

## 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.

Chairman Bierman said the 2015 Housing Market Analysis was formally accepted by City Council in September 2015, which means that the data is probably older than that but gives us a good benchmark. She said she knew the city was over built on apartments in 2015.

Councilmember Hall said she also believed that additional market analysis were done by various entities since 2015 that indicate that we are still experiencing an oversupply of student housing. She asked if the goal is to increase density, is it to cram as much housing on a lot as possible or is there other perimeters to achieve our goal to increase density. Most of the lots in Center City are probably single family with some mixes of old boarding house types.

Ms. Hudson said six goals are listed in the memorandum, which I copied from the CCFBC to reset the conversation and provide guidance for future development and re-development in the Center City.

Chairman Bierman said one of the things Council talked about in December was the impact on infrastructure and for that reason, she thinks it is an important conversation to have. What are we looking for in terms of increased density in this area and what is the path forward for insuring that our infrastructure can support it.

Ms. Hudson said she was not involved in the very beginning of the CCFBC. She has some information from talking to people and several were on the committee from the very beginning. There were many people in the community that wanted to see different housing types come in. As far as how much of that density was wanted, she does not know, but she thinks the bottom line is the results have been there is not enough diversity in the housing types that the community wanted to see. That is what we have to work on.

Councilmember Holman said the infrastructure was talked about a lot in the first committee. We identified that we were seeing re-development and increased density happening in that area, what we would define as the "Blue" prudently already, which is putting a strain on existing infrastructure. He said there are still some dirt and gravel alleyways in the area. He said the Committee said even if Council takes no action this is happening now and we do not have the ability as a City to go in and replace all the infrastructure in this neighborhood. He said it was not known when or how many years it might be before the City could afford to do that so that is where the Committee came up with the Tax Increment Finance (TIF) portion of the Plan. The Center City TIF, the whole idea of it is that it pays for replacing all of the infrastructure in that area, all the stormwater, curbs, gutters, sidewalks, streets themselves, putting in new trees all of that, completely redoing it and that was really the main focus for including a TIF. He said for him a goal of Center City is to provide a diversity of housing options as alternative to sprawl. We have apartment complexes a lot of them for students but we do not have as many that are newer and in good sharp for non-student, families to live in and our recent revisions to Center City were aimed at trying to get away from the bedrooms and to having more units. The example that I have used many times is what we are getting is two units that have ten bedrooms each which is not what we want because no other group of people are going to live there, except for students probably. What we wanted was ten units that have two bedrooms each then anybody could live there.

Chairman Bierman said that is what brought up the discussion of expanding the Central Norman Zoning Overlay District (CNZOD), which is what we are going to talk about today. In addition, she hoped Council can give additional guidance to Ms. Hudson on the issue of applications coming in where a previous application had something listed as a bedroom that with just shaving a corner off of a wall, now all of a sudden they are claiming it is a dining room. We had talked in December about

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:

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City Clerk

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Mayor