

Item 3, continued:

Chairman Thompson said it seems if cities do not push back at some point, they simply acquiesce to the whole idea of preemption. He wondered if there is a way to approach this that would lessen the City's liability.

Member Stawicki felt this was not something the Charter Review Commission could address because it would take too much time and this is not the right body to address the issue. He could recommend Council look into this issue further through a CBOR Committee.

Chairman Thompson said there seems to be consensus not to place language in the Charter at this time, but to recommend Council appoint a CBOR Committee to further review the subject. He asked if the Commission wanted to vote on the recommendation and Ms. Brenda Hall, City Clerk, said this item can be placed on next month's agenda for a vote and members agreed.

Items submitted for the record

1. Draft Charter Article for City of Norman Bill of Rights
2. Article from The Colleges of Law Blog entitled, "The Community Rights Movement," by James Paulding

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Item 4, being:

DISCUSSION REGARDING ADDING LANGUAGE TO THE CHARTER RELATED TO REQUIRING A VOTE OF THE ELECTORATE FOR APPROVAL OF A TAX INCREMENT FINANCE DISTRICT OVER \$5,000,000.

Ms. Walker said no past Charter Review Commission has considered requiring voter approval of Tax Increment Finance (TIF) Districts. She said Councilmember Wilson requested consideration of setting a threshold of \$5 million for TIF's to be approved by voters. She said cities are authorized to create TIF Districts by the Local Development Act (LDA) to allow cities to use revenue growth generated in a district to fund certain improvements. Over the years, Norman has approved three TIF Districts, 1) Campus Corner TIF - \$1.25 million, 2) University North Park TIF - \$54.725 million, and 3) Center City TIF - \$44.5 million. She said in order to create a TIF District under the LDA, the area proposed for inclusion must first be eligible under the Act. Then a Project Plan must be developed which is required to be reviewed by a committee made up of representatives of the taxing jurisdictions and three community members. Once the review committee makes a recommendation on the Project Plan, the Planning Commission must review and make a recommendation. Finally, the City Council must hold two public meetings prior to adoption of the Project Plan.

Item 4, continued:

Ms. Walker said the proposal for the Charter Review Commission is to consider whether a vote of the public must also be required prior to creating a TIF District with authorized project costs exceeding \$5 million. She said the most controversial issue is the idea that the City would be spending tax dollars to incentivize retail, although the Center City TIF is all public infrastructure.

Member Hackelman said he understands when Council votes on a TIF, there needs to be an extra vote and asked Ms. Walker to explain that. Ms. Walker said a TIF has to go before the Statutory Review Committee, which is made up of all the representatives of the taxing jurisdictions, sales tax and ad valorem, and three at-large members. The Statutory Review Commission will make a recommendation on the Project Plan that goes forward to Council. If Council wants to adopt something different from what was approved and recommended, they must have a simple majority (six members instead of five in favor). Member Hackelman said the Statutory Review Committee has not met regularly, correct? Ms. Walker said they meet when amendments to the Project Plan are made and a quorum was not available until the end August 2019, so it can be difficult to schedule meetings quickly. Member Hackelman asked if there are members of the Statutory Review Committee that are not willing to meet and Ms. Walker said that is possible, but not typical and it was not from lack of effort. Member Hackelman said that particular situation lends itself strongly to a public vote. He said the position it put the Council in was perhaps not as transparent as the public would have preferred that particular process to be and a public vote would be appropriate similar to the MAPS Projects in Oklahoma City that have a public vote.

Member Vinyard was concerned about setting an actual dollar amount threshold and if that would become obsolete in the future.

Vice-Chairman Cubberley felt it would be a mistake to tie the hands of economic development. He said the City operates on sales tax and there are times when incentives are needed for economic development so cities need to be able to incentivize its main form of income. He said in today's environment, a TIF sales tax may not pass and felt placing a threshold of \$5 million is foolish because it is an arbitrary figure. He said at the end of the day the UNPTIF was a very public process, but did not turn out as everyone expected for a variety of reasons. He said things happened over time that were not anticipated at the time of approval. He said having a threshold ties the hands of the people elected to make these decisions.

