

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

CITY OF NORMAN, OKLAHOMA, a §
municipal corporation, §

Plaintiff/Appellant, §

vs. §

INTERNATIONAL ASSOCIATION OF §
FIREFIGHTERS, LOCAL 2067, §

Defendant/Appellee. §

No. 109447

FILED
SUPREME COURT
STATE OF OKLAHOMA
MAY 31 2011
MICHAEL S. RICHIE
CLERK

MOTION TO DISMISS

COMES NOW Appellee International Association of Firefighters, Local 2067 (IAFF), by and through its undersigned counsel, and moves this Court, pursuant to Oklahoma Supreme Court Rule 1.6(c)(1), to dismiss Appellant City of Norman’s (City) Petition in Error as moot. In support of its Motion, IAFF shows this Court as follows¹:

PROCEDURAL HISTORY

Pursuant to the Oklahoma Fire and Police Arbitration Act (FPAA), Title 11, Sections 51-101 *et seq.*, City and IAFF began collective bargaining for a new labor contract for the fiscal year 2011 (July 1, 2010 through June 30, 2011) in February 2010. When City and IAFF were unable to reach a full agreement through negotiations, the parties participated in interest arbitration under the FPAA to resolve three disputed contract issues. See Section 51-106 (requiring the submission of unresolved issues to arbitration). City and IAFF each submitted to the Arbitration Board final offers on the three unresolved issues. The Board conducted an evidentiary hearing, after which it selected IAFF’s offer on November 11, 2010.

¹ Pursuant to Supreme Court Rule 1.6(a), IAFF has attached the Affidavits of Nick Terhune and Timothy Synar to its Motion

On November 20, 2010, the City Manager filed a Request for Special Election with the City Clerk to preserve City's right under the FPAA to submit the offers of City and IAFF to Norman voters to decide whether City's or IAFF's offer should be selected. 11 O.S. § 51-108(B). Ten days later on November 30, 2010, City Council approved Resolution No. R-1011-69 which authorized the Mayor to call a special election. See Affidavit of Nick Terhune. The Resolution provided for the issues to be submitted to Norman voters in a May 10, 2011 election.

Id.

When City and IAFF were unable to agree on ballot language, the parties each presented proposed ballot language to the Arbitration Board on December 27, 2010. The Board was tasked with selecting which proposal would be used in the special election by Norman's citizens. 11 O.S. § 51-108(C). City and IAFF also presented legal briefs to the Board in support of their ballot language. On January 3, 2011, the Board selected IAFF's ballot language pursuant to its authority under the FPAA. It found the City's proposed language misleading.

On January 19, 2011, City filed a Petition in Cleveland County District Court for Declaratory and Equitable Relief. City requested the District Court to disregard the FPAA and insert its language in the ballot. Accordingly, IAFF filed a Motion to Dismiss on February 11, 2011, contending the District Court was without jurisdiction to hear the matter. City filed a Motion for Summary Judgment on February 15, 2011.

Thereafter, City Council met in regular session on March 8, 2011, and modified Resolution No. R-1011-69 to notify the Cleveland County Election Board no later than April 15, 2011, of a June 14, 2011, City wide election. See Affidavit of Nick Terhune.

On April 11, 2011, the District Court granted IAFF's Motion to Dismiss and denied City's Motion for Summary Judgment.

The following day on April 12, 2011, City Council met in regular session and voted on the following motion.

REGARDING A SPECIAL ELECTION TO DETERMINE THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF NORMAN AND INTERNATIONAL ASSOCIATION OF FIREFIGHTERS LOCAL 2067 FOR THE TIME PERIOD OF JULY 1, 2010, TO JUNE 30, 2011, AS PROVIDED BY TITLE 11, OKLAHOMA STATUTES, SECTION 51-110, CONSIDERATION OF A MOTION TO MOVE FORWARD WITH NOTIFICATION TO THE CLEVELAND COUNTY ELECTION BOARD AFTER RECEIPT OF THE CLEVELAND COUNTY DISTRICT COURT'S RULING REGARDING BALLOT LANGUAGE IN CLEVELAND COUNTY DISTRICT COURT CASE NO. CV-2011-48-L; OR IN THE ALTERNATIVE, TO APPEAL THE DECISION OF THE CLEVELAND COUNTY DISTRICT COURT REGARDING DETERMINATION OF THE BALLOT LANGUAGE IN CLEVELAND COUNTY DISTRICT COURT CASE NO. CV-2011-48-L.

