



City of Grand Island

Tuesday, October 11, 2011

Council Session

Item F4

**#9335 - Consideration of City Council's Approval of All Individual
City Negotiators**

Staff Contact: Councilman Larry Carney

Council Agenda Memo

From: Larry Carney, Council Member

Meeting: October 11, 2011

Subject: Consideration of City Council's Approval of All Individual City Negotiators

Item #'s: F-4

Presenter(s): Robert Sivick, City Attorney

Background

On September 27, 2011 the City Council passed Ordinance No. 9335 which mandated Council prior approval of any person designated to negotiate labor contracts on behalf of the City. After debate and discussion Ordinance No. 9335 passed by a Council vote of six in favor and three opposed. The six yes votes constituted a majority of Council members in favor, and Ordinance No. 9335 was approved. The Mayor subsequently vetoed the passage of Ordinance No. 9335 under the authority of §2-16 City Code.

Discussion

Mr. Carney believes it to be in the City's best interest to require the City Council to approve all City negotiators prior to commencement of labor negotiations on behalf of the City. In order to override the Mayor's veto, City Code requires a two-thirds vote of all members elected to the Council.

Alternatives

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

1. Motion to override the veto.
2. Take no action on the issue

Recommendation

Mr. Carney recommends that the Council override the Mayor's veto and allow Ordinance No. 9335 to stand as originally approved by Council on September 27, 2011.

Sample Motion

Motion to override the Mayor's veto of Ordinance No. 9335 and allow Ordinance No. 9335 to stand as originally approved by Council on September 27, 2011.

COVER LETTER

Re: Override of the September 27, 2011 Veto of Ordinance No. 9335; to appear on the October 11, 2011 Meeting Agenda.

To: The Grand Island, NE City Clerk

This cover letter is to request that the item F-4 appear on the October 11, 2011 Council Meeting Agenda. Also, it should be noted that I am following the recommendations of the Grand Island City Attorney as stated in his opinion. This request also complies with the Grand Island City Code, Chapter 02, 2-6.

Respectfully,

Larry Carney

Council Member

RESOLUTION 2009-59

WHEREAS, The following Regular Meeting Agenda Timetable and Study Session Agenda Timetable provide a sequential description of Agenda related actions; and

WHEREAS, The following shall be the timetable to be adhered to by Electeds, City Department Directors, and staff relative to the preparation of the Agenda and related materials for meetings of the City Council.

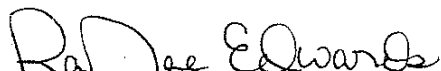
| <u>DAY</u> | <u>TIME</u> | <u>ACTIVITY</u> |
|------------|-------------|--|
| Monday | 5:00 p.m. | Deadline for submission of Agenda item requests by those other than staff to City Clerk. |
| Tuesday | 5:00 p.m. | Deadline for submission of Agenda items requests by elected officials. a written request shall include topic title, meeting date requested, and shall be accompanied by any supporting material. |
| Wednesday | 8:30 a.m. | Department Director meeting, including review of draft Agenda and discussion of additional items. Final submission of all Agenda items by staff. Unforeseen or emergency items may be added at the discretion of administration. |

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the City of Grand Island abides to this timeline.

Adopted by the City Council of the City of Grand Island, Nebraska, March 10, 2009.


Margaret Hornady, Mayor

Attest:


RaNae Edwards, City Clerk

Approved as to Form 
March 9, 2009 City Attorney

§2-6. Agenda For Meetings

All matters for consideration at any regular meeting or study session of the city council shall be submitted in writing and filed in the office of the city clerk pursuant to the timetable established by resolution. All matters for consideration at any special meeting of the city council shall be submitted in writing and filed in the office of the city clerk at least twenty-four hours prior to the time set for such special meeting. The city clerk shall place upon the agenda of any regular, special, or study session meeting only those matters which have been directed by one council member, or authorized by the mayor or the city administrator.

RaNae Edwards

From: Larry Carney [larry.carney@gmail.com]
Sent: Thursday, October 06, 2011 11:51 AM
To: RaNae Edwards
Subject: Agenda Cover Letter Ordinance 9335
Attachments: Agenda Cover Letter Ordinance 9335.docx

Here is my request letter. Hope it is OK.

