

CITY COUNCIL STUDY SESSION MINUTES

October 30, 2018

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a study session at 5:30 p.m. in the Municipal Building Conference Room on the 30th day of October, 2018, 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 Bierman (arrived 6:03), Carter, Castleberry, Clark, Hickman, Holman, Scott, Mayor Miller

ABSENT: Councilmember Wilson

Item 1, being:

DISCUSSION REGARDING CLEVELAND AREA RAPID TRANSIT (CART) PROGRAM FUNDING AND OPERATIONS.

Mr. Shawn O'Leary, Director of Public Works, said in May 2014, Council adopted a Comprehensive Transportation Plan (CTP) for the City of Norman that incorporated a lot of elements from the 2008 CART Long Range Plan. He said development of the Plan was driven by five guiding principles including one focused on mobility. The goal of these principals was to provide efficient and effective mobility options to residents and visitors by providing multi-modal transportation options and management of existing and anticipated future needs. He said the transfer of a 30 year transit system is a very rare occurrence and Norman may be the only City in the country having this conversation.

Ms. Kathryn Walker, Assistant City Attorney, said in 1978 the City contracted with the Central Oklahoma Transportation and Parking Authority (COTPA) to operate a six bus, three radial route transportation system. In exchange for COTPA providing the bus system, Norman provided a downtown terminal on Santa Fe Avenue between Main and Gray Streets for bus transfers, a one bay maintenance facility, an outdoor site where buses could be stored overnight, an information clerk, and a subsidy equal to 50% of the deficit, if any, for the operation of the system. The share of the deficit was split between the City and Urban Mass Transportation Administration with the City's share not-to-exceed \$70,308. The contract expired on June 30, 1979, and was not renewed due to poor ridership.

In September 1980, the University of Oklahoma (OU) started the Campus Area Rapid Transit (CART) System with two trolley replica buses, five school buses, and one handicap accessible van. This system was totally funded by the University originally with one-third from student general fees, and two-thirds from parking fee revenue with the hopes that, if successful, owners of residential and commercial complexes and the City would be encouraged to participate. A five year plan (1984 to 1989) prepared by OU stated the transit service was designed to serve the University population and also the greatest portion of potential patrons in the general population.

Item 1, continued:

In September 1985, the City of Norman adopted Resolution R-8384-42 to allow CART to expand to non-University related citizens and qualify for Federal Urban Mass Transit Administration financial support. This was done with the understanding that the City would provide non-direct financial support for the system through planning, development, and construction of transportation improvements using local, state, and federal funds. The bus service name was eventually changed to Cleveland Area Rapid Transit which now transports more than one million passengers annually and has expanded to seven “city” routes and six “campus” routes on weekdays and most Saturdays as well as a commuter route, the “Sooner Express,” to Oklahoma City, Monday through Friday. CART also operates CARTaccess, a paratransit service for the elderly, disabled, and those unable to ride the fixed route system.

A Transit Subcommittee was appointed during development of the CTP and included a representative from CART. The Transit Subcommittee identified three major deficiencies of the existing bus system that included limited Saturday and evening service, absence of night time and Sunday service, and the need for increased service frequency. The Transit Subcommittee recognized transit funding would be the most limiting factor constraining transit service expansions and suggested multiple potential new funding strategies, including a time limited sales tax; property tax; development fees; increased student fees; possible fare increase, and/or value capture-based financing. They also suggested the City consider an alternative option of a fare-free transit system to attract additional ridership.

The adopted CTP included eight recommendations specifically dealing with transit service that consisted of extending CART service hours on five key routes; adding Sunday service; enhancing CARTaccess hours to match fixed route service hours; maintaining CART service frequency on Lindsey Street’s east and west routes; adding a new Downtown/Campus Corner circulator route; creating a pilot project to reconfigure the Main Street route and supporting routes to create an initial grid network; reconfiguring and adding routes to create a grid network; and adding new bus routes to target key corridors and expanding the serviced area.

The Federal Transit Administration (FTA) provides significant federal funding each year to support transit activities in Norman. Because OU, through its CART system, is the public transportation provider in Norman, it is the direct recipient of FTA funds and these funds come with certain obligations, including a local funding match and provision of certain transit services. Ms. Walker said local funding is provided by the City, OU, the State of Oklahoma, and Norman Regional Hospital.