See Affidavit of Nick Terhune. The Mayor declared the motion carried and that the decision of the District Court would be appealed. *Id.* The alternative of holding the election was not chosen. *Id.*

City Council did not notify the Cleveland County Election Board by April 15, 2011, of a June 14, 2011 City wide election. See Affidavit of Nick Terhune; See also Affidavit of Timothy Synar. Instead, City filed a Petition in Error with this Court on May 9, 2011.² See Affidavit of Nick Terhune. No election is, or can be scheduled by the termination date of the subject contract. This appeal over the ballot language is thus moot.

² City also filed a Designation of Record for Appeal from District Court. Both filings are in violation of Oklahoma Supreme Court Rule 1.36. As a result, IAFF has filed a Motion to Strike consecutive hereto, should this Court deny its Motion to Dismiss

ARGUMENT AND AUTHORITIES

I. A COMPLETE LABOR CONTRACT IS REACHED ONE OF TWO WAYS IN INTEREST ARBITRATION UNDER THE FPAA: UNRESOLVED TERMS ARE SELECTED BY (1) THE ARBITRATION BOARD OR (2) VOTERS OF A MUNICIPALITY DURING A SPECIAL ELECTION.

The FPAA directs, “If a request for an election is not filed in a timely manner, the board’s selection decision shall be final [...]” 11 O.S. § 51-108(B). However, if a special municipal election is held according to Oklahoma law, the FPAA directs that the party’s offer “receiving a majority of the votes shall become the agreement of the parties.” 11 O.S. § 51-108(C). Regardless of the selection method used, the agreement reached “shall be effective on the first day of the fiscal year involved [...]” 11 O.S. § 51-108(E). In this case, the contract year is the same as the fiscal year, July 1, 2010 through June 30, 2011. See Affidavit of Nick Terhune

II. CITY’S TIME FOR HOLDING A SPECIAL MUNICIPAL ELECTION HAS EXPIRED. AS A RESULT, THE ARBITRATION BOARD’S SELECTION OF IAFF’S OFFER IS FINAL.

The FPAA directs, “The election shall be governed by the state laws on special municipal elections.” 11 O.S. § 51-108(C). Municipal elections are governed by Title 26, Section 13 of the Oklahoma Statutes. 26 O.S. § 13-101 *et seq.* Section 13-102 directs:

[I]n the event of a special election, *not fewer than sixty (60) days before such election*, the governing board of any municipality shall submit a resolution to the secretary of the county election board conducting such election. Such resolution shall contain the following facts:

1. The dates of the election or elections;
2. The offices to be filled or the questions to be voted upon at such election or elections;

26 O.S. § 13-102 (italics added).

A. CITY DID NOT SUBMIT A RESOLUTION SIXTY DAYS PRIOR TO AN ELECTION.³

Resolution No. R-1011-69 reads in part:

Section 1. The Mayor shall be authorized to deliver to the Election Board of Norman [sic] County, Oklahoma this Resolution and a subsequently drafted ballot title [...].

Section 2. The special election shall be held on May 10, 2011, between the hours of 7:00 A.M. and 7:00 P.M. and shall be non-partisan.

See Affidavit of Nick Terhune.

On March 8, 2011, City Council modified the Resolution to notify the Cleveland County Election Board no later than April 15, 2011, of a June 14, 2011 City wide election. *Id.* However, City never provided the Resolution to the Election Board. See Affidavit of Timothy Synar. It never set the June election date or provided the Election Board the questions to be voted on, *i.e.*, the ballot language. Rather, City chose to file this appeal. See Affidavit of Nick Terhune.

B. CITY CANNOT LAWFULLY SUBMIT AN ELECTION RESOLUTION SIXTY DAYS PRIOR TO THE END OF THIS FISCAL YEAR. IT ALSO CANNOT HOLD AN ELECTION ON THE CONTRACT AFTER THE FISCAL YEAR HAS ENDED.

Title 26, Section 13-102 of the Oklahoma Statutes requires a municipality to submit a resolution to the county election board “not fewer than sixty (60) days before such election”. 26 O.S. § 13-102. As illustrated above, City did not file any resolution with the Cleveland County Election Board. It chose instead to file this appeal. Now, City is time-barred from appealing the arbitration decision through an election, and the Arbitration Board’s decision is final. 11 O.S. § 51-108(B).

³ In fact, City has never submitted Resolution No R-1011-69 to the Cleveland County Election Board. See Affidavit of Timothy Synar.

