

## CITY COUNCIL CONFERENCE MINUTES

September 27, 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 27th day of September, 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 Ezzell, Gallagher, Griffith, Kovach, Lockett, Spaulding, Quinn, Mayor Rosenthal

ABSENT: Councilmember Dillingham

Item 1, being:

DISCUSSION REGARDING CHANGE ORDER NO. THREE TO CONTRACT NO. K-0910-103 WITH DIVERSIFIED CONSTRUCTION OF OKLAHOMA, INC., INCREASING THE CONTRACT AMOUNT BY \$2,325.82 FOR THE FIRE STATION NO. EIGHT CONSTRUCTION PROJECT LOCATED AT 3901 36TH AVENUE N.W. AND FINAL ACCEPTANCE OF THE PROJECT.

Mr. James Fullingim, Fire Chief, said in 2008, voters passed a Public Safety Sales Tax (PSST) that included construction of two new fire stations on the west side of Norman. On April 14, 2009, Council approved a contract with Kirkpatrick Architecture Studio to provide architectural services for Fire Station No. Eight to be located at 3901 36th Avenue N.W. On December 22, 2009, Council approved Contract No. K-0901-103 with Diversified Construction of Oklahoma, Inc., in the amount of \$2,064,000 for the construction of Fire Station No. Eight. Change Order No. One was approved by Council on June 8, 2010, for the relocation of an electrical transmission line utility pole and Change Order No. Two was approved on February 8, 2011, for addition of a storage building and future fueling site. Change Order No. Three in the amount of \$2,325.82 will pay for the building permit for the storage building; renewal of the Stormwater Permit; installation of a ramp on the storage shed; painting the sprinkler pipe and base in the apparatus room; provision and installation of eleven LEED signs; and installation of Blazlock paint to conceal spray foam. Chief Fullingim said the change order and final acceptance of the project is on Council's agenda tonight.

Items submitted for record

1. Text File No. K-0910-103, Change Order No. 3 dated September 13, 2011, from Mr. James Fullingim, Fire Chief
2. Invoice dated August 2, 2011, from Ken Ferchau, Project Manager, Diversified Construction of Oklahoma, Inc., in the amount of \$2,325.82
3. Change Order No. 3 to Contract No. K-0910-103

Item 2, being:

**PRESENTATION BY MCKINNEY PARTNERSHIP ARCHITECTS REGARDING THE BUILDING "A" SPACE UTILIZATION STUDY.**

Mr. Shawn O'Leary, Director of Public Works, said Building A in the Municipal Complex was constructed in 1978 and currently houses the Public Works and Planning and Community Development Departments that consists of 61 employees. He said the building has had recent roof repairs and a new air conditioning/heating system installed. The building does not currently meet American with Disabilities Act (ADA) standards. Mr. O'Leary said customer service and public meetings are compromised due to lack of adequate space and employees work in cramped conditions. He said the FYE 2010 Capital Improvement Program included funding for a space utilization study and McKinney Partnership Architects was selected to perform the study. He said Mr. Rick McKinney, McKinney Partnership Architects, has developed a nine phase building improvement plan and preliminary building design plans to address the following:

- ADA compliance of restrooms
- ADA compliance of Building A main entrance (south)
- Improved customer service and conference center
- Enhanced employee space utilization
- Better employee security
- Replacement of all carpet

He said Staff has negotiated a contract with McKinney Partnership Architects that includes final design services, bidding services, and construction management services in an amount not-to-exceed \$27,000. He said if the contract is approved by Council, McKinney Partnership Architects will provide plans and specifications for all nine phases; however, some of the latter phases may be unaffordable at this time. The contract will also provide construction management services for the first five phases of construction. Mr. O'Leary said design and bidding services will be completed in twelve weeks or less and construction will take place over a period of approximately 120 days. He said City services will not be compromised during construction.

Mr. McKinney said the proposed changes to Building A are modest, but will have a big impact on utilizing immediate space needs. He highlighted the proposed phases that will allow better use of employee space, meeting rooms, and storage. He said each phase will be individually priced so construction of phases can be done at the preference of the City.