In August, OU notified the City they may have to eliminate two services if they did not receive additional funding from the City to cover operating loss. Their proposals included eliminating Saturday service and CARTaccess, Zone 2. CARTaccess is CART’s origin-to destination transportation service for individuals who are unable to use the regularly scheduled CART bus routes due to a disability. CARTaccess features lift-equipped vans and generally operates the same hours as the fixed route service.

Item 1, continued:

Ms. Walker said Staff researched operations in other university cities to determine what partnership, if any, existed between the universities and cities to provide bus services to students and permanent residents. In most of the cities surveyed, city-wide transit service is provided by the cities; however, there are notable exceptions. She said Oklahoma State University operates a transit system without any contributions from the City of Stillwater and due to their federal funding structure they provide fixed route and disability access services only within a prescribed distance of the fixed routes, not the entire city. Texas A&M University provides a robust bus service in College Station; however, they do so without federal funding, which means the service is more expensive and they are not required to provide a paratransit service. The cities of Edmond and Lawton contract a third-party provider and that third party provider purchases the capital equipment and the City Transit Trust Authorities pay the provider pursuant to approval of a contract and annual budget.

Ms. Walker said the goal of OU is to transfer the City's portion of the bus service to another operator by the end of FYE 2019. There are a number of issues associated with transitioning a public transit system from one provider to another that includes identifying capital that will be transferred to a new provider and any associated costs, identifying additional operational and/or capital funding needs, and determining whether to provide the service in-house or select a third party provider, etc. It is Staff's feeling that this would best be explored by a consultant specializing in transit operations selected by a stakeholder group that include the Association of Central Oklahoma Governments (ACOG), FTA, CART, and City representatives.

Proposed next steps include developing a Request for Qualifications (RFQ) to engage a consultant that specializes in transit and is familiar with FTA regulations related to transfer of service provider, contract with the consultant in January (solidify funding sources for study prior to contract approval), and develop a plan for submittal to the FTA in Spring 2019 that includes engaging citizen stakeholder groups for input and having a solid agreement with CART before submitting the plan to FTA.

Councilmember Castleberry said a key qualification should be a consultant that has recently done this type of transfer and not someone who did it 35 years ago.

Councilmember Bierman asked why the FTA could not be the consultant because they have the most experience. Mr. O'Leary said FTA is the regulator and their only concern is how the federal money is being spent and that services being provided are appropriate for those funding standards. He does not believe they would be willing to provide consulting service as a federal agency.

Councilmember Bierman asked if all of the stakeholders would be interested in helping the City pay for a consultant and Mr. O'Leary said he does not know, but once a cost is established, Staff intends to ask that question. He said there has been a suggestion that FTA may have grant funding for this type of work, but Staff has not explored that at this point.

Councilmember Hickman said a good public transit system is invaluable to our residents and he would like the City to reach out to Cleveland County and the City of Moore to see if they are interested in participating in this process. He said a Regional Transportation Authority is being discussed and transit stops will encompass Cleveland County and the City of Moore. He believes a good transit system will enhance the ad valorem base and value of land.

Item 1, continued:

Councilmember Castleberry asked Mr. Kris Glenn, Director of CART, if CART would be willing to help pay for a consultant and Mr. Glenn said he is not in a position to offer that, but suggested the next step be for OU and City Staff to talk with FTA and discuss this idea with them.

Mr. Anil Gollaholli, OU General Counsel, said OU representatives may want to see what services are being brought to the table and whether or not a consultant is needed and, if so, what type of expertise is needed. It has been his experience in working with the FTA that federal regulators are very helpful in navigating those processes. He said spending more money to reduce costs is not high on OU's priority list, but could be reviewed.

Mayor Miller said these are all good points and believes the City should not only look for a consultant to walk Staff through the process, but also look at a long term strategic plan and what that process should include to provide the City of Norman with the transit system it desires. What is happening nationwide? What types of rolling stock could be used versus what is currently being used?

Councilmember Castleberry said the City has an opportunity to basically design the transit system from scratch as opposed to just taking over the system. He said the City may not want to purchase CART's buses and a consultant can help in this process.

Councilmember Hickman does not know how important it would be to have a consultant that has transferred a transit system because it might be more important to have a consultant that has helped create a transit system. He said Denton or Arlington, Texas, may be good examples for researching how to create a robust transit system. He likes the idea of bringing in a consultant with creative ideas versus someone just helping transfer service.