As of the filing date of this Motion, City has not submitted a June election date or ballot language to the Election Board. See Affidavits of Nick Terhune and Timothy Synar. The end of City's fiscal year is June 30, 2011. Taking into consideration Section 13-102's sixty day prerequisite, it is clear City cannot submit a resolution before the end of the fiscal year. And, this is required by law since the contract expires June 30, 2011. City is prohibited from submitting the issue to Norman voters next fiscal year. As this Court acknowledged in *Wyatt-Doyle & Butler Eng'rs, Inc. v City of Eufaula*:

[T]he teaching of the *Afton* case [] reveals that a contractual obligation made in one fiscal year cannot be subsequently validated in a succeeding fiscal year by the voters, and if it cannot be subsequently validated by the voters, it certainly could not be subsequently validated by a municipality.

Wyatt-Doyle, 2000 OK 74, ¶12, 13 P.3d 474.

III. CITY'S APPEAL IS MOOT BECAUSE THE TIME FOR HOLDING A SPECIAL MUNICIPAL ELECTION THIS FISCAL YEAR HAS EXPIRED AND NO RELIEF CAN BE GRANTED.

“Mootness is a state or condition which prevents the appellate court from rendering effective relief.” *Park View Hosp. Trust Auth. v. State ex rel. Oklahoma DOL*, 1996 OK 108, ¶5, 925 P.2d 541 (Opala, J., concurring in judgment). In *Traders Compress Co v Board of Review*, this Court recognized it is not authorized to render “advisory opinions” and interpreted this restriction to mean that:

[T]he Supreme Court will not attempt to determine abstract, hypothetical, or moot questions, but, where it is made to appear that the questions brought up for review have become moot, the proceedings will be dismissed.

Trader's Compress Co., 1950 OK 274, ¶2, 224 P.2d 268.

Here, City has requested the following relief from this Court:

Norman seeks interpretation of § 51-108 and a reversal of the District Court's decision, *so the City's voters will receive a ballot*, consistent with the FPAA, and which accurately and fully discloses the total dollar amount of Norman and the IAFF's *2011 offers*.

See Petition in Error, Ex. B "Statement of the Case", ¶4 (italics added). Yet, this relief cannot be granted

As shown above, City's time to submit an election resolution has expired. And, it is prohibited from submitting the FY 2010-2011 offers for selection by the Norman voters next fiscal year. *Wyatt-Doyle*, 2000 OK 74, ¶12. City cannot hold an election when the time for doing so has expired. See e.g., *Edwards v. Welch*, 1911 OK 257, 116 P. 791 (appeal held moot due to expiration of time for holding election). City's appeal has ceased to be a live controversy; it is moot and must be dismissed.

IV. CITY'S REQUEST FOR RELIEF IS ILLEGAL. IT IS PROHIBITED FROM MAKING CONTRACTS CHARGEABLE TO A PRECEDING FISCAL YEAR.

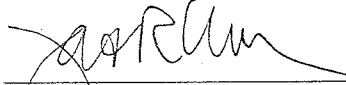
Not only has City's request for relief been mooted, it is contrary to law. City's request demonstrates its intent to hold an election next fiscal year and have the Norman voters override the Arbitration Board's selection of IAFF's offer by choosing that proposed by City. However, the Board-selected IAFF offer is a part of the contract terms in effect for the fiscal year 2011, which expires on June 30, 2011. According to the following authorities, it is unlawful to create or modify a contract after the fiscal year ends that would govern both fiscal and non-fiscal items for a preceding fiscal year. If the voters were to choose the same offer chosen by the Arbitration Board, nothing would change. However, if they reversed the Board and imposed new terms on the parties for the prior fiscal year it would be a nullity. In other words, there is no lawful reason to hold the election.

Oklahoma statute and common law hold that cities may not contract during the present fiscal year to pay an obligation for the previous fiscal year. In *In re Bliss*, 1929 OK 535, ¶51, 285 P. 73, this Court ruled a town's excise board "is without authority of law to make an appropriation for the purpose of paying warrants outstanding for a previous fiscal year." Similarly, in *Board of Education v. Challey*, 1931 OK 742, ¶12, 5 P.2d 747, this Court ruled that a "tax levied for the conduct of a school for a current fiscal year may not be used for the payment of an indebtedness incurred by the school district during a prior fiscal year." "It is well settled that funds received by a municipality in any one fiscal year cannot be used to pay indebtedness incurred in a previous fiscal year" *Board of Comm'rs v. Campbell*, 1941 OK 241, ¶10, 115 P.2d 256, citing *Gulf Pipe Line Co. v. County Treasurer of Tulsa County*, 1925 OK 439, 236 P. 896; *Coggeshall & Co. v. Smiley, Co. Treas.*, 1929 OK 526, 285 P. 48; *Protest of Chicago, R. I & P Ry Co.*, 1931 OK 492, 2 P.2d 279.