Councilmember Lockett asked how many square feet are in Building A and the anticipated life expectancy of the improvements and Mr. McKinney said the building is in excess of 20,000 feet, but construction will only occur in portions of the building, not the entire building. He said life expectancy will depend on what happens with the Library. He said when his company worked on space utilization at Municipal Court, the Court was going to move into Building A and Public Works and Planning were going to move into the Library building because there had been ongoing discussion about building a new Library, but that has not happened yet. Councilmember Lockett asked how much storage space will be added and Mr. McKinney said storage has been added mainly in file cabinet space as they had been directed to add more space for Staff rather than storage. Mr. O'Leary said the City's goal is to move toward more of a paperless system so storage would not be such a big issue.

Mr. O'Leary said with Council's concurrence, the contract with McKinney Partnership Architects will be on Council's October 11, 2011, agenda. There was a consensus of Council to move forward with the project.

Item 2, continued:

Items submitted for the record

1. Memorandum dated September 22, 2011, from Shawn O'Leary, Director of Public Works, and Susan Connors, Director of Planning and Community Development, to Honorable Mayor and Councilmembers
2. City of Norman Building A Space Utilization Study Existing Floor Plan
3. City of Norman Building A Space Utilization Study Phased Master Plan
4. Building A – Space Utilization Projects costs dated September, 2011

Item 3, being:

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

Mr. Jeff Bryant, City Attorney, highlighted sales tax revenues from the University North Park Tax Increment Finance District (UNPTIF) since its inception in 2006. He said \$19,164,253 in sales tax has been collected with \$5,055,922 used for a transfer adjustment leaving \$14,108,331 to be split between the General Fund (40%) and project plan components (60%).

Mr. Bryant said the current financing consists of a \$14.56 million debt authorization on a draw note with the University of Oklahoma Foundation (OU) as the lender. The initial funding included the Rock Creek Bridge, Legacy Park design, and the Rock Creek Road and 24th Avenue S.W. intersection improvements. He said future funding in the amount of \$6,150,000 is still in place and dependent upon Development Agreement No. 5.

Mr. Bryant said terms for the existing financing is a 3.75% annual interest rate as a floor. The rate is set by considering the T-bill plus 1.25% through August 31, 2013. After that the rate is set by using the T-Bill and adding 2%, 3%, 4%, in subsequent years with the same floor and a ceiling rate of 14%. He said financing was designed that way because it was supposed to be interim financing, not long term. He said the principle payment of \$400,000 was paid in September 2011. The reserve of \$1.5 million was fully funded in September 2011 also. He said in February 2011, Council approved refinancing of the OU Foundation note through Republic National Bank and Trust however, closing on the terms as authorized could not be achieved.

Mr. Bryant said project plan components are as follows:

- Conference Center/Cultural Facility
- Traffic and roadway improvements
- Economic development – quality jobs
- Lifestyle Center
- Legacy Park

The Project Plan allocated \$16.5 million to the development of a first class hotel and conference center. As the project developed, the Embassy Suites Hotel Conference Center was built, but the City' contribution to the Conference Center was waived by John Q. Hammons and allowed to be reallocated to the construction of Rock Creek Overpass and for future cultural facilities. The Rock Creek Overpass opened in September 2011 with a project cost of \$12,696,922. Of that cost only \$5,764,478 of TIF funding was utilized, with the rest of the funding coming from ODOT and ACOG. Only 35% of this component of the Project Plan has been utilized, with the remaining 65% available for "Cultural Facilities".

