

CITY COUNCIL OVERSIGHT COMMITTEE MINUTES

March 12, 2014

The City Council Oversight Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 5:30 p.m. in the City Council Multi-Purpose Room on the 12th day of March, 2014, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray 48 hours prior to the beginning of the meeting.

PRESENT: Councilmembers Holman, Jungman, Kovach, and Chairman Miller

ABSENT: None

OTHERS PRESENT: Mayor Cindy Rosenthal
Councilmember Jim Griffith, Ward Six
Mr. John Carson, 315 Keith Street, Brewer Applicant
Mr. Jonathan Stapleton, 2609 Wood Hollow, Brewer Applicant
Mr. Terry Floyd, Development Coordinator
Mr. Jud Foster, Director of Parks and Recreation
Ms. Brenda Hall, City Clerk
Ms. Gala Hicks, Director of Human Resources
Mr. Steve Lewis, City Manager
Ms. Leah Messner, Assistant City Attorney
Ms. Linda Price, Revitalization Manager
Ms. Syndi Runyon, Administrative Assistant IV

Item 1, being:

DISCUSSION REGARDING FEES FOR CITY BREWER PERMITS.

Chairman Miller said this item is simply updating the City's ordinance to align Norman's permit fees with the Alcoholic Beverage Laws Enforcement (ABLE) fee schedule. Ms. Brenda Hall, City Clerk, said Staff was asked why the permit fees were so inconsistent, e.g. Oklahoma Winemaker at \$50 per year and Brewer at \$1,000 per year. She said ABLE added a new license category for Oklahoma Brewer's, which is \$125 versus \$1,000. Currently, the City of Norman does not have that category in its ordinance and can amend the fee schedule for licenses issued by the City adding the category of Oklahoma Brewer's Permit with a fee of \$125; however, Council can charge a lower fee if desired.

Councilmember Griffith supports comparable fees for the Oklahoma Brewer Permit and Oklahoma Winemaker Permit. He said winemakers can sell their wares onsite giving them a competitive edge over the Brewer who will be selling strictly wholesale.

Councilmember Jungman asked if the amount of the permit mattered in terms of Staff time or resources and Ms. Hall said no, the cost of the permit would not cover the cost of processing the permit; however, the City has other licenses that would pay the processing costs and she has no reservations on charging the same fee for both licenses.

Mayor Rosenthal asked about other permit fees and Ms. Hall said the highest fee charged is the Mixed Beverage/Caterer Permit at a cost of \$1,250 that renews annually for \$1,250. She said a Mixed Beverage Permit is \$1,000 and renews annually for \$900.00. She said the City does not issue a general business license so the overall license revenues for City licenses are approximately \$125,000 annually with \$75,000 of that being liquor related.

Councilmember Jungman asked how many winemaker permits the City issues and Ms. Hall said two. Councilmember Jungman said given the low volume of permitting, he would not have problem with a \$50 permit fee.

Item 1, continued:

Councilmember Holman asked how much Coach's Brewhouse is charged for brewing onsite and Ms. Hall said Coach's Brewhouse brews 3.2 alcohol content beers so they are licensed through a Class II Low Point Beer license, which ABLE does not regulate.

Chairman Miller said since winemakers are not a significant income to the City she would like to have the Oklahoma Brewer Permit be the same fee as an Oklahoma Winemaker Permit.

Ms. Hall said Staff will amend the ordinance language to be considered by Council for First Reading on April 8th and Second Reading on April 22nd.

Items submitted for the record

1. Memorandum dated March 6, 2014, from Brenda Hall, City Clerk, to City Council Oversight Committee

Item 2, being:

DISCUSSION REGARDING SMOKING REGULATIONS ON MUNICIPAL PROPERTIES.

Ms. Leah Messner said the City of Norman adopted an ordinance in 2007, regulating smoking in indoor public places owned by the City of Norman and within twenty-five feet of the entrances to those buildings. At that time, Council voted down an amendment to include the ban of smoking in City-owned public parks. In 2009, there was new interest in adopting an ordinance to ban smoking in City owned parks but excluded adjacent parking areas and Westwood Golf Course. Council adopted the ordinance on June 23, 2009, and defined a public park as, "all enclosed areas of a park or playground that is owned and operated by the City of Norman to which members of the general public have been granted a right to access. Public parks shall exclude: parking lots located on the same property as a park or playground, and the Westwood Golf Course."