The rule separating the obligations of fiscal years has been strictly enforced by this Court. See *City of Del City v. FOP, Lodge No. 114*, 1993 OK 169, 869 P.2d 309. The Oklahoma Statutes also reflect the prohibitions against retroactive contracts. Title 62, Section 310.4 of the Oklahoma Statutes allows a city to pay obligations incurred in a prior fiscal year for up to 90 days after the end of the fiscal year *provided* no new obligations pertaining to the prior fiscal year may be created after the fiscal year ends. That is what City wants to do here. The fiscal year will be over June 30, 2011, but City wants to create a new contract long after the year ends. That action would violate not only the Constitution but State law as well.

WHEREFORE, premises considered, IAFF respectfully requests this Court dismiss City's Petition in Error as moot.

Respectfully submitted,



James R. Moore, OBA #6343

Timothy J. Synar, OBA #20862

JAMES R. MOORE & ASSOCIATES, P.C.

ATTORNEYS AT LAW

301 N.W. 63rd Street, Suite 550

Oklahoma City, Oklahoma 73116

Telephone: (405) 843-9675

Facsimile: (405) 843-9680

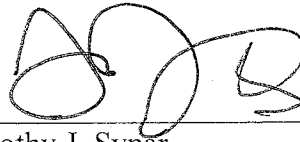
ATTORNEYS FOR APPELLEE IAFF

CERTIFICATE OF MAILING

I hereby certify that on the 31 day of May, 2011, a true and correct copy of the above and foregoing document was emailed and mailed to:

Jeff Harley Bryant
Rick Knighton
City of Norman
P.O. Box 370
201 West Gray
Norman, OK 73070

Charles Plumb
McAfee Taft
1717 S. Boulder Ave., Suite 900
Tulsa, OK 74119



Timothy J. Synar

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

CITY OF NORMAN, OKLAHOMA, a	§	
municipal corporation,	§	
	§	
Plaintiff/Appellant,	§	
	§	
vs.	§	No. 109447
	§	
INTERNATIONAL ASSOCIATION OF	§	
FIREFIGHTERS, LOCAL 2067,	§	
	§	
Defendant/Appellee.	§	

AFFIDAVIT OF NICK TERHUNE

STATE OF OKLAHOMA)
) ss
 COUNTY OF OKLAHOMA)

I, Nick Terhune, being first duly sworn under oath, state the following:

1. I am an Executive Board Member of Appellee International Association of Firefighters, Local 2067 (IAFF), and have the authority to speak and act on the Local’s behalf.
2. The information contained in IAFF’s Motion to Dismiss and this corresponding Affidavit is true and based upon my knowledge.
3. The City of Norman (City) and IAFF participated in interest arbitration under the Oklahoma Fire and Police Arbitration Act (FPAA), 11 O.S. § 51-101 *et seq.*, to resolve three issues concerning a new labor contract for the fiscal year 2011 (July 1, 2010 through June 30, 2011).
4. During the arbitration, City and IAFF each submitted to the Arbitration Board final offers on the three unresolved contract issues, and on November 11, 2010, the Board selected IAFF’s offer.
5. On November 30, 2010, Norman’s City Council approved Resolution No. R-1011-69. I have reviewed the Resolution, a true and correct copy of which is attached hereto

and marked Exhibit A. The Resolution authorized the Mayor to call a special election on May 10, 2011, and submit a ballot to the Cleveland County Election Board, to give Norman citizens the opportunity to vote on the offers of the parties.

6. Norman's City Council met in regular session on March 8, 2011. I have reviewed the March 8, 2011 City Council Minutes in part, a true and correct copy of which is attached hereto and marked Exhibit B. The Minutes indicate that City Council approved Resolution No. R-1011-69 to notify the Cleveland County Election Board no later than April 15, 2011, of a June 14, 2011, City wide election.

7. Norman's City Council later met in regular session on April 12, 2011. I have reviewed the April 12, 2011 City Council Minutes in part, a true and correct copy of which is attached hereto and marked Exhibit C. The Minutes indicate that City Council voted not to notify the Cleveland County Board of a June 14, 2011 City wide election. Rather, City Council agreed to appeal the decision of the Cleveland County District Court in Case No. CV-2011-48. No election has been held to date.

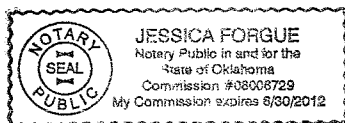
FURTHER AFFIANT SAYETH NOT.

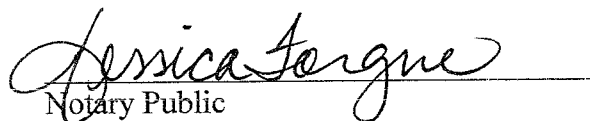
Dated this 31 day of May, 2011.

