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September 21, 2017

Dear Mayor Bynum:

I was in attendance at OU Tulsa last Tuesday and you did well.

I write about Helmerich Park at 71st and Riverside. My deceased client, Patti Johnson Wilson, is listed as one of the contributors of funds to buy this land. She lived in the Yorktown with Walt Helmerich and I am sure if Walt asked her to help him out she would have done so. I do not know the amount of her contribution but I do know Patti would not have given money to the City to engage in a land play. She certainly would have given to acquire a park.

I also am concerned about the precedents we may be setting. Will future donors worry about the City taking their money, buying park land, then selling it? And, if the City sells it, will it be a private deal or sold to the highest bidder?

The Declaration of Rodger Randle is enclosed in case you have not read it. My thoughts for what they are worth.

Sincerely,

A handwritten signature in blue ink, appearing to be "Jim", written in a cursive style.

DECLARATION OF RODGER RANDLE

- 1. I was Mayor of Tulsa from May 5, 1988 to July 13, 1992. As Mayor, I was also a trustee of the Tulsa Public Facilities Authority (TPFA), an Oklahoma public trust created by the City of Tulsa on March 10, 1981, which indenture was amended, with my approval, on February 1, 1991. Beginning with the effective date of the amended indenture, I appointed (subject to Tulsa City Council approval) the other four trustees of the TPFA. The TPFA trustees are a regularly constituted authority of the City of Tulsa pursuant to 60 O.S. § 179.**
- 2. In June 1990, I, along with the City Council, began making plans for a renewal of the City's third-penny sales tax for capital improvements.**
- 3. Between June and October 1990, a review was conducted of many potential projects to be included in a vote to be held in December 1990.**
- 4. In September 1990, Mr. Jack Zink, Chairman and Mr. Chester Cadieux, Vice Chairman of the Tulsa City/County River Parks Authority, along with River Parks Executive Director Jackie Bubenik, met with me to discuss the possibility of including in the sales tax election the purchase of property west of Riverside Drive between 71st Street and Joe Creek by the City of Tulsa as an extension of parkland along the east bank of the Arkansas river that began at 11th Street.**
- 5. In October 1990, the City Council approved the list of projects for the 1990 sales tax election. The City Council and I considered including the purchase of the 71st and Riverside land as an extension of parkland along the bank of the river. Because of other vital park projects, the purchase of the land at 71st and Riverside Drive was not included in the list of park projects.**
- 6. In March 1991, I was contacted by Mr. Walter H. Helmerich, III. Mr. Helmerich asked me if I on behalf of the City of Tulsa would assist in the purchase of approximately 67 acres at 71st and Riverside Drive to establish a city park. Mr. Helmerich informed me that First National Bank would accept an offer of \$4.5 million for the property. Mr. Helmerich told me that he would guarantee and raise \$2.25 million from private**

donors if the City would provide funding for the balance of the purchase price. I informed Mr. Helmerich that I would agree to participate in the acquisition for the City of Tulsa of the land for use as a park. Mr. Helmerich and I agreed that it was in the best interest of the City of Tulsa for the land to be acquired by the City and used for a park rather than acquired by private parties and commercially developed.

7. At about the same time in March 1991, Mr. John W. Moody, a local Tulsa attorney, acting on behalf of his client, who was an out of state developer, presented to me a major commercial development plan for land at 71st and Riverside Drive, approximately the same land presented to me by the River Parks Authority in September 1990. The plan was for a major mixed-use entertainment, recreational, retail and office complex. Mr. Moody informed me that he was about to present the plan to First National Bank of Tulsa and attempt to purchase, on behalf of the out of state developer, the land from the bank.
8. Later in March 1991, I attempted to arrange a meeting between Mr. Moody and Mr. Helmerich for the purpose of letting Mr. Moody present his development plan to Mr. Helmerich. Mr. Helmerich was a member of the board of the First National Bank. Helmerich was also an avid supporter of public parks. I was informed that Mr. Helmerich wanted to cancel the meeting and was not interested in Moody's proposal. I directed a member of my staff to inform Mr. Moody that the meeting had been canceled.
9. On March 28, 1991, I announced to the public the public/private partnership to acquire as a park for the City of Tulsa up to 75 acres on the west side of Riverside Drive between 71st Street and Riverside and Joe Creek, which is at approximately 78th Street. I announced that the city's portion of the \$4.5 million purchase price would come from allocation of surplus collections of the 1985 third-penny sales tax. At the announcement, I told reporters present, "There may never be another opportunity in Tulsa to acquire such a huge piece of property at a price that can be afforded."
10. In the discussions with Mr. Helmerich during this time, we understood that the intent of Mr. Helmerich's in raising \$2.25 million from private donors, (\$1 million of

which came from the Helmerich Foundation, a foundation controlled by him and his family), and the allocation of \$2.25 million of surplus city sales tax funds was that the land was to be exclusively established as a City park and for no other purpose. I announced to the public that the new land would become an "active" park of the City of Tulsa.

11. Between March and May 1991, I engaged in discussions with city staff and advisors as to the city procedures necessary to allocate and appropriate the \$2.25 million for the park land acquisition. Those discussions included a full review of the land proposed to be purchased. I became fully aware of the status of the land, including existing commercial zoning classifications assigned to the land when it was in private hands and existing floodplain designations. I was satisfied that there were no impediments to the acquisition and commissioning the land for use exclusively as a City park. I also considered the existing commercial zoning on the property to be irrelevant in as much as the city was going to acquire the land and had decided to use it exclusively for public park purposes.

