

**NORMAN PLANNING COMMISSION
SPECIAL SESSION MINUTES**

JUNE 23, 2011

The Planning Commission of the City of Norman, Cleveland County, State of Oklahoma, met in Special Session in the Council Chambers of the Norman Municipal Building, 201 West Gray Street, on the 23rd day of June 2011. Notice and agenda of the meeting were posted at the Norman Municipal Building twenty-four hours prior to the beginning of the meeting.

Chairman Jim Gasaway called the meeting to order at 6:40 p.m.

Item No. 1, being:

ROLL CALL

MEMBERS PRESENT

Cynthia Gordon
Diana Hartley (left at 8:15 p.m.)
Tom Knotts
Chris Lewis
Curtis McCarty (left at 7:00 p.m.)
Roberta Pailles
Andy Sherrer
Zev Trachtenberg
Jim Gasaway

MEMBERS ABSENT

None

A quorum was present.

STAFF MEMBERS PRESENT

Susan Connors, Director, Planning &
Community Development
Shawn O'Leary, Director, Public
Works Department
Steve Lewis, City Manager
Jeff Bryant, City Attorney
Kathryn Walker, Asst. City Attorney
Doug Koscinski, Manager, Current
Planning Division
Bob Hanger, Storm Water Engineer
Roné Tromble, Recording Secretary
Julie Shelton, Admin. Tech.
Pam Jones, Admin. Tech.
Larry Knapp, GIS Analyst
Jim Maisano, Police Department

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Ms. Connors withdrew the City's application for Item No. 4, Ordinance No. O-1011-53, from the agenda. That ordinance is the request for approval of a zoning overlay district. Since this ordinance was advertised, there has been a lot of intense discussion with the development community and work toward compromise. Through that process it was decided that we don't need a zoning overlay district at this time. Both of the ordinances that were on the agenda this evening only apply to new developments. The notices that were sent to the property owners were only sent for the zoning overlay district. If this were to be reconsidered in the future, full notification and advertisement would have to be redone prior to any hearing before either the Planning Commission or City Council. At the approval of the agenda, the Commission might consider approving an amended agenda with Item No. 4 removed.

Item No. 2, being:

APPROVAL OF CALLING A SPECIAL MEETING

Zev Trachtenberg moved to call a Special Meeting of the Planning Commission. Tom Knotts seconded the motion.

Mr. Lewis stated that he does have a concern. I was at Tuesday night's Council meeting and City Council raised the issue that in the most recent commercial lighting ordinance, which fell under Chapter 22, there was a failure to notify and City Council addressed that. It seems like we have the same issue again tonight. I'm not, I guess, your usual person – or maybe I am; maybe I'm like everyone in this audience. But when I go to bed at night and I'm able to look back on things ten years from now, I have to know that as a person of great integrity and ethics that I made the right choice and I did the right thing, especially when I sit in this seat as a Planning Commissioner for the City of Norman. It appears to me, with the sudden withdrawal of Ordinance O-1011-53, that I just learned about at the same moment that you learned about it, that there is a great discovery of conflict with me. Every Commissioner, Council member, board, committee signed an Ethics Policy that I have in my hand with the City of Norman. It was passed and adopted on the 14th day of April, 2009 and signed by Mayor Rosenthal. And what it says in there is if there is a discovery of conflict: "The existence of an ethical issue often does not arise until a meeting is underway. Rather than risk an inadvertent violation, the safest course of action is simply to declare that a conflict may exist that prevents an official" – such as myself – "from participating. As soon as an official realizes that a conflict exists on a given matter, they must disclose the conflicting interest on the record for the minutes." As we've got to this point, it's always been a water quality protection zone and a full build-out floodplain coming together at a bullet train's pace. When we had this initial meeting -- and I pulled the August [sic. April] 14 minutes – numerous times in these minutes I suggested that we postpone, that we look at this more in-depth, that we slow down and be prudent so that, as a City, we act responsibly and we act prudently. As a Commissioner tonight I will suggest that we postpone this public hearing until things are truly worked out, so that we're not pushing something past the citizens of Norman in an ethical or unethical manner. But there is a question, and that concerns me greatly.

Chris Lewis moved to postpone this meeting for thirty days until Legal is able to work this out, and reconvene at that time. Diana Hartley seconded the motion.

Mr. Bryant suggested that the meeting be postponed to a date certain rather than postponing for 30 days.

Chris Lewis amended his motion to postpone until the August 11 Regular Planning Commission meeting. Diana Hartley seconded the amendment.

Mr. Lewis commented that he made the motion because he thinks it is prudent as a City to slow things down, to step back, and to look at exactly what we're doing. That is the only way to proceed and that is why I've made this motion this evening. Because when we look at integrity and ethics, I as a Commissioner – I as a citizen – and I as an individual have to be able to look back on this night ten years from now – 20 years from now – knowing that I'm able to sleep tonight and I did the right thing.

Chairman Gasaway commented, which was also his comment at the last meeting, that he doesn't see that we've gone at a record pace on this. This is a topic that the broad view has been studied for several years. We've known about this topic for several months. It has been studied by a committee. Honestly, I don't know what else we could study, what else we could talk about. I don't know that postponing it will create any additional information that we don't have at this point.

Ms. Pailles stated that we all get caught up and we all sometimes get surprised, but in actual fact the City has made an extreme effort to be really forthright with this. There have been lots of meetings, it has been on the website for years. The City has made a sincere effort to get this before the public. That doesn't mean that everybody managed to hear about it. Everybody is here tonight and I would like to hear what the folks have to say.

There being no further discussion, a vote on the motion as amended was taken with the following result:

YEAS	Diana Hartley, Chris Lewis, Curtis McCarty, Andy Sherrer
NAYES	Cynthia Gordon, Tom Knotts, Roberta Pailles, Zev Trachtenberg, Jim Gasaway
ABSENT	None

Recording Secretary Roné Tromble announced that the motion to postpone this meeting until August 11, 2011 failed by a vote of 4-5.

There being no further discussion, a vote on the motion to call a Special Meeting was taken with the following result:

YEAS	Cynthia Gordon, Tom Knotts, Roberta Pailles, Zev Trachtenberg, Jim Gasaway
NAYES	Diana Hartley, Chris Lewis, Curtis McCarty, Andy Sherrer
ABSENT	None

Recording Secretary Roné Tromble announced that the motion to call a Special Meeting passed by a vote of 5-4.

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Item No. 3, being:

APPROVAL OF THE AGENDA

Zev Trachtenberg moved to approve the Agenda, with Item No. 4 removed. Tom Knotts seconded the motion.

There being no further discussion, a vote on the motion was taken with the following result:

YEAS	Cynthia Gordon, Diana Hartley, Tom Knotts, Chris Lewis, Curtis McCarty, Roberta Pailles, Andy Sherrer, Zev Trachtenberg, Jim Gasaway
NAYES	None
ABSENT	None

Recording Secretary Roné Tromble announced that the motion to approve the Agenda with Item No. 4 (Ordinance No. O-1011-53) removed passed by a vote of 9-0.

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Item No. 4, being:

ORDINANCE NO. O-1011-53

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING CHAPTER 22 (ZONING ORDINANCE) OF THE CODE OF THE CITY OF NORMAN TO ADD A SECTION 429.7 CREATING A ZONING OVERLAY DISTRICT FOR THE WATER QUALITY PROTECTION ZONE AND AMENDING SECTION 441(11) PROVIDING FOR SUBMITTALS FOR A VARIANCE FROM THE REQUIREMENTS OF THE WATER QUALITY PROTECTION ZONING OVERLAY DISTRICT; AND PROVIDING FOR THE SEVERABILITY THEREOF.

This item was removed from the Agenda and was not considered.

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RECESS
6:55 to 7:02 p.m.

(Mr. McCarty excused himself from the remainder of the meeting.)

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Item No. 5, being:

ORDINANCE NO. O-1011-52

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AMENDING CHAPTER 19 OF THE CODE OF THE CITY OF NORMAN TO PROVIDE FOR STANDARDS AND REQUIREMENTS FOR A DESIGNATED WATER QUALITY PROTECTION ZONE INCLUSIVE OF THE LAKE THUNDERBIRD WATERSHED; AND PROVIDING FOR THE SEVERABILITY THEREOF.

ITEMS SUBMITTED FOR THE RECORD:

1. Ordinance No. O-1011-52 (Annotated)

PRESENTATION BY STAFF:

1. Ms. Walker talked about the water quality protection zone ordinance and the changes that have been made to the ordinance since the Planning Commission last considered it in April. The Storm Water Master Plan process began in 2005, and it was completed in 2009 with the Storm Water Master Plan Final Report. In November 2009, Council accepted that plan and adopted an Action Plan that charged staff with doing several things. One of those things was to come forward with these ordinances. Beginning in December 2009 and until we brought it to you in April, we were working on these ordinances with input from the Storm Water Task Force, different developer groups, and different Council groups. On April 14 we came to you with a presentation of both the subdivision regulation amendment and the zoning overlay district. Those two ordinances would only affect new developments in the Lake Thunderbird Watershed in Norman, and this is the watershed that contributes runoff to Lake Thunderbird, which is our drinking water supply. It called for a Water Quality Protection Zone to be designated along each side of a stream within that watershed to serve as a natural buffer, and uses in that zone were limited. The base width of that zone was the greater of three things: 100 feet in width on either side of the stream; the designated full build-out floodplain, which is a floodplain different from FEMA that is based on a 1% chance flood event and based on full build-out conditions with drainages 40 acres or less, so it goes a little bit further than the FEMA floodplain in some instances; or it was the designated FEMA floodplain, or we allowed for an alternative width if a developer came forward with an engineered process and got a variation, which would be reviewed and granted by the Public Works Director. That width could have been increased in those ordinances based on slope percentage, so as the slope got higher the velocity of the water gets quicker and so the buffer would have been increased in that situation. Streams that are third order or higher (the larger streams) called for increases. And when there are wetlands that extend beyond the edge of the water quality protection zone it would have been extended in that circumstance as well. We also allowed the width to be reduced without the variation process to 50 feet on first order streams and the developer showing that they hit certain targets for water quality, because that's one of our major goals of this ordinance is to affect the water quality in Lake Thunderbird. It allowed for modification of the current engineering design criteria to accommodate and encourage low impact development strategies. These boundaries of these buffer zones – these water quality protection zones – were to be denoted on the plat, which is what developers submit as part of their application for approval of a subdivision. And then it called it for protective covenants that would address maintenance issues of certain features within the development. It also called for drainage easements to be dedicated to the City for this water quality protection zone, and that was done because if any of you live near Imhoff Creek or have been

near it, you know that there are problems with that creek and we haven't always had access to those creeks and those streams to address issues, and so this drainage easement would ensure that we had that access and could, in fact, address these problems. The City would also inspect the buffer annually and following severe storms. There was a process in that previous ordinance that allowed changing the water quality protection zone for alternative solutions. If the applicant was going to do some engineering, they could reduce that zone but they had to meet these criteria that are up on the screen. We also allowed for, and still allow for, buffer averaging to allow for the buffer to be reduced in some places and expanded in others. If there's a structure or if you lose a lot, we were trying to make an effort to keep as many lots for the developers as possible. At that time we were also requesting an overlay district, which is what you all received the notice about which would create another layer over your current zoning. That encompassed the Lake Thunderbird Watershed, but it did not apply to already approved preliminary plats, final plats, certificates of survey, or lots of record, so for those people who lived in a platted neighborhood or in a subdivision, it wouldn't have applied to you.