Ms. Messner said the Oversight Committee expressed interest in a possible amendment to the current ordinance to ban smoking on all municipal properties not just within the buildings, parks, and twenty-five feet of entrances to City buildings. She said adoption of such an ordinance might enhance the City's ability to receive grant funding from the Tobacco Settlement Endowment Trust.

Ms. Messner said the State of Oklahoma adopted the Smoking in Public Places Act that regulates where smoking may occur statewide. Previously, the Act preempted municipal ordinances that were more stringent than the smoking restrictions contained within the Act; however, in 2013, the State passed Bill 501 that amended the Act to authorize cities and towns to "enact laws restricting smoking on properties owned or operated by the respective governing bodies." She said municipalities are now able, at the discretion of their governing bodies, to prohibit smoking on any property owned or operated by the municipality. For that reason, Council may choose to amend the current ordinance to ban smoking on all City property.

Ms. Messner said fines for smoking in parks or within twenty-five feet of municipal building range from \$10 to \$20; however, not many citations have been issued.

Chairman Miller said one thing the State did not address in their standards is smokeless tobacco. She asked if smokeless tobacco should be considered if the City is going to make changes to the ordinance. Ms. Messner said Norman Regional Hospital (NRH) said in order to be eligible for grant funding chewing tobacco, vapor cigarettes (vaping), and e-cigarettes must be banned. Councilmember Kovach said it is one thing to tell someone they cannot smoke because they are affecting someone else's health, but it would be hard to tell someone that "dipping" is affecting another person's health.

Item 2, continued:

Councilmember Kovach said some people use vaping as a way to quit smoking while others consider it to be a gateway to smoking. He is not quite ready to make up his mind on this subject. Councilmember Holman said there have not been enough studies on vaping to make a conclusive decision on how it affects one's health. Ms. Messner said vaping is not regulated and there are varying levels of nicotine in the liquids that become vapor and because of this, NRH believes nicotine gum or patches should be used to quit smoking, not vaping. Councilmember Holman said he is not surprised NRH is recommending patches or gum since that is pharmaceutical, but would be hesitant to make that recommendation to anyone.

Chairman Miller asked what impact the ordinance would have on Westwood Golf Course and Mr. Jud Foster, Director of Parks and Recreation, said there was a lot of push back in 2009, and that was why Westwood was excluded. He said currently there may be some resistance, but felt it would be minimal because the number of smokers has decreased over the years and although smoking occurs at Westwood, it is mainly cigars. He felt the City should enact the ordinance. He said it would be a complaint driven ordinance and if someone were smoking on the golf course and were asked not to smoke they would not smoke; however, a crowded park would be a different matter.

Councilmember Holman asked if the University of Oklahoma (OU) allowed smoking at their golf course and Mr. Foster said he believes OU banned smoking on all university properties.

Mayor Rosenthal felt the City should include the ban of e-cigarettes because they set an example of smoking. Councilmember Holman asked if the ban would be no tobacco products or no smoking and Mr. Foster said anything with nicotine is the concern. Councilmember Griffith said e-cigarettes expel water vapor, but if the grant is dependent on banning all nicotine products then the City should consider doing that.

Chairman Miller said people are smoking less and less so they may accept a ban on tobacco products without much resistance. Councilmember Kovach said the more people affected by the ordinance, the bigger the backlash. Councilmember Holman felt banning vaping or e-cigarettes would cause more pushback than banning nicotine products. Councilmember Griffith felt vaping should be allowed because it is water vapor, not smoke.

