

CITY COUNCIL OVERSIGHT COMMITTEE MINUTES

September 13, 2018

The City Council Oversight Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 4:00 p.m. in the City Council Conference Room on the 13th day of September, 2018, 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: Councilmember Holman and Chairman Clark

ABSENT: Councilmembers Carter, Castleberry, and Hickman

OTHERS PRESENT: Mayor Lynne Miller
Ms. Kristina Bell, Assistant City Attorney
Mr. Terry Floyd, Development Coordinator
Ms. Jane Hudson, Interim Planning and Community Development Director
Ms. Shelby Jameson, Administrative Tech III
Ms. Anna Seifried, Benefits Specialist
Ms. Jeanne Snider, Assistant City Attorney

Item 2 was discussed prior to Item 1.

Item 2, being:

DISCUSSION REGARDING SMOKING REGULATIONS ON MUNICIPAL PROPERTIES.

Ms. Kristina Bell, Assistant City Attorney, said that TSET Healthy Incentive Grants is a program offered through the tobacco settlement trust, which gives communities an opportunity to apply for grants and funding that can then be used for wellness activities and wellness promotion for certain communities that qualify. She said the other item we will be going over is Certified Healthy Oklahoma, which is a certification program through the Oklahoma Department of Health. She said received additional clarification today from a representative of the Oklahoma Department of Health as well as TSET. The program was restructured so it does change some of the information provided in the memorandum. The Department of Health was originally doing both Certified Healthy Oklahoma certification and was also in charge of issuing the incentive grants, but due to program funding issues TSET has taken over the funding part. The City of Norman would be applying for the TSET Healthy Incentive Grant and there are three levels: Bronze, Silver, and Gold. She said certain criteria must be met to qualify for each level. The City of Norman has reached the Silver Class status and previously received a \$15,000 award in 2012, which was used to purchase playground equipment and a water fountain in Eastridge Park. A \$35,000 award was received in 2013, which was used to install a fitness walking trail at Saxon Park. Three requirements must be met for the City to reach Gold Class status; the City Smoking Ordinance would need to be amended to prohibit all smoking and forms of tobacco on all City property, the City must have resources that promote physical activity and access to fresh fruits and vegetables, and the City must have an active Worksite Wellness Committee and Wellness Plan.

Councilmember Clark asked if the City meets these requirements for the Gold Class status (\$100,000). Ms. Bell said there is \$100,000 grant opportunity that the City could apply for, which could be used for wellness activities and a variety of other potential uses listed in the memorandum. She said when the City applies for the grant, the specific project of what the proposed expenditure would be used for is part of the application process. Part of this process would include amending our Smoking Ordinance and making

Item 2, continued,

sure the City meets all of the eligibility criteria. The grants work on fiscal year, July 1st to June 30th, and are administered on a first come, first serve basis.

Councilmember Clark asked how many cities in Oklahoma are smoke-free and tobacco-free. Ms. Bell said she does not have an exact number, but she did speak with Julie Derring from the Oklahoma State Department of Health and she informed her that the City of Ada and the City of Tulsa are both smoke free. Ms. Aley Cristelli, Public Health Coordinator and Wellness Coach with Norman Regional Health Systems, said the City of Noble and Cleveland County have this policy in place.

Councilmember Clark asked if the City is currently meeting the requirements regarding resources promoting physical activities and access to healthy fruits and vegetables. Ms. Bell said the plan is to meet that requirement and there are several criteria to meet. She plans to meet with Ms. Cristelli and will be able to provide more detail in the future.

Councilmember Clark asked if the Norman Forward programs, trail and bike programs that all have physical activities involved would qualify for that.

Councilmember Clark said the Food and Drug Administration has stated companies have 30 days to say that E-Cigarettes and Vaping are not marketed or recommended to children and she would like something added similar language in the City's ordinance. She read another study that stated that by the end of the century, one of the top 10 killers will be cancer so second-hand smoke is just as dangerous as first-hand smoke. She said she is very excited to move forward with this and is also mindful of working with our labor unions; she is sure the unions would like to provide the safest environments for their employees.

Ms. Bell said the City would need to consult with our unions about implementation, transitioning, and modification of our employment policies in order to comply because currently we do have designated smoking areas. She said it would be a change for some of our employees and some of our exterior sites.

