CITY COUNCIL OVERSIGHT COMMITTEE MINUTES

April 10, 2013

The City Council Oversight Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 5:30 p.m. in the City Council Conference Room on the 10th day of April, 2013, 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 Castleberry, Jungman, Lockett, Spaulding, and Chairman Kovach
ABSENT:	None
OTHERS PRESENT:	Councilmember Roger Gallagher, Ward One Councilmember Chad Williams, Ward Eight Councilmember-elect Stephen Tyler Holman, Ward Seven Mr. Jay Cervi, Builders Association of South Central Oklahoma (BASCO) President Mr. Vincent DiCastro, Cascade Addition Homeowners Association President Ms. Joy Hampton, The Norman Transcript Mr. Harold Heiple, 228 East Eufaula
STAFF PRESENT:	Ms. Brenda Hall, City Clerk Mr. Terry Floyd, Development Coordinator Mr. Anthony Francisco, Director of Finance Mr. Ken Komiske, Director of Utilities Mr. Steve Lewis, City Manager Ms. Kari Madden, Network Manager Mr. Shawn O'Leary, Director of Public Works Mr. Richard Schlechter, Storm Water Engineer Mr. Scott Sturtz, City Engineer Ms. Kathryn Walker, Assistant City Attorney Ms. Syndi Runyon, Administrative Assistant IV

Item 1, being:

DISCUSSION REGARDING IRRIGATION DISTRIBUTION SYSTEMS IN PUBLIC RIGHTS-OF-WAY.

Mr. Shawn O'Leary, Director of Public Works, said in its meeting of March 6, 2013, the City Council Oversight Committee discussed domestic water wells for non-potable use and related permit requirements. The Committee directed Staff to move forward with a proposed ordinance to modernize the City's regulations regarding domestic water wells to be consistent with State laws.

Mr. O'Leary said Mr. Vince DiCastro, President of the Cascade Addition Homeowner's Association (HOA), contacted the Public Works Department requesting permission for the HOA to install underground water lines in the public right-of-way (ROW) for a private irrigation system to be used by the HOA to irrigate several common areas within the residential subdivision. Cascade Addition is located south of Tecumseh Road and west of 36th Avenue N.W. The HOA would like to place the irrigation lines in areas currently served by water service lines connected to the City water system. The proposed irrigation lines will be served by a private water well. The HOA is wanting to bore three-inch irrigation pipelines under five existing public streets.

Item 1, continued:

Mr. O'Leary said private water lines in the public ROW have never been authorized by the City in the past. He acknowledged there are probably hundreds of private irrigation systems in the ROW illegally and the Public Works Department deals with that every day when irrigation systems are damaged if the City or franchise utility has to get into the ROW. Councilmember Williams asked if private water lines or private utilities, in general, have never been authorized and Mr. O'Leary said private utilities, in general.

Mr. O'Leary said the Public Works Department manages the ROW for the City of Norman although many City departments operate within the ROW. He said franchise utility agreements with the City may be the greatest driver in this discussion as franchises are the only ones outside of the City allowed in the ROW. He said a public street ROW is different than an easement. A public street ROW is City owned and managed by the City while an easement is owned by the property owner and the property owner has granted the right for someone else to be in that space. He said the City of Norman has four or five employees in various departments that locate utility lines on a daily basis. He said a tremendous amount of City resources go into ROW management, ROW coordination, and utility relocation.

Mr. O'Leary said legal precedent was set last year when a citizen sustained injuries when she stepped into a hole in the public ROW on 24th Avenue. She sued the City and the Court found the City liable for allowing the hazard to be in the ROW. He said the Court's message was the City is responsible for everything in the public ROW.

Mr. O'Leary said the ten primary users of the public ROW are Oklahoma Gas & Electric Company; Oklahoma Natural Gas Company; Cox Communications; AT&T; Oklahoma Electric Cooperative; City water; City wastewater; City stormwater; City traffic; and City fiber network. Non-Franchise users are Western Farmer's Electric Co-op, multiple oil/gas pipeline companies, and the University of Oklahoma (OU). He said franchises bring in annual revenue of approximately $7,210,000 and have the right to enter the ROW at any time. He said the City collects franchise fees and in return, promises to protect the ROW.