Councilmember Holman agrees with all the comments made, but is concerned about the continuity of services. He said there are a lot of students who live in Ward 7 that use the bus service to get to Campus as well as citizens who rely on the bus system to get to work, doctor appointments, shopping areas, etc. Whatever happens, he wants to make sure service is not lost in the interim.

Councilmember Bierman shares Councilmember Holman's concerns and does not want to break it to make it better and wants to make sure service is maintained, but improve it where it can be improved. She said it is starting to sound like the scope for the consultant is moving beyond what some of the stakeholders are interested in funding. She said the long term plan will be on the City because once the system is transferred, OU will basically wash their hands of the process. She said while the transfer can be complicated, it does not mean it cannot be procedural so it would be interesting to see what a consultant would have to offer, not just in terms of transferring a transit system, but looking at a long range plan as well.

Councilmember Clark asked CART to evaluate what routes they would keep as well as what buses they would want to keep. Mr. Glenn said that can be done fairly quickly because CART has been working on that decision. He said CART is committed to the process and to the transition and will not just walk away, but they do have a target date set by administration they would like to keep. He realizes this will be a process and CART has been a federal recipient for a long time and it cannot be transferred immediately. CART wants to be a good partner after the transfer as well.

Item 1, continued:

Councilmember Holman said joining Oklahoma City's transit system operated by EMBARK would make a lot of sense in terms of a regional transit system, but maintaining some type of control over the City's system could be an advantage until the RTA is achieved.

Councilmember Hickman suggested a citizen's advisory group be formed to work on the long-term process while the transfer plan is being created.

Mr. O'Leary reminded Council that the City is also discussing a parking authority concept and it is common to combine parking and transit. He said the RTA could be commuter rail, transit, and parking. Councilmember Castleberry said he would like to incorporate a parking solution into this process.

Mayor Miller said the City is looking at hiring a consultant in January and there are still other issues that need to be talked about. When would the Committee start working on this process? Mr. O'Leary said Staff has already been talking with major stakeholders, such as OU, FTA, etc., and will invite Cleveland County and the City of Moore to the table.

Items submitted for the record

1. Memorandum dated October 25, 2018, from Kathryn Walker, Assistant City Attorney, and Shawn O'Leary, Director of Public Works, to Honorable Mayor and Councilmembers with Attachment A, Transit Services in College Towns
2. PowerPoint presentation entitled, "Bus Operations in Norman," Council Study Session dated October 30, 2018

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Item 2, being:

DISCUSSION REGARDING POSSIBLE CHARTER AMENDMENTS TO HAVE THE CITY ATTORNEY AND INTERNAL AUDITOR POSITIONS REPORT DIRECTLY TO CITY COUNCIL.

Ms. Walker said Council requested Staff prepare information regarding City Attorney and Municipal Auditor positions reporting directly to City Council instead of the City Manager, which would require a Charter change. She said Oklahoma City has the same form of government as Norman and Staff has included Oklahoma City's Charter language for their City Attorney and Internal Auditor positions.

Changes to the City's Charter must be accomplished by a majority vote of citizens at a properly called election for that purpose. Article XVII, Section 9, of the Norman Charter calls for Council to consider appointing a Charter Review Committee for the purpose of reviewing the Charter every ten years. Section 10 provides for an amendment through the initiative petition process or by Council proposal to submit to the voters no later than 60 days before the election. It is unlikely a deadline for a spring election could be met if Council desires to utilize a Citizen Charter Review Commission; however, if Council decides to move forward more quickly, the same election notification deadlines Council has been discussing for the Transportation Bonds, Stormwater Utility (SWU), and Stormwater Bonds would be applicable.

Item 2, continued:

Councilmember Castleberry asked if the Charter Review Commission has discussed this type of Charter change and Ms. Brenda Hall, City Clerk, said in 2005 and 2006, the Charter Review Commission reviewed language to require department heads report directly to Council on an annual contract. She said in 2011 and 2013, the Charter Review Commission met again to discuss ethic violation investigation language. She said recommendations were made to Council, but Council decided not to move forward with changes.

Mayor Miller said she spoke with Mr. Doug Cubberley, a former Councilmember, who also served on the Charter Review Commission and it was his understanding the Charter Review Commission did not want to make the recommendation that Council be the direct administrator of hiring and firing department heads. She said Mr. Cubberley's personal opinion had been this would not be a prudent change to the Charter because it would politicize the positions.

