



City of Grand Island

Tuesday, July 9, 2013

Council Session

Item I-3

#2013--228 - Consideration of Removal of City Attorney

Staff Contact: Mayor Jay Vavricek

Council Agenda Memo

From: Jay Vavricek, Mayor
Meeting: July 9, 2013
Subject: Consideration of Removal of City Attorney
Item #: I-3
Presenter(s): Jay Vavricek, Mayor

Background

The employment of the City Attorney is not bound with any terms of an employment contract; it is subject only to removal by the Mayor and Council approval pursuant to Grand Island City Code §2-30. Due to a general breakdown in the relationship between the City Attorney, Mayor and Council as indicated by his refusal to abide by Council directive, the Mayor has removed City Attorney Robert Sivick pursuant to Grand Island City Code.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve
2. Postpone the issue to future date
3. Take no action on the issue

Recommendation

With respect to Council authority, the Mayor recommends that Council approve the removal of City Attorney Robert Sivick.

Sample Motion

Move to approve the resolution approving the removal of City Attorney Robert Sivick.

§2-17. Mayor; Additional Powers; Duties

In addition to the foregoing powers and duties, the mayor shall:

(1) Appoint and remove, with approval of the city council, all statutory officials; appoint with the approval of the city council, the Police Chief and the Fire Chief; appoint, remove, correct, or discipline all other hired officials and subordinate employees in the departments in both the classified and unclassified service, which appointments shall be upon merit and fitness alone pursuant to the personnel rules, and in the classified service all appointments and removals shall be subject to civil service requirements.

(2) Appoint all members of advisory boards, commissions, and committees established by ordinance or action of the council, subject to council approval.

(3) Have the power to grant reprieves and pardons for all offenses arising under the ordinances of the city after conviction to remit fines and forfeitures.

Amended by Ordinance No. 9389, effective 07/17/2012

2-30. Officers; Appointive

The following shall constitute the statutory officers of the City of Grand Island which shall be appointed by the mayor and approved by the council. These officers shall hold office until the end of the mayor's term and until their successors are appointed and qualified. These appointive officers may be removed at any time by the mayor, with the approval of a majority of the council:

City Administrator
City Attorney
City Clerk
City Engineer / Public Works Director
City Treasurer / Finance Director

§2-40. City Attorney; Duties; Compensation

The office of city attorney is hereby created, which office shall constitute a full-time obligation upon the individual so appointed. The city attorney shall be appointed by the mayor, with the approval of a majority of the city council.

The city attorney shall be the legal advisor of the council and city officers. The city attorney shall commence, prosecute, and defend all suits and actions necessary to be commenced, prosecuted, or defended on behalf of the City, or that may be ordered by the council. The city attorney shall attend meetings of the council and give an opinion upon any matters submitted by the council, either orally or in writing, as may be required. The city attorney may hire outside counsel on matters in which the city attorney lacks expertise or in which the city attorney has a conflict of interest.

The salary of the city attorney shall be fixed by ordinance.

§20-13. Nuisances Generally Defined

A nuisance consists in doing any unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

(A) Violates any provision of this Code or any ordinances of the City of Grand Island or statute of the State of Nebraska which is consistently repeated or of a continuous and ongoing nature, if uncorrected.

(B) Is an act or thing done, made, permitted, allowed, or conducted on any property, public or private, by any person, firm, or corporation, their agents or servants, detrimental to the health, or to the damage or injury of any of the inhabitants of the City.

(C) Is offensive to the senses.

(D) Unlawfully interferes with, obstructs, tends to obstruct or renders dangerous for passage any stream, public park, parkway, square, street, or highway in the City.

(E) In any way renders other persons insecure in life or the use of property.

(F) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

Amended by Ordinance No. 8936, effective 10-13-2004

§20-13.1. Nuisances; Specifically Defined

The maintaining, using, placing, depositing, leaving or permitting of any of the following specific acts, omissions, places, conditions, and things are hereby declared to be nuisances:

(A) Any odorous, putrid, unsound or unwholesome grain, meat, feathers, vegetable matter, or the whole or any part of any dead animal, fish, or fowl.

(B) Privies, vaults, cesspools, dumps, pits or like places which are not securely protected from flies or rats, or which are foul or malodorous.

(C) Filthy, littered or trash-covered cellars, houseyards, barnyards, stable-yards, factory-yards, mill yards, vacant areas in rear of stores, granaries, vacant lots, houses, buildings, or premises.

(D) Stockpiling animal manure in a manner that causes an abundance of flies, malodorous conditions or creates other health concerns, or which is kept or handled in violation of any ordinance of the City.

(E) Liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish or any waste vegetable or animal matter in any quantity; provided, nothing herein contained shall prevent the temporary retention of waste in receptacles in a manner approved by the health officer of the Central District Health Department, nor the dumping of non-putrefying waste in a place and manner approved by the health officer.

(F) Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster, and all trash or abandoned material, unless the same be kept in covered bins or galvanized iron receptacles.

(G) Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, used furniture, used appliances, excelsior, packing hay, straw or other packing material, lumber not neatly piled, scrap iron, tin or other metal not neatly piled, old automobiles or parts thereof, or any other waste materials when any of said articles or materials create a condition in which flies or rats may breed or multiply, or which may be a fire danger.

(H) Any unsightly building, billboard, or other structure, or any old, abandoned or partially destroyed building or structure or any building or structure commenced and left unfinished, which said buildings, billboards or other structures are either a fire hazard or a menace to the public health or safety.

(I) All places used or maintained as junk yards, or dumping grounds, or for the wrecking and disassembling of automobiles, trucks, tractors, or machinery of any kind, or for the storing or leaving of worn-out, wrecked or abandoned automobiles, trucks, tractors, or machinery of any kind, or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or buildings or by other persons.

(J) Stagnant water permitted or maintained on any lot or piece of ground.

(K) All other things specifically designated as nuisances elsewhere in this Code.

§20-14. Maintenance of Nuisance Unlawful

It shall be unlawful for any person to maintain a nuisance whether on said person's property, or on public property.

§20-15. Procedure for Abatement of Nuisances

If the owner, occupant, or agent in charge of any lot, building, or other premises, or the person responsible for the maintenance of a nuisance fails to abate said nuisance ten (10) days after a notice to abate has been mailed by ordinary first class mail and certified mail, return receipt requested, to the last known address of such person or persons, the city attorney's office may, with the consent of the mayor, bring legal action to obtain abatement of the nuisance.

In the event legal action to abate a nuisance is commenced on behalf of the City of Grand Island, the City Attorney shall request that the Court enter such order as is appropriate to expeditiously and completely abate said nuisance and that said order be of a continuing nature, permanently enjoining the defendant from continuing, maintaining, renewing or restoring said nuisance on said persons property or public property and entering a judgment against the defendant(s) for the costs incurred by the City of Grand Island in abating said nuisance conditions.

Amended by Ordinance No. 8936, effective 10-13-2004

Amended by Ordinance No. 8960, effective 3-9-2005

Amended by Ordinance No. 8990, effective 8-10-2005

RESOLUTION 2013-228

WHEREAS, pursuant to Grand Island City Code § 2-30, the City Attorney may be removed at any time by the Mayor with the approval of the majority of the City Council; and

WHEREAS, due to a general breakdown in the relationship between the City Attorney, Mayor and Council as indicated by his refusal to abide by Council directive, the Mayor has removed City Attorney Robert Sivick pursuant to Grand Island City Code.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that Robert Sivick be removed as City Attorney.

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Adopted by the City Council of the City of Grand Island, Nebraska, July 9, 2013.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	☒ _____
July 8, 2013	☒ City Attorney