Mr. O'Leary said Staff has concerns regarding mixing City water with raw water known as cross connection; however, the HOA is proposing to remove the City's water service lines and replace them with raw water well lines and will not connect the systems in any way. The water meter must be removed as well as water service lines removed back to the water main. He said the Oklahoma Department of Environmental Quality (ODEQ) sets standards for separation of raw water and public water systems. The lines must be two (2) feet vertically apart and ten (10) feet horizontally apart. He said the vertical difference may translate into a six (6) foot depth for some of the bore under the roadway. Mr. DiCastro told Staff, if approved, the HOA would also be taking the private swimming pool off City water and connecting it to the water well. However, by doing that the City can no longer measure the HOA's sewer rate, which is based on the amount of water used. Mr. DiCastro suggested putting a meter on the raw water connection so the City can measure the amount of water used to calculate the sewer fee.

Mr. O'Leary said if the Committee would like to move forward with the request, Legal Staff has suggested this be done by using a Revocable Utility Installation Permit. The revocable permit was created in 2009 to allow Chickasaw Telecommunications to install fiber optic conduit in the ROW to connect two Norman Regional Hospital campuses. They needed a permit because they did not have a franchise agreement with the City. The revocable permit contained special conditions to protect the City's interest that included submittal of half size plans and digital as-builts; traffic controls where necessary during work in the ROW; permittee was required to leave property above in solid and safe conditions and restore all sodded areas to original conditions; and permittee was required to indemnify, protect, and hold harmless the City against any and all damages, claims, suits, actions, and causes of action.

Item 1, continued:

Mr. O'Leary said the following items will be required with the application of the revocable permit:

- Signed and sealed construction plans
- Proof of insurance policy (original) with standard comprehensive public liability coverage, including contractual liability insurance covering bodily injuries and property damage naming the applicant/permittee and the City of Norman as co-insured, issued by an insurance company authorized to do business within the State of Oklahoma
- Payment of permit fee
- Letters of no objections from other franchised utilities in the ROW

Mr. O'Leary said the revocable permit can be a viable option to protect the City's interests and Council may want to consider requiring the permittee to participate in the One Call System to ensure work done within the ROW will not interfere with the irrigation lines.

Councilmember Williams asked if all franchises and non-franchise applicants have to meet the same requirements as stated above and Mr. O'Leary said yes. Councilmember Williams asked how the HOA could become a franchise or non-franchise and Ms. Kathryn Walker, Assistant City Attorney, said to become a franchised utility the applicant must be regulated by the Corporation Commission and the City of Norman requires a vote of the people to approve franchises. Councilmember Williams asked what the permit fee would be and Mr. O'Leary said a one-time fee is in the range of $500.

Councilmember Williams referred to the photo in the PowerPoint presentation that showed 16 utilities in one area with only 10 being identified by the City as a good example that there are neighborhoods placing items in the ROW without going through the permit process. He said people wanting to go through the process to be compliant should not be so bogged down with regulations that it becomes unfeasible for them, plus too many regulations will stop others from coming to the City in the future for a permit. He encouraged the Committee to look at how the City could make this happen in a way that is best for the neighborhood at a cost they can afford. He said the City will know where the lines are and if any work is done in the ROW, the lines can be identified through One Call.

Mr. DiCastro said the HOA is doing this as a cost saving measure and the investment will pay for itself in two to three years. Councilmember Castleberry said this will also free up treated water to be used by other customers. Councilmember Gallagher asked the projected savings and Mr. DiCastro said approximately $13,000 and 24,000 gallons of water annually. Councilmember Williams asked for clarification on removing the existing water lines in the area. He said if the water is shut off at the main and the existing lines stay in and there is a problem, how does that affect the City. Mr. O'Leary said the City wants the water shut off at the main and terminated and to have the HOA remove the meter; however, they can leave the rest of the existing pipeline in the ground. He said Staff did not want the pipeline to remain connected to the main line in case a franchisee working in the ROW damaged the pipe, which could cause backflow conditions and contamination issues.

Councilmember Gallagher asked how deep the well will be and Mr. DiCastro said 600 to 640 feet at a total cost of approximately $38,000. Councilmember Gallagher asked if testing was done to ensure the water will be reliable and Mr. DiCastro said many surrounding properties already have wells that are viable for irrigation purposes.

Mr. O'Leary said if the Committee decides to move forward with a revocable permit Legal Staff will work with the HOA on preparing the application.

Item 1, continued:

Chairman Kovach said the City receives many requests to allow items, such as fences, in the ROW and he would like the Committee to think of the broader picture. If the Committee decides to modify the permit then a policy needs to be created that covers all situations. He said the City wants to be citizen friendly as well as business friendly, but has the responsibility to protect the broader community from concerns raised tonight. He asked if the Committee wanted to review a standard policy to look at requests on a case by case basis so that it becomes more routine for a revocable agreement to be issued. He asked Ms. Walker to discuss the hazards this might bring to the City. Ms. Walker said if revocable agreements are going to be allowed, it would be best for the City to adopt an ordinance with different regulations for above grade and below grade, set parameters of when that would be allowed, include language on how the City will be protected, and set regulations on how citizens would approach the City to get a permit. Chairman Kovach said the issue comes up frequently and he would like to see a global change rather than issuing permits on a case by case basis.

Mr. Harold Heiple, 228 East Eufaula, said while wanting to use raw water instead of treated water for irrigation is a noble idea, allowing a utility in the ROW without a franchise is not a good idea. He said OG&E did not have a franchise in Newcastle, Oklahoma, and when they tried to obtain a permit from Newcastle it was initially approved, then later denied because OEC filed a lawsuit to prevent that. He suggested the Committee meet with the various franchises for their input before moving forward. He felt the City would be risking litigation if they approve a permit without discussing this with franchisees that pay fees to be in the ROW.

Chairman Kovach said the Builders Association of Central Oklahoma (BASCO) has concerns and asked Mr. Jay Cervi, President, for his comments. Mr. Cervi said BASCO's concern is the HOA is not financially prepared to maintain underground utilities. He said, many times, franchises work in the ROW for maintenance purposes and irrigation systems get damaged or destroyed or the franchise will leave a large open hole for long periods of time. He said the franchises always say they will fill in the holes, but in the meantime, the City ends up barricading the area or fixing the problem themselves. He said it has only been recently that HOA's have platted land that is supposed to be free of utilities, but last week OG&E worked on lines on HOA land and left a mess that the HOA had to clean up. OG&E did not damage the HOA's sprinkler system, but they would have been at fault if they had because they were outside their easement. He said it will be difficult for a HOA to deal with these types of situations and if the HOA damaged a utility while boring, it could be extremely expensive.

Chairman Kovach asked if the Committee wanted to invite the franchises to the next meeting to hear their concerns. Councilmember Lockett felt it was the responsible thing to do to invite franchises into discussions. Chairman Gallagher felt franchises should be invited and be part of the discussions. Councilmember Jungman felt this matter is a water issue and City water is being saved and is being done at the HOA's expense, which makes it a special case. He felt the City could exercise the privilege to handle this without involving the franchises. He asked if a franchisee could bore under a City street if they wanted to and Mr. O'Leary said yes, after obtaining a permit from the City. Councilmember Jungman said the HOA's financial position is not the City's business. If the HOA wants to take on the responsibility it is their money and the City seems to be throwing up roadblocks.

Councilmember Williams said if the HOA is a member of One Call and their lines are damaged by a franchise, would that franchise be responsible for the damage and Mr. O'Leary said no. He said there are basically three layers of hierarchy or authority 1) the City of Norman, 2) the franchise utilities, and 3) everyone else so it would be the HOA's responsibility. He said a franchise agreement puts the franchisee at a higher level because they pay to be in that ROW. Ms. Walker said the HOA could file a claim and how that would be handled would be dictated by the franchise agreement.

Item 1, continued:

Councilmember Williams said if franchises are leaving holes for weeks, then where is the real liability because if he goes out and steps in that hole the City of Norman is liable. Mr. O'Leary said the franchise companies are generally good citizens although they are not perfect. He said they hire contractors for projects and it is the contractors that are the problem, not the franchise companies themselves. Mr. Heiple said ONG, OG&E, and AT&T are like OEC in that they do not go with the low bidder, they stay with contractors that have proven themselves as capable.

Councilmember Williams said the HOA has come forward in a respectful way and the right way so he would like to craft a permit to move forward and discuss creating an ordinance in the future. He said crafting an ordinance will take months. Chairman Kovach asked Ms. Walker the implications of Council approving the permit. He asked if it would set a precedent of inviting multiple applications and if that is an issue that should be considered. Ms. Walker said it is possible for other HOA's to come forward with similar requests and it would be hard for the City to decline those requests if this permit is granted. Councilmember Jungman felt the solution would be to approve the application for the permit and place a moratorium on future applications until an ordinance has been created and approved.

Ms. Joy Hampton, The Norman Transcript, said this would help save treated water, but the HOA would be tapping into the aquifer in the middle of a drought. She asked if conservation measures equal to the City's will be part of the permit regulations and Ms. Walker said no, there is nothing in the well ordinance that would require anyone with a well to follow the City's conservation measures. She said the State is beginning to review issues of domestic public wells and while it is good to save treated water there are still a lot of holes being poked into the aquifer. She said the more holes in the ground, the higher the chance of contamination. Councilmember Castleberry asked who has water rights and Ms. Walker said domestic property owners have water rights and can irrigate up to one inch of water on two acres of land. The OWRB has further defined domestic user as an irrigation well for watering the lawn or common areas up to five acre feet per year (1,630,000 gallons) so water rights are defined by the quantity of water used. Councilmember Castleberry said if the HOA stayed within their five acre feet, then it is their water and Ms. Walker said correct. Mr. DiCastro said the HOA is not putting in a well because the City has water restrictions; they are doing it as a cost saving measure and the HOA will follow water restrictions mandated by the City.

Councilmember Castleberry asked Mr. DiCastro if the HOA has the financial ability to fix any damage to other utilities and Mr. DiCastro said the contractor boring under the street will have the proper insurance that states if they cause any damage, they will repair that damage. Mr. O'Leary said Staff is more concerned about what will happen to that bore under the street five years from now if a leak develops and the street settles. Councilmember Castleberry asked who would be responsible and Mr. O'Leary said the HOA would be responsible.

Chairman Kovach asked Ms. Brenda Hall, City Clerk, how soon a Council Conference or Study Session could be scheduled to discuss this with the full Council. Ms. Hall said the additional item could be added to the April 16th Study Session agenda if the Committee wants the item to be on the April 23rd agenda for consideration. Chairman Kovach asked Staff to invite franchises to the meeting. He said holding the meeting on April 16th will not slow the process down because the recommendation from the Committee is to move forward with the revocable utility permit, but the meeting will allow full Council discussion and franchise input.

Item 1, continued:

Councilmember Williams said the requirement for letters of no objections from franchised utility companies does not seem to be feasible given the short time period. He said Mr. Heiple has stated there may be objections from the franchises so is Council setting the applicant up for failure at the Council meeting? Do the letters drive Council's decision? He interprets the language to say if the applicant does not have the letters, the permit cannot be approved. Mr. O'Leary said that requirement was part of the original permit agreement with Chickasha Telecommunications, but he did not recall if the applicant had the letters before Council approved the permit; however, they certainly had the letters before digging. Councilmember Williams said if Council was to approve the permit, but the letters were not obtained, what would happen and Mr. O'Leary said in that case the applicant has not met the conditions of the permit.

Mr. Heiple said when the City of Newcastle originally issued a permit to OG&E, OEC immediately sued and won. The Supreme Court told the City of Newcastle they did not have the authority in their ordinance to allow OG&E to use the ROW without a franchise. He said he did not want to sound heavy handed, but he did not want people spending their money and time without at least finding out if the franchises have a problem with them using the ROW.

Chairman Kovach asked Staff to move forward with the permit and schedule full Council discussion with franchises on Tuesday, April 16th, prior to placing it on the April 23, 2013, agenda for formal consideration.

Items submitted for the record

1. Memorandum dated April 4, 2013, from Shawn O'Leary, Director of Public Works, to Members of the Council Oversight Committee
2. Sample of Application Directions for Revocable Utility Installation Permit in Public Rights of Way and Easements
3. Sample of Special Conditions for Issuance of City of Norman – Revocable Utility Installation Permit
4. Location map
5. PowerPoint presentation entitled, "Cascade Addition Irrigation Distribution System in Public Right-of-Way," Council Oversight Committee dated April 10, 2013

Item 2, being:

DISCUSSION REGARDING POSSIBLE MODIFICATIONS OF THE CITY OF NORMAN E-MAIL POLICY.