What you have before you tonight is, first of all, the elimination or withdrawal of the zoning overlay district. Those provisions that restricted uses within that district have been withdrawn, and I'll talk a little bit about how we're addressing the design of these developments within the zones in a few minutes. The amendments to the Subdivision Regulations are still limited to new applications for preliminary plats and Norman rural certificates of survey for development in the Lake Thunderbird Watershed. So they would not come into play, for instance, if you live in this area and you want to build a barn. It only comes into play if you want to subdivide your land. A water quality protection zone would be designated along each stream to serve as a natural buffer on new plats and certificates of survey or expired plats that don't get grandfathered in, and I'll talk about that also in a minute. The base width is still the greater of 100 feet on either side of the stream, the designated full build-out floodplain or stream planning corridor, or the FEMA floodplain. Or, instead of going through a variation process, we've changed it now so that the developer can meet pollution removal targets and reduce the width to 25 feet. They'll still have to provide some provisions to make sure that the land is not getting flooded in these stream planning corridors, but the width can be reduced to 25 feet by right if you meet these pollutant removal standards. The width may be increased when there's a slope, like I talked about before, on a side of a stream; as a slope gets bigger the water travels faster and there's less chance for it to be filtered through the buffer, so the buffer could be increased by 25 feet based on slope. It may also be increased by 25 feet on certain streams. If it's a second order stream that has continuous water flowing in it, it would be increased by 25 feet. If it's a third or fourth order stream – which are the larger streams – it would also be increased by 25 feet. It still allows for modification of the current engineering design criteria to accommodate and encourage low impact development strategies.

Some of you may have heard we were looking at a manual out of North Texas called the iSWM Manual, which is a great manual that gives you these low impact development strategies and also gives you techniques to get the targeted pollutant removal. We've switched to a very similar manual out of Wichita that our local engineers have actually worked with and feel comfortable with. It's every bit as good as the iSWM Manual and very similar in many ways. It gives them specifications for different engineering structural controls, and if they follow those specifications it tells them what their pollutant removal is, so it takes a lot of the guesswork out and gives

them something concrete to rely on. The plats and rural certificates of survey still have to indicate those water quality protection zone boundaries, and we'll still have protective covenants that address maintenance issues of the non-structural controls – these are the non-engineered items. A drainage easement would be required to be granted to the City for that area that would be flooded in that 1% rainfall event. This gives us access to get in there to inspect the streams, to do prevention if we need to, to do some maintenance, to do some repair. This really addresses that problem for us and for the property owner if we can get in there and see these things happening. The City would inspect the buffer annually and following severe storms with an eye toward what needs to be repaired, prevented, maintained.

The grandfathering provision was an important provision for the developers, because development, especially in these economic times, is a longer process than what it probably was in better times. So plats can be grandfathered in, meaning they don't have to go back and create these water quality protection zones if it was approved within five years prior to the date it's adopted by Council and becomes effective, and if they've actually installed some infrastructure that will benefit the full build-out of the plat. So that allows them, if they've invested money, to not have to do anything to remove that investment or to change that investment; they can go with the plan that they had in place and based that investment on. Buffer averaging is still allowed to accommodate unusual development patterns, shallow lots, stream crossings, storm water ponds – and what that means is that, as I said before, the buffer may be bigger in some spots but it can get smaller in other spots to accommodate development conditions. Plat design must accommodate the water quality protection zone – and what this means is that no structures or septic systems are allowed in the zone, unless it's a structural control, which is one of those engineered solutions that would be giving us the water quality targets that we want or other enhancing design features. The maintenance of this water quality protection zone and, Commissioner Lewis, this has been added based on your comments from last time to address your concerns – within 30 feet of a combustible structure – a house or something that's prone to catch fire – grass and weeds can be mowed like any other yard in Norman, mowed to less than 12 inches as required for residential properties. Beyond 30 feet can be left undisturbed and natural, but can be mowed down to no less than six inches, and that's because of this idea that the buffer cleanses the water. And, again, this is in new developments, so depending on how a developer arranged their lots, the back of lots may or may not be within the water quality protection zone. It's really up to the developer.

2. Ms. Gordon asked what the combustible structures might be. Ms. Walker explained that the definition of combustible structures came from the fire code, and the 30 feet was set based on what the fire code recommends. It's better if you mow to turf level around things that are more likely to blow up because the higher the grass, the faster the fire spreads. What we've proposed actually gives the Fire Department more protection against these fires than what they get in other developments.

Mr. Lewis commented that the reason he suggested it is because when we saw the picture of a buffer zone going right up to a fence, then if we knew that Campus Lodge just almost burned to the ground because there were weeds and debris that were over 12-14" tall, I spoke to the Chief of the Fire Department and asked are you aware of this? How are we going to treat something? What liability does a homeowners association, that I am a director of, have when this buffer zone burns to

the ground, burns the fence to the ground, catches the grass on fire, there's a southerly wind heading to the house, catches six houses on fire – what liability does the City of Norman have? What liability does my homeowners association have? That was the reason I suggested we need to move things back. We need to cut this grass a little bit shorter so that we don't have a Campus Lodge incident in the middle of Norman and burn half the place down.

3. Mr. Trachtenberg asked about the definition of "full build-out floodplain" being removed from the new version of the ordinance. Ms. Walker responded that it is included as a "stream planning corridor." It was called a floodplain, but left the same definition all along as a stream planning corridor from the Storm Water Master Plan. We felt that full build-out floodplain may be more descriptive, but what we learned was that homeowners might feel they need to disclose they have a floodplain on their property because of that, and that's not our goal. We're not trying to create that kind of issue. So we went back to the stream planning corridor terminology to help with that.

Mr. Trachtenberg asked if he would have to disclose that he had a stream planning corridor on the property when he applied for a mortgage. Ms. Walker said she didn't think so. If you have a lot with a stream planning corridor on it, potentially part of it is designated as a drainage easement and that's it.

4. Mr. Sherrer asked about the comment that second order streams would increase by 25 feet, and whether it would increase again by 25 feet for a third order stream. Ms. Walker clarified that it is only 25 feet for second order and above; it is not cumulative.

5. Mr. Sherrer asked if the City would compensate a private landowner for the drainage easement. Ms. Walker explained that the easement doesn't give ownership to the City; it's like the other easements that you have for your utilities through your back yard.

6. Mr. Sherrer asked whether there is a dollar amount limit for infrastructure that would be grandfathered. Ms. Walker responded that there is no set level because it can differ. In many cases they have graded the land to put in their water and sewer lines and have started to put in those lines and that sets where the lots are. In those cases, they would be grandfathered. There is not a set dollar amount because it can change depending on the situation.

7. Chairman Gasaway emphasized that this item refers only to new plats and to replats, and does not concern any area that is currently developed. Ms. Walker added that it would apply to someone who comes forward through the subdivision regulations with an application for a preliminary plat, a replat, or a rural certificate of survey. This has absolutely no effect on a citizen who lives in a developed area.

8. Ms. Pailes asked whether the "three-stage stream buffer" has been replaced by the table showing "pollutant removal efficiencies". Ms. Walker explained that the three sub-zones really don't come into play with just the subdivision regulations; without the overlay district, it doesn't have any significance. The uses were regulated in the overlay district based on those zones, but there is no differentiation in this ordinance.

9. Ms. Hartley asked who will be responsible for enforcement of the ordinance, if it is passed, and the plan moving forward. Ms. Walker stated that if the ordinance is passed it will be part of a review process by the Public Works staff when a plat comes forward; they currently review every portion of the plat and this will be part of that review process.

10. Mr. Lewis said that under City ordinance, this Commission – my fellow Commissioners and myself – are charged with a certain set of duties. And because I don't have the large volume that we're given as Planning Commissioners in front of me, I cannot recite that verse for verse. From your knowledge, and working with Mr. Bryant's knowledge, can you tell me what the charge is of this Planning Commission are in regards to looking at an ordinance and reporting to City Council?

Ms. Walker did not have it in front of her, either. For zoning ordinance changes it's pretty specific that you have to make a specific recommendation. For other things having to do with development, I believe it calls for a review of those things. Certainly you should review subdivision regulations, and that's what we've brought to you tonight and we've done that in the past as well.

Mr. Lewis said in my reading of that ordinance, the two words that stick out are that I'm to investigate and report and then make a recommendation. And as I'm listening to my fellow Commissioners ask questions – and I applaud you for giving an excellent presentation on what is before us – again, it goes back to an ethical issue for me and one of great integrity when I'm trying to fulfill the charge that I have been – the duties that I've been charged with. How am I going to investigate and report on a document I just received less than five minutes ago? And I appreciate, certainly, the presentation that you've given to me as a Commissioner, that you've given to many of our Commissioners, but it challenges me when the Commissioners have several questions. It tells me that I'm not the only one that doesn't understand this document – that I don't fully grasp this document. I mean, there have been changes that were suggested in regard to the change in the distance of the buffer zone so that fire can be addressed appropriately. I just heard that we moved from a Texas manual to a Kansas manual. Now I am familiar with the Texas manual that we were utilizing but I'm not familiar, nor have I had time to investigate what's in the Kansas manual. And I'm wondering tomorrow will it be Connecticut or Ohio or California? I mean, it seems like we're pulling things out of the air and I as a Commissioner then am charged with investigating and reporting. I don't mean to be demeaning when I characterize this – it's almost like a circus that is going on here and I am the one that is going to have to make the decision. It is an ethical issue, knowing that we took the time to do the right thing. I can't say – getting this five minutes ago – ten – that I'm going to vote knowing that I did the right thing. I may be able to support this document, but I haven't had the time to investigate it or report on it. Mr. Chairman, for that reason, again, I will make a motion that we postpone this item so that the Commissioners, including myself, can have time to look through this, investigate it, and report, knowing that we did it in an ethical manner and one with great integrity, because over the past month I have seen a City that I love greatly seem to sidestep the ethics that it is charged with under State law and its own Charter.

Chris Lewis moved to postpone Ordinance No. O-1011-52 to the next Planning Commission meeting, regularly scheduled for July 14. Andy Sherrer seconded the motion.

11. Mr. Trachtenberg said this is not entirely new. We have seen this subdivision ordinance for two months. Indeed it has changed, but it hasn't changed in wildly dramatic ways. As for the change from the Texas manual to the Wichita manual, we just heard that this was done at the suggestion of one of our local engineers – so this was not arbitrary and was not going off to Connecticut to pick a new manual. This was a suggestion by one of the people who are most directly involved in development in this community. I don't have a problem voting on this ordinance. I've been paying attention for the several months that we've had this matter before us. I've been paying attention for the several years that this issue has been playing out in town. There are some changes that have come up quickly, but they're not huge changes; they're changes that are within the ambit of what we've doing. I feel like I can accommodate that. I'm going to vote against the postponement, because I feel I'm capable and ready to vote on this.

12. Mr. Sherrer said he counted and 18 of the 20 pages have a change on them. At the last meeting on this I felt like we were rushing things. I do support the motion to postpone. I'd like to have the time to give an accurate opinion and I'm not sure that I would be able to do that tonight without taking the time to really read through this and understand it. Probably the right thing to do is to postpone, just so we have the time to look at this, understand it. This may very well be a perfect ordinance or a great ordinance – I don't know.

13. Mr. Knotts asked if there is a list of the changes between the new ordinance and the one that was distributed in the agenda book. Ms. Walker indicated she does not have a printed list, but she can go through those.