Member Dillingham said even if a TIF is approved by voters, Council could still amend the Project Plan via the LDA and it could be completely different. She said it is very likely the vote could intensify the stress between the voters and Council. She said the process is a tool in a toolbox that the legislature has defined how it is to be used so to mess with that does tie the hands of Council to make appropriate decisions.

Member Hackelman said he agrees with incentivizing economic development, but when the City receives no ad valorem tax and a TIF is based on an incremental sales tax increase then a floor of \$5 million is not too much to ask. He would be willing to look at a higher threshold if needed, but felt there needs to be a set standard.

Item 4, continued:

Member Dillingham suggested a public vote for TIF's over a certain amount using sales tax only and funding of public infrastructure only. She wondered if that would adequately provide incentives for the quality of development the City wants and deserves.

Member Stawicki said if the public is required to vote to increase sales tax, then the public should be required to authorize diversion of that sales tax. He said the City should go through the same process it currently follows, instead of Council adopting the Project Plan Council would send a specific Project Plan to a vote of the electorate.

Vice-Chairman Cubberley said if the public is going to be asked to vote on one TIF, they should vote on all TIF's no matter what the amount of the project costs. He said it does not make sense to say only those projects \$5 million or above should be voted on by the public.

Member Bates said he takes issue with the concept of "diversion" of tax funds because people immediately start thinking there is a real case of equity in terms of voters rights if money can be diverted. He said the concept behind a TIF is it increment of funds that would not otherwise be there if not for the TIF or money that is above what is raised by the government body before the increment district went into effect. He said the City is not diverting current funds, it is taking advantage of the future growth in funds to help pay for certain items. He said TIF's are complicated issues and difficult to understand so the reality of forcing a vote on TIF's is that none of them will ever go to pass again. He said the Stormwater issue is a great example of a complicated issue that is voted on by the public and has never passed. He said there will always be a group of people trying to further complicate the TIF to keep it from passing. He said the City would be destroying a tool in its toolbox. He feels that the original concept of the UNPTIF was good, but the amendments complicated that over time turning it into something that was never meant to be. He said if a vote of the people would be needed on every amendment that would only complicate matters further.

Member Vinyard said the Charter Review Commission's decision should not be based on one TIF (UNPTIF) they believe went poorly, because requiring a vote of the public takes a tool out of the toolbox that could be a very good tool.

Member Dillingham said elections are not cheap and asked the cost. Ms. Hall said it costs between \$30,000 to \$35,000 for a citywide election for one ballot.

Member Stawicki felt any initial TIF should go to a public vote as well as any major amendments.

Chairman Thompson said the Charter Review Commission will discuss what recommendations they want to send forward to Council at the next meeting.

Item 4, continued:

Ms. Hall said next steps include a public hearing for input on the Charter Review Commission's recommendations and report to Council regarding what recommendations have been made to date. She said the public meeting and report can both be scheduled in January 2020, if that is the Commission's desire.

Ms. Walker suggested a public meeting on January 6, 2020, with the report to Council at the regularly scheduled Council meeting of January 14th or January 21st and members agreed.

Items submitted for the record

1. Draft Charter Article for Voter Approval Required for Tax Increment Finance district over \$5,000,000

Item 5, being:

MISCELLNEOUS DISCUSSION.

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Item 6 being:

ADJOURNMENT.

Chairman Thompson declared the meeting adjourned at 6:55 p.m.

Item 4, being:

CONTINUED DISCUSSION AND POSSIBLE ACTION REGARDING ADDING LANGUAGE TO THE CHARTER TO ESTABLISH A RESIDENT OR COMMUNITY BILL OF RIGHTS.

Ms. Walker said at the last meeting, the Charter Review Commission suggested this item be discussed by a Citizen's Bill or Rights (CBOR) Committee appointed by Council because it is such a huge issue. She said she placed this item on the agenda for a vote by the Charter Review Commission.