By:


Nick Terhune, IAFF Exec. Bd. Member

SUBSCRIBED AND SWORN TO before me this 31 day of May, 2011.




Notary Public

RESOLUTION NO. R-1011-69

A RESOLUTION AUTHORIZING FORMAL REJECTION OF THE ADVERSE DECISION OF THE ARBITRATION BOARD IN INTERNATIONAL ASSOCIATION OF FIREFIGHTERS LOCAL 2067 AND CITY OF NORMAN, FMCS CASE NO. 100609-57330-8, AND AUTHORIZING THE MAYOR TO CALL A SPECIAL ELECTION ON THE LAST BEST OFFERS OF THE CITY OF NORMAN AND INTERNATIONAL ASSOCIATION OF FIREFIGHTERS LOCAL 2067, AND RELATED MATTERS.

WHEREAS, the City of Norman, Oklahoma, (City) and the International Association Of Firefighters Local 2067, (IAFF) reached an impasse during negotiation for a collective bargaining agreement between the City and IAFF for the fiscal year ending (FYE) 2011, and the matter was presented to a Board of Arbitrators as provided by law; and

WHEREAS, the Board of Arbitrators selected the last best offer presented by the IAFF to be the collective bargaining agreement between the City and the IAFF for the FYE 2011;

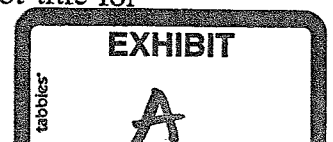
WHEREAS, the procedures in Section 51-108, Title 11, Oklahoma Statutes, require the City of Norman to consider whether it is in the best interests of the City of Norman to accept the decision of the Arbitration Board, or to call a special election on the last best offers of the City of Norman and the IAFF to permit the residents of the City of Norman to select which last best offer will be the collective bargaining agreement between the City of Norman and the IAFF for FYE 2011, and the process under Section 51-108, Title 11, Oklahoma Statutes, is not final and no collective bargaining agreement is determined until action by the Mayor and City Council of the City of Norman, or the vote of residents in a special election on the last best offers; and

WHEREAS, under the provisions of Section 51-108, Title 11, Oklahoma Statutes, the City Manager of the City of Norman timely filed with the City Clerk a Request for Special Election, and the City Clerk then delivered the Request for Special Election to the Mayor and City Council for consideration;

WHEREAS, under the provisions of Section 51-108, Title 11, Oklahoma Statutes, the City Council of the City of Norman, Oklahoma, may elect to place before the electorate of the City of Norman, Oklahoma, the question of which of the last best offers presented by the City and the IAFF should be adopted as the collective bargaining agreement between the City and the IAFF for FYE 2011.

NOW, THEREFORE, be it resolved by the Mayor and City Council of the City of Norman, Oklahoma that:

Section 1. The Mayor and City Council of the City of Norman, Oklahoma, hereby authorize the Mayor to call for a special election for the purpose of selecting which last best offer for a collective bargaining agreement between the City and the IAFF should be selected by the registered voters of the City of Norman. The Mayor shall be authorized to deliver to the Election Board of Norman County, Oklahoma this Resolution and a subsequently drafted ballot title for purposes of calling the special election on the last best offers of the City and the IAFF.



Section 2. The special election shall be held on May 10, 2011, between the hours of 7:00 A.M. and 7:00 P.M. and shall be non-partisan.

Section 3. The ballot proposition to be voted on by the electorate of the City of Norman, Oklahoma, on May 10, 2011, shall be in the form allowed by law, shall include the total dollar amount of the offer of the City and the total dollar amount of the offer of the IAFF, and shall disclose the percentage increase or decrease both offers have over or under the last collective bargaining agreement between the City and the IAFF.

Section 4. All registered voters residing within the corporate limits of the City of Norman, Oklahoma, may vote on the foregoing proposition, and the last best offer receiving a majority of the votes cast shall become the collective bargaining agreement between the City and the IAFF for fiscal year 2011.

Section 5. A copy of this Resolution will be published in full in a newspaper of general circulation with the City of Norman, Oklahoma, between the date of this Resolution and April 30, 2011, and additional publication as determined by the Mayor of the City of Norman, Oklahoma.

Section 6. A certified copy of this Resolution be filed with the Secretary of the Election Board, Norman, County, Oklahoma, on or before March 10, 2010.

PASSED and APPROVED by the Mayor and City Council of the City of Norman, Oklahoma this 30th day of November, 2010.

Dated this 30th day of Nov., 2010.