- The first change is on page 7, and this is where we moved from "full build-out floodplain" to "stream planning corridor." We changed that term, but the definition is unchanged; that terminology was brought back to match the Storm Water Master Plan. It was changed slightly and it now refers to Exhibit 4-4 of the Storm Water Master Plan, which is actually the map that shows the stream planning corridors, so it got a little more specific, but substantively it is unchanged.
- The definition of "water quality protection zone" was changed. Previously it said a vegetated strip of land that lies along a stream, lake or pond and its adjacent wetlands. After some discussion with developers and builders, we feel like stream covers that and also the Lake Thunderbird language. Now it is more specific about what the distance is – it used to go through those three iterations of the greater of 100 feet, FEMA, or full build-out floodplain. Now it says as determined by Section 19-411(B), (C) and (D), which are the sections dealing with the actual width. So that got a little more specific.
- The next change is on page 13. Section 19-308(E)(1)(b) referred to allowable lists, including in the POA documents a list of allowable activities. That has been stricken because that was referring back to the zoning overlay district which has now been withdrawn. So now on a POA document you would just provide a list of the non-structural controls and that portion has been in there from the beginning.
- Section 19-411(B)(2) – This was important for the development community. Before we allowed the width to go down based on approval of a variation,

which required several different criteria to be met. Now, by right, it can be reduced to 25 feet in width on either side of the stream upon a showing of pollutant removal targets being met – 75% of nitrogen and 58% of phosphorous. Those targets have been set for some time – those were in the version you saw in April. New language – “A development plan using an alternative width less than the stream planning corridor shall also document protection against flooding and bank erosion that would be anticipated during that 1% chance flood ...” – so we know that the water quality targets are being met and also that the flooding risk is being addressed. And you’ll see in that section at the end a reference to the Wichita/Sedgwick County Stormwater Manual instead of the iSWM manual out of Texas.

- On the top of page 15 – the table was actually in one of our previous drafts, maybe in March, and we took it out to rely on this manual but we heard from the developers that they wanted something certain in the ordinance, so we put the table back in. It just shows, if you do enhanced dry swales, according to the specifications in that manual, you see a reduction of 50% in phosphorous. So it gives us something concrete and that’s good for our side in reviewing it as well.
- In (D) on page 15 we added second order streams the width may be increased if they have continuous water and then it remains the same at third and fourth order streams.
- I believe the drainage easement language in (E) is a little bit different from what you had, and that was at the suggestion of the Developers Council.
- The other thing that’s different from your book is going to be on page 16 in (H) – the design restrictions. That’s where we brought in some of the things we were wanting to keep the developments from occurring within the water quality protection zone as much as possible. That would call for a developer to develop their property so that they aren’t putting houses or other structures in that buffer zone.
- And finally there was a minor change to page 18. Major change, first – we took out the variation process that we had in there, because we’re allowing some of those things to occur by right now in the ordinance. There is already a pretty good variation process in 19-601(A), so to the extent that things aren’t addressed in the ordinance itself in the variation process that we’ve had in place for years will suffice for those developers.
- Finally on (B) of that section, we’ve got very slight changes to our buffer averaging. It used to call for a minimum of 100 feet, but because we’re allowing the buffer width to be reduced to 25 feet that just created a conflict so I took those out.
- The last change is page 19, the infrastructure – grandfathering in based on the infrastructure.

14. Mr. Knotts commented that it appears that most of the changes were brought forward at the last minute by the developers. Ms. Walker reported that staff met two or three weeks ago with the developers and worked through some of the things they presented then, and have been working a lot this week to try and hammer out the final details to get us all on the same page.

15. Mr. Lewis said it is ten items that I’ve gotten 20 minutes ago. So we are redefining the stream planning corridor. It seems we’re redefining the buffer zone that I

suggested. It seems that we're changing again from the Texas manual to a Kansas manual. It seems that we're doing quite a bit. One that really caught my attention was we're moving from 100 foot buffer zone to a twenty-five foot buffer zone. Knowing that this whole thing – the 100 foot came from Baltimore County, Maryland is where we just reached that 100 foot out of the sky, and the 25 foot came from the West Coast. Who is to say that 25 foot is good for the City of Norman? Again, I go back to my initial recommendation and motion to postpone. When I am charged with investigating and reporting, it doesn't matter to me whether it was the building community that suggested the changes, whether it's the City that suggested the changes, whether it's the citizens of Norman that suggested the changes, or somebody in Timbuktu, South Africa that suggested the changes. When it comes down to my investigating and reporting, I have to know in good conscience that I'm comfortable with this, that I believe as a Commissioner who is charged with making a recommendation to the City Council, that this is the right recommendation for our City going forward as a whole. Again, I strongly urge my fellow Commissioners to step back as I did on April 14 – step back, slow down, look at this document – because if we had looked at it on April 14 and took the time, we wouldn't have had Mr. Bryant, the Oklahoma State Attorney General's Office, and the Cleveland County District Attorney's Office on a phone conference trying to figure out why we did not give appropriate notification to the citizens of Norman and it got ourselves in a bind.

Ms. Walker clarified that the definition of stream planning corridor has only been changed to refer to a map, which was what it was always referring to anyway. It has not been changed in any other way. The other issue is the buffer. The only way someone could get down to a 25 foot buffer is if they show us that they've done the things to address water quality and flooding risk. If a developer is not willing to do that engineering, then they're stuck with 100 feet, the stream planning corridor, or the FEMA floodplain, whichever is greater.

16. Chairman Gasaway stated he will not be supporting the motion to postpone, primarily because most of these issues that are changes now have been talked about in the citizen committee for months.

17. Ms. Pailes said she would have appreciated more time, but most of these are options that have been on the table from time to time. If you've been duly diligent about attending the informative meetings throughout the six years, you really will have heard these and heard the information about the phosphorous, the nitrogen, the whole thing. You will have heard those if you've attended the Vieux presentations and you're aware of how much data goes into this. This is founded on data; nothing has been pulled out of the air. The data has not changed; it's presentation and organization has changed slightly. There is no information here that is totally new. It is something, if you have been duly diligent about attending those meetings, you will have encountered previously. More time would have been a good thing, but I'm willing to proceed, hear our audience, and make a choice.

18. Mr. Lewis commented that I started out on the Storm Water Master Plan committee. I believe, Mr. Chairman, that you were on that committee as well. I moved off of that committee to serve the City of Norman in a different capacity, and I have, to counter what you said, attended every meeting that this Planning Commission has had, including study sessions, and I am still having great concern on whether it's a

25 foot buffer that we need to have, whether it's a 50 foot buffer that we need to have, whether it's 100 foot buffer that we need to have. And, again, I go back to my motion to postpone so that it gives the Commissioners the opportunity to investigate and report on what has been put before us 15 minutes ago or 20 minutes ago – however long it's been now – and actually feel confident, knowing that we are not the experts like Ms. Pailes who has been on the Storm Water Master Plan almost since its inception. So I, as a Commissioner – and I'm sure as many of the citizens that are in this audience haven't had the ample time to review this document, to vet the information that's in it, and truly understand it. Again, I go back to the motion that's on the table, that we postpone until the next Planning Commission meeting.

There being no further discussion, a vote on the motion was taken with the following result:

YEAS	Diana Hartley, Chris Lewis, Andy Sherrer
NAYES	Cynthia Gordon, Tom Knotts, Roberta Pailes, Zev Trachtenberg, Jim Gasaway
ABSENT	Curtis McCarty

Recording Secretary Roné Tromble announced that the motion, to postpone Ordinance No. O-1011-52 until the July 14, 2011 meeting, failed by a vote of 3-5.

PARTICIPATION BY THE AUDIENCE:

1. Harold Heiple, 218 East Eufaula, representing the Norman Developers Council – The first draft of this ordinance we saw in February of this year, and it was an unacceptable ordinance as far as the Developers Council was concerned in many, many respects. The Norman Developers Council has long supported improving water quality and improving flood control in this community. We recognize that's a necessity, not just for Lake Thunderbird, but for the entire community. Many people since February have spent a lot of time working on the language of this ordinance, and we were still a long ways apart. But we were committed to trying to come to some agreement on language for an ordinance – to compromise on that, rather than to litigate. So the City Manager and the City Attorney took the bull by the horns and they held more discussions, and that has resulted in ordinance language that Ms. Walker has been talking about. Because we were working up until the last minute on that, we believe that we have language that everybody in the development community can live with. I do want to look at the hard copy tomorrow to be sure that we all have the same language and we're all working on the same page. But assuming that that happens, and I think that it will, then if the City Council adopts this revised version next Tuesday without any changes, then developers will not only support the ordinance, but developers will support something that should have been started in this town at least four years ago, when the 2007 floods were upon us, and that is the creation of a storm water utility authority and submit that to the voters, and also submit to the voters a question of a reasonable fee to be paid by utility customers to take care of the drainage problems in the City – the urbanized city – and the maintenance of these channels that have not been taken care of because of lack of money on the part of the City. And we are very much dedicated to supporting that, working to promote that in every way that we can, along with any other measures that will help to reduce pollution as far as Thunderbird is concerned, and help to control elements of flooding

that we saw in 2007. So, with that, we're happy to say that we worked out a lot of differences and there have been many, many, many changes, contrary to some of the comments that there have not been a few. This is a much different ordinance than the first draft that came out in February of this year.

2. Sean Rieger, representing the Builders Association of Southcentral Oklahoma – This is a much different ordinance in front of you than when we started a long time ago. What we at the Builders Association have said all along is that we absolutely support clean water and efforts to get there through new development and new construction. What we have said all along is we want to achieve that result through reasonable engineered methods that easily are achieved in many areas around the country and that we can do that, too. What we've achieved, I think, earlier today, through very close and important work of staff – and I commend City Manager Steve Lewis and Jeff Bryant for working with us on that – is a method to do that. And we've achieved that method without the zoning overlay district that I think many of these folks are here very much against, as I think you're obviously hearing tonight. We can do it without that. We can do it with a subdivision regulation in a measured, reasonable way. That's what I think we have achieved tonight. It, of course, is subject to us seeing that draft tomorrow morning and, of course, other things have to happen next Tuesday. But we can do that. We can preserve the property rights of all of the private citizens that used to think they have this overlay going over them. If that is removed and we have the engineered solution per this ordinance, I think we are there. I thank the efforts of the staff for getting us there today. We look forward to finalizing that in the next few days.

3. Kathy Chanes, 7220 East Rock Creek Road – I own land east of Norman by the lake. Really my question is more about how this is going to affect a private homeowner. I have 18 acres. I know a couple of times I've called and I really wanted to subdivide my land into two plots and they said I couldn't because I didn't have 10 acres. But I don't know if this changes anything or how it affects us as just private homeowners.

Mr. Bryant explained that this shouldn't change the requirement that you have at least 10 acres. This ordinance would not impact you. The ordinance does apply to new developments and new subdivisions. So if you had enough acres to subdivide, the ordinance would apply.

4. Gene Hansmeyer, 13500 East Cedar Lane – Where I live is not affected by this. I've got property out here northeast of Norman at 36th and Rock Creek. I have around 200 acres there. So if you folks pass this ordinance that you're talking about, you don't have to worry about developers because it's over with. They won't be able to develop anything – sell anything to develop anymore out there because they won't be able to afford it. Like I wrote in the letter, I was born and raised right out there and I've seen the City of Norman dictate to us over the years how they're going to operate and do these things and, as yet, it hasn't anything come to pass that they promised us. So far we've got garbage service – that's it. And we don't need anybody coming out there telling us 100 foot on this side of the creek and 100 foot on that side of the creek you can't do nothing but let brush grow. I've got a grass field out there that's got a creek on both sides of it – it's 22 acres. By the time you get done taking 100 foot on each side, I'll have a sidewalk left through the middle. It's the most ridiculous thing I've ever

heard of in my whole life. I don't know where you all come up with this kind of stuff. If the people don't like the water in Lake Thunderbird, my suggestion to them is to hit the highway. I've been told the water that comes out of your disposal plant out here is pure enough to drink; if that's the case, why don't you just recycle that and leave Thunderbird alone? The builders have all almost left anyway. You get a few more ordinances, there won't be no more development in this thing.

5. Heather Arndt, 2202 Wheaton Drive – I'm a busy person just like everybody else and I've heard a lot of talk about concessions to and meetings with the builders and the developers. But, as I'm sitting back there – and my concerns are slightly different than the landowners that have the land that's affected. I haven't heard any conversation about public meetings where we've had things explained to us and where we get our voices heard. I just think that, as the people who are supposed to represent us, there should have been meetings where we were informed of what was going on. To presume that we are going to watch the announcements and follow everything and come along when we're not even allowed to really participate I think is a bit presumptuous. So I'm just concerned to whom we're pandering. Are we pandering to developers, or are we tending to our constituents?

