

CITY COUNCIL
PLANNING AND COMMUNITY DEVELOPMENT
COMMITTEE MINUTES
April 8, 2011

The City Council Planning and Community Development Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 8:00 a.m. in the Conference Room on the 8th day of April, 2011, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray and the Norman Public Library at 225 North Webster 48 hours prior to the beginning of the meeting.

PRESENT: Councilmembers Atkins, Cubberley, and Chairman Butler

ABSENT: Councilmember Griffith

OTHERS PRESENT: Mayor Cindy Rosenthal
Councilmember Carol Dillingham
Councilmember-Elect Roger Gallagher
Ms. Susan Connors, Planning and Community Development Director
Mr. Ken Danner, Development Manager
Mr. Bob Hanger, Storm Water Engineer
Mr. Doug Koscinski, Current Planning Manager
Mr. Steve Lewis, City Manager
Mr. Shawn O'Leary, Director of Public Works
Ms. Kathryn Walker, Assistant City Attorney
Mr. Tom Knotts, Planning Commission Liaison
Mr. Geoff Canty, Storm Water Task Force
Mr. Russ Dutnell, Storm Water Task Force
Mr. Harold Heiple, Attorney for Norman Developers Council
Ms. Karla Chapman, Administrative Technician

UPDATE ON THE WATER QUALITY PROTECTION ZONE (WQPZ) ORDINANCES.

Ms. Susan Connors, Planning and Community Development Director, provided an update from the Planning Commission (PC) meeting held April 7, 2011, and said all but three Planning Commissioners were present and no other citizens were in attendance. She said Staff provided a presentation on the Storm Water Master Plan Draft Water Quality Protection Zone Ordinances and gave background information on the Storm Water Master Plan (SWMP). Ms. Connors said Staff addressed questions from the PC Commissioners and felt the discussion regarding the proposed ordinances was excellent and very helpful. She felt there was no total dissent from any of the PC Commissioners on the entire proposed WQPZ ordinances but there were a few concerns.

Mr. Shawn O'Leary, Director of Public Works, agreed the PC meeting was very beneficial and contained valuable and engaging discussion. He felt the PC Commissioners understood the key issues and requirements of the proposed ordinances, including the three options developers can choose from when creating a development, which are: 100 feet in width, measured from the top of the bank, on either side of the stream; designated Full Build-Out Floodplain (FBF); or the Federal Emergency Management Association (FEMA) Floodplain. Mr. O'Leary said Staff provided examples and illustrations for the three options.

Mr. Tom Knotts, Planning Commission Liaison, agreed the PC meeting was very constructive but concerns of whether the City or a Homeowners Association (HOA) would provide maintenance for a WQPZ buffer and fire prospects did surface.

Mayor Rosenthal asked Staff to provide the key changes to the proposed ordinances since the Committee last discussed this issue at the February 11, 2011, PCDC meeting and Ms. Kathryn Walker, Assistant City Attorney,

said most changes occurred in the Subdivision Regulations, Section 19-411, of the Code of the City of Norman. She said the following language has been added to the proposed ordinance:

Sec 19-411(B)(2): “An alternative width determined by an engineered process and approved pursuant to Section 19-601(B)”, making it more clear that variations are allowed for the required width for all the WQPZ’s.

Sec 19-411(D): “The base width of the WQPZ outlined in (B) above may be reduced for first order streams to no less than fifty (50) feet but never less than the FBF...”, which streamlined reduction on first order streams as long as the applicant(s) show other methods used to reduce nitrogen of at least 75% and phosphorus of at least 58%. Ms. Walker said this would typically be the more urban areas where streams are a little harder to identify and it would make good sense to have this option.

Section 19-411(H): “For all developments, particularly those containing some portion of the WQPZ, utilization of low impact development strategies are encouraged...” Ms. Walker said the City does not currently have a low impact development manual but when plats or Norman Rural Certificates of Survey (COS) include portions of the WQPZ, the current Engineering Design Criteria may be modified when low impact development strategies are utilized in accordance with the North Central Texas Council of Governments (NCTCOG) Integrated Storm Water Management Manual found at <http://iswm.nctcog.org/> and also on file in the Public Works Department. Staff’s hopes are the NCTCOG Integrated Storm Water Manual will be well received, particularly by the development community, since it is from the same region. Ms. Walker said the Citizen’s Storm Water Task Force has pointed out that Norman’s typical “curb and gutter” subdivision will not achieve the best benefit out of the WQPZ buffer and other options, such as the NCTCOG Integrated Storm Water Manual, are needed to accommodate and make the WQPZ buffers work well.