Mr. Rick Knighton, Assistant City Attorney, said Resolution No. R-1112-9 was adopted on July 12, 2011, regarding requirements for keeping City of Norman records. He said Chairman Kovach requested an update of how the resolution was implemented and its impact on City operations as well as a review of State law.

Mr. Knighton said the Oklahoma Open Records Act does not impose any additional recordkeeping requirements on public bodies or public officials, except records dealing with the receipt and expenditure of any public funds reflecting all financial and business transactions related thereto. The Oklahoma Records Act is silent on the disposal of records required to be kept and maintained.

The State of Oklahoma permits a municipal governing body to destroy, sell for salvage, or otherwise dispose of papers, documents, and records after expiration of a specified time period following the end of the fiscal year in which the paper, document, or record was created except for specific records. Mr. Knighton highlighted types of records and how long they have to be kept. State law prohibits disposal of records pertaining to pending litigation until such litigation is finally terminated. Time limits for the destruction, sale,

Item 2, continued:

or other disposition of municipal papers, documents, and records which are not mentioned in State Statutes can be determined and set by ordinance and resolution of the municipal governing body.

Mr. Knighton said Section 6 of R-1112-9 states that all records, written and electronic, shall be retained for at least one year unless there is pending litigation, in which case it will be retained for at least two years after the ultimate disposition of the resolution of the litigation.

Mr. Knighton said one of the issues Staff has struggled with in the resolution is its intent. He said the resolution came forward with little or no committee or Staff review. He said it is not clear whether the resolution was adopted for a narrow purpose aimed primarily at electronic mail. He said out of an abundance of caution, Staff has chosen to interpret the resolution broadly. This has actually imposed additional record keeping requirements in the City because Staff has attempted to retain emails and all other documents under this resolution. Staff is looking for clarification on the intent of the resolution. He said limiting identifiers would reduce the number of documents and electronic mail to be retained and would assist Staff in planning future compliance with the intent of the resolution.

Mr. Knighton said another issue that has arisen is keeping *junk* electronic mail or *junk* facsimiles. He said City employees often receive unsolicited electronic mail and the City's facsimile machines often receive unsolicited facsimiles. As written, a broad interpretation of the resolution requires that these records be maintained for at least one year even though they do not concern public business. Based on current rate of growth, the Information Technology (I.T.) Division has determined that additional storage capacity will be needed in the near future at a cost of $16,000. Because of difficulty in filtering contents of electronic mail for deletion, the recommended approach for this issue is to allow individual users to delete these types of electronic mail at the end of each day.

Mr. Knighton said a broad interpretation of the resolution also discourages converting original records to a format that offers convenience of storage because both the original and digital versions must be kept for at least one year. Staff is looking for clarification that original records converted to a digital format consistent with State laws could be disposed of and would alleviate retention of duplicate records.

Mr. Knighton said language in the resolution prohibits the disposal of written and electronic records if there is pending litigation for at least two years after the ultimate disposition. A broad interpretation of the resolution prohibits disposal of any written or electronic records. Clarification of this intent will provide Staff with better guidance on what records must be retained when litigation is pending. He said a reasonable approach would be to acknowledge the City is subject to the standard for records pertaining to litigation set forth in State Statutes.

Mr. Knighton said current State and Federal law impose extensive document and record keeping requirements and if the goal of the resolution is to ensure retention of City electronic mail or other documents that relate to policy formation or implementation or other significant City issues that are not already required to be retained by State and Federal law then a qualifier regarding additional retention could be considered. He said without modification, Staff must continue to retain junk email, junk facsimiles, duplicate copies of the same document, and struggle with whether to dispose of any documents at all so long as some litigation is pending against the City.