6. Verline Harker, 13811 Chaparral Road – I'd like to know if you all contacted environmental quality board, other than that private environmental working group out of California. And the agriculture – the conservation board. And I'd like to know what gives you all a right to take our rights from our property. Nobody out there puts fertilizer on their yards. We've lived out there for 30 years. There's no manufacturing plants. We've been down every road. Since this all began – I have congestive heart problems and when I came up here to file this paper the other day, I had to go straight to the emergency room and that ain't no fun – whenever you're thinking that your property and your livelihood is took away. And that's all I've got to say.

7. Bobby Stevens, 3801 SE 108th Avenue – I come to these meetings quite often – City meetings. I really don't think the people was informed in enough time about what was getting ready to go on out east. My Ward 5 website – I mentioned it Tuesday night to my ward leader and she did put an update on it, but that was just Tuesday night. And I've talked to a few people that said that they didn't get a letter in the mail and was not aware of what was going on. For whatever reason – I don't know – if it was the mail man didn't put it in there, or it got lost, or blew out, or whatever. But I honestly believe there should be more discussion about this. And, believe me, I believe in water quality. I think it's a great thing what we're trying to do here. Progress – you can't stop progress. But the wells that was out east that came in – you all drilled them 500 feet deep. Our wells are 180 foot deep. It doesn't take much of a rocket scientist to know that our wells are going to go dry before the City's wells go dry. I've been in Norman all my life; I was born here and raised here. A lot of people sitting up there on Council probably don't know where the first grocery store in this city was. I do. It's called Dave Blue Trading Post; it's on 48th and Highway 9 – one mile south – in the 1870s. And you say why do I bring that up? The reason I bring that up is because those section lines belong to my family in this town. They've been in here since Norman was Norman. I've got the original deed on some property – 80 acres – that traded for two mules and a plow. It's my mother's property, and this will affect her property. We don't plan on building a housing addition right there. Mom wouldn't want that. But Mom's not

always going to be around. My brother and me and my sister, we might open up a housing addition there. And I don't feel that my dad would feel right about us giving up one inch of what he worked for for nothing. Compensation is due. It's a 50/50 deal here. I know stuff needs to be done, but there's also – you can't just step on people's property rights. I'd like to read this: "A theory of a system of ownership of all property by a community as a whole." This came straight out of the Webster's Dictionary. Do you know what that defines? Communism. Thank you very much.

8. Chris Applegate, 728 Humming Fish Drive – I went to school at OU. I just graduated and decided to make Norman my home now that I've graduated. I understand a lot of people here didn't know what was going for the past six years. That's surprising. New person to the City. Not even a resident of the City for many years as being here as a student and somehow I still wandered upon the Storm Water Master Plan, looked into it. I've read the water report on Lake Thunderbird from the Oklahoma Water Resource Board. And from my understanding – if I'm not right – is that this City is actually moving toward the direction that our water – DEQ could stop water for the City if it's impaired. I'm not completely sure on that, but I do know that the chlorophyll A problem and people swimming in the lake is becoming more dangerous. I understand that the water quality has continued to go down, which is making our drinking water more unsafe in the City. And it's due to already poor planning on Norman's part in the beginning of the City. Because you look around town and you can see how the City has continued to expand without proper safety measures to protect the water quality that's going into Lake Thunderbird. But I do applaud you guys on moving forward with this, I hope. The revisions are not that big. For the safety of my family that I want to have here, am I going to have safe drinking water? I don't know that. I am unclear on that, because the way the City has potentially moved is that we could have unsafe drinking water, and it's already becoming more and more unsafe. And we need safe drinking water. I'm willing to do what it takes to supply water for the City of Norman, because I don't want Oklahoma City dictating to how much water we get and having to raise our water rates, and discouraging businesses in this City because we're going to have an impaired body of water that we're not going to have safe drinking water from. You guys can't raise the rates on us because we have to vote on it. So that puts you at the mercy of whatever money you have left in the banks for the City of Norman to pay them, and you guys just don't have that money to pay Oklahoma City. So I understand that some citizens out here are just plain angry; they think you're taking property rights. You're not. You are basically going to do some maintenance and make sure that those areas stay clear and that the water can filter as naturally as possible. I understand that developers can now move in 25 feet and I know this gentleman over here – you talked about scaring businesses away. I know that we've built numerous businesses since I've been here. I don't think the businesses have gone anywhere. The City and the Oklahoma City metro area has grown with really great businesses in this area attracting people and it's one of the most livable cities in the country. So I don't see what the fuss is about on discouraging developers or anything because we keep leaning towards them and letting them do less protections for the citizens of Norman and we need the fullest protections that we need for this City. I really suggest to move forward and placing that 100 foot buffer zone and to protect the water quality in the City and to also – I really liked – I think it was Mr. Heiple who mentioned this on the utility fee, but it will have to be voter passed, but it will help in cleaning up the streams in this area to better protect homeowners and

to better protect the water quality in this area, because water is such a big issue. Thank you.

9. Harold Haralson, 516 Avon Drive – One of the preceding people that came up here mentioned that this was a deal cut between the City and the development community. I would like to mention that there's another group involved in this process and that's the Sierra Club and the Red Earth group. So it's really not just the City versus the development community. There's another group involved in this that's been artfully involved in doing some of the things that you're seeing. So I think defining the debate needs to include an acknowledgement of that group's involvement in this as well. Prior to what happened earlier, I was a little bit concerned that the rule of law was being trampled in the move to implement this. I'm happy to hear that at least the overlay district has been withdrawn. There has been a lot of comment, I think, in the paper about the common good. I find the idea that we can take people's land – the use of their land without compensation is a bit troubling. Our country's tradition has been to compensate people for their land when we take it. North Base – South Base in World War II – prime examples. Common good – defense of the nation – government paid for the land. Whenever the City takes right-of-way for road acquisition it pays for the land. What defines the boundaries of common good? The government, under a broad interpretation, can take your house, your land, not compensate you. It's a slippery slope that's being argued. The necessity to pay is a measure of checks and limits on the ability of the government to abuse its power. I'm also concerned because what we're addressing really doesn't address the major causes of pollution in the lake. What causes pollution? What causes the algae to bloom? Fertilizer. Pesticides are also a problem. Runoff from roads are a problem. That hasn't even been addressed. The majority of the drainage basin – Oklahoma City, Moore – we had no impact on them from our ordinances. Has anyone wondered why the City Council has not moved to ban roads, fertilizer, and pesticide use? Interesting question. I would propose that it's probably easier to play the different groups off against each other to obtain what I would see as the real reason for the original proposal and that was to obtain trails and a funding source through the storm water utility as a means of funding access to these areas. So I think you still have to listen to those concerns of these people. That's your charge. And there's more than one group – there's the City, there's these interested citizens who feel that they might lose some of their benefits of their land, there's the development community, there's the Red Earth. I appreciate you listening to me tonight. Thank you.

10. Roger Gallagher, 1522 E. Boyd – When this project got started, Baxter Vieux took samples and was working as one of the chief scientific people in this project. He warned early – four years ago or so – that building on the north side of Norman, if it got very active, would add more pollutants to the Little River and to Thunderbird. That area is just about being built out. He followed up with studies tracing pollutants and he and his committee arrived at the idea, or the assumption, or the scientific choice – whatever you want to say – that a lot of this came from large commercial buildings in East Norman. Walmart. McCarty is out there now. The veteran center is out there now. They're all fine organizations. Those are some chief polluters that go into the Little River and Thunderbird. He also said to the committee that the first rush of water with a heavy rain that doesn't flood past its banks carries most of that pollution down the Little River and into Thunderbird. The buffers aren't even into play then. I think that points to the

questionable use of taking some of these land – you might call them donations or easements – and even considering them. That leads me to ask – and I've been following this and I'll be on Council July 5, so I'm speaking as an individual – but I question the very beginning of this – and I've gone to several of the meetings and the Council meetings for four years. Why are we worried about buffers when we haven't addressed pollution? We have not addressed it. You're up here talking about buffers in one of the driest conditions of the year, and the only time – I've lived in Norman 35 years. The only time we even seriously look at water in Norman is with a cloudburst and in 12 hours or so the water is absorbed. Even Lake McGee doesn't stand more than a couple of days. And Lake McGee – some of you have been here quite a while and you are sitting on the Planning and Council can't do anything unless Planning approves it, and then they can override you, which they have done in a couple of instances – the Tanglewoods Subdivision, for instance. So we need to take a look at the serious issues in Norman and they aren't the east side. They are things like Imhoff Creek and other places like that. And I've often wondered – yeah, the builders messed up building that subdivision and McGee floods like crazy. But who was responsible for that? The Council that let the builders do it and the Planning Commission that sent it to Council. Those issues haven't been addressed. Where are Moore, Oklahoma City, and Midwest City in this discussion? In City Council, I have not heard the members say let's drag these other people in. Let's have a meeting with them. Let's discuss how they can contribute to controlling pollution. Even among the city of some 500 miles – unless Shawn might correct me on this – I think we have about that many miles in the City limits paved – I saw a street sweeper for the first time in over 12 months on my street after this storm. Now, supposedly, they come by two times a year. I don't even know if there's a schedule for them when we know. I don't know when they're coming by and they don't fulfill the overall City code – or the overall City activity or promise of coming twice a year. Shawn O'Leary, himself, said that street sweeping is critical. I agree. I sweep the streets myself after I mow. Look at the number of yards that are mowed by homeowners in the City and they blow the trailings into the street. Where do they go? They go either to the river, if you're on the central or western portion, and on the eastern portion they go into the Little River and Thunderbird. These critical issues have not been addressed. We all want clean water. That's just fabulous, but there are other ways to go about this and tell the people how much it's going to cost. We don't have any idea on cost. And if the storm water utility – and Jeff Bryant will tell me – will acknowledge this, because he was at the meeting and I asked if that utility decides to charge a fee, they can do it without the voters. That's right. I asked and Cindy shook her head, said yes that's possible but we won't do it. You know, these are serious issues, and a storm water utility to a City where 75% of the City doesn't have any problem with flooding – Noah could come back with God and I would never flood – and I'm going to have to pay. You know? Maybe a slight fee for people who aren't even in the zones. But if this goes through and the utility decides to charge a fee instead of a rate, which voters have to approve like the water rate – I think these questions need to be addressed. And I'm in agreement with Andy, and I'm in agreement with Chris, and I think that serious consideration and slowing this would help. What's the rush in the driest part of the year? What really is the rush? We won't see any appreciable water – and I'm not a meteorologist, 'cause they only go for two days, anyway – we aren't going to see any appreciable water 'til probably late fall or maybe winter. I mean, we all want water quality. But, you know what they started when they had this quality zone – they had water quality and then they had storm water. They were two separate

things. And they were told if you blend the both of them, water quality will be more acceptable to the voters and the voting is 50% instead of 60% if it's storm water only. I think that's a slight of hand and I'd like to see them separated. But, really, I hope you don't take this to Council right now, because it has a lot of questions. We're all not out here with poor ideas; we're serious people who have considerations, and no one is here to cause problems. I have no land out there; I have no connection to anything in East Norman except my house. But I think – take some time. This thing isn't impending. We're not all going to have floods on these buffers that won't even exist unless you have a tremendous rain, and then it will disappear and then you'll be back to normal. Thank you.

11. David Kempf, 317 Towry Drive – I'm not pouring out fertilizer on my land or chemicals or pollution, but you want to take part of my land so that I don't accidentally do something that I'm not doing. I appreciate that. Thanks. I don't really want to talk about that. There's something more insidious going on that I need to address. Mayor Cindy Rosenthal has indicated that the City of Norman and she are not members of the United States Conference of Mayors or ICLEI, which is a UN organization that's been sent to the City of Norman and other municipalities to infiltrate it and the government with communism. I want to debunk that theory, and I think it's insidious that that theory has been promulgated and the people in this town have had to listen to that. It's just not right. Mayor Rosenthal has said she is not a member and the City Council is not a member. And we can suppose, based on her great reputation and record of public service, that she's never been a member of these, either, nor of any communist organization, like the United States Conference of Mayors or ICLEI. We can infer that because of her great record and her impeccable taste.

Chairman Gasaway pointed out that the purpose of this meeting is to talk about the storm water plan and the proposed ordinance. We're here to hear your opinion on the storm water ordinance. We would appreciate it if you would keep it to that.

Mr. Kempf continued – I believe these things have had an influence on the Storm Water Master Plan and the water quality protection zoning overlay plan. So I want to debunk the theory that any communist organization has had any influence on this thing whatsoever. On August 10, 2010 the City Council vows to adopt the sustainability agenda first promulgated by Agenda 21. The Council vowed to do the following: provide a regional vision or plan for sustainable growth; integrate housing, water infrastructure, transportation, land use planning and investment strategy; address energy efficiency; address the impacts of climate change through the development of mitigation and adaptation strategies; promote the creation of equitable sustainable communities; promote social equity – that's where everybody equally owns everything – and access to opportunity; promote environmental protection and restoration; redevelop underutilized sites; leverage federal investment in existing communities – that's community block grants or federal bribery to implement this stuff; promote equitable affordable housing; increase economic competitiveness – that means abolish capitalism and free enterprise; promote multi-modal regional transportation systems and healthy, safe, and walkable communities. You can see all the buzz words that they've littered this tripe with. We know that capitalism is competition for the best service, so what kind of economic competitiveness do you think they're talking about? Government-run companies. You can see it for yourself. They've conveniently left off

private citizens from the list of stakeholders. Have you ever heard that term? You guys had meetings. You get all the stakeholders together and they've been doing that for six years. But were you invited? You're not a stakeholder. So here's that evidence – here's that resolution – here's a copy of signed by the Norman City Council, but no doubt without the consent of Mayor Rosenthal because she would never, ever submit or foist upon the citizens of Norman any evil plot by communists to overtake this City. Why would she do that? She would never do that. The City budget makes a defiant devilish claim in their 2010 budget that the City of Norman has adopted the US Conference of Mayors' climate protection agreement. ECAB – the Environmental Control Advisory Board – in defiance of the City of Norman Mayor Cindy Rosenthal's express desire to remain free of the influence of communists and totalitarians – has endorsed the ICLEI's Cities for Climate Protection Program, a world-wide, transnational governance network run by the United Nations.

12. Baxter Vieux, 2008 Grand View Avenue – I am the author of a number of reports that have been referenced here tonight. I just want to say, as a citizen and also as an engineer that understands a little bit about this – also teach courses in water quality management, environmental modeling – I work in consulting for other municipalities who have either not adopted similar ordinances and are now suffering problems with flooding and water quality. I just urge you that what you have before you tonight is to consider this ordinance and that it's going to do some good. I wish it were a wider buffer zone, but I applaud the development community and Harold Heiple and Sean Rieger and those that they represent to have come around. There is a compromise that has been made and I think it's beneficial – that if you can engineer a solution and show that you're not going to exacerbate the flooding by designing an engineering solution, I think that's great. Furthermore, Lake Thunderbird doesn't need any more phosphorous and nitrogen than it's already receiving; it needs far less. Urban development does increase it, unless you take specific steps to limit it. Storm water buffers are applicable in the zones that you're talking about. There has been a lot of discussion about whether they're applicable or not; they do have an affect. Mr. Gallagher, I think – he must not have been at the meeting where I explained this, because I think he took away the wrong message. The first flush when rainfall occurs – it picks up pollutants and, oftentimes, that can be the major source of it in the first parts of the storm. Vegetative filter strips do filter out that first part of the storm – the runoff – the diffuse runoff that can flow through those. It's a very appropriate practice for filtering out pollutants and sediment. So I think it's a good ordinance; it will have a good affect and we desperately need to take these steps. I think there are more steps that need to be taken. You'll have an opportunity to do that, I think, in the future as future efforts are needed to clean up Lake Thunderbird and help restore its usefulness as a water supply. Thank you.

13. Dave Spaulding, 6700 NE 103rd Avenue – I would like to commend Commissioners Lewis, Sherrer, and Hartley for voting yes on the motion to postpone this vote. Some of you expressed the fact that you are prepared to vote. Frankly I say so what. This is supposed to be a government of the people, by the people, for the people. You have citizenry in front of you who are not prepared for this vote. They don't fully understand this ordinance and its changes and its affects that it may or may not have on their lives. You say you're prepared to vote tonight; well, then, will you not still be prepared next month when these citizens have a chance to understand what's

at stake? What's the hurry? Tuesday night Council cast a vote that flew right in the face of their citizenry. I fear the same is going to happen tonight. I will say this: when I am seated July 5th as Ward 5 councilman, I will make a strong effort to stop this freight train of big government and limit the City's involvement in our citizen's lives.

14. Jim Harvey, 321 84th Avenue NE – I have just a number of bullets to point out to you. Number one, I agree with Councilman-elect Gallagher, who says the majority of the pollution – or the majority of the flooding is not really being produced by Norman citizens. In fact, your own report says that. It's less than half. So I have to ask the question: why are we asked to shoulder the burden of cleanup of this lake or mediation of the water, when none of the other surrounding communities are being asked or being brought into the situation, have not bought into it? We're asked to shoulder the burden of some \$83 million, according to your budget in your plan. That's a lot of money. When I look at the plan, it looks to me like from the get-go the solution was decided upon that we would zone, we would create regulations to control water runoff – to control the input to the lake. But nowhere in the plan does it say or does it talk about the alternatives. What other alternatives were considered before this was decided upon? Why is this the best solution? Generally speaking, when I read plans and when I read studies, they will talk about things that were considered and discarded as being impractical, too costly, whatever. I see nothing like that in this plan. I see past history, but I don't see any proposed alternatives, and I think that should be considered. That would go a long way in addressing some of the concerns of the citizenry. Furthermore, the only thing that's being considered are the inputs to the lake. In other words, to decrease pollution, the only thing that you're considering is reducing the amount of pollution flowing into the lake. What about the alternative of removing the pollution that's already in the lake? In other words, look at it from the output. We have a farm down at Stratford, and I realize this is a poor analogy, but we have ponds down there and there are different ways that you can clear the ponds. You can get algae-eating fish. You can throw straw in the water and absorb the algae. And I don't know – those are probably not suitable for a body of water as large as Lake Thunderbird, but if we have a proposed budget of \$83 million, that could buy one heck of a large water purification plant. Has anyone considered that? I don't even know if it's a reasonable thought. But has it been considered, and if it is unreasonable why is it unreasonable? You can come up with other ideas like that, but my point is it just looks like – just not knowing the history of this and just reading the report, it looks like there was one solution proposed and you went with it from the beginning. That's what it looks like. Prove me wrong. And, finally, in order to get the plan approved and implemented, you're going to have to get a buy-in from the citizens of Norman. And the way you do that is to answer the questions and to fill in the blanks. To vote on it and to run it through without – and to claim that you've waited long enough already – we haven't even seen this plan. I wasn't even aware of it until about a month ago. And now, come to find out, that the copy I got from the City Mayor was a final report produced in October 2009 and now it's different. I don't even know what you're looking at anymore. Not only have some of you Council members expressed a concern about this latest amendment that's been proposed tonight, none of us have seen what's changed since 2009. So how can you expect the people of Norman to have bought into anything? It hasn't been made public. The only thing made public is the October 2009 report. Is that current or not?

Ms. Connors reported that the Storm Water Master Plan was accepted by the Council in November 2009. We're talking about ordinances, which are separate from the Storm Water Master Plan.

Mr. Harvey concluded – When I read the report, it's hard for me to understand how that report supports the ordinances that are being proposed. It seems to presuppose that they're going to be proposed. It presupposes that that is the solution. My point is we don't know what other solutions were proposed, so we don't know why they don't work. Thank you.

15. Mark Campbell, 2821 Dewey Avenue – If the Norman Planning Commission has a member that can't accept no to a repeat question and has to ask it again, I think there's a problem with that. If a Norman Planning Commissioner is unable to sleep because the Norman Planning Commission needs to conduct regular business, then I would like to know what the steps are to replace that Norman Planning Commissioner with someone who's going to have their full faculties. There's 52 nights between now and August 11th – that's a long time to not sleep. I don't understand as a point of order if a Norman Planning Commissioner asks for a postponement, doesn't accept the answer of his fellow planning committee members, and then immediately asks for the exact same postponement again based on the exact same moral superiority and he doesn't accept the answer, he should step down. If members of the audience bark out challenges out of order and said Norman Planning Commission member, so concerned with filling his duties to the letter, smiles and answers completely out of order, disrespecting his seat and encouraging disorder at this meeting, he should step down. Thanks.

16. Uriah Hughes, 9610 N. Moa Circle – I've heard from a lot of people tonight. I've heard from some builders, or at least their lawyers who like the deal they've been cut. I've heard from some land owners who are concerned with the value of their land being diminished without compensation, which is illegal and not in accordance with the Constitution. I've heard from some residents who are concerned with the City coming to tell us what to do on our own land – where to park our cars, place our pools, shed, swimming pools. City coming to inspect us annually and fine us for non-compliances and to pay for engineered solutions. I'm an engineer and I don't work cheap and I don't think I can afford an engineered solution that someone else decrees against me. I've heard of a new study that confirms a new fact that there's a lake east of town called Dirty Bird. Like I said, I'm an engineer and I live and die by numbers and I know a lot of other engineers that do, too. I haven't seen any numbers presented. No before and after study showing what the results are expected to be. I live in this water quality protection zone that was proposed. I was not notified of it. And I'm amazed and furious as I look at a Commission determined to fly in the face of the public and pass a resolution that the public has not even seen. My grandfathers fought in World War II to keep this a country of the people, by the people, and for the people – not the other way around. And what I'm seeing tonight is government working the other way around.

17. George Oxsen, 321 Orr Drive – I do not have land in East Norman, but I would like to, which would automatically replat me. I don't know if this is anything like the Plum Creek watershed, but what happened to the farmers and ranchers in Plum Creek

through the prescribed management which was called the Plum Creek Watershed Protection Plan. This is what it says: For farmers and ranchers in the Plum Creek Watershed, the prescribed management activities will mean setting aside large swaths of their property along Plum Creek and its tributaries for non-use. In other words, livestock would no longer be allowed to graze in these areas or have access to the water. Farmers would not be able to grow crops in these areas. The potential cost for individual farmers and ranchers to carry out their part of the plan include new fencing, permitting and installation of alternate water sources for crops and livestock. If other conservation plans do not already prevent them from having access to these alternative water sources, loss of revenue from having less acreage available for growing crops and grazing livestock and higher property taxes due to loss of agricultural exemption on the unused acres. What I see in this is you guys are finding a way to take personal property and acquire it for you without the use of eminent domain. It's theft. I don't know what you call it – you can call it anything you want. If you live on the lower part of the land where there's four creeks coming down, you lose more property. If you live at a hill and you have ten acres there, you're fine. You live at the bottom of it, you lose more land. You don't lose 25 feet – you lose 50 feet off each one of those creeks. So if you're living at the bottom of that land, you're going to lose 500 feet. Now if you get the 100 feet, you're losing 1000 feet. You just lost all your land. You guys acquired it without paying a dime for it. That's theft, and that's wrong.

18. Russell Dutnell, 1504 Ann Arbor Drive – I've been a member of the citizen task force storm water committee since its initiation several years ago. I really resent the remarks – the tripe remarks – regarding UN 21. That's ridiculous. Those words never came out of anybody's mouth during any of those meetings. The reason the Storm Water Task Force was formed was to help guide the Storm Water Master Plan. It included citizens like me, developers, the research community, staff on the City, City Council members that the citizens voted for, and the plan was developed because, as studies have shown, the lake is exceeding its water quality standards for chlorophyll-A. Perhaps the scientists have done a poor job of explaining to people what that means in real terms, because I think Norman is full of intelligent citizens and if they really understood the ramifications of what's happening, they wouldn't be expressing the concerns they have. The lake has serious algae problems and it's not getting better. Algae will get to a point where the lake will first be – you will not be able to get the bad taste out of the water. There have already been toxic algal blooms in the lake, which will only get worse with increasing algae, which is from increased nutrients. Something has to be done. The water quality protection zones are by no means the only way that's going to solve this problem. It is not the only thing we need to focus on, but it is a start – it needs to be done. Not just something else instead. This needs to be done. We need to seriously consider nutrient limitations, voluntary or not. People say, okay, well they're going to lose land 'cause they have to change practices. Well, you know it would be really nice if people understood what the problems were and then would do the right thing. Unfortunately, history has shown that's not the case. Industry in the past polluted water to the extent that they caught on fire. So they created a Clean Water Act. And they put laws on point sources first, because that was shown to be the number one cause. So we spent millions and billions of dollars building wastewater treatment plants to minimize pollutants to our water. Years ago EPA realized that's not sufficient, so we have to address what's called non-point source pollution. Read in a paper today that talked about we need to separate flood water and quality. It's the

same issue. The waters that come off of runoff are polluted and they're being shown to be significant contributions to the pollution. And something has to be done. Maybe this isn't the best solution, but it's what we have before us now and we have many more to go before us and many steps. And I think you should approve it now, not wait any longer and start this process over for another five years. I'm an environmental engineer. I did water quality modeling and assessment in the past. Now I'm a river engineer and I do stream water restoration and habilitation. And I'm also working on a Ph.D. studying the watershed.

19. Judy Martens, 7575 E. Franklin Road – Mine is a relatively simple statement. I wanted to thank Mr. Lewis for standing up for us. Basically what I want to say is I've lived out there 22 years. I have never received anything from the City of Norman relating to this issue in the 22 years. It used to be that legal notices came with some kind of confirmation, like certified mail, so that all the citizens – so that you would know that you have your information out to all the citizens. When I did call the next day upon receipt of the letter that came out, I called and asked, after reading it, for something in simple English for all of us to understand so that we can be better informed and also so we can participate. And it seems to me that the cart was put before the horse. I live out there. I don't take the Norman Transcript and I don't know everything that goes on in Norman. I would like to have the opportunity to know more. I think it would have been good to have some meetings with us land owners. You people know more about what's being planned for us than we do. And, as I say, after reading the information, I still don't know a lot of the terminology. I just think there should be more time given to us so that we can all come together and know what is happening to us and I do think maybe the City isn't – the City is wanting to move on and we're just – it's our land that's involved. I came tonight simply because I wanted to know more. I just don't think we're ready to do this without a little more time so that we can visit with our neighbors, too, and have more representation and more knowledge of what is happening. And I don't think it would hurt to postpone just to August 11. And, as someone said, I don't believe we're going to have a flood between now and then. Thank you.

20. Claudine Colbert, 3901 108th Avenue SE – I received a letter regarding the water quality. This was on May 31. Up until that point, I did not have any knowledge of what this meeting was going to be like or what it was going to be about. I would like to say that I do appreciate all the comments that I've been hearing. I do understand that quality water is very important for a community. I worked for the Oklahoma State Health Department for 32 years, but my area of expertise was in mental health, not anything to do with water, although I do understand all of the things that are necessary and important to make a safe community. I feel like the issues here are very complicated and possibly need more time. I speak for myself – I need time to digest the information. I'm still trying to figure out what the issues are and how it might possibly affect me as a homeowner. And I'm not sure, but I do know that if I had more time, that would give me more time to review and study up and maybe I could say I feel more comfortable with what is going on. At this point, I don't feel comfortable with that's going on. With all due respect and to be honest with you, I'm not very comfortable, and that is because I simply don't have a lot of information. I understand the importance of it, but I don't have a lot of information. I want to thank everybody for their comments, and I certainly appreciate your time. Thank you so much.

21. Russell Akins, 12580 Hickory – First of all, I want to commend Mr. Lewis for having the courage to stand up in front of your Council members and to have the brains enough to see that the people have a problem. I've been a homeowner in Norman now for a couple years and a land owner and I have a creek and a pond on my property. Now I still don't have a fence on three sides of my property. I don't have the money yet to do it. But, from what I hear, if I don't get it done within a couple weeks, I'm not going to be able to get that up there without having something imposed that I don't want. I've already had enough taxation without representation, because things don't get done out there where I live. We don't get salt on our road, but you cross the county line and there it is. We don't even get the sides of our road mowed and that doesn't help the wildlife around there. Also I would like to say that I'd like to know how these tests are done on the water quality, because I guarantee you there's more pollution coming from people defecating from the sides of their boats than from my property. And I'd like to know how much of pollution is coming from my property. That's about all I have to say. Thank you.

22. Kay Warren, 79th Avenue NE – We have ten acres. My main concern is we don't have a lot of money to leave our children, so we have ten acres that we want to leave as a foundation for them to be able to earn something. But if you do all these things, it may not be enough value for them. It just upsets me that I won't be able to have a value for them after we're gone. And, another thing is the wells that were built out there from the City. I know a lot of wells are drying up. We've been out there for 20 years. Now what's going to happen when our well dries up? What are we going to have to go through to have another well drilled? What kind of process is that going to be for us to drill another well if our well dries? That's my question. And this is something I heard a long time ago. I know it may not mean anything to anybody else, but when we first moved to Norman, the first thing I heard as far as the jokes were going and stuff – because my kids went out to Lakeview – is just that the Oklahoma state line and the Arkansas border was at 12th Avenue in Norman – on East Norman. So all of East Norman is Arkansas. It was a joke that I heard, and I've come to believe it because any time that we've called – the Sheriff's department doesn't even know that we're in the county and we live on the east side of the lake. So I'm just saying that there's a lot of miscommunication and stuff. But that's my main concern is about what we can do in case we need to do stuff to our property after this is done. Thank you.

23. Jim Simpson, 2530 Wyandotte Way – Understanding sustainable development – what is sustainable development? The most common definition of sustainable development, given by its proponents, is the statement found in the Brundtland report, "Our Common Future," released during the 1987 United Nations World Commission on Environment and Development. Much of the Commission report focused on the issues of population, food security, loss of species and genetic resources, energy, industry, and human settlements. Realizing that these issues are interconnected and must be addressed as part of a global strategy to achieve the recommendations considered necessary to preserve and restore the environment of our planet, the Commission recommended the development of the United Nations program of sustainable development. The discussion and the recommendations that emanated from this Commission provided the central impetus for the organization of the United Nations Conference on Environment and Development (UNCED), held in Rio in June of 1992. At this conference, debate focused on significant world environmental and development

issues, such as climate change, biodiversity, decertification, sustainability. Agenda 21 emerged from this conference and is a roadmap for the environmental sustainable development. The Earth Summit in 1992 – sustainable development is an action plan being used across America and around the world to implement United Nations Agenda 21. Although the movement's roots are much older, the United Nations, in its 1992 Earth Summit held in Rio publicly launched the global movement known as Agenda 21. Secretary General of the Earth Summit Conference, a guy by the name of Maurice Strong, addressed the gathering and said the following: Current lifestyles and consumption patterns of the affluent middle class, involving high meat intake, use of fossil fuels, appliances, home and work air conditioning, and suburban housing are not sustainable. Although Congress never authorized the implementation of Agenda 21, which is a soft law policy, not a treaty – it needs no ratification. In 1993, Bill Clinton established by executive order the President's Council on Sustainable Development (PCSD) for the purpose of implementing Agenda 21 in the United States. International organizations, such as the UN and the accredited non-government organizations (NGO) generally consider sustainable development and Agenda 21 to be synonymous. Agenda 21 outlines in detail the UN's vision for the centrally managed global society. This contract binds governments around the world to the United Nations' plan for controlling the way we live, eat, learn, move, communicate, all under the noble banner of saving the earth. If fully implemented, Agenda 21 would have the government involved in every aspect of life of every human on earth. There are thousands of NGOs that are accredited by the United Nations for the express purpose of implementing sustainable development in the USA alone. The Sierra Club, one of hundreds of non-government organizations actively working to bring about this transformation, suggested that North America be divided into 21 eco-regions that ignore existing national, state, and county boundaries. In 1992 they published a special issue of their magazine which featured a map exclusively descriptions of how these eco-regions should be managed. And then I'll end with this. You have multiple people sitting on it seems like multiple commissions in the City of Norman that belong to organizations like this right here. I question very much – I think what David back here had to say and what this other man back here indicated that was absurd – it's not absurd at all. We have these people. They've implemented our societies and ICLEI. The Mayor admitted Tuesday night – or she didn't, but your City Manager admitted that they quit paying dues conveniently, I might add, right after Edmond got this organization turned back. So if you folks aren't aware of these things, then you need to become aware of them, because it's happening right here in our conservative little state of Oklahoma. Thank you.

24. John Ashmore, 3025 Woodcrest Way – My concerns surround the notification. Very little knowledge of this on my part prior to the notification by letter from the City Council, I believe about three weeks or so ago. A few articles in the paper since then. And I remember reading in the Transcript a few articles, maybe two or three comments concerning the storm water, water quality, the overlay, and stuff like that, in previous months. Had no idea that this has been an ongoing thing for six years or anything like that. I live in far east Norman, out by 108th by Lakeview School, and so I'm obviously within the zone of consideration. My concerns for those people planning our water quality, how many of those live in the zone of consideration? Therefore, what considerations do they have for the impact on their wallets? That's a really big thing. Our housing prices and such are falling anyhow due to the recession and such as that.

Property values are in decline. There's no real indication of when they might recover. Anything that we do currently is going to impact that for now and the foreseeable future. I had no idea of the funding mechanisms to provide water quality, storm water mitigation, or anything else. That's not been published that I have seen. I would like some time to study these things. I think it reasonable that we actually bring this into the light, get it out there so that the public – the affected public – West Norman is not affected by this. They couldn't care less. But those of us in East Norman can be very much affected by it. And all of Norman is going to vote on it, not just those in the affected area. Nobody wants bad water, least of all me. I'm on well water – it's pretty tasty. But I really would like to see some more information on the plan. It's been kind of undercover, and I realize how difficult it is to get newspaper space and all of that kind of stuff, but if this thing has been ongoing for six years, and we're only hearing about it within the last couple of months to any degree at all, I think that we may be a little quick on it. I'd like a little more consideration for that, and I'd appreciate the Commission's vote for a little more consideration of time and a little bit more disclosure of funding, the implications for those people within the zone, and stuff like that. I really would. Thank you.

RECESS
9:14 to 9:26 p.m.

Chairman Gasaway declared the public hearing portion of the meeting ended. Staff has been asked to address the questions raised during the public hearing.