Item 3, continued:

The Project Plan allocated \$11.55 million for traffic and roadway improvements. Mr. Bryant highlighted the traffic and roadway improvements that have been completed which included: Robinson and 24<sup>th</sup> Ave intersection improvements; Robinson and east I-35 drive intersection improvements; Tecumseh Road & Flood intersection; Mount Williams Drive and 24<sup>th</sup> Ave intersection; Conference Center Drive and 24<sup>th</sup> Ave intersection; and frontage road to Conference Center Drive. The costs of these traffic and roadway projects, as a whole, are consistent with the budget developed in Development Agreement No. 1, with a total spent of \$2,449,827. Future projects as first priority traffic and roadway improvements consist of the Robinson and I-35 Interchange, I-35 Frontage Road extension to 24th Avenue N.W., and design of West I-35 Robinson improvements. The Projects are estimated to cost a total of \$3,472,041. The most immediate improvement is the interchange at I-35 east and Robinson with associated entrances into the TIF area. The cost was estimated to be \$2.76 million of which ACOG is providing \$1.02 million, requiring TIF funding for the balance at \$1.74 million. The final plans are to be turned into ODOT in October. The project should be bid in January 2012, begin construction in the spring, and be completed in three to six months.

Mr. Bryant said Economic Development consisted of an Enterprise Zone that was reduced from 60 acres to 40 acres with \$8.25 million to help create quality jobs. He said the Norman Economic Development Coalition (NEDC) purchased the first 30 acres for a six building Office Park in October 2010. He said incentive funding was approved by Council in September 2010, and the note draw feature was issued to NEDC in June 2011. He said recruiting prospects for quality job employers is ongoing with one commitment for the Office Park and a potential manufacturing project.

Mr. Bryant said the Lifestyle Center incentives total \$8.25 million and Legacy Park is also \$8.25 million, but includes enhanced landscaping, Legacy Trail, public art, and park construction. He said Development No. 3 agreement for Legacy Park was approved in October 2007, the design was completed in 2009, and bids were opened in 2009, but there has been problems getting the land donated. Mr. Bryant said Development Agreement No. 5 focuses on addressing issues that will allow Legacy Park to move forward. He said the main issue is penalties in the amount of \$8.3 million if the 250,000 square foot Lifestyle Center is not built by January 1, 2016. Mr. Bryant said modification of development connected claw backs have been suggested as well as an extension of the deadline from 2016 to 2018.

Development Agreement No. 5 proposes a modified "Lifestyle Center" concept or "Village Center." He said the developer should have a presentation for Council on October 18th. He said the proposed modification to the Village Center would add parking to the retail along Legacy Drive; have wider park features in the center of Legacy Drive to accommodate activity; remove the plans for a theatre and add hotel sites; and shift locations of the anchor and junior anchor. He said Development Agreement No. 5 also asked the UNP TIF Authority to reaffirm its commitment to incentives of the \$8.25 million for potential retail anchors in the Lifestyle or Village Center and the developer will recommit as well. He said it has become very clear that it will require an incentive to attract a major anchor to "kick off" the Lifestyle Center.

Mr. Bryant said a 106,000 square foot Crest Market will break ground soon and would meet criteria for incentives if incentives were to be offered; however, they are not asking for incentives. He said the developer would like the \$5.9 million potential claw back that is tied to the construction costs of Legacy Park to be reduced to \$3 million based on land donation credits for Legacy Park land and cultural facility land. He said they would also like the \$2.4 million claw backs tied to construction costs of the Frontage Road to be limited by the lesser of \$2.4 million or the actual construction costs, which would probably be less than \$2.4 million. In return, the developer would be willing to donate two acres for the Cultural Facilities/Exhibit Hall just east of Embassy Suites Hotel with shared parking with Embassy Suites.

Item 3, continued:

Mr. Bryant said the developer will file the final plat for Legacy Park to donate land. He said Development Agreement No. 3 requires the developer to maintain Legacy Park as well as some of the foliage areas in the UNP TIF. He said a Development Assistance Endowment Fund was to be set up with \$900,000 of UNP TIF Revenues to help with long term maintenance costs. However, issues have arisen regarding paying TIF funds into an Endowment Fund as TIF funds are normally expended for public improvements, capital improvements, or some other type of development assistance. He said the developers have come forward with another idea to provide long term maintenance of the park and other green areas consisting of developing a Special Assessment District (District) that would cover the entire TIF area. He said the District would calculate what would be needed to maintain the park and trails, at an appropriate level, and that would be assessed onto the property owners. Under Oklahoma law, special assessment districts can be created if at least 50% of the property owners apply to the City Council to create that assessment district. He said there would be a phase-in period where the City would provide matching development assistance funds up to \$900,000 over the nine year period.