Mr. Shawn O’Leary, Public Works Director, said the NCTCOG took over three (3) years to develop the manual and it would be an excellent tool for Norman to use in the interim. He asked Mr. Bob Hanger, Storm Water Engineer, to highlight some of the examples of the NCTCOG Integrated Storm Water Manual and how it can be used relevant to the proposed WQPZ ordinance(s). Mr. Hanger said the main focus of the Integrated Storm Water Manual is water quality, stream bank protection, and flood mitigation and conveyance. He provided excerpts and examples featuring design practices to preserve riparian buffers, reduce roadway lengths and width, reduce building footprints, using vegetated swales instead of curb and gutter, and drain runoff to pervious areas.

Councilmember Butler said questions have been asked whether language should be added to the draft WQPZ ordinance(s) referencing the Corps of Engineers (Corps) 404 Floodplain Permit process, blue-line streams, etc., and Mayor Rosenthal said the development community has raised concerns that the City’s requirements should not conflict with the Corps 404 Floodplain Permit requirements, thus creating a no-win situation when trying to comply with both. Mr. O’Leary said Corps’ intentions on the 404 regulations (on blue-lines) are to stay away from the stream(s), and they even feel the untouched stream(s) should not be cleaned up. He said the City’s issue has more to do with getting the stream(s) so that they can actually function to receive the storm water run-off when located near or adjacent to a development. He said the feedback he has received is that the Corps likes Norman’s proposed WQPZ “buffer” ordinance very much and the proposed requirements are exactly what the Corps would like to see Norman, as well as other cities, achieve.

Councilmember Dillingham said her understanding of the 404 Floodplain Permit process is the concept of “no net loss of stream” and since the 404 Floodplain Permit is an on-going and changing federal program, she wondered if Norman was creating any issues in reference to the blue-line versus going from the edge of the bank. Mr. Geoff Canty, Storm Water Task Force (SWTF) Member, gave his perspective and felt the “edge of the bank” is a relevant area where change in elevation would probably be well outside of the Corps’ jurisdiction. Mr. O’Leary agreed stating the Corps is mainly concerned with bank to bank, inside the stream more so than bank to bank, outside of the stream. Councilmember Dillingham felt the City will always be outside the blue-line when dealing with the “no net loss of stream” concept and therefore the 404 Floodplain Permit regulations should not conflict with the proposed ordinance(s). Mr. Canty said just because a stream shows up as a blue-line on a United States Geological Survey (USGS) map does not mean it is a 100% guarantee that the stream is a jurisdictional body of water the Corps has control over. He said a process is available to remove a jurisdictional body of water, i.e., first order streams, that is no longer functioning as an intermittent stream. The Corps also allows for a self permitting process (General Permits), to remove certain lengths of streams, where permits would not be required but adhering strictly

to Corps's language would be a requirement, i.e., Storm Water General Permit, Linear Transportation General Permit, etc. Mr. Canty said the Corps only regulates fill and redistribution fill of a stream therefore if a bridge or box (under a certain size) needed to be built, a permit independent of the City can be applied for and obtained. Mr. Canty said up to 300 linear feet of a stream can be affected, i.e., install a concrete pipe, etc., therefore making it a contradiction of the proposed WQPZ ordinance. He said the 404 Floodplain Permits change every five (5) years and depending on the intentions and directives in Washington, D.C., the 404 Floodplain Permits can become more or less stringent. He said there is also a possibility that the individual Corps General Permits, enabling an entity to perform work within the Corps' purview, may not ultimately be the City's desire and Mr. O'Leary stated the Corps is the federally regulatory body and the City of Norman is secondary to the Corps.