Brenda Hall
Brenda Hall, City Clerk

Cindy Rosenthal
Cindy Rosenthal, Mayor

APPROVED as to form and legality this 30th day of November, 2010.

Jeff Harley Bryant
Jeff Harley Bryant
City Attorney

cc: Mr. Hugh "Butch" Crawford, President
International Association of Firefighters Local 2067

Item 19, continued:

The Mayor said negotiations concerning employees and representatives of employee groups and Cleveland County District Court Case No. CV-2011-48-L, City of Norman vs. the International Association of Fire Fighters Local No. 2067 was discussed in Executive Session. No action was taken and no votes were cast.

* * * * *

Item 20, being:

REGARDING A SPECIAL ELECTION TO DETERMINE THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF NORMAN AND INTERNATIONAL ASSOCIATION OF FIREFIGHTERS LOCAL 2067 FOR THE TIME PERIOD OF JULY 1, 2010, TO JUNE 30, 2011, AS PROVIDED BY TITLE 11, OKLAHOMA STATUTES, SECTION 51-110, CONSIDERATION OF A MOTION TO MOVE FORWARD WITH NOTIFICATION TO THE CLEVELAND COUNTY ELECTION BOARD AFTER RECEIPT OF THE CLEVELAND COUNTY DISTRICT COURT'S RULING REGARDING BALLOT LANGUAGE IN CLEVELAND COUNTY DISTRICT COURT CASE NO. CV-2011-48-L; OR IN THE ALTERNATIVE, TO APPEAL THE DECISION OF THE CLEVELAND COUNTY DISTRICT COURT REGARDING DETERMINATION OF THE BALLOT LANGUAGE IN CLEVELAND COUNTY DISTRICT COURT CASE NO. CV-2011-48-L; AND/OR IN THE ALTERNATIVE, TO MODIFY RESOLUTION NO. R-1011-69 TO NOTIFY THE CLEVELAND COUNTY ELECTION BOARD NO LATER THAN APRIL 15, 2011, OF A JUNE 14, 2011, CITY WIDE ELECTION AND PROVIDE NEWSPAPER PUBLICATION NO LATER THAN JUNE 3, 2011

Councilmember Dillingham moved that Option 3 to modify Resolution No. R-1011-69 to notify the Cleveland County Election Board no later than April 15, 2011, of a June 14, 2011, City wide election and provide newspaper publication no later than June 3, 2011, be approved, which motion was duly seconded by Councilmember Cubberley;

Items submitted for the record

1. Text File No. TMP-126 dated March 1, 2011, by Jeff Bryant, City Attorney
2. Memorandum dated March 2, 2011, from Jeff Bryant, City Attorney, to Honorable Mayor and Councilmembers
3. Resolution No. R-1011 69
4. Legislatively notated copy of modified Resolution No. R-1011-69
5. Modified Resolution No. R-1011-69

Participants in discussion

1. Mr. Jeff Bryant, City Attorney
2. Mr. Anthony Francisco, Finance Director
3. Mr. Steve Lewis, City Manager
4. Mr. Butch Crawford, President, International Association of Fire Fighters Local 2067, protestant
5. Mr. Jim Stanley, 3922 Pine Tree Circle, asked questions
6. Mr. Bobby Stevens, 3801 108th Avenue S.E., made comments
7. Mr. Roger Gallagher, 1522 East Boyd, protestant
8. Mr. Steve Lucas, 804 Fairway Drive, protestant

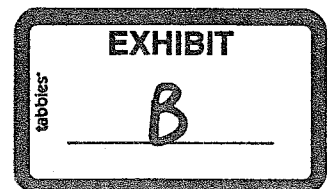
and the question being upon approving Option 3 to modify Resolution No. R-1011-69 to notify the Cleveland County Election Board no later than April 15, 2011, of a June 14, 2011, City wide election and provide newspaper publication no later than June 3, 2011, a vote was taken with the following result:

YEAS: Councilmembers Atkins, Butler,
Cubberley, Dillingham, Griffith, Mayor
Rosenthal

NAYES: Councilmember Kovach

The Mayor declared the motion carried and Option 3 to modify Resolution No. R-1011-69 to notify the Cleveland County Election Board no later than April 15, 2011, of a June 14, 2011, City wide election and provide newspaper publication no later than June 3, 2011 was approved.

* * * * *



Miscellaneous Discussion was moved before Item 19 for citizen input. After Item 20, City Council continued Miscellaneous Discussion.