Ms. Messner said a ban would affect all City employees that smoke. She said employees currently smoke twenty-five feet from the entrances of the City owned buildings and a complete ban would force them to find a different place to smoke. Councilmember Kovach asked where NRH employees smoke and Ms. Messner said they go across the street and stand on the sidewalk. Mr. Foster said Griffin Hospital employees drive to Cate Park to smoke in the parking lot and throw cigarette butts on the ground, which is a huge issue for the City. Mayor Rosenthal asked Ms. Gala Hicks, Director of Human Resources, her opinion on how this would affect City employees. Ms. Hicks said there are roughly 170 nicotine users in the City and the majority of those use chew tobacco or dip, although there are quite a few cigarette smokers. She said smokers within the City complex on Gray Street would have to go across the street to smoke, e.g. behind Hooper Printing. She asked if work sites such as off-site locations where employees are repairing water/sewer lines, patching potholes, etc., would be considered City property. She said the City should offer smoking cessation classes to everyone involved and the City's insurance does pay for the medications or patches to help with those wanting to stop smoking. She felt the ban would have a huge impact on employees, especially service workers.

Councilmember Kovach said the City would need to be careful about using language such as "nicotine free" because people chewing nicotine gum or using nicotine patches would be, by ordinance, banned from going to a park. He said in Oklahoma, there is a strong belief in individual rights and he cannot see telling someone not to dip because that would not be affecting another's person health like second hand smoke. He said if the City goes down that road, there might be backlash from people who, on principal, do not think the City has a good argument. He wants to do a good thing, but does not want to cause such a backlash that the City does not do anything at all. Ms. Hicks said after research in 2009, the City decided not to ban chewing tobacco or dip because it is only harmful to the person chewing or dipping. Ms. Hicks said employees are not allowed to smoke in City vehicles and she recently sent notice to employees that e-cigarettes are not allowed in vehicles either.

Item 2, continued:

Chairman Miller asked if the City should be “Smoke Free” or “Tobacco Free” and whether or not e-cigarettes should be included in the ban. Mayor Rosenthal asked if the Federal Department of Agriculture (FDA) has approved e-cigarettes as a smoking cessation device and Ms. Hicks said no. Councilmember Holman asked if e-cigarettes are different than vaping as e-cigarettes have been on the market a long time whereas vaping is fairly new to the market. Ms. Messner said the NRH claims the vapor produced from an e-cigarette/vaping device is not water vapor. They state that e-cigarettes/vapor products emit elevated levels of chemicals that may cause respiratory irritations and increased risk of asthma.

Ms. Hall said she attended a mock Council meeting with Tomorrow’s Leaders and the topic was vaping. She said it was interesting to hear the younger crowd’s perspective on vaping. She said comments were made at that meeting that led her to believe there is more discussion about vaping among the younger generation than realized and that group may be one the City gets pushback from.

Ms. Hicks asked if OU is smoke free or tobacco free and Mayor Rosenthal said tobacco free; however, e-cigarettes are allowed outside.

Councilmember Kovach said Council will be looking at banning 44 ounce cola drinks next and Mayor Rosenthal that that is not the same as smoking. She said smoking is the number one preventable cause of death and Councilmember Kovach said obesity is as much a killer as tobacco.

Councilmember Griffith suggested Staff draft an ordinance and invite experts from NRH and the public to speak to the Committee. Councilmember Jungman said he would like more information on e-cigarettes versus vapor and after reviewing that information and after hearing testimony from NRH, the Committee could begin redlining exclusive rules to whittle language into a working ordinance. Chairman Miller agreed and asked Staff to draft an ordinance on City owned properties, provide more clarification on whether or not there is a difference between e-cigarettes and vapor devices, and invite someone from NRH to attend the meeting in May. Ms. Messner asked if the Committee wanted to draft an ordinance to ban it all and Chairman Miller said yes, the Committee would start there.

Items submitted for the record

1. Memorandum dated March 5, 2014, from Leah Messner, Assistant City Attorney, to City Council Oversight Committee, with attachment Section 10-501 of the Norman Code of Ordinances
2. E-mail dated March 6, 2014, from Stephanie McGinnis, Community Health and Wellness Coordinator, to Leah Messner
3. Healthy Communities Incentive Grants 2014 Grant Criteria

Item 3, being:

MISCELLANEOUS DISCUSSION.

None

ADJOURNMENT.

The meeting adjourned at 6:20 p.m.

ATTEST: