

## CITY COUNCIL OVERSIGHT COMMITTEE MINUTES

February 13, 2020

The City Council Oversight Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 4:05 p.m. in the Conference Room on the 13<sup>th</sup> day of February 2020, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray 48 hours prior to the beginning of the meeting.

PRESENT: Councilmembers Hall, Holman, Wilson, Petrone and Chairman Bierman

ABSENT: Councilmember Carter and Scott

OTHER STAFF PRESENT: Mayor Clark  
Mr. Darrel Pyle, City Manager  
Ms. Beth Muckala, Assistant City Attorney  
Ms. Jeanne Snider, Assistant City Attorney  
Ms. Kathryn Walker, Interim City Attorney  
Ms. Jane Hudson, Director of Planning and Community Development  
Ms. Anais Starr, Planner  
Ms. Rendy Martin, Administrative Tech III

Item 1, being:

### DISCUSSION RELATED TO OVER-OCCUPANCY OF SINGLE FAMILY HOMES

Ms. Jane Hudson, Director of Planning and Community Development, distributed copies of the Center City Form Based Code (CCFBC) Certificate of Compliance Log, showing the number of bedrooms in each home. She said some of them do not have the Certificate of Occupancy inspection date, but many of these have been inspected and finalized. Ms. Hudson said the total number just for the Center City Form Based Code area is 250 bedrooms.

Ms. Hudson said this is separate from the duplexes that came in 2015 and before, this is only what has happened since Council adopted the CCFBC.

Councilmember Holman ask how many were anticipated and how many of them are occupied. Ms. Hudson said she was not sure. She said yes, the intent is to get the increase in density in the area, but as far as occupied, Staff has not reached out to the property owners in this group. She said for an overall information session, Staff reached out to the apartment complexes and the University of Oklahoma (OU) and the majority of the apartment complexes are at 90% occupancy or above with only a couple at 70%. She said they did not receive anything official back from OU, but were told they were at 33% occupancy. She said Staff will reach out to the property owners of the units within the CCFBC area and report back to the Committee.

reserving the right to re-inspect within a year, Ms. Hudson, Ms. Muckala, and myself talked a little bit more about that today, and we think that that could be at least part of a broader solution along with CNZOD. She feels it may be better to move the majority of the work to the Ad Hoc Committee where the departments can review it ahead of time and when it comes back to Oversight the items will be better vetted and the Committee can keep moving some of the pieces forwarded.

Mayor Clark said her only concern is adding another committee require Staff time to support the committee and they are already stretched thin and Council should keep that in mind as the Committee continues to discuss creating more Boards and Commissions.

Chairman Bierman said at the same time she thinks that some of the products that could come out of this Ad Hoc Committee could really help the Planning Department and she knows Ms. Hudson could really use the help on this issue.

Items submitted for the record

1. Memorandum dated February 13, 2020, from Jane Hudson, Director of Planning and Community Development, to Oversight Council Committee with Exhibit "A," Center City Form Based Code General Provisions; Exhibit "B," Three Unrelated Persons Ordinance; Exhibit "C," Legal Research; Exhibit "D," Definition of Family; Exhibit "E," CNZOD, Central Norman Zoning Overlay District; and Exhibit "F," City Council Oversight Committee Verbatim dated December 12, 2019
2. CCFBC Certificate of Compliance Log

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Item 2, being:

DISCUSSION REGARDING PREVENTION OF YOUTH ACCESS TO TOBACCO

Mr. Anthony Purinton, Licensed Legal Intern, said currently the City has no prohibition on the vapor products for those under the age of 18. State and Federal laws were passed prohibiting the furnishing or use of vapor products for minors and Staff was asked to review the City's current ordinances and prepare language to bring them in line with State and Federal laws.

Mr. Purinton said in 2014, the State passed Senate Bill 1602 amending the Prevention of Youth Access to Tobacco Act and other laws concerning juvenile offenses to include prohibitions on vapor products for anyone under the age of 18. The amendments added the definition of vapor products and incorporated the term into section of State law, which previously only prohibited the furnishing or possession of tobacco products.