* * * * *

MISCELLANEOUS DISCUSSION

Union Contract Negotiations. Mr. Butch Crawford, President, International Association of Fire Fighters (IAFF) Local 2067, said firefighters were asked to decrease their budget by \$330,000 to help with the FYE 2011 budget shortfall. He said there are seven vacant firefighter positions that equate to a savings of \$440,000 so there is no need to decrease their budget. He submitted an informational sheet detailing fire personnel staffing and cost savings. He appealed to the City Council to not take negotiations to a vote of the people.

Items submitted for the record

1. Informational sheet detailing fire personnel staffing and savings

Mr. Jim Stanley, 3922 Pine Tree Circle, said he agrees with Mr. Crawford and if the City goes forward with an election, he will talk to everyone he knows to vote in favor of the firemen.

Mr. Steve Lucas, 804 Fairway Drive, urged City Council to stop the election on the IAFF negotiations.

Mr. Leonard Youngblood, 3201 Swan Hollow Drive, asked Council to explain to citizens the reasons Council would call for an election on the IAFF negotiations.

Mayor Rosenthal said Item 20, regarding notice of a special election would be conducted in an open forum for public discussion after the Executive Session.

*

Campaign Signs. Mr. Bobby Stevens, 3801 108th Avenue S.E., said campaign signs are not supposed to be placed within 300 feet of a polling location and that law was violated in east Norman. He said there were also campaign signs that had been pulled by Code Enforcement for no legal reason.

Sanitation Rate Increase. Mr. Bobby Stevens, 3801 108th Avenue S.E., said he voted for the sanitation rate increase, but feels nothing is being done about roadside dumping. He believes the City is not being proactive in cleaning up items dumped along the roadside. He said he could call the City of Norman Action Center to have the items removed, but feels it is not the citizen's job to call.

Mayor Rosenthal expressed her appreciation to voters for their support of the sanitation rate increase and thanked the volunteers who participated in supporting and promoting the proposal. She said the City will continue to find ways to make the system more efficient and was happy to announce that weekly yard waste pickup begins again in March.

*

Code Violations. Mr. Bobby Stevens, 3801 108th Avenue S.E., said that Norman wants to attract businesses, but felt that violations of existing businesses are not enforced. He said Quality Wrecker Service does not play by the same rules as everyone else. He said the City should require them place a fence around their lot to block visibility of cars and cars are stacked seven to eight high that can be seen from the highway, which he believes to also be a violation. He said the rules should apply to everyone, not just to some.

*

Household Hazardous Waste Collection (HHWC) Event. Ms. Jaycee Crosbie, 201 Mount Oaks Drive, said the HHWC Event is an excellent opportunity for residents to dispose of hazardous waste, but felt there needed to be more community awareness. She suggested placing signs at intersections advertising the date of the event.

Ms. Ann Gallagher, 1522 East Boyd, agreed that the HHWC Event needed more public awareness and suggested placing Public Service Announcements on radio stations.

*

Quarterly Newsletters for Apartment Complexes. Mr. Mark Campbell, 2821 Dewey Avenue, said it would be great if large apartment complexes were required to distribute quarterly newsletters to update residents about events in Norman such as the city wide garage sale, the HHWC event, National Night Out, etc.

*

Item 34, being:

REGARDING A SPECIAL ELECTION TO DETERMINE THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF NORMAN AND INTERNATIONAL ASSOCIATION OF FIREFIGHTERS LOCAL 2067 FOR THE TIME PERIOD OF JULY 1, 2010, TO JUNE 30, 2011, AS PROVIDED BY TITLE 11, OKLAHOMA STATUTES, SECTION 51-110, CONSIDERATION OF A MOTION TO MOVE FORWARD WITH NOTIFICATION TO THE CLEVELAND COUNTY ELECTION BOARD AFTER RECEIPT OF THE CLEVELAND COUNTY DISTRICT COURT'S RULING REGARDING BALLOT LANGUAGE IN CLEVELAND COUNTY DISTRICT COURT CASE NO. CV-2011-48-L; OR IN THE ALTERNATIVE, TO APPEAL THE DECISION OF THE CLEVELAND COUNTY DISTRICT COURT REGARDING DETERMINATION OF THE BALLOT LANGUAGE IN CLEVELAND COUNTY DISTRICT COURT CASE NO. CV-2011-48-L.

