

FILED IN THE OFFICE
OF THE CITY CLERK
ON 9/30/22

Kurt Booth Pfenning
Attorney at Law
108 East Main Street
Norman, Oklahoma 73069

Phone (405) 292-1200 Facsimile (405) 292-1200

September 30, 2022

Attn: Brenda Hall
City Clerk
City of Norman 201 West Gray
P.O. Box 370
Norman, Oklahoma 73070

Re: Proposed Downtown Norman Business District

This shall constitute a formal objection to the Proposed Downtown Norman Business District.

It is my belief that the basis on which the proposal has been made is dishonest and conspiratorial to the detriment of the private property owners. It is also my belief that it was instigated in order to provide taxpayer funded private salaried positions to former City Council members, their relatives friends and associates. It's current proposals manipulate the downtown area away from proven business models to experimental and high failure rate models in order to subsidize the recent introduction of those bad models held by current approving signatories. Most of those including the self appointed head of the "BID Committee" are currently in zero equity positions as to the property they represent.

The BID is a bespoke pork barrel program of grotesque nepotism and self dealing that will destroy profitability in proven successful businesses to garner handouts to flailing proven incompetence. Any person who has any serious familiarity with this project that understands it as anything other than an attempt to create sinecure should be evaluated for organic brain damage or have their moral compass professionally recalibrated.

1. Prior approval of the BID district was obtained on the basis of private representations to select property owners in the Downtowner's Association (invitation only club) by Cameron Brewer after his self appointment as head of a BID committee.

2. A gerrymandered map (Texas Sharpshooter Fallacy) was created to maximize approving signatures and obtain a majority of ad valorem payers.

3. This was a private BID that was advanced improperly, as a governmental BID district under the Oklahoma District Act. When the private BID failed to obtain the majority, a petition was then developed which would grant non ad valorem payers signature authority on the basis of their "voluntary payment" of the assessment as if Municipal and County Trust Properties were not ad valorem exempt. This is available when it is a Governmentally Developed Bid District and it is the Municipality and not a private Petitioner, that must conform to 11 O.S. 2011 §39-107. If it is not governmentally authored in conformance there is no legal recourse for the payers. THE MUNICIPALITY HAS NEITHER AUTHORED OR CONFORMED.

4. No mention is made of the basis of authority of the County or City's diversion of tax revenue to the Bid District. The inclusion of these speculative voluntary assessments require notice report by the County to the **State Board of Equalization** and they have sought no such approval. The Municipality is required to report the diversion of municipal tax revenue to the **Oklahoma Tax Commission**. No such notice or report was made prior to the City Manager being given signatory authority or the County Commissioners assuming signatory authority.

5. The BID petition is written as an intentionally fiscally vague document in order to defy the ability of the County to or the City to make their obligatory reporting and obtain signatory authority. It was prepared surreptitiously by an attorney who has deliberately omitted to approve by signature a Petition presented to two governmental authorities in violation of state law under the attorney canon of ethics 12 OK Stat § 12-2011 (2014). Under federal law, this omission would result in the dismissal of the petition.

6. The BID is introduced without referendums or public hearings by a Non Governmental Entity, There is no provision for liability of that entity as is provided in the Improvement District Act. It is not entitled to promulgation under Article XXXIX - Improvement District Act and by the inclusion of public land as obligated payees from tax revenue is in patent violation of Oklahoma Law specifically:

ARTICLE 10 OF THE CONSTITUTION OF THE STATE OF OKLAHOMA

Use of local taxes and fees for public investments

§ 6C. Tax relief for historic preservation, reinvestment, or enterprise areas--Economic stagnation or decline--Use of local taxes and fees for public investments--Development or redevelopment of unproductive, etc. areas.

A. The Legislature, by law, may grant incorporated cities, towns, or counties the ability to provide incentives, exemptions and other forms of relief from taxation for historic preservation, reinvestment, or enterprise areas that are exhibiting economic stagnation or decline. Relief from taxes imposed by other local taxing jurisdictions shall only be

allowed by contractual arrangement with the municipal or county governing body. **The law shall require public hearings before such relief may be granted and shall provide for the local initiative power and referendum of the people.** The Legislature may set limitations on the cumulative incentives and relief provided pursuant to the provisions of this section, the time period for the exemptions, the geographical area of the jurisdiction covered, the percentage of the tax base of the jurisdiction eligible for the relief programs, and threshold limits of investment credit and jobs created.

Emphasis added

7. There was a panicked attempt to remove Utility Companies from the approving list. So it should be noted as follows. The gerrymandered Bid District has no provision for notice, has made no notice and deliberately excluded the largest private property owner downtown which if they had been included would reject the proposal on the grounds of safety and liability. The Burlington Northern Santa Fe, LLC. Public Projects Manager has not been contacted as of this writing in any respect by the BID authors, the County or the City. The projects Manager for this district has been answering his own phone for thirty years but perhaps you circus clowns would like to talk to the parent company. Here is the address: BERKSHIRE HATHAWAY INC. 3555 Farnam Street Omaha, NE 68131.

8. This has been deliberately pursued to prevent public participation by non approving payers by the City Council in concert with the authors and may be a patent violation under the Oklahoma Citizens Participation Act.

Thank you in advance for your attention,

Sincerely,

A handwritten signature in black ink, appearing to read 'Kurt B. Pfenning', written over the word 'Sincerely,'.

Kurt B. Pfenning