Mr. Purinton said the proposed ordinance amendments will include changing the title to Prevention of Youth Access to Tobacco and Vapor Products and adding definitions. It also prohibits the purchase by anyone or for anyone under the age of 18, provides for defenses available to anyone charged with violating the subsection, and charges the employees making the sale, not the owner, which is a big incentive for the employee to comply with the law. It will also include a process to notify the Department of Public Safety on nonpayment of fines within 90 days could result in suspension of their driver's licenses. It also prohibits simple possession, offering false IDs to purchase, and the display of products, which are accessible to the public without assistance.

Item 2, continued:

The Committee was in agreement to move forward with the proposed amendments.

Items submitted for the record

1. PowerPoint presentation entitled, "Prevention of Youth Access to Tobacco" Oversight Committee dated February 13, 2020, by Anthony Purinton, Licensed Legal Intern
2. Memorandum dated January 14, 2020, from Anthony Purinton, Licensed Legal Intern, and Jeanne Snider, Assistant City Attorney, through Kathryn Walker, City Attorney, to City Council Oversight Committee
3. Draft Ordinance

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Item 3, being:

DISCUSSION REGARDING REGULATION OF DOOR-TO-DOOR COMMERCIAL ADVERTISING.

Mr. Purinton provided an overview of previous discussions on this topic. He said the Legal Department has prepared several memos on this subject over the years with periodic updates reflecting new developments in relevant legal precedent. He said he has conducted further research since the last update in 2013. He said in the 2013 memo, the City Attorney's Office suggested the City Council might consider an ordinance similar to the 2009 case of the Courier-Journal vs. Louisville/Jefferson County Metro Government, which was found to be constitutional. This is an unpublished opinion, which means it is not precedential nor could it be cited to an Oklahoma court for persuasive argument. Since then, the Sixth Circuit Court of Appeals has recently upheld a similar ordinance in the same jurisdiction and while it does not carry any precedential value in Oklahoma courts, the opinion's persuasive value would strengthen the City's position if it were to follow the 2013 recommendation and adopt a similar ordinance.

In the Lexington H-L Services, the Sixth Circuit reversed a lower court's grant of a preliminary injunction against a city's ordinance that restricted delivery of unsolicited advertising materials to specific locations; on the porch, nearest the front door; securely attached to the front door; through a mail slot, if one exists; between an exterior front door, if one exists and is unlocked, and an interior front door; in a distribution box located on or adjacent to the premises; or delivered personally to the owner, occupant, or lessee of the premises. He said because there were still other alternative channels of communication open to the plaintiff to distribute written materials, the ordinance was able to survive intermediate scrutiny.

Mr. Purinton said enforcement would still be a challenge. Committee members asked for more information from the Stormwater Division regarding issues with our storm drains and follow-up with additional discussion.

Item 3, continued:

Items submitted for the record

1. Memorandum dated November 8, 2019, from Anthony Purinton, Licensed Legal Intern, to Kathryn Walker, City Attorney
2. Memorandum dated June 17, 2010, from Leah Messner, Assistant City Attorney, through Jeff H. Bryant, City Attorney, to Honorable Mayor and Councilmembers
3. Memorandum dated August 5, 2010, from Leah Messner, Assistant City Attorney, through Jeff H. Bryant, City Attorney, to Honorable Mayor and Councilmembers
4. Memorandum dated May 8, 2013, from Leah Messner, Assistant City Attorney, through Jeff H. Bryant, City Attorney, to Steve Lewis, City Manager

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ADJOURNMENT

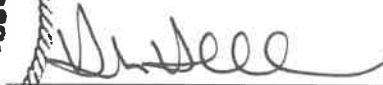
The meeting adjourned at 6:19 p.m.

ATTEST:



City Clerk





Mayor