Item 2, continued:

Chairman Kovach said junk email and junk facsimiles that come to the City are not documents that have any value that Council is trying to retain. He said Council was made aware of a lack of City policy and situation where some emails were being deleted on a daily basis as well as being deleted off the server and there was no records being retained. He said the resolution was meant to maintain reasonable records for reasonable formal requests. He felt comfortable in recommending that junk emails and junk facsimiles not be retained. Mr. Knighton said the difficulty with that in regards to implementation is the email server. He said prior to the resolution, if there is an email in an employee's inbox and they do not delete it, it stays in the inbox until it is deleted. When it is deleted it would move into the deleted items folder for five days and after that the email was gone because there was not an email retention policy. After the resolution, everything was kept and the only way to cull through junk emails is for an individual to go through each one. Chairman Kovach said his personal computer email has a junk folder and asked if the City has the capacity to automatically delete items in the junk folder without deleting everything. Mr. Anthony Francisco, Director of Finance, said everything that comes in goes to the central server before it goes to the users. He said users have junk email folders, but the central server does not. Chairman Kovach asked if the central server filters emails for junk before it goes to the users and Mr. Francisco said not at this time because there has to be a definition of what is junk.

Councilmember Castleberry said the City must have some type of junk email filtering and Ms. Kari Madden, Network Manager, said there are several tiers of filtering but the City has *enterprise storage*, which is different from home email service. She said email is filtered for viruses and spam before it reaches the network. Councilmember Castleberry asked if the first filtering tier searches for certain sites and Ms. Madden said it currently filters all sites. She explained how the filtering process works. She said I.T. archives everything even if the user has deleted something. She said email hackers are constantly looking for ways around filters and all the City can do is try to make it so difficult that the hackers give up. Councilmember Castleberry said if everything goes into the archives then the City is in compliance with the Open Records Act even though the user may have deleted an email and Ms. Madden said that is correct. Ms. Madden said everything in the archives is also on a backup tape. Mr. Knighton said the Open Records Act only requires keeping financial transactions so there is a difference between Open Records Act documents you have to keep and discovery documents you have to produce for litigation.

Ms. Joy Hampton, The Norman Transcript, said there is a difference between the law requiring you to retain something as a record and the law requiring you to produce that if it exists and is requested. She said if it is created in the City Office or in an email, as long as it exists and is requested appropriately, the City must produce it unless it is protected by law. She said if you are not required to save it and it is gone then obviously you do not have to produce it because it no longer exists.

Chairman Kovach said, for purposes of transparency, the City is trying to go beyond what is required by State law, but Council is not trying to create an unreasonable burden. He said the point is being able to produce a document if it is requested. Mr. Knighton suggested mirroring State language in Title 11 regarding digital copies of records to alleviate duplicating records and Chairman Kovach felt that would be beneficial.

Mr. Knighton said the way the resolution is written and the way technology is set up, the only way to get rid of junk emails is to allow users to delete emails, but that appears to be the reason the resolution was generated to begin with. He said Staff has been trying to find another way to accomplish that, but there does not appear to be one. He said everything has been saved since the resolution was enacted, but if that rule continues, the City will need more storage space.

Item 2, continued:

Ms. Madden said there are tools that would allow the City the ability to tier data. She said the City would be able to tier data to be saved for one year, five years, ten years, or infinity. She asked for direction on what Council was trying to achieve so she can find the tools that would best accomplish that. Chairman Kovach said Council is trying to get some level of transparency that is not overly burdensome on the City. He said saving emails for one year is fine unless they are involved in litigation. Ms. Madden said she would look at tools that can assist with Council's desire and bring information back to the Committee for further review.

Mr. Knighton said one concern is that he and other employees have folders that contain emails older than one year and if I.T. goes through and deletes everything over one year old, how will that affect those folders. Mr. Francisco said if the direction is to delete everything that is more than one year old in an inbox, the tool can do that, but some employees have email in their inbox and sent box that is ten years old and want to keep it.

Ms. Madden said policy can be applied to the exchange server because that needs to be kept lean to keep the mail moving. Every day at 5:00 p.m. the server is backed up and stored in the archives forever. Chairman Kovach asked Staff to do what needs to be done to keep the exchange server lean and still allow people to keep folders of old emails on their computers as well as documents required by law. He asked Staff to clarify language in the resolution regarding issues discussed tonight and bring it back to the Committee for further review.

Items submitted for the record

1. Memorandum dated April 4, 2013, from Rickey J. Knighton II, Assistant City Attorney, and Kari Madden, Network Manager, to City Council Oversight Committee

Item 3, being:

DISCUSSION REGARDING A PROPOSED ORDINANCE ESTABLISHING AN OPEN MEETING POLICY.

