

ORIGINAL

2026 OK 04



FILED
IN THE SUPREME COURT OF THE STATE OF OKLAHOMA
SUPREME COURT
STATE OF OKLAHOMA

Kyle Allison, Vernon McKnown, Jr.,)
David Nimmo and Philip Quinn,)
Appellees,)
v.)
Pamela Sue McCoy-Post, Paul Thomas)
Arcaroli, and Richard Lorenz Sondag,)
Appellants.)

FEB - 3 2026
SELDEN JONES
CLERK

No. 122,946

FOR OFFICIAL
PUBLICATION

ROWE, C.J., DISSENTING:

¶1 The Oklahoma Constitution unequivocally declares that “all political power is inherent in the people.” Okla. Const. art. 2, § 1. The first power reserved to the people is the initiative—the right to propose any legislative measure. The second power is the referendum—the right to present a proposed law to the people for a vote. Because the initiative and referendum are the closest expressions of direct democracy, and enshrined in the Oklahoma Constitution, this Court has a duty to fully preserve them to the fullest extent permitted by the spirit and letter of the law. *In re Initiative Petition No. 448*, 2025 OK 56, ¶ 4, 577 P.3d 276, 281. These inherent powers are reserved to the people at the state level,¹ the local level,² and under the Local Development Act.³

¹ 34 O.S. § 1 *et seq.*

² 11 O.S. §§ 15-101–15-110.

³ 62 O.S. §§ 850–869

Rec'd (date)	2-3-26
Posted	PE
Mailed	PE
Distrib	PE
ish	yes no

¶2 The Ordinance, enacted by the City of Norman under the Local Development Act, 62 O.S. §§ 850–869, created two tax increment financing districts to support the construction of a multipurpose arena, parking garage, and related infrastructure as part of the Rock Creek Plan (the “Plan”). Norman citizens who opposed the Plan circulated a referendum petition under 62 O.S. § 868⁴ seeking to put the Ordinance to a vote of the people of Norman. After the Proponents gathered sufficient signatures, Protestants challenged the validity of the referendum petition’s gist.

¶3 Our jurisprudence is replete with case law on the gist of an initiative and referendum petition. Title 62 O.S. § 868 does not require that a referendum petition include a gist; however, because the Proponents included one, the Majority now reviews its sufficiency under the standard set forth by our extensive gist jurisprudence.

¶4 The purpose of the gist is to prevent fraud, deceit, or corruption in the initiative process. *Miller v. Ellis*, 2020 OK 52, ¶ 4, 467 P.3d 691, 692. To prevent fraud, deceit, and corruption, the gist must provide signatories with sufficient information to make an informed decision about the true nature of the measure and explain the proposal’s effect. *Id.* at 69–93. But the gist need not include every detail, so long as its outline is not incorrect. *Id.* at 693.

⁴ Section 868 sets forth that “the powers of initiative and referendum, . . . are reserved to the people of every city, town or county with reference to the tax relief or incentives or exemptions or increment captured as authorized by Section 6C of Article X of the Oklahoma Constitution and as provided for in this act.” 62 O.S. § 868(A).

¶15 Protestants contend the gist inaccurately conveys that the Plan authorizes \$600,000,000 in project costs *and* \$230,000,000 in financing assistance to the project developer. Additionally, Protestants argue the gist fails to describe that the collection of taxes will terminate upon the earliest of three occurrences: “(1) funds having been provided to allow non-City parties to service debt in a principal amount of \$230 million; (2) \$600,000,000 million in total having been provided to allow these parties to service this same debt (principal plus interest); or (3) the passage of 25 years from the Ordinance’s creation of the TIF districts.”⁵ The Majority agrees, finding the gist inaccurate.

¶16 Comparison of the Plan, the Ordinance, and the gist demonstrates that the gist accurately summarizes the governing documents. Protestants simply take issue with how that summary is presented.⁶ The question we are tasked with

⁵ Appellees’ Answer Brief, 10.

⁶ Interestingly, the gist aligns almost exactly with the summary the City Attorney provided to the City Council prior to casting its 5-4 vote. Specifically, the City Attorney summarized the Plan as follows:

The Rock Creek Entertainment District Project Plan (the “Project Plan”) creates two increment districts. Increment District No. 4 is a sales tax increment district that would allocate 100% of the sales tax increment (defined as the non-dedicated portion of the City’s sales and use taxes generated within the District) beginning May 1, 2025 and **lasting for a maximum of 25 years** pursuant to the Act. Increment District No. 5 is an ad valorem increment district that would allocate 100% of the ad valorem increment (defined as the ad valorem taxes in excess of the base assessed values of the property within the District) beginning December 31, 2026 and **lasting for a maximum of 25 years** pursuant to the Act. Funds generated within the Increment Districts will be held by the Norman Tax Increment Finance Authority (the “Authority”) for authorized project costs.