12. Between March and May 1991, in my role as Mayor and in my capacity as a TPFA trustee, I participated in discussion with staff and advisors regarding the process for reallocating surplus 1985 sales tax funds for the City's half of the purchase price of the parkland. This involved public notice and two public hearings before the City Council. This process has come to be known as the "Brown Ordinance," named after former city attorney and sales tax oversight committee chair Darven L. Brown who originally proposed it. Such ordinances were adopted beginning in the James Inhofe mayoral administration in the early 1980s after it was thought a proposed tax election failed for lack of binding specificity so voters would know that the City was going to spend the voter approved tax funds as promised. The ordinance mandates that all sales tax proceeds be spent only for the specified purposes designated in the ordinance calling the election. The ordinance also has a required process for any amendment. This is the process we chose to use because at least \$2.25 million had accumulated in surplus collections from the 1985 third-penny sales tax. My policy and the policy followed by the City Council was to amend the ordinance so surplus funds could be allocated to a new project in a specific ordinance category that was originally approved by the voters. In this case, we were allocating the surplus funds

specifically to the Park Facilities Improvements account of the 1985 third-penny sales tax. Had we wanted to include the future option of this land being developed by a private party for economic development purposes we would have allocated all or part of the surplus 1985 sales tax funds to acquire the property to the sale tax's Urban and Economic Development category as we did other items in the 1985 third-penny sales tax ordinance, TRO, Title 43-B, §§ 100, *et seq.*, as amended. We did not do this because it was our intent to use the property exclusively as a City park.

13. The "Brown Ordinance" was adopted in connection with the 1985 third-penny sales tax election. It is codified as TRO, Title 43-B §§ 100 *et seq.* and is still in effect. It was amended in June of 1991 to supply the City's \$2.25 million for the acquisition of the property for a park. It provides in pertinent part: "The City of Tulsa hereby officially and solemnly pledges to the citizens of Tulsa: 1. That ALL funds received by the City . . . will be spent ONLY for those projects and purposes set forth herein; 2. That NONE of such funds shall ever be spent for any other purpose; . . . 4. That any attempt to divert any of such funds to other purposes or projects . . . shall constitute a breach of the official City policy herein established, shall be a violation of the terms, spirit and purpose of this chapter, and shall constitute sufficient grounds for the removal of such officer or employee from his office or position. . ." In my opinion, any sale of any part of the park property for a commercial shopping center, such as is proposed in this case, would be a violation of this ordinance, an attempt to divert the funds to other purposes or projects and a breach of official City policy as clearly established in 1991.

14. Prior to closing on the property, city staff recommended that formal legal title be held by TPFA, as was done with the convention center. Why this was done is not clear to me but had something to do with achieving maximum flexibility regarding municipal bond financing for possible recreation facilities at the park. At no time was it contemplated that the park could or would be sold for private commercial development. It was clearly understood by all that the City would be using and maintaining the property as a City park. At the second public hearing on May 16, 1991 the public and the council were assured by my staff that the property would ultimately be deeded to the City. I note that Ordinance No. 17509 which amended the 1985 Sale Tax ordinance, TRO, Title 43-B §§ 100 *et seq.*, does not mention any

transfer to TPFA. The TPFA paid the City nothing for the property and during my time in office never expended any of its funds to operate or maintain the parkland. Because the City purchased the property with sales tax funds and other funds donated to the City for that dedicated purpose and because it was always the intent for the City to use this land as a park I regard the City as being the true owner of the property. It is incomprehensible to me that private donations would be received for purchasing land for a city park and then allow all or a part of that land to be sold for commercial development. This was never contemplated because it would undercut the City's future ability to seek private donations for other projects. Donors would be uncertain that their funds would be used as intended. In this case, in addition to Mr. Helmerich, almost thirty other private parties contributed.

15. In connection with this transaction, it was never contemplated that the land at 71st and Riverside would be commercially developed in the future. Mr. Helmerich and I specifically rejected this approach when we considered the proposal to purchase and commercially develop the land by Mr. Moody on behalf of a private developer. It was our desire to prevent such a commercial development by the means of the public/private partnership that secured the funds to purchase the land for a public park that extended the public parkland beginning at 11th Street along the east bank of the Arkansas River from 71st Street to about 78th Street. My memory of my conversations with Mr. Helmerich regarding this matter is very clear. There is no question that Mr. Helmerich wanted to buy this property for a City of Tulsa park so it would NOT be commercially developed.
16. On June 4, 1991, I signed into law two City ordinances, one authorizing the use of \$2.25 million from the 1985 sales tax collections account for Park Facility Improvements purposes (Ord. # 17509) and the other authorizing the use of \$2.25 million from the Park Acquisition Fund, to which the private donations had been deposited, a total of \$4.5 million to acquire the approximately 70 acres of land at 71st and Riverside Drive for a City of Tulsa park, Ord. # 17510.
17. On June 27, 1991, at a specially called meeting of the Tulsa Park and Recreation Board, I made the motion, which passed unanimously, to name the newly acquired land Walter H. Helmerich III Park. City of Tulsa maintenance and operation of the


park commenced with this action and continued as long as I was mayor. During this time, Mr. Helmerich further assisted the City with this by paying for the construction of the sand volleyball courts and most of the playground at the park. The volleyball courts are located on the part of the City parkland that is proposed to be sold for commercial development.

18. On or about September 12, 1991, I appointed Mr. Helmerich to a term as a member of the Tulsa Park and Recreation Board.

19. My memory of the times, dates and sequence of events has been aided by a review of official records, including the ordinances referenced above, written correspondence and minutes of public meetings. It has also been aided by a review of newspaper accounts in the Tulsa World and Tulsa Tribune from 1990 and 1991.

STATE OF OKLAHOMA)
 ss.)
COUNTY OF TULSA)

Pursuant to 12 O. S. § 426, I state under penalty of perjury under the laws of Oklahoma that the foregoing is true and correct.



Rodger Randle

Dated: 26 June 2017