Commissioner Jungman moved to take no action on this item, which motion was seconded by Commissioner McBride:

Items submitted for the record

1. Draft City of Norman Community Bill of Rights

and the question being upon taking no action on this item, a vote was taken with the following result:

YEAS: Commissioners Ali, Bates, Cubberley, Griffith, Jungman, McBride, Pipes, Vinyard, Chairman Thompson

NAYES: None

Chairman Thompson declared the motion carried and no action was taken on this item.

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Item 5, being:

CONTINUED DISCUSSION AND POSSIBLE ACTION REGARDING ADDING LANGUAGE TO THE CHARTER RELATED TO REQUIRING A VOTE OF THE ELECTORATE FOR APPROVAL OF A TAX INCREMENT FINANCE DISTRICT OVER \$5,000,000.

Ms. Walker said at the last meeting, Staff was asked to draft language for review. She said there was quite a diversity of opinion about whether or not a Tax Increment Finance (TIF) District should require a vote of the electorate as well as whether or not \$5 million would be the trigger threshold for requiring a vote of the electorate. She said some Commissioners expressed concern that a threshold would not stand the test of time and would essentially require all TIF's to be voted on by the electorate. Additional discussion centered on whether Council would be able to amend a TIF without an addition vote of the electorate.

Item 5, continued:

Ms. Walker highlighted proposed language as, "A tax increment finance district created by the City pursuant to Oklahoma law that pledges sales tax increments to fund project cost within the district, or any amendment thereto, shall only become effective after approval by a majority of the registered voters of the City in a general or special election."

Commissioner Jungman clarified any pledge of sales tax would prompt a vote regardless of the amount and Ms. Walker said yes.

Chairman Thompson said he likes the language as well because it opens the possibility for small TIF's that could be daisy chained to larger TIF's to get around a public vote so this is a better approach.

Commissioner Griffith agreed and said because sales tax funds will be committed to a TIF the voter approval would not only support the TIF, but the amount of sales tax dedicated from the revenue stream created by the TIF could be a deterring factor on how the public votes. He said arguments would have to be made to convince the voter to approve a TIF and he supports the clarity of the language.

Commissioner Ali said she appreciates the clarity of the language when it comes to sales tax, but what about TIF's that are not sales tax based? Ms. Walker said any TIF process would have to go through the Statutory Review Committee process as well as public hearings, etc. She said the City does not receive property tax so that would apply to any TIF requiring sales tax revenue. Commissioner Ali said most citizens and business owners do not understand the process so they feel they do not have a voice in the process.

Commissioner Griffith said he likes the language because it protects the City's revenue stream and people will have a voice on how that revenue stream is diverted whether that is \$1 million or \$100 million.

Commissioner Bates said he understands the frustration the public has about the University North Park Tax Increment Finance (UNPTIF) District, and he was on the original committee that helped evaluate the UNPTIF. He said the frustration of where the UNPTIF is today compared to what it was envisioned to be is worthy of the feelings the public has about it. He said everyone has certain responsibilities even if mistakes are made. He said ultimately, it is City Council's job to protect the City's revenue stream and it is their job to determine what makes sense or what does not make sense for the City. He said at the very core, it is the financial responsibility of Council to make sure the City is on the right track. He said to strip away a tool that can be used right is an overreaction to a mistake that is perceived to have been made with the UNPTIF. He said the scrutiny given to the UNPTIF would be different today if a similar project were to come forward. He is against the idea that the public cannot trust their elected officials to make a good decision and if Council does make a mistake there are procedures to rectify that mistake. He said there is a TIF process and that process should not be destroyed because of what many perceive to be a mistake. He is opposed to changing that process because complicated issues tend to get whittled down into slogans during elections as opposed to the complicated negotiations and details that go into the TIF projects.