Councilmember Cubberley moved the decision of the Cleveland County District Court regarding determination of the ballot language in Case No. CV-2011-48-L be appealed, which motion was duly seconded by Councilmember Dillingham;

Items submitted for the record

1. Text File No. R-1011-69, Amendment No. Two, dated March 31, 2011, by Jeff Bryant, City Attorney

Participants in discussion

1. Mr. Jeff Bryant, City Attorney
2. Mr. Jim Stanley, 3922 Pine Tree Circle, protestant

and the question being upon appealing the decision of the Cleveland County District Court regarding determination of the ballot language in Case No. CV-2011-48-L, a vote was taken with the following result:

YEAS: Councilmembers Atkins, Butler, Cubberley, Dillingham, Ezzell, Griffith, Quinn, Mayor Rosenthal

NAYES: Councilmember Kovach

The Mayor declared the motion carried and the decision of the Cleveland County District Court regarding determination of the ballot language in Case No. CV-2011-48-L will be appealed.

* * * * *

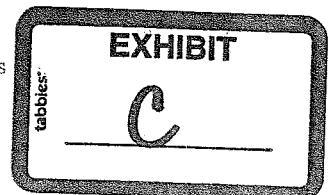
MISCELLANEOUS DISCUSSION

Salvage and Impoundment Yards. Mr. Bobby Stevens, 3801 108th Avenue S.E., said in City Council's meeting of March 22, 2011, he and Staff had discussed violations of the impoundment yard owned by Quality Towing Service. He said Staff had erroneously called this business a salvage yard and there is a big difference. He said Staff had made many incorrect statements. He said a salvage yard is where automobile parts are crushed and disassembled while impoundment yards store vehicles until the owner picks it up or it is sold at public auction. He said the impoundment yards need to be up to City code and said Code Enforcement missed these violations. He said City Staff should apologize to citizens and City Council for making statements that were wrong. He said none of the other impoundment yards in Norman have a car crusher on the premises but Quality does although it is not a salvage yard. He said he would not be persecuted and that citizens have a right to know.

Ms. Susan Connors, Director of Planning and Community Development, said she had written a memorandum to the City Council identifying the fact that at the March 22, 2011, City Council meeting, she had been misinformed by her Staff and she apologized for that. She said there had been some confusion about salvage and impoundment yards and she was clear on the issue now. She said Quality Towing is an impoundment yard and her Staff is continuing to work with them to bring them into compliance. She said Quality, along with one other impoundment yard and two salvage yards are working on a May 1st deadline to come into compliance with issues found on the sites. Quality Towing is doing some major work on their site due to some drainage issues and have removed a fence on the west side because of the property to address those drainage issues. She said they will continue to work on these issues and fully intend to meet the May 1st deadline.

Councilmember Butler thanked Mr. Stevens for his persistence in this matter because Staff is changing some of their operating procedures and looking into making changes to the ordinances.

*



IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

CITY OF NORMAN, OKLAHOMA, a §
municipal corporation, §

Plaintiff/Appellant, §

vs. §

No. 109447

INTERNATIONAL ASSOCIATION OF §
FIREFIGHTERS, LOCAL 2067, §

Defendant/Appellee. §

AFFIDAVIT OF TIMOTHY SYNAR

STATE OF OKLAHOMA)
) ss
COUNTY OF OKLAHOMA)

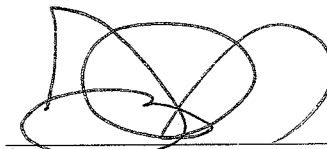
I, Timothy Synar, being first duly sworn under oath, state the following:

1. I am an attorney duly licensed to practice in the State of Oklahoma.
2. I am an attorney for Appellee International Association of Firefighters, Local 2067 (IAFF), and have personal knowledge of the matters stated herein.
3. On May 20, 2011, Jim Williams, Secretary of the Cleveland County Election Board, informed me via letter that the City of Norman has never submitted Resolution No. R-1011-69 to the Cleveland County Election Board. See Exhibit A attached hereto. No election has been held to date, and by law, none can be held this fiscal year. 62 O.S. § 310.4.

FURTHER AFFIANT SAYETH NOT.

Dated this 27th day of May, 2011.

By:



Timothy Synar, Attorney for IAFF

SUBSCRIBED AND SWORN TO before me this 27 day of May, 2011.



Jessica Forgue

Notary Public



CLEVELAND COUNTY ELECTION BOARD

641 E. Robinson, Suite 200 • Norman, Oklahoma 73071

(405) 366-0210

FAX: (405) 366-0209

Website: clevelandcountyelectionboard.com

May 20, 2011

James R. Moore & Associates, P.C.

Attn: Timothy J. Synar

301 NW 63rd Street

Suite 550

Oklahoma City, OK 73116

Dear Mr. Synar:

The Cleveland County Election Board has no record of receiving a Resolution No. R-1011-69 from the City of Norman.

If you need additional information, please contact me at 366-0210.

Sincerely yours,

Jim Williams, Secretary

Cleveland County Election Board

Be a Voter!

