of planning, financing, assistance in development financing, acquiring, constructing, and developing facilities to foster such opportunities. He said the project plan sets out \$8.25 million, 50% of ad valorem taxes for economic development tract were set aside, 10% UNPTIF sales tax apportioned for economic development, currently \$926,182, and economic development sales tax increment references the sales tax tied to the new Quality Jobs Payrolls.

Mr. Bryant said a revised final plat in June 2010, changed the economic development tract from 28 acres to 30 acres. He said the OU Foundation and NEDC have been modifying the purchase and sale agreement to facilitate bank financing and property closing was extended to September 30, 2010. He said part of the agreement was to allow the economic development revenue stream to serve as credit enhancement for the purchase of the property by NEDC from the OU Foundation. He said the loan would be between Republic Bank and NEDC and the City would simply provide the credit enhancement that would allow the loan to be bankable. Mr. Bryant said Republic Bank was asked by NEDC to help put the loan together, but Republic Bank will not be the only bank involved. He said the pledge of accumulated revenues could be used for debt financing and Council preferred the accumulated revenues.

Mr. Bryant said there had been discussion regarding the type of Public Trust that could be used, a broader Public Trust or the existing Norman Tax Increment Finance Authority (NTIFA). He said the first debt financing was authorized in 2009 in the amount of \$14.56 million. He said the Trust could make the pledge or issue debt for the UNPTIF economic development activities without having to form a new Trust. Mr. Bryant said the purchase and sale agreement is between NEDC and OU Foundation to purchase 30 acres for \$1.25 per square foot for a total of \$1,633,500.

Mr. Bryant said the Economic Development Agreement will be reviewed by Council on September 14, 2010, which is a broader agreement that provides a structure on how to move forward on economic development identifying authorization of UNPTIF funds and a secured revenue stream similar to a draw note with the NTIFA approving each draw.

Mr. Bryant said Council will review a resolution concurring NEDC financing, which gives Council and NTIFA the authority to pledge those funds to credit enhance the loan. He said the money could be used for interest payments, if needed, or used to pay at the end of three years; however, it is hoped that not UNPTIF funds will be used for this note except as credit enhancement. He said, if within three years, NEDC is not able to pay off the note, Council will need to decide if UNPTIF funds are used to pay off note.

Mr. Bryant said Staff, with Council's support, plans to move forward with the Economic Development Agreement and resolutions at the September 14, 2010, Council meeting. He said the advantage of moving forward is that it puts the City, the NTIFA, and NEDC in position to move fairly quickly if there is a potential employer that meets the criteria of the Quality Jobs Act, which is the case.

Councilmember Ezzell said "credit enhancement" is used multiple times and asked if Council gives that credit guarantee, are those revenues encumbered or pledged so they are separated out and cannot be used for other items. Mr. Bryant said yes, under a fund control agreement, but the NTIFA could go through a debt financing that would pledge that revenue stream, but that is not as practical.

Councilmember Dillingham asked if Council did not authorize the debt financing on September 14th, would that risk losing the potential employer and Mr. Bryant said he did not know. Councilmember Cubberley asked if the resolution were passed, but the new employment opportunity did not come about, what happens? Mr. Bryant said the financing will be similar to a draw note so the authorization would be in place, but there could not be any draws without a specific project for Council to approve. Mr. Nate Ellis, Bond Counselor, suggested defining the appropriate parameters that NTIFA might have such as the upper end of the interest rate, appropriate time frame for the holding pattern, etc. He said once Council has approved the authorization for the debt, then any duly designated officers can execute the appropriate financing with the approval of a specific project. He said another parameter would be the time frame for the bonds such as not-to-exceed 5 years, 15 years, 25 years, etc.

Councilmember Ezzell felt it is prudent to be prepared to act. Councilmember Quinn felt it is also showed good faith on the part of the Council to give NEDC more leverage to do what needs to be done. Councilmember Cubberley felt there should be a time limit due to Council turnover and it would be incumbent on a new Council to reauthorize the debt. Councilmember Dillingham agreed and said a cap on the interest rate is also paramount.

Mayor Rosenthal said it is important, for public understanding, that although the resolutions would authorize indebtedness, the only approved specific use that is contemplated is the potential project coming forward and any following projects would have to have specific terms as well be authorized by Council and Mr. Bryant said that is correct.

Councilmember Kovach said Quality Jobs definition references the State Statute limit, and asked if the City was going to redefine that or stay with the State's definition. Mr. Bryant said that would be up to Council, but when discussed previously, the Statute has a limit of \$40,000 and Council has talked about \$50,000. Councilmember Kovach asked if this had been discussed by the UNPTIF Oversight Committee and Mr. Bryant said the Committee had talked structurally about it and they were in favor, but had not discussed specifics. Mayor Rosenthal suggested scheduling a special meeting of the UNPTIF Oversight Committee for their review and recommendations.

Councilmember Kovach said he attended an NEDC briefing a year ago, and it was his understanding that NEDC would come up with two prospective clients and get financing based on that. He said a year later NEDC is still not finalized on even one prospect thought to be a sure deal and he is concerned about the quantifiable risk and if banks are not willing to finance without a guarantee of money, then what are they looking at that Council is not looking at as far as potential risk. Councilmember Ezzell said he felt this is an appropriate risk because banks are going to want to over collateralize everything, which does not make it a imprudent risk. Councilmember Kovach said the economic development fund sales tax increment comes from the City's General Fund so that is a substantial risk when Council is looking at furloughs and lay offs. Mr. Bryant said the Economic Development Sales Tax Increment from the quality jobs only happens if the jobs materialize. He said the idea is that 30% of those salaries will be spent on transactions that are sales taxable transactions, which generates sales tax money. He said there is also a 2.5% turnover factor and 35% limiting factor for effective benefit rate that benefits the General Fund so it is really not a drain, but an addition. Mr. Anthony Francisco, Finance Director, said the Economic Development Sales Tax Increment is separate from the Economic Development Projects costs and is another incentive that Council could authorize based upon the new employer providing new quality jobs.

Mr. Don Wood, NEDC Executive Director, said, for two years, an existing company has indicated they are interested in purchasing property for development. He said NEDC would like to have two companies interested in purchasing land, which would generate about half of the principal needed. He said NEDC is trying to get the land purchased to demonstrate a strong commitment to the customer that NEDC is in the position so act now. He said any issuance of debt has to have Council's approval. He said could have a letter of intent from the company to present to Council by September 21st.

Items submitted for the record

1. PowerPoint presentation entitled "University North Park TIF Economic Development," Study Session, dated September 7, 2010
2. Letter dated July 12, 2010, from Chuck R. Thompson, President, Chief Executive Officer, Republic Bank and Trust, to Norman Economic Development Coalition, Inc.
3. Executive Summary of the Proposed University North Economic Development Agreement
4. Amended and Restated Purchase and Sales Agreement (Economic Development Tract)
5. University North Park Economic Development Agreement
6. E-mail dated September 7, 2010, from Anthony Francisco to Councilmembers with attached Executive Summary of Norman University North Park Project Plan and Economic Analysis

The meeting adjourned at 7:45 p.m.

ATTEST:

City Clerk

Mayor