Item 5, continued:

Commissioner Vinyard agreed with Commissioner Bates and asked if the public is going to vote on everything in a general election. He said the City has elected officials chosen by the people in their ward to make these difficult decisions. He said a Councilmember may hear from ten really loud people that disagree with their decision, but that does not necessarily mean it is representative of the entire ward.

Commissioner Jungman said he does not feel like a public vote will harm a good project, i.e., was NORMAN FORWARD helped or hurt by a public vote? What he hears from his Councilmember is the City made commitments and promises that Council has to work really hard to be accountable for to meet those commitments and promises.

Chairman Thompson said his view is that the Charter Review Commission is recommending Council put the TIF in a category that already exists, i.e., General Obligation Bonds, sales tax increases, utility rates, etc. He said a public vote on TIF's does not mean the public does not trust Council, it just means the public recognizes TIF's are directly related through the revenue stream and since the public votes on whether or not to increase the revenue stream, it is not inappropriate to vote on how those funds are diverted.

Commissioner Ali said elected City officials are very engaged in their respective wards and show mutual respect in sharing work with their constituents. She said citizens in Norman support their elected leaders, which binds the community together and citizens follow along with their elected officials because they share their work. She said the fear of disagreement comes from the divided leadership when it comes to the UNPTIF and because of that division a vote would allow the public to say they agree with this side or that side and that would help with division in leadership.

Commissioner Pipes said he has reservations about moving forward with a recommendation until the UNP Referendum Petition has been resolved.

Commissioner McBride said, philosophically, he would hope the Charter Review Commission is not setting a pattern that everything Council messes up should require a vote of the people and sees that as no longer representative of democracy.

Commissioner Jungman moved to recommend the electorate vote on all sales tax increment finance districts, which motion was seconded by Commissioner Ali;

Items submitted for the record

1. Draft language for Voter Approval Required for Tax Increment Finance Districts over \$5,000,000

and the question being upon recommending the electorate vote on all sales tax increment finance districts, a vote was taken with the following result:

Item 5 continued:

YEAS: Commissioners Ali, Griffith, Jungman,
Williamson-Jennings, Chairman Thompson

NAYES: Commissioners Bates, McBride, Pipes,
Vinyard, Vice-Chairman Cubberley

Chairman Thompson declared the motion failed and recommending the electorate vote on all sales tax increment finance districts was not approved.

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Item 6, being:

DISCUSSION REGARDING REVIEWING POTENTIAL LOOPHOLES USED TO SKIRT THE OPEN MEETING ACT.

Ms. Walker said the direction for the Charter Review Commission is to review potential loopholes used to skirt the Open Meeting Act and provide a recommendation and to review executive session restrictions and provide recommendation on the appropriate limits of use versus overly expansive such that it provides cover to skirt Open Meeting Act. She said she does not have further clarification or examples, but combined the two items in the backup material to summarize what the Open Meeting Act requires.

Ms. Walker said although the Open Meeting Act only applies to groups meeting the definition of a “public body” in the Act, the City’s Charter and Code ensure other bodies also comply with the Open Meeting Act. The Charter currently provides that all meetings of the City Council, Boards, Commissions, Authorities, and Committees of the City be open to the public under such regulations as may be fixed by ordinance. It also recognizes the ability of the Council, Boards and Commissions to hold executive sessions in compliance with State law. In 2011, the City adopted Resolution R-1112-9 that requires all committees, sub-committees, and ad hoc committees be subject to the Open Meeting Act as well.

Commissioner Jungman asked if having a series of smaller meetings with Council violates the Open Meeting Act in the “walking quorum” sense. Ms. Walker said Oklahoma does not have a definition within the Open Meeting Act that talks about a walking quorum. She said that term is used in other states, but typically at the City of Norman, three Councilmembers would meet at one time; however, after questions were raised regarding the legality the City stopped having those types of meetings. She has had three to four Councilmembers attend a meeting when she thought she was meeting with only one, but the Legal Staff nor the City Manager have scheduled these types of meetings since the question was raised.