25. Mr. Bryant commented that it seemed like there was a common thread in the comments tonight, which was concern about being able to use your property; concern about whether you can build a fence or not build a fence, and so forth. At this point I need to make sure we're clear about what is before the Planning Commission tonight. The notification that you got dealt with a water quality protection zone ordinance that had an overlay district that went over all the property. That is the item that staff requested be moved off of the agenda tonight, and the Commission accommodated that. When they adopted the agenda, that overlay district was removed. So the notice that you got that related to that part of what the Planning Commission is considering is not going to be voted on, it's not going to impact your use of your property. I think Mr. Akin had a question, do I need to go and build my fence now, and if I don't build my fence in the next 30 days will I be able to build it in the future? Yes, you will be able to build it. No, what the Planning Commission is considering tonight, if it's ultimately approved by the City Council, will not impact your use of the property. The only thing they're considering tonight has to do with amendment of the Subdivision Regulations. So that is only if you're going to subdivide your property into smaller parcels and sell those parcels. So if you're not coming in to file a plat, if you're not doing a new development, if you're not doing a Certificate of Survey – and what that means is, that's a way of subdividing if you're in an agricultural zoning district, which most of that land out there is in A-2. So under our Subdivision Regulations, if you're in A-2 there's kind of a shortcut way that you can subdivide – it's called Certificate of Survey, but you have to have at least 10 acres for each lot. So I think there was some lady that asked if she had 18 acres, will that impact her? No, it won't impact her because she can't subdivide anyway. She had to have at least 20 under current regulations so she could subdivide into two 10-acre tracts. But, again, what the

Planning Commission is considering tonight is only Subdivision Regulations. So unless you're a developer, unless you're going to be filing a plat, unless you're going to divide your land through a Certificate of Survey, what Planning Commission approves or disapproves and passes on to the Council for consideration will not impact you unless you fall under that category. So most of the people here, just from hearing the comments, are here probably because they got the notice in the mail that told them about the zoning overlay district. That's off the table, so that won't be voted on – won't be acted on. If some future Planning Commission or some future Council decides they want to move forward on that, that will require a new notification, and I believe we probably have learned from a lot of the comments, that we may want to do more than one notification if we get to that point where we're going to do that. But at this stage, that's off the table. The only thing they're talking about is the subdivision of property. It's not taking anybody's property. It's not restricting the use. If you come in and voluntarily ask to subdivide your property so you can divide it into lots and sell it off, reasonable subdivision regulations, in connection with that subdivision, is not considered a taking under the law, and that's because the property owner has made a choice to come in – a voluntary choice to come in and divide their property up and try to sell it to make a profit. So reasonable regulations are not considered a taking. Nobody is taking anybody's property under this deal. And that seemed to be a theme, so I wanted to make sure we covered that again to give you some comfort level. Dedication of easements, again, just with subdivision of property, but those dedications of easements are not takings. They're a way for the City to access public drainage ways to make sure they're cleaned, make sure they're taken care of in appropriate ways so they function properly. I think that covers most of the questions that got assigned to me. Unless you're a subdivider, unless you're a developer, you can put your fence up either today, tomorrow, or in three years, assuming nothing else passes. You can put a barn out there, as long as you're not subdividing with those. What the Planning Commission is considering today is not going to impact you.

26. Mr. O'Leary reported that the Public Works Department has been the lead agency regarding the Storm Water Master Plan, but worked with all other City departments and many, many agencies throughout the course of the last six years. I would like to try to address a few questions – some sort of grouped together. A number of questions we heard tonight about other alternatives – what are we doing in addition to the water quality protection zone ordinances? These were questions like what are we doing about fertilizer control, pesticide control, additional street sweeping, and so on? I will tell you, and I think many of you know – certainly the three of you who have served on the citizen task force – there are many, many alternative solutions for water quality and flooding recommended in our Storm Water Master Plan and accepted by the City Council about a year and a half ago. This happens to be the first one coming out of the process. The ordinance tonight is the first ordinance coming out of that, but there is an Action Plan and a very firm schedule of action items going over the next 20 years for staff and the Council to carry out that will do many of the same things to address additional water quality and flood control. Some of those, just by example, and this was a presentation we gave to the Planning Commission a couple of months ago – some of those include structural and non-structural water quality controls – those are things like building detention basins and manufactured wetlands and that sort of thing. Those are things like sweeping streets – just doing a better job. And I couldn't agree with Councilmember-elect Gallagher more, that we don't do a great job here in

Norman. I knew that the first month on the job. We need to get better. We need three more street sweepers and three more operators, and that's about a \$750,000 expenditure that is recommended in the master plan. Fertilizer control, pesticide control is one of our action items. Improving septic tank installation and operation. Enhancing our storm water phase 2 program. Additional monitoring. We do that today – we monitor streams and channels and the lake. And we mentioned earlier here the low-impact development manual. This is a 550 page document that is recommended in this ordinance – the Wichita manual is an excellent manual – I know it very well. I worked in Kansas for 17 years. The Dallas manual was great, also. They're both very excellent. But there are 550 pages and hundreds of best management practices that we intend to implement over the next 20 to 50 years. So I hope that addresses that question about alternatives to this. There are many to come. Another question, as I understood it, was many statements and questions about what portion of Lake Thunderbird receives runoff from Norman? Norman accounts for about 51% of the Lake Thunderbird watershed. About 38% comes from Oklahoma City, 8% from Moore, and 3% from unincorporated Cleveland County. We've identified that very clearly in the master plan. We have begun work and have been working for months and actually years with those agencies. But I would offer at least one comment – it might have been a Planning Commissioner or it might have been one of our task force members that sort of summed it up for me: We drink our storm water. We're the only one of those cities that drinks the storm water from Lake Thunderbird. Oklahoma City has another source and Moore has another source, as well. So we have the greatest stake in this matter of the quality of the water in Lake Thunderbird, but we do need to work with them and lead by example -- those are the words that I've heard from the citizen task force – and work with all the agencies: those cities, the Oklahoma Department of Environmental Quality, Central Oklahoma Master Conservancy District, Oklahoma Water Resources Board. They're all targeted agencies that we work with every day and into the future to improve this situation together. And then, finally, there was a question regarding water wells. This ordinance has nothing to do with private water wells in any way. We believe that the citizens own the water below their property. That's the way the law is written in Oklahoma and in Norman. This ordinance will not affect that in any way. Permits are issued for new water wells by the City, but this will not affect that at all. And there are other state agencies, like Oklahoma Water Resources Board, that regulate the harvesting of water from aquifers. I hope that addresses those questions. I'll stand for any others that the Planning Commissioners might have.

27. Mr. Knotts commented that the Action Plan is really additional provisions that need to be undertaken over the years, rather than alternatives to this particular proposal. Mr. O'Leary indicated that is exactly right. They are additional items of work that work in compliment with this ordinance and many of the other mechanisms we intend to use to address water quality and flooding. Again, the majority of the Storm Water Master Plan deals with flooding issues – flood control, keeping properties from being flooded. Another large part of it deals with water quality. And, yes, they do work together – very much so.

28. Mr. Lewis had a couple of questions. Help me understand, if all of this is based on the Storm Water Master Plan and, again, I've slept and slept well – remind me the Storm Water Master Plan was accepted by Council, yet not adopted by Council.

Mr. O'Leary – That is correct.

Mr. Lewis – I know that a lot of this concern regarding quality water comes from an over-concern of we're running out of water, presumably.

Mr. O'Leary – It's unrelated, but certainly that's part of the picture.

Mr. Lewis – I would be more concerned about quality of water probably than anyone. I enjoy drinking good fresh water. What concerns me, though, is when we look at a study that the State just completed on Basin 62. It says, from our wells, that Norman has enough water to supply it through 2080. So, again, I go back to what is the rush? How much has changed between the time this came through Planning Commission the first time and now? It's been considerable. We took water quality protection zones completely off the map. So, again, I go back to are we being prudent by rushing it through tonight? I'm hoping that you're understanding my characterization of being I'm not disconcerned about water quality, because I am. But is it something that's going to be needed to declare an emergency to get to City Council? Is it something that we need to put on a rocket to get through the Planning Commission so it can get to the City Council? Absolutely not. I think we need to slow it down.

Mr. O'Leary – I might mention, Commissioner Lewis, I'm not the water director here, but I've been involved in many of those meetings. You're correct that one of the recommendations of the recent State water plan indicated that there is water in this region. But you also recognize that one of the assumptions of that was that the City would need to derive more water from the Canadian River and no more is available from Lake Thunderbird in our projected plan. The City has never drafted water from the Canadian River. So that's a big initiative – a big concept, and one that really hasn't ever been seriously considered for many reasons. Water quality is one of those. There are water quality issues in the Canadian River today.

29. Mr. Trachtenberg asked about the earlier comment that the budget that is projected by the plan is about \$82 million. Mr. O'Leary indicated that figure is in the ballpark. What they're talking about is the capital improvement program in the Plan, which includes about 70 different projects. Mr. Trachtenberg asked how much of that is available to address issues with Lake Thunderbird, as opposed to Lake McGee or Imhoff Creek or any of the other problems. Mr. O'Leary responded that less than 10% of that total was to be dedicated to the structural and non-structural control mechanisms. It was almost \$1 million just to buy three street sweepers. Most of it was capital projects to address flooding concerns: things like Lake McGee that we talk about here that have plagued the City for 30 or 40 years. It's time to fix that project. That project alone is a \$13 million project to fix one area of flooding. I might also mention, if I may, that there was a discussion about funding solutions. The master plan dedicates an entire chapter to funding concepts. We've mentioned here tonight the Storm Water Utility fee concept. We're the only large city in Oklahoma that doesn't have one of those; all of the other large cities already have a storm water utility fee system, commonly used for capital improvement projects and other water quality initiatives. That's what is recommended in the plan. Just to put that into context, the basic recommendation is about \$5 per average residential unit per month. That's the basic concept that is suggested. That has not been vetted or brought forward by the City Council at this time. Mr. Bryant added that what the Planning Commission is considering tonight has nothing to do with imposing any fee or any rate. If there was a storm water utility fee or rate, that would be a separate process we would have to go through, which would

require a citizen vote. That is not part of what is being considered tonight. Mr. O'Leary noted that the City Council adopted a resolution on November 10, 2009 that very clearly said that there was no regulatory action taken by that acceptance of the master plan. Instead they would bring back each item before bodies like the Planning Commission and others and bring those forward for proper consideration.

30. Mr. Lewis commented that the proposed ordinance there are several areas where the City takes on additional responsibility. Some of that could be maintaining the buffer zones. Some of that could be assuring that the buffer zones meet the regulations. And it challenges me that when I look at a budget where we're very tight already that we're going to take on additional responsibilities without putting some type of funding in place. Help me understand, because I'm a little unclear, that it's my understanding that a utility rate or any type of rate increase would require a vote of the people. However, any type of fee the City can impose without any type of input from the citizens of the City of Norman. Mr. Bryant noted that is something Councilmember-elect Gallagher mentioned. There really is a difference between a utility rate and a fee. The rate, normally, is calculated on what it costs to provide a particular service that is mandatory that you participate in. For example, your sanitation rate. They've calculated the cost of that service and they've put that out to the voters and they approve it and everybody has to participate in sanitation at a certain level. Now, there's also a fee for parts of that sanitation service that are not mandatory. And a good example of that is if you wanted an extra polycart. If you want an extra polycart, you pay a fee, because that's an optional choice that you can make. But the base rate for the service is what's calculated in the rate. So anything that was a rate for the storm water utility that was mandatory participation would be calculated into the rate. If there were some additional frill – I know you won't have a polycart for the storm water utility – but if there was some additional frill that was optional, then the City could work on a fee structure for something that was optional. But the rates themselves, by City Charter, are required to be approved by the citizens through a vote. I hope that clarifies that.

DISCUSSION AND ACTION BY THE PLANNING COMMISSION:

Zev Trachtenberg moved to recommend approval of the amended version of Ordinance No. O-1011-52, as revised by City staff today, to the City Council. Tom Knotts seconded the motion.

1. Mr. Lewis reiterated the urgency with which we have flown through this process. I would encourage my fellow Commissioners to step back, to really consider the voice of the City of Norman which is present. I would ask my fellow Commissioners to consider the number of protest letters that we received as a Commission in opposition – it could burn down a tree. And, certainly, put your own agenda or someone else's agenda to the side and really take a second look at this. I would encourage my fellow Commissioners to vote no, so that we can understand this ordinance more.