Councilmember Castleberry said Oklahoma City has a different system than Norman with long serving Mayor and Councilmembers while Norman has had a lot of turnover of Councilmembers, which could potentially lead to politicizing the positions of City Attorney and Internal Auditor. If Council is going to pursue these changes he would like to see it require a super majority of Council (six) to fire the City Attorney or Auditor. He said most department heads are very honest and forthright with Council because they do not fear the retribution of being fired.

Councilmember Carter said he is vehemently opposed to requiring a super majority vote because it is not required for the City Manager's position.

Councilmember Clark would like a Charter Review Commission to review the proposed language because it is a substantial change.

Councilmember Hickman is prepared to move forward with the ballot language, but if it is the will of Council to convene the Charter Review Commission he would support that. He would like to use the money set aside in the budget for the FYE 2019 Auditor to hire a Forester instead and postpone hiring an Auditor.

Councilmember Holman said the Auditor is a new position with a requirement that the Auditor report directly to Council so he does not believe that position needs to be reviewed by the Charter Review Commission. He does support the Charter Review Commission reviewing the proposed change for the City Attorney reporting directly to Council.

Councilmember Castleberry said under the current Charter, who is the client for the City Attorney? Is it the City Manager, individual Councilmembers, or Council as a whole? Ms. Walker said the client for the City Attorney is the Council as a whole. She said that does not change regardless of who the "boss" is, but the City Attorney currently takes direction from the City Manager.

Councilmember Scott supports the Charter Review Commission reviewing the City Attorney proposal. She said Council seats can have high turnover and what this current Council thinks is right may not be what a future Council may think is right. She values job security and would not want someone to possibly lose their job because they made a Councilmember(s) mad and that is a really important consideration.

Item 2, continued:

Councilmember Hickman said the City Attorney and Internal Auditor positions would require a contract similar to the City Manager and those contracts would typically include a severance package that would protect them in the event there was termination with or without cause. He said attorneys are professionals hired and fired by their clients and the client in this case is City Council. It is offensive to him to think that any attorney would politicize their legal opinions because they work for elected officials. He said attorneys have ethics and rules they follow for their client and that client can hire and fire that attorney so the City Attorney should not be any different. If Council is going to ask the Charter Review Commission for their recommendation on the City Attorney position, then Council should also ask for a recommendation on the Auditor position.

Councilmember Carter said he has received so much feedback from constituents already that he does not think more input is needed. He looks at the two year Council cycle as an asset and believes most Councilmembers are entrenched with their constituents, which makes Council responsive, transparent, open, etc., so if the whims of the citizens were to sweep a number of Councilmembers out of office then that might be reflective of changes that need to be performed at City Hall.

Councilmember Clark said she values citizen input so she would send both positions to the Charter Review Commission for their recommendations.

Councilmembers agreed the Charter Review Commission should be convened to review the proposed Charter amendments and Mr. Jeff Bryant, City Attorney, said a resolution to reconvene the Charter Review Commission will be prepared for the November 13th Council agenda.

Councilmember Bierman would like the Charter Review Commission to also review Council's term lengths and swearing in date.

Mr. Bryant said he will send the draft resolution to Council and if they wanted more information, the item could be pushed to November 27th.

Items submitted for the record

1. Memorandum dated October 18, 2018, from Jeff Bryant, City Attorney, to Mary Rupp, Interim City Manager, with excerpts from Oklahoma City Charter, Article II, Section 16 – Selection of City Manager and Other Officers, and Charter IV, Article 7 – Duties of the Municipal Counselor; Oklahoma City Municipal Code, 2010 Chapter 2, Administration – Article III Division 7 – Municipal Counselor; Oklahoma Municipal Code, 2010 Chapter 2, Administration – Article III Division 5 – City Auditor; A Resolution Amending Policies and Procedure for the Office of the City Auditor from Oklahoma City adopted June 13, 1996; The City of Oklahoma City Office of the City Auditor Policies and Procedures Amended as of June 18, 1996; The City of Oklahoma City Audit Committee Charter; Association of Local Government Auditors – Model Legislation Guidelines for Local Government Auditors; City of Norman, Oklahoma Class Specification for Internal Auditor; Norman City Charter Article III – City Manager; Norman City Charter (proposed new section) Article IV. A – City Auditor; Norman City Charter Article VII – City Attorney; City of Norman Legislatively Notated Draft Ordinance; City of Norman Draft Ordinance; and Draft City of Norman Special Election Proclamation and Notice of Election

The meeting was adjourned at 6:55 p.m.

ATTEST:

City Clerk

Mayor