

Allison et al. v. McCoy-Post et al.,
Case No. DF-122,946



Oklahoma Supreme Court Opinion No. 2026 OK 4



Overview

- ***Allison et al. v. McCoy-Post et al.*, Okla. Supreme Court Case No. DF-122,946**
- **Submission to the Voters**
- **Repeal by Council**

Allison et al. v. McCoy-Post et al.,
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Parties

Proponents Pamela Sue McCoy-Post
 Paul Thomas Arcaroli
 Richard Lorenz Sondag

Protestants Kyle Allison
 Vernon McKown, Jr.
 David Nimmo
 Philip Quinn

February 21, 2025 – Judge Jeff Virgin ruled that held that the gist contained in the Petition was insufficient. Proponents appealed.

February 3, 2026 – Oklahoma Supreme Court affirmed the district court’s ruling.

February 23, 2026 – petition for rehearing due.

March 2, 2026 – mandate may be issued.

Section 8.05(a) Notice

NOTICE OF ENFORCED DELAY AND EXTENSION OF TIME OF PERFORMANCE

This Notice of Enforced Delay and Extension of Time of Performance dated October 3, 2025 (this "Notice") is submitted to the Norman Tax Increment Finance Authority, a public trust having the City of Norman as its beneficiary ("NTIFA") and the City of Norman, a municipal corporation (the "City") by UNP North, LLC, an Oklahoma limited liability company ("Landowner") and the Cleveland County Recreational and Entertainment Facilities Authority, a public trust having Cleveland County as its beneficiary ("CC Trust") in accordance with Section 8.05(a) of the Economic Development Agreement: Rock Creek Entertainment District dated September 17, 2024 by and among the City, NTIFA, Landowner and CC Trust (the "EDA").

The EDA provides for the implementation of the Project consistent with the Project Plan.

On November 18, 2024, Case No. CV-2024-3374 was filed in the District Court of Cleveland County, Oklahoma. On March 18, 2025, Respondents/Proponents therein appealed the District Court's ruling in favor of Petitioners/Protestants therein to the Supreme Court of the State of Oklahoma, Case No. 122,946 (together with District Court Case No. CV-2024-3374, the "Litigation"). Respondents'/Proponents' appeal remains pending as of the date of this Notice.

The Litigation concerns whether City Ordinance O-2425-2 adopting the Project Plan may be referred for a public election prior to its implementation. As a result of delays directly attributable to the Litigation, Landowner and CC Trust will not be able to fulfil their obligations in accordance with performance dates set forth in the EDA.

Pursuant to Section 8.05(a) of the EDA, Landowner's and CC Trust's performance dates shall be extended by an amount of time equal to the duration of the period between the filing of the Litigation (November 18, 2024) and the date on which the Litigation is resolved by a final, nonappealable ruling of the Supreme Court of Oklahoma.

Capitalized terms that are not defined in this Notice carry the definitions assigned in the EDA.

<Signature pages follow.>

November 18, 2024 to March 2, 2026 = 496 Days

Submission to the Voters



No Statutory Authority

- “[C]ounties, cities and towns, have no inherent power or authority, but possess, and can exercise, only those powers granted in express words or necessarily or fairly implied or incidental to the powers expressly granted.” *Shipp v. Se. Oklahoma Indus. Auth.*, 1972 OK 98, ¶ 15, 498 P.2d 1395, 1398.
- “The authority to hold an election must come from a statute.” 1983 OK AG 217 at ¶ 7. This opinion addressed whether a county could call or hold a sales tax election prior to the effective date of a sales tax ordinance passed by the legislature.
- While the Local Development Act, 62 O.S. § 850 et seq., recognizes initiative and referendum rights, it does not provide statutory authority for a municipality to independently submit a TIF ordinance to the voters, whether prior to or following approval by the municipal governing body.

Statutes/Charter

Title 11. Cities and Towns

Chapter 1 – Oklahoma Municipal Code

Article XVI – Municipal Elections

Section 16-102 – Limitations on Applicability of Provisions

- A. The provisions of Section 16-101 et seq. of this title shall not apply to any municipality which is governed by charter[.]
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CHARTER

ARTICLE II CITY OFFICERS; ELECTIONS

Section 21 General Elections Laws to Apply

The general election laws of the State applicable to cities are hereby in force except as modified herein.

Statutes

Title 11. Cities and Towns

Chapter 1 – Oklahoma Municipal Code

Article XVI – Municipal Elections

Section 16-112 - Special Elections - Questions Which May Be Submitted – Timing

When the municipal governing body shall deem it advisable, it may, by resolution or ordinance, authorize the mayor to call a special election on a date established in Section 3-101 of Title 26 of the Oklahoma Statutes for the purpose of submitting to the registered voters of the municipality ***the question of issuing municipal bonds, of granting any franchise, or for any other purpose authorized by law.***

The Local Development Act does not provide statutory authority for a municipality to independently submit a TIF ordinance to the voters, whether prior to or following approval by the municipal governing body.

Repeal by Council



Repeal

- The current council cannot bind future councils.
- This does not mean that repealing legislation enacted by a prior council will not have consequences.
- Article I, § 10, Clause 1 of the United States Constitution – i.e., the Contracts Clause, states as follows: “No State shall ... pass any ... law impairing the obligation of contracts....”
- “A municipal ... ordinance ... is a state law within the meaning of the Federal Constitution.” *Atl. Coast Line R. Co. v. City of Goldsboro*, 232 U.S. 548, 555, 34 S.Ct. 364, 366, 58 L.Ed. 721 (1914).
- “[A] state cannot by the repeal of a statute relieve itself of a contractual obligation. *Johnson v. United States*, 79 F. Supp. 208, 211 (Ct. Cl. 1948). *See also Brown-Crummer Inv. Co. of Wichita, Kan., v. City of Florala, Ala.*, 55 F.2d 238, 243 (M.D. Ala. 1931) (repeal of assessment ordinance declared void).

Consequences of Repeal

- Likely to be sued for breach of contract and a violation of the Contracts Clause.
- At a minimum, liability would be \$230 million.
- Judgments against a municipality in Oklahoma can be paid from existing fund balance or put on the ad valorem property tax roll and paid over a three-year time period with interest. *See* 62 O.S. § 435.

Home Value

Annual / Monthly

\$100,000

\$1,913.49 / \$159.45

\$300,000

\$6,088.37 / \$507.36

\$500,000

\$10,263.25 / \$855.27

Conflict of Interest

City of Norman Councilmember

v.

Norman Tax Increment Finance Authority Trustee

Overlapping service is not inherently unlawful.

There is no automatic statutory conflict merely because the same individuals serve in both capacities.

However:

- If repeal impairs contractual rights,
- Or harms trust interests after reliance,
- Or benefits private interests connected to officials,

then fiduciary and potential ethics issues become real litigation risks.

