

## CITY COUNCIL CONFERENCE MINUTES

March 12, 2019

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a conference at 5:00 p.m. in the Municipal Building Conference Room on the 12th day of March, 2019, and notice and agenda of the meeting were posted at 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 Bierman, Castleberry, Clark, Hickman, Holman, Scott, Wilson, Mayor Miller

ABSENT:

Councilmember Carter

Item 1, being:

### UPDATE ON THE CLEVELAND AREA RAPID TRANSIT (CART) PUBLIC TRANSIT PROGRAM.

Ms. Kathryn Walker, Interim City Attorney, said the Cleveland Area Rapid Transit (CART) System is operated by the University of Oklahoma (OU) and funded by a Federal Transportation Administration (FTA) grant, OU, City of Norman, State of Oklahoma, and Norman Regional Hospital. On August 28, 2018, OU notified the City of its desire to transfer the non-campus bus system to the City of Norman by the end of the 2019 fiscal year. She said City Council approved its annual funding share for CART on October 23, 2018, and CART is managing operations within budget for the current fiscal year.

Ms. Walker said the three key principles expressed by Council are 1) to ensure there is no interruption or break in service during the transfer, 2) maintain or improve the current level of service provided by CART, and 3) the City will officially receive the federal funds, but a contracted agency may operate the system. She said for over 30 years, the Federal Grant Agreement with all of its statutory requirements has been between OU and FTA and all assets acquired by OU with federal funds must either be transferred to the new operator or repaid by OU to the federal government.

On November 8, 2018, City and CART Staff conducted a lengthy conference call with FTA to determine the federal protocol for the transfer of the transit operation and FTA officials agreed this kind of transfer of operation has been rarely undertaken in the United States. Ms. Walker highlighted the steps for a bus system transfer of operations that include 1) Notice of intent (NOI) to transfer service transmitted from the current operator to the FTA; 2) FTA responds to NOI; 3) new recipient or operator asks to be designated as a direct recipient; 4) new recipient is formally approved as an eligible recipient of FTA grant funding; and 5) transfer of project assets from CART to new grant recipient.

Ms. Walker said the Governor has the power to designate the City as a direct recipient of FTA funding for transit operations; however, the Governor has delegated this responsibility to the Oklahoma Department of Transportation (ODOT). She said Section 730:45-1-2 of the Oklahoma Administrative Code states the Governor's delegation of authority does not apply to the approval of these funds for Norman or Lawton. In fact, the rule explicitly states the designee for these annual appropriations for Norman shall be OU. In order to move forward, this section will need to be changed which requires that ODOT draft an amendment that would explicitly state the designee for these appropriations shall be the City of Norman.

Ms. Walker said while the process to be designated a direct recipient is moving forward Staff recommends the City select an operator. The selection of an operator will be critical to show FTA the City has the legal, financial, and technical capacity to run a transit service. It will also impact the FYE 20 budget process currently underway. If Council desires to undergo a competitive selection process, this will add two to three months to the process of transferring service. The FTA recently expressed a strong preference for transferring service at the beginning of the fiscal year due to administration of the FTA grant funding, which is provided on a fiscal year basis beginning July 1.

Once the City is designated as a direct recipient of the transit funds by the State and is approved as an eligible recipient of grant funding by FTA, the City can accept the transfer of project assets from CART. The City will need to identify capital equipment that would need to be transferred from OU for bus services, identify additional capital needs to maintain services in accordance with FTA regulations, determine an appropriate provider of service, and identify available funding for capital and operational needs of a new provider. Mayor Miller asked what entity determines which assets will be transferred and Ms. Walker said OU.

Councilmember Castleberry asked if the City has to accept the assets if they are inferior and Ms. Walker said no, part of the transfer plan is reviewing the assets and determining what to transfer. Mr. Shawn O’Leary, Director of Public Works, said OU has stated they want to keep 12 buses for their campus routes so Staff is hoping they do not plan to keep the best 12 buses in the fleet. He said if this transfer is going to take place by July 1st, the City does not have time to buy real estate or build a maintenance facility. He said the current CART facility was constructed using federal funds and could be leased to the City from a short-term standpoint.

Ms. Walker highlighted current funding contributions for CART as follows:

|                                         |             |
|-----------------------------------------|-------------|
| • Federal Transit Administration Grant  | \$1,700,000 |
| • OU Student Transit Fee                | \$1,680,000 |
| • City of Norman (FYE 19)               | \$ 635,500  |
| • State of Oklahoma                     | \$ 150,000  |
| • Fare Box (including game day shuttle) | \$ 250,000  |
| • Bus Advertising                       | \$ 100,000  |
| • Norman Regional Hospital              | \$ 50,000   |

CART’s annual revenue is \$4,565,500 with an anticipated revenue for another operator at \$2,785,500. Mr. O’Leary said if it costs the City \$4.5 million to operate the bus system, the City needs to find another \$1.8 million in the budget. Mr. Taylor Johnson with the Association of Central Oklahoma Governments (ACOG) said the \$4.5 million includes the campus routes that CART plans to continue so those costs will not be the City’s responsibility.

Councilmember Scott asked if the revenues include Staff costs and Ms. Walker said no, this is just money used to pay for the program and OU uses a blend of student fees and parking revenue to help pay for Staff.

Councilmember Bierman said the student transit fee is the only fee students and faculty pay to ride the bus anywhere in Norman, but she assumes the City would not allow students or faculty to ride for free and feels they should pay something to ride the bus system the City will be operating.

Councilmember Hickman asked if it would be possible to effectuate the transfer July 1, 2019, but realistically not be able to take it over and contract with OU to run the system until such a time as the City can take over. Mr. Kris Glenn, Director of CART, said CART is amenable to such an agreement.