Ms. Bell provided an overview of the community actions criteria and how the Certified Healthy Oklahoma and the TSET incentives interact. She said the City of Norman does not have to receive Certified Healthy Oklahoma certification in order to apply for the grant, but Norman as a whole would have to have a certain number of community organizations that do qualify. She said there are three categories: Certified Healthy Businesses, Certified Healthy Congregations, and Certified Healthy Early Childhood Programs. Your eligibility is based on the certifications received in the prior year. She said there is a list by county on TSET's website of Certified Healthy Businesses. She said to qualify for Gold status you must have eight Certified Healthy Businesses, eight Certified Healthy Congregations, and eight Certified Healthy Early Childhood programs. Ms. Cristelli said TSET would certainly encourage the City to reach the Certified Healthy Community status because it is a great honor to receive it and statement that Norman is a wellness conscious community.

Councilmember Clark said that the University of Oklahoma, Norman Public Schools, state agencies, and Norman Regional Health System are smoke-free, which employs many people and it would seem reasonable that the City of Norman would follow suit.

Mayor Miller said some of the Norman Public Elementary Schools have Pre-K programs and felt that could fall under Early Childhood Programs.

Ms. Bell said if the City is going to try to pass the Tobacco Ordinance amendments before November 1st deadline the ordinance would have to be on first reading no later than October 9th with second reading no later than October 23rd.

Item 2, continued,

Councilmember Clark asked if the City of Norman has any types of smoking cessation programs for its employees.

Ms. Anna Seifried, Benefits Specialist, said the City does have a pharmacy plan and a smoking cessation plan that are available to our employees at no cost.

Councilmember Clark said funds from the grant would be a wonderful opportunity to promote that program and support the employees. She was interested in seeing statistics on how many employees currently are smoking, not including e-cigarettes and vaping, because it seems to have gone down state wide.

Ms. Seifried said the City has a Wellness Program for full time employees on the health plan and had 92% participation on the wellness screenings last year. Of that participation, 15.9% disclosed they were tobacco users, but that is self-disclosure.

Ms. Cristelli said the Quit Line is now free for Oklahoma and individuals can request free items to help them quit smoking without costing the City any money.

Councilmember Clark asked if that application is the same for the Certified Healthy Congregations and Certified Healthy Early Childhood Programs and Ms. Bell said they have separate applications for Certified Healthy Businesses, Certified Healthy Congregations, and Certified Healthy Early Childhood Programs and can be found on the Oklahoma Department of Health webpage. She said after additional research if Staff finds there are organizations, businesses, and/or childcare programs that are already Certified Healthy or eligible, then that may help the application move forward more quickly.

Ms. Cristelli said she has been working on this for three years she is excited that it is moving forward not only for the grant opportunity, but about the health of our Norman's citizens. She thanked everyone who has been working on this.

Items submitted for the record

1. Memo dated September 12, 2018, from Ms. Kristina Bell, Assistant City Attorney, through Mr. Jeff Bryant, City Attorney, to Council Oversight Committee with Exhibit 1, Article V. Tobacco, of the Norman Code of Ordinances; Exhibit 2, memorandum dated June 3, 2009, from Jud Foster, Director of Parks and Recreation, and Leah Bunney, Assistant City Attorney, to Honorable Mayor and City Councilmembers; Exhibit 3, City Council Oversight Committee packet of March 12, 2014; Exhibit 4, City Council Oversight Committee minutes of March 12, 2014; Exhibit 5, City Council Oversight Committee packet of June 11, 2014; Exhibit 6, City Council Oversight Committee minutes of June 11, 2014; Exhibit 7, City Council Oversight Committee minutes of January 18, 2018; Exhibit 8, TSET Healthy Incentive Program for Communities grant application for grant year July 1, 2018, - June 30, 2019; Exhibit 9, agenda packet for acceptance of an Oklahoma Tobacco Settlement Endowment Trust Grant in the amount of \$15,000; Exhibit 10, agenda packet for acceptance of an Oklahoma Tobacco Settlement Endowment Trust Grant in the amount of \$35,000; and Exhibit 11, Policy Development Guide: Sample Tobacco-Free and Vapor-Free Ordinance for Local Government Property
2. Power Point Presentation entitled, "City Council Oversight Committee, TSET Healthy Incentive Grants and Certified Healthy Oklahoma" dated September 13, 2018

Item 1, being:

CONTINUED DISCUSSION REGARDING SHORT TERM RENTALS (COMMERCIAL HOME SHARING SUCH AS AIRBNB, HOME AWAY, AND VRBO).