Councilmember Dillingham said, based on Mr. Canty's remarks, she wondered how difficult it will be if and when a stream is declared non-jurisdictional, specifically how it will dovetail with first order stream(s). She felt that this issue will be the most conflicting and suggested Staff make certain the City's variance procedure(s) does not interfere with the non-jurisdictional process and vice versa. Mayor Rosenthal said the local developers have raised the issue of the blue-line stream and asked Mr. Harold Heiple, Attorney for Norman Developers Council, if he had any follow-up questions or remarks. Mr. Heiple thanked Mayor Rosenthal but said he was not familiar enough with Corps's regulations to comment.

Mr. Russ Dutnell, SWTF Member, said the Corps has three basic priorities: avoidance, minimization, and mitigation. He said the individual General Permit will suggest first to avoid the stream completely, the next step would be to minimize damage to the stream, and thirdly to mitigate or restore any damage to the stream. Mr. Canty said when looking at the removal of jurisdictional determination, the Environmental Protection Agency (EPA) simply has to concur with the decision. Mayor Rosenthal felt tying the City's proposed WQPZ ordinance to the blue-line(s) might be problematic since the 404 Floodplain Permit/blue-line(s) change every five (5) years, making procedures more and/or less stringent. Mr. Canty said the blue-line(s) on the USGS map are purely for reference and the maps can be accessed and verified by the public. He said the Corps will state the blue-line(s) are their first screening step and not what they base their final decision on, however when a stream is located on a blue-line map, more than likely the Corps will determine they have jurisdiction. Mr. Canty felt simply because a blue-line is tied to a stream on a USGS map does not necessarily make it an unfavorable standard for the City.

Mr. O'Leary said discussions on the proposed WQPZ ordinances always involve the issue of maintenance, specifically whether the HOA's or the City should maintain the WQPZ buffers and are the WQPZ buffers creating a fire hazard. He felt a lot of excellent debate was accomplished at the April 7, 2011, PC meeting which quickly evolved into the larger discussion of the Storm Water Master Plan (SWMP), the proposed utility fee, and the City performing enhanced maintenance services, etc. Mr. O'Leary said the proposed WQPZ ordinances addresses maintenance issues and assumes that most of the maintenance will be done by the adjacent property owners as well as the maintenance remains fairly natural, making the maintenance less instead of more to maintain.

Staff said a recent change in the draft ordinance was Section. 19-514(D) and (E) addressing the minimum grass height standards for Zone 1, Streamline Zone; Zone 2, Middle Zone; and Zone 3, any portion within 30 feet of a primary structure. Councilmember Atkins said if WQPZ buffers are to be exempt in accordance with Section 10-209, they could possibly have six foot high weeds/grass growing in or near them. He said he was very concerned about the minimum grass height standards versus maximum ordinance standards for Zones 1 and 2, because of the recent fires in Ward 1, specifically on Beaumont Street near the Campus Lodge Apartments. Ms. Walker said she may need to tweak this section a little and said she has discussed this issue with the City Fire Marshall. She said the Fire Marshall explained their direct authority is the National Fire Protection Association (NFPA) which recommends three zones around a house, i.e., closest to the home is turf and the further away from the home can have higher grass/vegetation because it is less risk to the home. She said the NFPA Zone 1, closest to a home, is similar to what the WQPZ Zone 3, Outer Zone could be in subdivisions. Basically, Zone 3 would allow for shorter grass or similar vegetation within 30 feet of a primary structure(s) to be maintained in accordance to Section 10-209, because it would be less fuel for a fire, if a fire

was to occur. Zone 2 would allow grass or vegetation to be mowed and/or maintained to a height below six (6) inches and Zone 1 would allow any grass or similar vegetation to be mowed and/or maintained to a height below eight (8) inches.

Councilmember Dillingham said in reference to City maintenance of WQPZ, she suggested Staff keep in mind that the Zone(s) are merely one piece of a lot of ordinances and discussions will be needed to determine an appropriate application/entry if the proposed WQPZ is adopted. She said Staff will need to discuss how long a development may take to come forward that would be regulated by the proposed WQPZ ordinance and make certain the City will be ready to undergo the extra effort it will take in order to maintain a WQPZ buffer. Mr. O'Leary agreed and said this is exactly the direction the discussions have been going, i.e., should the WQPZ issue be ahead (or behind) the WQPZ maintenance issue. He said in many ways the example of the Summit Valley Addition, which is near a second and third order stream, has been a great tool and Staff is researching in order to locate examples of an existing Norman subdivision that are near a first order streams.