2. Mr. Sherrer stated his intent to vote no. This may be a great ordinance, but I think the answer for me is the timing of receiving this, the time we've had a chance to digest it. I think that's very quick. A couple of points that I would encourage for future things like this. I use the word communication. I think that's been something that throughout we've had a difficult time, whether that was with the notices to the public. I think the

style and the timing of the negotiations with the developers and the home builders here locally. I think if that had been backed up several weeks that we may be in a different place tonight. I think that's unfortunate, because I think this is an important ordinance. I think water quality is something we need to address in this community. I would say that my vote of no is not an indication that I don't support something to move forward and to find better quality of our water and for Lake Thunderbird. I think it is an issue. In fact, I would express appreciation to Vieux and Associates for the study they did. I think, for those of you who have not seen that, that is a very – and internationally-known company that is here in Norman and we're lucky to have them. They did a great study and I would certainly encourage those who have not had a chance to view any of that to do so. But, with that in mind, I still can't get to the point where I can say yes, and I think that's unfortunate. I also would add appreciation, even though I think it was late, that I think the City Attorney's office, City Manager's office – having the chance to sit down and actually create something today that I think is a more workable solution for a good percentage of the people that had some opposition – certainly not all. But some people that I know had had opposition that I had had phone calls. I'm happy that that occurred. Again, wish that communication would have occurred a few weeks ago. I think that's the problem here. I think that's really the issue is that there's been a lack of good communication from within. Citizens, businesses, City, experts in the area, people that were on the committee and did know about it for six years. I was not one of those. I think that's been something that's been lacking in this particular deal. My vote for no is not necessarily an indication of a lack of belief that maybe we're headed the right direction, but I don't think we're quite there yet, and I certainly don't know if we're there yet because I haven't had the time to digest it.

3. Mr. Trachtenberg said his vote will be in favor and will disappoint many people in the room. I believe that I owe you as clear an explanation of why I support this ordinance as I can possibly give you. So I'm just going to take a couple minutes and try and lay out my reasons. I don't expect to persuade that many people, because I think people have some pretty firm views on this. But I do hope that people will say, at least in my case, I'm not being arbitrary or capricious – that I've got some reasons for my vote tonight. Let me first say a couple of things that are not the reasons that I'm supporting this ordinance. I am not a stooge of the UN. I do kind of resent the implication that anyone involved in this process is. I'll fess up – I trick-or-treated for UNICEF when I was 9 years old, but that's about it. I'm with Woody Guthrie on the question of being a communist – I don't know anything about that. I've been in the red all my life. But I think the implication that I'm a communist because I support this – frankly, I think that's un-American to suggest that and I resent it. I think that's the worst kind of name-calling, fear-mongering, tar and feathering that has no place in a civilized community and I'm frankly just a little embarrassed for Norman that that's been an element in this discussion. I'm voting for it because I think it's good for Norman. Here are a couple other reasons that aren't the reasons I'm supporting this. I'm not supporting this because I think this is good for nature, that this is some wonderful thing that's going to turn Norman into some utopian natural paradise. That's not why I'm voting for this. I think this is good for people. This is something which is good for the people of Norman. That's why I'm supporting this. I'm not supporting this because I'm anti-growth or anti-development. This whole process has been about development. It's been about how to develop this community in a way that's responsible. I'll talk

about socialism for a minute. Do you know what socialism is for me? It's getting something and expecting everybody else to pay the cost. Well, when we impose on water quality, or when we contribute to greater flood water to storms, we're asking other people to pay our costs. One of the citizens suggested, in all good faith, and I'm not contending against this – well, why can't we just remediate our way out of this? That's a fancy way of saying why can't we just invest in a bigger and better water treatment plant. Well, that's socialism, my friends. That's getting everyone to pay for problems that individuals are contributing. I'm not for that. I don't think that's good development. I think that's socialistic development, and I'm against it. So those aren't the reasons why I'm supporting this ordinance. Let me talk now more positively about why I am supporting this. I'm just going to say a word about myself. Before I came here, I worked for an organization called the Constitutional Education Foundation in New York City. I was involved in an educational program that taught high school kids about the US Constitution. So I've got a pretty strong background in the Constitution and a real kind of investment in the Constitution, so that's where I'm starting from. I'm not going to make a legal argument here; I'm just going to make a moral argument, I suppose. I'm going to read the Preamble of the Constitution. It says: We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, and promote the general welfare. That's why the founders created the Constitution – or one of the main reasons. Promote the general welfare. That is, to my mind, just about the primary – not the only – function of government. That's why I, personally, am here – because I think what I can do is help promote the general welfare. So now I want to talk about two different ways that we can think of promoting the general welfare. One of the things that we can do is say build a beautiful trail system. Wouldn't that be swell? That would be really great, and people in this room who know me know that I devoted a fair amount of my life, prior to joining this Commission, to working toward that end. I think that would be a real benefit that would increase the welfare of our community. And if that involved using private property, then that would absolutely, positively 100% be the kind of thing that the City would have to pay for. It would have to compensate land owners if it condemned a bit of their land for a trail. This ordinance specifically says that no bit of the easement that's dedicated to the City is open to the public. Absolutely none. Now, if a private landowner saw the value – and there might be value – in, say, doing a development that had trail systems that linked up to other trail systems in adjacent developments and they freely, of their own volition, put in a trail system – great. That's wonderful. And if it worked out that the storm water utility fee could be used to help maintain that, that's even better. That's not at issue at this point. There is no provision for public access to anybody's private property. What I was trying to express is that, yes, if what the City is doing is providing a positive benefit, then yes, compensation is required. There's another way of understanding what promoting the general welfare means. And what that is, over against providing a positive benefit, is preventing a harm. Let me put it this way, you know the old phrase my right to swing my arm ends at your nose. I don't have that right. No one has the right to contribute to harming anybody else or the public at large. In the current rule, if you want to subdivide your land, you are burdened by the following requirement: you may not allow water to flow off your property at a greater rate than it would in its natural condition. That's the rule as it stands now. That's why we've got detention ponds. That's why we've got the engineered solutions that we just talked about. You don't have the right to contribute to somebody else's harm. What this rule does is suggests ways that people who are

making changes in their land through development can prevent themselves from harming other people, either through more speedier runoff of the water -- flooding, or compromised water quality -- pollution. What these ordinances are about is preventing harm. There has been a lot of discussion about what the best, most efficient way of doing that is. My friend, Sean Rieger, thinks that his good colleague, Tom McCaleb, can figure out how to do it through an engineered solution. Maybe he's right. There are a lot of other really smart people who have looked at this across the country and they've said, you know what, maybe non-engineered solutions work a little better. I think what this ordinance does is comes up with a balance. It says if an engineered solution is going to do the trick and achieve the end of not harming other people, then it will fly. On the other hand, these other less engineered solutions are permitted -- currently they're not, by the way, under our current Subdivision Regulations. They're not only permitted, they're encouraged, and people who are transforming their land for development are offered assistance, by way of this manual from Wichita which Mr. McCaleb recommended, in using non-engineered techniques to prevent this harm. This is why I am supporting this ordinance. I do not, in any way, regard this ordinance as imposing a taking on any person.

4. Ms. Pailles said she thought this was so well-known and it has been talked about so long. Obviously, that was not the case. I think a sincere effort was made to speak to people about it and seek their input. Obviously it wasn't adequate -- the newspaper is not enough; the web is not enough, because this has been in both of those places for a long time. We need to find ways to communicate more effectively and get people interested earlier. The essential things that needed to be communicated was that Lake Thunderbird has a water quality problem; it has to be fixed. Of all the solutions looked at -- and there many and they were all backed up with data -- this is the solution that seemed most appropriate and most effective. The second thing it needed to communicate was this primarily refers to subdivision design -- the design of future subdivisions, not present. It only addresses Lake Thunderbird; the rest of Norman we'll address later. The last thing, everybody that lives inside Norman lives with an easement. Your easement does not mean that OG&E owns your back yard; it means they can walk on it to fix things. Same thing with this. The easement means the City can walk on it to fix problems, and that's all. It does not impinge upon your ownership in any fashion. I was glad to see a lot of folks here. I really expected a wide variety of opinions. It seemed like most of the opinions were based on those three central elements of miscommunication. I would hope the City does better to get issues out -- I'm not sure how -- if you have ideas how you can be contacted, let us all know -- and that people are informed in a more timely manner so they can be really clear on what the issues are. You may still dislike this for other reasons, but you shouldn't dislike it on the fact that there's an easement involved, because that doesn't impact your ownership in any way. I'm voting for it simply because we have a water quality problem -- it has to be fixed. This is, based on data, the best solution. And this is not the last time you're going to hear about water issues; they are going to be with us forever. The next one is likely to be water quantity -- is there enough and what do we do when there's not enough?

5. Ms. Gordon said it seems like most of the comments tonight have involved the overlay, which was taken off the table. Now that you know this is out there, I encourage you guys to be proactive in finding out when those meetings are --

checking the website, checking the Transcript – so that you can be involved on the front end. It's much better for everybody to be proactive than to be reactive.

6. Mr. Gasaway commented that Norman suffers from a lot of issues right now, probably not unlike any other city, in that issues that should have been addressed 50 and 60 years ago weren't because the City leaders at that time had no idea that Norman would go beyond Berry Road on the west and probably 12th Avenue on the east side – could never, ever have envisioned that. There was no reason to do advanced planning at that time. When I was 10 years old, Lake Thunderbird was on the drawing board, and I had lots of relatives in Norman so I spent lots of my time coming up on weekends, watching Thunderbird being built, and filling up. And all that gets me now is that I was old enough to remember that. It does not make me an expert at all about Lake Thunderbird, and I'm certainly not implying that. When Thunderbird was built, what we thought of it was it was halfway to Shawnee – all out in the country once you got out past 12th on the east side. Nobody knew we'd be building lots of additions out in the Lake Thunderbird area. It was never thought of – never was a problem – should have been addressed when the lake was built – it was not. Should have been addressed in the 70s, the 80s, the 90s – it was not. Thunderbird is in serious trouble. Any report you look at will tell you that. We have to do something about Lake Thunderbird. Most of us that live in Norman, when we watch rain water go down the street, we watch it run down the concrete into the little drain and it goes somewhere – we never think about it again. But if you're on the eastern fourth of Norman, it runs down the street into Lake Thunderbird. That's a serious issue. That's what makes this something we need to address now. Again, it should have been done years ago, and I'm sorry it wasn't. Any time you pass an ordinance, it affects people in Norman – some positively, some negatively – and that's always taken into consideration. I understand many of you here tonight are very concerned about that, and I hope we've been able to alleviate some of your concerns, or at least listen to your concerns. Some of those are solvable – some are not – through storm water management. But it is something we have to address now and it's very, very serious.

There being no further discussion, a vote on the motion was taken with the following result:

YEAS	Cynthia Gordon, Tom Knotts, Roberta Pailles, Zev Trachtenberg, Jim Gasaway
NAYES	Chris Lewis, Andy Sherrer
ABSENT	Diana Hartley, Curtis McCarty

Recording Secretary Roné Tromble announced that the motion to recommend approval of Ordinance No. O-1011-52 that was presented at the beginning of the meeting, passed by a vote of 5-2.

Ms. Pailles suggested that the new version of the ordinance be posted on the website so people have an opportunity to review it before Tuesday.

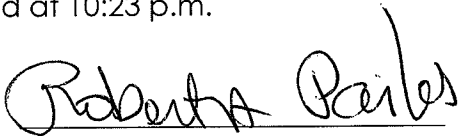
Chairman Gasaway announced that this ordinance will be considered by City Council at their meeting on Tuesday, June 28, 2011.

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Item No. 6, being:

ADJOURNMENT

There being no further comments from Commissioners or staff, and no further business, Chairman Gasaway declared the meeting adjourned at 10:23 p.m.


Norman Planning Commission