Ms. Jeanne Snider, Assistant City Attorney, introduced Jane Hudson, Interim Planning and Community Development Director, and said the same information previously provided on short term rental was included in Council's packet along with new information related to zoning prepared by Ms. Hudson.

Ms. Hudson said when considering the proper zoning for short term rentals, Council would need to determine whether they would be permitted uses or special uses in certain zoning districts. She said Bed and Breakfasts require special use and do have similar transient nature with tenants coming and going. Zoning regulates the land use and certain uses are allowed by right. If it was determined short term rentals would be a special use in certain zoning districts, Council would have the opportunity to review each application on a case by case basis. She said under the special use provision notice would be provided to the adjacent property owners and those property owners would have an opportunity to voice their concerns.

Ms. Hudson said additional clarification from Council needs to be considered for short term rentals in the Form Based Code area; Urban General, Urban Storefront, and Urban Residential where there is residential use on the upper story, but on the ground floor three foot elevation from the sidewalk is required. She was concerned if short term rentals went into an existing use, how they will address the three foot elevation requirement. The Center City Form Based Code does not define Bed and Breakfast or short term rentals.

Councilmember Holman said that in Center City, any residential structure that wants to have a first floor residence has to be three foot. Ms. Hudson said everything that is not elevated right now is considered non-conforming.

Councilmember Holman said that one of the reasons the three foot elevation requirement was established is that most of the structures in this area are already elevated three feet. He said he would not want to allow a special use for someone to build something that is non-conforming. If it is an existing house that does not meet the requirement, he would be okay with that as a special use.

Councilmember Holman said that some of the concern is comparing short term rentals with rental homes. He said it was previously stated short term rentals are considered commercial activity because the owners are making revenue from the rental. He said under that same theory, if he purchases a house in a neighborhood to use as a rental property, is that considered commercial. It is zoned residential, but he would be making revenue from renters.

Mayor Miller believes there is a big difference between renting long term and short term rentals. She said when she rents her property, she requires an annual lease and has different types of criteria on what renters can and cannot do. She said she goes through a process with them; meets them, conducts a background check, etc., and felt it is much different than a short term rental property.

Ms. Hudson said a property rented to a student for six to 12 months is their home opposed to someone who rents the house or room for one night; that is more of a transient use.

Ms. Snider said it might fall under the definition of single family dwelling and may cover long term use. She said long term use is your legal residence and if Council chose approve a special use, the applicant would be allowed to conduct that activity in the specified zoning district.

Item 1, continued,

Ms. Hudson said hotels are defined in the Zoning Ordinance as intended or designed to be occupied as the more or less temporary abiding place of persons who are lodged with or without meals for compensation. Ms. Snider said that statistics show the larger vast majority of Airbnb's are single-family homes where the owner does not actually live there. She said Staff would need direction from Council on the following:

- Who would be permitted for, i.e., individuals only, LLC or corporations?
- Should it require a local contact for emergency purposes?
- Should there be a restriction on the number of nights a property could be rented?
- Multi-unit/apartments – should there be a cap on the number of units used for short term rental?
- Insurance requirements
- Licensing fees
- Inspections

Ms. Snider said the STR Helper is a short term rental monitoring service and sweeps all of the social platforms - Airbnb, VRBO, Homeaway, and a number of other smaller platforms. She said it captures the properties and a longitude which allows them to get into the local GIS and find the house and address. It also can track occupancy, underreporting, and non-reporting of the tax. It includes a series of reporting portals that performs management for noise, trash, and parking. She said their program has a module pricing sheet and you do not have to take advantage of all of the features. It also has a registration portal for permitting, reporting communications, and document management. She said reviews indicate STR is very attentive and provided good customer service. She believes licensing fees could cover the cost of the program.

The City has been presented a voluntary collection agreement from Airbnb, which indicates they only submit one aggregate payment per month to the City so we would not know which properties are paying. She said audits are also restricted. However, the STR Helper calendar data will give the City the ability to see who is paying or not and the ordinance would require them to pay taxes monthly.

Ms. Snider said that whatever the legal parking is at that property could and/or should be the limit on parking for that residence when renting out rooms or the entire property. Councilmember Clark felt keeping the legal parking limit was a good idea.

Ms. Snider said that the main focus for today's discussion is the zoning question; special use or permitted use. Councilmember Clark felt special use is the appropriate way to handle short term rentals on a case by case basis.