Mr. O'Leary said Staff will provide a full presentation on the proposed WQPZ ordinance(s) at the PC Public hearing scheduled for April, 14, 2011, and will include the calculation tables for the areas consumed around a FBF for the current urban as well as the country suburban. Councilmember Butler requested Staff forward the latest proposed draft WQPZ ordinance(s) and calculation tables to the SWTF and Mr. O'Leary answered in the affirmative.

Councilmember Dillingham asked Staff if a policy goal was included in the proposed WQPZ ordinance encouraging low impact development and Ms. Walker said Section 19-411(H) states...."For all developments, particularly those containing some portion of the WQPZ, utilization of low impact development strategies are encouraged...".

DISCUSSION REGARDING LOW IMPACT DEVELOPMENT STRATEGIES FROM THE NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS INTEGRATED STORM WATER MANAGEMENT MANUAL FOR WHICH ENGINEERING DESIGN CRITERIA COULD BE MODIFIED UNDER THE WQPZ ORDINANCE.

Ms. Kathryn Walker, Assistant City Attorney, said the NCTCOG Integrated Storm Water Manual consists of a lot of cities in the Texas metroplex area, including Dallas and Fort Worth, and incorporates specifications for low impact developments. Councilmember Atkins felt the City should obtain a license agreement from NCTCOG, rather than linking Norman's regulation to a North Texas Storm Water Management Plan. He said if NCTCOG amends the Integrated Storm Water Manual then Norman would have to abide to the changes as well. Mayor Rosenthal felt Norman would merely be referencing the NCTCOG in order to provide design criteria that Norman, or any other city in Oklahoma, currently does not have and she felt a major concern of the development community was to know some of the low impact alternatives. She said Staff looked at many alternatives that Norman can use and take advantage of the work that already has been completed, adopt the alternatives, and modify as needed to meet Norman's desires. The Committee agreed and Ms. Walker said she has contacted NCTCOG and it is possible for Norman to get a license. She said NCTCOG has created a process for cities to obtain a license to the Integrated Storm Water Manual and cities can then modify and/or adopt as needed. She felt the City should acquire a license and once attained, the Integrated Storm Water Manual would be received in a word format so that it can be modified to fit Norman's needs and become Norman's regulations.

MISCELLANEOUS DISCUSSION.

Councilmember Atkins said Staff provided information to Council stating an additional 5300 units will be built in the near future, adding to the City's water demand. He asked if Norman has a Strategic Water Plan (SWP) and Staff answered in the affirmative. Councilmember Atkins felt a review of the SWP was needed and Mr. Steve Lewis, City Manager, said the Chromium Six Committee discussions have included updating the SWP, which was approved in 2003. Mr. Lewis said the proposed FY2012 Budget includes a \$300,000 update to the SWP. Mayor Rosenthal said the Oklahoma Municipal League (OML) has placed an initial/interim report for the State Water Plan on line which includes significant municipal water implications.

Mr. Lewis said the Weekly Report to Council will provide a link to obtain this information including information on 13 forums that will be taking place around the state over the next couple of months.

Items submitted for record

1. Memorandum dated April 4, 2011, from Ms. Susan Connors, Director of Planning and Community Development, to Chairman and Members, Norman Planning Commission.
2. Draft Ordinance O-1011-52, to Provide for Standards and Requirements for a Designated Water Quality Protection Zone Inclusive of the Lake Thunderbird Watershed, Chapter 19, of the Code of the City of Norman
3. Draft Ordinance O-1011-53, for Water Quality Protection Zoning Overlay District, Section 429.7, of Chapter 22, of the Code of the City of Norman
4. ISWM Technical Manual – Planning, integrated Site Design Practice #2: Preserve Riparian Buffers, submitted by Mr. Bob Hanger, Storm Water Engineer.

The meeting adjourned at 8:51 a.m.

City Clerk

Mayor