Mr. Knighton said the Oklahoma Open Meetings Act sets forth requirements that a public body must follow related to disseminating information about its meetings in a way that will encourage and facilitate an informal citizenry's understanding of the governmental processes and problems. The term "public body" as defined in the Open Meetings Act does not encompass all the City's committees.

In 2002, Council adopted Resolution No. R-0102-110 to specifically require the Citizen's Oversight Committee, Wastewater Master Plan Implementation Committee, and the Northside Wastewater Site Selection Review Committee to follow the provisions of the Open Meetings Act. In 2011, Council adopted Resolution No. R-1112-9 to require all committees, sub-committees, and ad-hoc committees follow the Open Meetings Act as well as State law requiring agendas be posted on a City's website.

Chairman Kovach said he wanted the resolution to be codified and asked Staff to draft an ordinance that would ensure all boards, commissions, committees, sub-committees, and ad hoc committees of the City of Norman comply with the Open Meetings Act and State law requiring agendas be posted on the City's website.

Ms. Walker said Staff drafted an ordinance using language from the resolution to be placed in Section 4-107, Meeting Notices. She provided a list of board, committees, and commissions. Councilmember Gallagher asked why there are no subcommittees on the list and Ms. Walker said there are currently no sub-committees.

Item 3, continued:

Councilmember Spaulding asked the time limit for posting meeting agendas and Ms. Walker said an annual meeting schedule must be filed with the City Clerk's Office by December 15th. Meeting agendas must be posted 24 hours prior to the meeting and 48 hours if it is a Special Meeting. If the meeting is an emergency meeting you have to give notice as soon as possible.

Councilmember Jungman asked what is unique about Norman Economic Development Coalition (NEDC) that they are not on the list. Ms. Walker said NEDC is not a City created committee. The City Manager serves on the board as an ex-officio member. Councilmember Castleberry said NEDC is not subject to the Open Meetings Act and they have a legal opinion on that. Chairman Kovach asked Ms. Walker if it is fair to say the City cannot impose their beliefs on NEDC and Ms. Walker said that is true and under the Open Meetings Act they are not considered a public body by definition. Councilmember Gallagher said in the spirit of cooperation, NEDC should be approached about following the Open Meetings Act. Chairman Kovach said a lot of NEDC discussions would probably require them to adjourn into Executive Session, but it would not hurt to ask.

Councilmember Jungman asked if all 501-C companies fall under the Open Meetings Act and Ms. Walker said some City contracts require them to follow the Open Meetings Act, but some like the Norman Convention and Visitors Bureau (NCVB) do not. Ms. Hampton said the NCVB has always welcomed her at their meetings and have always acted as if they had to follow the Open Meetings Act. She said the key in case law is whether the committee or group receiving public funds is also acting with decision making authority for the City.

Chairman Kovach said the reason he asked for the resolution to be codified as an ordinance is because as time goes by people forget about resolutions and making it an ordinance gives it more strength and makes it more permanent.

Councilmember Spaulding asked if requiring advanced notice of meetings interferes with the development streamlining process the City is implementing and Ms. Walker said the only thing that is part of the development process is groups that are currently following the Open Meetings Act such as Parks Board, Greenbelt Commission, Planning Commission, etc.

Ms. Hampton expressed concern regarding Youth Council following the Open Meetings Act. She said it is treated like the other boards, committees, and commissions, but an adult male attended a meeting and began interacting and participating in the teenager's activities, which was very awkward for the group and Staff. She said Youth Council is basically a mock meeting and wants to make sure they are not swept up in the regulations since they are not making any decisions. Ms. Hall said the Youth Council is under the umbrella of the Children's Rights Commission. She said they do not make decisions, but they may sometimes make suggestions to Council about certain things from the perspective of youth. Chairman Kovach said the resolution deals with sub-committees of Council not sub-committees of citizen committee's so they should not fall under the Open Meetings Act and members agreed.

Items submitted for the record

1. Memorandum dated April 3, 2013, from Kathryn L. Walker, Assistant City Attorney, through Jeff. H. Bryant, City Attorney, to Members of the Council Oversight Committee
2. Draft ordinance
3. Boards, Committees, Commissions List

Item 4, being:

MISCELLANEOUS DISCUSSION.

None

ADJOURNMENT.

The meeting adjourned at 7:28 p.m.

ATTEST:

_____ _____

City Clerk Mayor