



office memorandum

DATE: May 15, 2012
TO: Honorable Mayor and Council Members
THROUGH: Jeff H. Bryant, City Attorney *JHB*
FROM: Kathryn L. Walker, Assistant City Attorney II *KLW*
RE: Norman Economic Development Authority

Background

The creation of a public trust authority to facilitate potential economic development incentives was identified as a priority by the Business and Community Affairs Committee of the Council in August 2011 and also by the full Council at its Planning Retreat in September 2011.

At the October Business and Community Affairs Committee (“BCAC”) meeting, Staff reviewed several tools for economic development in Oklahoma. One of these tools was the public trust. Under Oklahoma law, public trusts are often used for the benefit of the municipality to incur long term indebtedness and assist with long term planning and investments for a variety of purposes. Staff was directed to draft a trust indenture creating the Norman Economic Development Authority, which was presented to the Committee at its November meeting.

At its December meeting, Mark Nuttle, a nationally recognized economic development expert, spoke to the Committee about the need to fill trustee positions with people who are specially qualified in areas like banking, commercial finance, law, and accounting. Staff was directed to revise the trust indenture to incorporate Mr. Nuttle’s comments and the revised indenture was discussed by the Committee at its February and March meetings. The full Council discussed the indenture during a Council Conference on March 27, 2012.

A resolution supporting the creation of the Norman Economic Development Authority (“NEDA”) was placed on Council’s agenda for May 8, 2012 by the request of three Councilmembers, but given concerns expressed by other Councilmembers and citizens, Councilmember Ezzell moved to postpone the item to allow for additional public input and revisions to the trust indenture that would address some of the expressed concerns. The creation of the trust is scheduled to be the subject of a public forum on May 29, 2012 and then scheduled to be considered by Council at its meeting on June 12, 2012, provided that is Council’s desire following receipt of public comments.

Discussion

The attached draft trust indenture has been changed to address many of the concerns expressed. The indenture contains standard language that empowers the

Norman Economic Development Trust Authority (the "Authority") with the typical powers set forth for public trusts by Oklahoma law. Originally, one of the powers included in the indenture was one that would allow the NEDA to promote, finance and develop hospitals or other commercial health care facilities. The Norman Regional Hospital Authority Board of Directors has expressed concern about this provision since healthcare that benefits Norman is something they are charged with developing. The language regarding promoting or developing healthcare facilities has been stricken in the attached trust indenture to address this concern.

Article VII sets forth the identity of the Trustees. The revised indenture requires that Councilmembers serve as Trustees for the NEDA, much like they do with the Norman Utilities Authority, Norman Municipal Authority and the Norman Tax Increment Finance Authority. As with these other trusts, the Chairperson of the Trustee Board is the Mayor and the Vice-Chairperson is the Mayor Pro Tem. The Norman City Clerk will serve as the Secretary of the Trustees to ensure meeting minutes and other trust related documents are maintained in similar fashion to other City of Norman records. The Norman Finance Director will serve as Treasurer of the Authority.

There has been some discussion regarding using one of Norman's existing Public Trusts to further economic development in the way being discussed by the BCAC. It has been advised by Bond Counsel that expanding the use of existing public trusts to a broader economic development focus may unnecessarily complicate future financings that already have defined revenue streams that support public works projects aligned with the current focus of these public trusts.

The trust indenture requires the appointment of an Economic Development Advisory Board by the City Council, which would advise the Trustees in its decisions related to economic development. The Advisory Board is to be comprised of a representative of Norman Economic Development Coalition, the Norman Chamber of Commerce, and 5 other citizens of Norman with suitable and appropriate economic, business, financial, legal, and community development expertise. Advisory Board members will serve three year terms, with the initial terms being staggered to prevent complete turnover of members at any given time. Advisory Board members will be held to the same standards as other board appointments in terms of meeting absences, removal, and adherence to the City of Norman Ethics Policy.

As with other public trusts, the Norman Economic Development Authority will be required to follow the Open Meetings Act and Open Records Act, as well as the Public Competitive Bidding Act. In addition, the Authority will have to file annual financial reports and audits with the City and State Auditor. Finally, the Authority will be unable to issue debt without approval by 2/3 vote of City Council.

Staff will be available at the Public Forum on May 29, 2012 to answer any questions you may have.