The Project Plan authorized project costs up to \$600 million for expenditure on Administration/Implementation and Assistance in Development Financing. Assistance in Development Financing is intended to assist the Developer to finance \$230 million in private development costs related to the construction of an arena and a parking garage serving the arena, as well as additional needed infrastructure. Any state funds received pursuant to the Leverage Act will also be provided to the developer for the improvements. The lesser of 2% of the ad valorem increment or \$200,000 per year will be

answering is whether the gist perpetrated fraud on the signatories. The Ordinance and the Plan are both of great textual complexity and were undoubtedly drafted by lawyers specialized in municipal finance law. To find that the gist is misleading we must conclude the governing documents it summarizes are misleading.

¶7 The gist accurately states that the Plan authorizes project costs up to \$600,000,000. Section IX(2) of the Plan states the same: “The amount of Assistance in Development Financing shall not exceed \$600,000,000.” Importantly here, the gist utilizes “up to” to inform signatories that the highest amount to be collected in project costs is \$600,000,000. The use of “up to” does not mandate that \$600,000,000 must be collected, but only that the amount will not be surpassed.

¶8 Almost verbatim, the gist utilizes explicit language from the Plan to inform signatories what costs are included *within* the possible \$600,000,000 in project costs.

Project Plan – Authorized Costs	Proponents’ Gist – Authorized Costs
Authorized Project Costs <i>Include Assistance in Development Financing and Administration/Implementation.</i>	The Project Plan authorizes project costs of up to \$600,000,000 <i>for administration, implementation, and assistance to the Project Developer...</i>
The amount of Assistance in Development Financing <i>shall not exceed \$600,000,000.</i>	authorizes project costs of up to \$600,000,000...
Assistance in Development Financing consists of amounts paid to the Project’s developer to incentivize the Project... <i>for the Project’s developer and its development partners to</i>	assistance to the Project Developer <i>in financing \$230,000,000 in costs related to the construction of an arena, a parking garage, and additional infrastructure.</i>

allocated to the Authority for costs related to the creation and implementation of the Project Plan.

Appellants’ Brief in Chief, 18 (emphasis added).

finance \$230,000,000 in private development and public infrastructure costs. ⁷	
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¶9 Within the Plan, subsection (2) details what is included in the authorized costs and subsection (3) explains the meaning of “Assistance in Development Financing.” The gist appropriately simplifies these provisions by outlining what costs are included within the \$600,000,000 cap on authorized project costs.

¶10 Finally, the gist states that “[b]oth Districts would last a maximum of 25 years.” Section 9 and 10 of the Ordinance state the tax increments may be used to pay for the project “for a period not to exceed 25 fiscal years from the effective date” of the Increment District. The gist’s statement that a tax will last for a maximum of 25 years conveys precisely the same limitation of the Ordinance: the tax will not last longer than 25 years.

¶11 Protestants additionally contend the gist is insufficient because it fails to specify that the tax will terminate upon the occurrence of the earliest of three conditions. But the gist is not required to include “every regulatory detail so long as its outline is not incorrect.” *In re Initiative Petition No. 425, State Question No. 809*, 2020 OK 58, ¶ 9, 470 P.3d 284, 288.

¶12 The gist, as written, communicates that the tax may last 25 years—aligning with the Ordinance. Nonetheless, the Majority concludes the gist does not

⁷ Protest Petition, Ex. C. Project Plan, 5.

provide signatories with a clear understanding of how long the obligation will last. Majority Op. ¶ 11. But it does—the tax obligation may last 25 years at the longest. The specifics on how that might occur is not so insufficient under our jurisprudence to render the gist misleading—nor is it a fraudulent explanation.⁸

¶13 Upon review, the gist is not inaccurate, misleading, and is certainly not fraudulent. It synthesizes the technically complex governing documents that—in themselves—are difficult to decipher. The gist is not required to resolve such technical complexities—rather it is tasked with providing signatories a fair outline of the measure’s substance to prevent fraud, deceit, or corruption. The referendum power should not be crippled, avoided, or denied by technical construction by the courts. *In re Initiative Petition No. 448*, 2025 OK 56, ¶ 5, 577 P.3d 276, 281.

¶14 The peoples’ fundamental right to referendum is rooted in our Constitution and must be zealously protected. I cannot accept that Proponents’ gist is so inadequate as to deprive the voters of their constitutional right to vote—up or down—on the Ordinance. I would allow the Ordinance to go to a vote of the People. Accordingly, I respectfully dissent.

⁸ If a signatory were curious about how the tax obligation may end, he or she could review the text of the Ordinance for further details. Majority Op. ¶ 13. *In re Initiative Petition No. 426*, *State Question No. 810*, 2020 OK 44, ¶ 6, 465 P.3d 1259, 1263 (explaining a potential signatory at this stage in the process may review the text of the petition itself to answer any question or provide further details not found in the gist on the signature sheet).