Regards,

Larry Carney

RaNae Edwards

From: Larry Carney [larry.carney@gmail.com]
Sent: Thursday, October 06, 2011 11:51 AM
To: RaNae Edwards
Subject: Corrected Agenda Memo about Ordinance 9335
Attachments: Corrected Agenda Memo about Ordinance 9335.doc

RaNae,
Here is my corrected Agenda Memo. This should do it.
Regards,
Larry Carney

OPINION OF THE GRAND ISLAND CITY ATTORNEY (2011-18)

TO: Randy Gard, Grand Island City Council
Larry Carney, Grand Island City Council
Mary Lou Brown, Grand Island City Administrator
FROM: Robert J. Sivick, Grand Island City Attorney
RE: Veto Override Procedure
DATE: October 4, 2011

Grand Island City Code §2-40 states in part, "[t]he city attorney shall be the legal advisor of the council and city officers. In addition, Neb. Rev. Stat. §16-319 contains the same language. I have been asked to offer an opinion as to how the Grand Island City Council may override a mayoral veto. This document constitutes my opinion.

I. BACKGROUND

Mayoral vetoes are rare in Grand Island City government and veto overrides appear to be rarer. On September 27, 2011 the Council passed Ordinance 9335 which mandated Council approval of any persons designated to negotiate labor contracts on behalf of the City. After debate and discussion the matter passed by a vote of 6-3. The Mayor then immediately vetoed the ordinance. Overriding the veto was briefly discussed but no motion to do so was made and no vote taken at the September 27th meeting.

II. LEGAL ISSUES

Grand Island City Code §2-16 and Neb. Rev. Stat. §16-313 constitute the entirety of law regarding mayoral vetoes and overriding them. Both the City ordinance and State statute state,

The mayor shall have the power to approve or veto any ordinance passed by the city council, and to approve or veto any order, bylaw, resolution, award of, or vote to enter into any contract, or the allowance of any claim; provided, any ordinance, order, bylaw, resolution, award, or vote to enter into any contract, or the allowance of any claim vetoed by the mayor may be passed over such veto by a vote of two thirds of all the members elected to the council, notwithstanding such veto. If the mayor neglects or refuses to sign any ordinance, order, bylaw, resolution, award, or vote to enter into any contract, or the allowance of any claim, and returns the same with objections in writing to the next regular meeting of the council, the

same shall become a law without the mayor's signature. The mayor may veto any item or items of any appropriation bill, and approve the remainder thereof. An item or items so vetoed may be passed by the council over the veto as in other cases.

The ordinance and statute require a two thirds vote of the elected, not present, members of the Council to override a veto. The Council consists of ten elected members so a two thirds vote would consist of seven. The ordinance and statute are silent with regard to a timetable for overriding a veto. However, such action would have to be carried out in a timely fashion. For guidance as to what is timely, I refer you to the portions of the ordinance and statute which state if the Mayor fails to sign any ordinance, resolution, etc. by the next regular meeting after it was passed it becomes law without his signature. Accordingly, I believe the same standard of timeliness would apply to overriding a veto. The next regular meeting would exclude study sessions as Code §2-4 states, "[n]o motion, action, or vote of any kind shall be taken on any matter during a Study Session, except upon a motion to recess or to adjourn." The next meeting when the Council may take action to override the veto would be the meeting scheduled on October 11, 2011. I believe an agenda item for such action would be necessary to insure compliance with Neb. Rev. Stat. §84-1411(1). I believe if action is not taken at the October 11th meeting, any motion to override dies for lack of a second, or the motion to override fails, any subsequent attempts to override the veto would be prohibited as improper and/or untimely.

If you need any additional information do not hesitate to contact me.

ORDINANCE NO. 9335

WHEREAS, pursuant to Neb Rev. Stat. §16-201, the City has authority, by Ordinance to make all rules and regulations, not inconsistent with state laws; and

WHEREAS, an ordinance to require the City Council's approval of all individual City negotiators prior to entering into labor contract negotiations, on behalf of the City, with any individual or union; to repeal any ordinance or parts of ordinances in conflict herewith; and to provide for publication and the effective date of this ordinance.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA:

SECTION 1. The Mayor and Council hereby find and determine: that it is in the City's best interest to require the City Council to approve all City negotiators prior to labor negotiations on behalf of the City.

SECTION 2. Any ordinances or parts of ordinances in conflict herewith be, and hereby are, repealed.

SECTION 3. This ordinance shall be in force and take effect from and after its passage and publication in one issue of the Grand Island Independent, within fifteen days as provided by law.

Enacted: October 11, 2011.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk

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|---------------------|-----------------|
| Approved as to Form | ☐ _____ |
| October 10, 2011 | ☐ City Attorney |