Ms. Walker highlighted next steps as follows:

- Coordinating with the Governor's office and ODOT to effectuate changes to the administrative rule applicable to the federal funds
- While the rule is being changed, the City can explore whether Embark would be willing to take over the current off-campus bus service
  - The cost to the City and to riders for the current off-campus bus route service, including CARTaccess
  - The assets to be transferred from OU
  - Development of a contract solidifying the provision of service for the next three to five years beginning July 1, 2019
- Once the City is designated a direct recipient of FTA funds, move forward with the application to FTA for eligibility of grant funding
- Once the FTA deems the City eligible for grant funding, work with OU to begin transferring assets
- Appoint a committee in July 2019 and begin working with Embark on desired route changes and improvements ahead of FYE 21 budget process

Councilmember Clark asked if Embark is the only operating company the City is looking at right now and Mr. O'Leary said there are only three transit providers in this region that include CART, Embark, and McDonnell Transit. Councilmember Clark asked what the response has been from Embark regarding operating the bus system for the City of Norman and Mr. O'Leary said Embark and McDonnell have stated they would be willing to help Norman. Councilmember Clark said it seems logical to form a Cleveland County partnership combination with Embark because the City of Moore does not have a bus system. She asked if there has been discussion about that possibility and Mr. O'Leary said, honestly, Staff has only been focusing on transferring the bus system by July 1, 2019. Councilmember Clark asked if the City could contract with Embark temporarily to keep the bus system operating while the City continues to explore other options and Mr. O'Leary said discussions with Embark have included a three to five year contract to allow the City time to look at other options for bus operations.

Councilmember Wilson asked if Embark operates the bus system, would there be any shared resources and Mr. O'Leary said CART is currently a completely inclusive operation in that the bus mechanics work for OU, the drivers work for OU, and the all assets belong to OU. He said the City would be the grant recipient and own the buses, but could lease the maintenance and operation facility from OU, which could in turn be sub-leased to a third party contractor.

Councilmember Bierman said one of the most attractive things about working with Embark is the possibility of connecting routes from Norman to Oklahoma City. Mr. Anthony Francisco, Director of Finance, said the Sooner Express currently operates six times a day between Norman and Oklahoma City and is fully accessible. He said two of these six trips are operated by Embark.

Councilmember Clark asked if the City contracted with Embark would the City have control over bus routes. Mr. O'Leary said yes, that would be part of the contract with Embark, but additional routes

would cost additional money. Mr. Glenn said the grant recipient holds the cards and controls everything, i.e., routes, frequency of stops, etc.

Mayor Miller said part of Council's decisions will include how far the money will go after the transition, but the City has to keep core services in place.

Councilmember Scott asked if the City will be leasing buses to CART and Mr. O'Leary said CART will keep the busses they want and the remaining buses will be transferred to the City.

Councilmember Hickman asked what steps would require Council action and Ms. Walker said Council will be the designated recipient, but the City needs to start the process of selecting an operator and transfer of assets that will require Council action.

Councilmember Castleberry asked how the City is going to take on \$1.8 million in additional City services because leasing the CART facilities is going to cost money and contracting with Embark will cost money. Mr. Glenn said the City program costs are estimated at \$3 million because the City will not be providing service on-campus. Mr. O'Leary said Council's biggest role will be the budget, which needs to happen simultaneously with other negotiations. Councilmember Castleberry is concerned whether the City can afford to take on the system based on the City's current budget situation and asked Mr. Francisco for his opinion. Mr. Francisco said it will be difficult to absorb \$1.8 million. Mr. O'Leary said the City may have to cut some of the current bus services in order to get to a workable budget for the City.

Councilmember Clark asked if Staff is confident the FTA grant amount will be \$1.7 million and Mr. O'Leary said the FTA has not told the City otherwise. Mr. Glenn said the grant is based on population density not ridership so the grant amount should stay the same.

Councilmember Scott asked if ending the University North Park Tax Increment Finance (UNPTIF) District will make this cost more absorbable and Mr. Francisco said the immediate withdraw from any sales tax apportionment will go towards the Public Safety Sales Tax (PSST) Fund deficiencies.

Mr. O'Leary said there would be staffing implications in the transfer of the system as there are many administrative duties when dealing with a federal agency and grant fund reporting is a very extensive process. He said CART has a full time employee that only works on the grant administration reporting.

Councilmember Clark asked if the City should be getting public input on the routes the City needs to keep so the City is not scrambling once the transfer takes place. Mr. Glenn said once the system is transferred, Norman would be required to follow the FTA public hearing process before any changes are made. Ms. Walker said that notification process includes a 30-day notice to the public and 30 days before changes can be implemented.

Councilmember Holman said Council needs to consider the benefit of the service to the entire community and supports doing whatever it takes to make sure the people who rely on the service can continue to rely on the service while the City discusses how to make the service even better going forward. He likes the idea of contracting with Embark and being a larger part of a metropolitan system.

Councilmember Castleberry said he would like to see more financial information on what will be needed moving forward.

Mr. O'Leary said Council seems to favor Embark as the bus system operator so once discussions begin with Embark, Staff will have a better idea of what the bus system budget will look like. He believes Staff will have that information for Council within the next 30 days when the FYE 20 budget presentations will be presented to Council.

Items submitted for the record

1. Memorandum dated March 8, 2019, from Kathryn L. Walker, Interim City Attorney, and Shawn O'Leary, Director of Public Works, to Honorable Mayor and Councilmembers
2. PowerPoint presentation entitled, "Transfer of Bus Service Update" Council Conference dated March 12, 2019

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The meeting was adjourned at 5:45 p.m.

ATTEST:



City Clerk



Mayor