Mr. Bryant said funding for Legacy Park construction and intersection improvements for Legacy Park Drive and 24<sup>th</sup> Ave in the amount of \$6.1 million was included in the first financing, but bids received in 2009 for the Park construction pushed costs higher than that. He said in Development Agreement No. 5 the City, will ask for recognition that the OU Foundation committed to \$14.56 million in the first financing and the City spent quite a bit less than that with the Rock Creek Road Overpass Project. The City wants some of that financing authorization transferred to the park project in order to construct the park the way it was designed. He said if everything comes together, the City will rebid the Park Construction Project in early 2012. Other concepts being discussed regarding Development Agreement No. 5 include recognizing the Holiday Inn Express project as counting toward the 250,000 square feet of retail space to be completed to avoid the \$8.3 million in penalties outlined in Development Agreement No. 3.; allowing access to additional vacant land at \$5 per square foot to complement a future cultural facility; the OU Foundation committing to act as a lender for the Park Construction costs; and addressing parking issues around restaurants planned to be located around the Park water feature.

Mr. Bryant said future actions include the Robinson and I-35 Interchange; design of West Robinson improvements; design and construction of the I-35 Frontage Road extension; finalizing Development Agreement No. 5; obtaining the Legacy Park donation; beginning Cultural Facility discussions; continuing efforts to obtain quality jobs employers; and beginning Lifestyle Center construction.

Councilmember Ezzell said he is not supportive of Development Agreement No. 5 and feels the OU Foundation is leading the City on and he is ready to pull the plug on everything except the road improvements. He said the City should sue for the park land. He said the OU Foundation is trying to renegotiate their agreement and get out of commitments they negotiated for in good faith. He said the OU Foundation was well represented when they made their contractual commitments and the whole thing is getting ridiculous. Councilmember Gallagher said the OU Foundation needs to honor their original agreement. He agreed development is going nowhere and said NEDC does not even have a letter of intent from the manufacturing facility. He said Holiday Inn Express is being built a mile away from another Holiday Inn and asked if it is the same owner or franchise and Mr. Bryant said he did not know. Councilmember Gallagher said he was concerned that there will be a hotel district that will take business away from other hotels in Norman.

Item 3, continued:

Councilmember Kovach felt tonight's presentation does not give Council sufficient time to have discussion on something of this magnitude. He said the City has been negotiating Development Agreement No. 5 for two years and little has changed in that time. He said the park land was supposed to be donated in Development Agreement No. 3 and the OU Foundation is not meeting their contractual obligations. He said they have not met the architectural standards or the mix of facilities promised. He said the OU Foundation has told the City that Lifestyle Centers are not being built anymore, yet there is a brand new one opening in Utah that looks like a carbon copy of what was promised for Norman's TIF District. He said he has witnessed businesses moving from Main Street and Ed Noble Parkway to the UNP TIF and Sooner Mall and Brookhaven Village businesses complain about fending off constant attempts to lure businesses away from them into the UNP TIF. He said he cannot continue to put millions of dollars into a project that is causing a "blight" on Main Street in Norman.

Mayor Rosenthal felt Council should hear the presentation on October 18th in a Study Session not constrained by a time limit before making any decisions. Councilmember Kovach said he would like Council to discuss Development Agreement No. 5 before the developer presentation.

Councilmember Quinn felt Council should continue to work with the Foundation and developers to obtain what was promised. Mayor Rosenthal said she did not disagree with comments tonight, but felt the same as Councilmember Quinn.

Items submitted for the record

1. PowerPoint Presentation entitled, "University North Park Tax Increment Finance District, Council Conference, September 27, 2011"

The meeting adjourned at 6:30 p.m.

ATTEST:

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City Clerk

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Mayor