Councilmember Holman said Millennium is an apartment complex, but have short term rentals in some of the apartments, so could they could then be considered a hotel? He said they are not zoned commercial and asked what would be the difference between them and Embassy Suites. He felt if they are operating in that capacity the City should be able to collect the hotel/motel tax.

Ms. Snider said out of the 156 short term rental properties in Norman, 100 are classified as single family homes.

Councilmember Clark said Council should move forward with the ordinance and asked for input from Mayor Miller and Councilmember Holman. Mayor Miller said she would like to start out restrictive and Council can always come back and make it less restrictive at a later time. She does not think R-1, Single Family Dwelling District zoning should be less restrictive for short term rentals than it is for Bed and Breakfast establishments.

Item 1, continued,

Councilmember Holman said felt special use would be necessary in a single family residential area, but may not be needed in multi-family. However, he did not want to imply people in apartments do not have similar concerns of not knowing who is living next to them all of the time and said if apartment complexes start trending towards using half the units or more as short term rentals, Council may have to address that issue.

Mr. Floyd said that Council could possibly set parameters that could be included in the special use versus what could be governed from just the licensing standpoint. Councilmember Clark suggested setting minimum standards and determine a license level and anything outside that level could be considered for special use.

Councilmember Holman suggested if the applicant lives on the property and simply want to use one of their rooms as a short term rental, a special use permit would not be needed. However, if the owner does not live on the property and is renting multiple rooms or the whole property, a special use permit would be needed.

Councilmember Clark agreed if the property is the owner's primary residence, they should only need a license for short term rental, not a special use permit. If the residence is used primarily for rental property, then they would need a special use permit.

Audience Input

Mr. Ernie Bell said he is the owner of investment properties and would like to see less restriction. You can regulate the issues that come with short term rentals (parking, noise, etc.) without regulating the short term rentals themselves. He recommended downloading short term rental application to see how the process works and felt it can answer a lot of Council's questions. He believes short term rentals should have to pay guest tax just like hotels.

Ms. Lee Hall said she has been to almost all of the meetings on this topic and appreciates Council working on this issue. There are a lot of technical issues that need to be worked it. She said she would like to point out that we have a Zoning Code that provides for single family residences and she likes the categories that were suggested in the draft ordinance for the zoning categories. She said a short term rental in a R-1, Single Family Residence, neighborhood should not be less restricted than a Bed and Breakfast, Type 1, rental. She would like to see special use maintained in the R-1 because that is what the City's current Zoning Ordinance requires for our Type 1 Bed and Breakfast. She said her concern is that we keep trying to turn R-1 single family neighborhood zoning into opportunities to do other things that are not currently allowed.

Ms. Jayne Crumpley said she is also appreciative on how hard everyone has worked on this issue. She is concerned because she has a triplex/mini dorm next to her; it is over built. She would like R-1 to be restrictive and owner be required to live on premise. She said if they would be gone for long term and would like to rent it out for long term use, then they could apply for special use, but it should not be a permanent thing.

Ellen Vinciguerra said that she personally uses short term rentals and believes that having them in the town helps bring a more personal experience to people traveling to Norman.

Ms. Snider said Staff will work on some draft language and present it at a future Oversight meeting.

Councilmember Clark said she would consider allowing the owner to live off site and requiring special use if the property is just sitting vacant. As mentioned, it may encourage the owner to provide better upkeep to the property and if it is being utilized, the City could collect taxes off of it.

Item 1, continued,

Items submitted for the record

1. Memo dated August 31, 2018, from Ms. Jeanne Snider, Assistant City Attorney, and Ms. Jane Hudson, Interim Planning and Development Director, to the Council Oversight Committee, with Attachment 1, draft ordinance language; Attachment 2, Section 438.2 of the Zoning Ordinance, Bed and Breakfast Establishments; Attachment 3, Center City Form Base Code, 702. Use Table; Attachment 4, Center City Form Base Code, 704. Development and Performance Standards; Attachment 5, quote for Core Discovery Platform
2. Power Point Presentation entitled, "City Council Oversight Committee, Short-Term Rentals, dated September 13, 2018"

Item 3, being:

INITIAL DISCUSSION REGARDING POSSIBLE REGULATIONS FOR THE USE OF PLASTIC BAGS.

Due to time constraints, Item 3 was not discussed.

ADJOURNMENT:

The meeting adjourned at 5:40 p.m.