



City of Grand Island

Tuesday, February 14, 2012

Council Session

Item I4

**#2012-39 - Consideration of Proposing a Ballot Measure for Open
Burning Ban**

Staff Contact: Tim Hiemer

Council Agenda Memo

From: Tim Hiemer, Fire Division Chief

Meeting: February 14, 2012

Subject: Approval of Ballot Language to Repeal Open Burning

Item #'s: I-4

Presenter(s): Tim Hiemer, Fire Division Chief

Background

The first restriction on open burning in the City of Grand Island was passed in 1909, this prohibited the burning of paper or refuse in the streets and alleys of the City. Then in 1951 an ordinance was passed that restricted burning to set hours on certain days of the week. This was then amended on June 1, 1972 to permit open burning on Wednesday and Saturday. At this time the Fire Chief was also empowered to ban open burning when warranted.

On July 8, 1991 Ordinance 7729 was approved that banned open burning in the City with very few exceptions.

At the May primary election in 1994 the citizens of Grand Island overturned the ban on open burning by approving a ballot referendum. This resulted in council passing Ordinance 7993 on May 23, 1994 allowing for open burning for two weeks in the fall and two weeks in the spring, with a written permit. Since that time only minor modifications have been made to the ordinance.

It should be noted that according to State Statute 81-520.01 there is a state wide ban on all open burning, with few exceptions.

Discussion

During the early 1990's this issue came before the council several times before being placed on the 1994 primary ballot. One of the arguments at the time was that the citizens had no way of disposing of yard waste without paying a fee. Since this time, a composting program has been established at the Transfer Station located on Old Potash, which allows for year around dumping of yard waste at no cost. This allows for an environmentally responsible way of disposing yard waste.

People's attitudes have also changed over the years and we are now more aware of how our actions affect others. People have come to expect clean air, free of smoke, year round. The citizens want a safe and clean living environment for themselves and their children. This topic encompasses two of the City's priorities; Safe Community and Stewardship of the Environment.

The Fire Department feels that for the above reasons the open burning ordinance should be repealed. Since the open burning issue was decided by a vote of the people the repeal should come from the people. By approving the ballot language this will allow the people to decide on the open burning issue.

In order to have this on the primary ballot in May, the Council must pass one of the two proposed Resolutions by March 1, 2012. This will result in an expense to the City of approximately \$3,500-4,000 charged by the Election Commission to have this measure printed on the ballot.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand regarding Resolutions 2012-40 (A) and Resolution 2012-40 (B). The Council may take the following action on one but not both the Resolutions as follows:

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

Recommendation

City Administration recommends that the Council approve Resolution 2012-40 (A) or Resolution 2012-40 (B).

Sample Motion

Move to approve Resolution 2012-40 (A) or 2012-40 (B) placing the issue of open burning on the May, 2012 primary ballot to be decided by the voters of Grand Island.

R E S O L U T I O N 2012-39 (A)

WHEREAS, on July 8, 1991 the Grand Island City Council approved Ordinance No. 7729 which banned open burning in the City of Grand Island with narrow exceptions; and

WHEREAS, at the primary election held in May, 1994 the electorate of Grand Island passed a referendum repealing Ordinance No. 7729; and

WHEREAS, on May 23, 1994 the Grand Island City Council approved Ordinance No. 7993 permitting open burning in the City of Grand Island for designated two (2) week periods in the Spring and Autumn; and

WHEREAS, on January 31, 2012 a Study Session meeting of the Grand Island City Council was held on this issue; and

WHEREAS, the Grand Island City Council believes this is an issue best decided by the electorate of the City of Grand Island.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that pursuant to Neb. Rev. Stat. §18-2520, the City Clerk is hereby directed to submit to the electors of the City of Grand Island at the next regularly scheduled primary election, the following ballot measure:

REPEAL OF OPEN BURNING

Shall Ordinance No. 7993 permitting open burning for designated two (2) week periods in the Spring and Autumn be repealed?

A vote for this measure is to repeal Ordinance No. 7993 which permits open burning for designated two (2) week periods in the Spring and Autumn.

A vote against this measure will leave Ordinance No. 7993 in place and continue to permit open burning for designated two (2) week periods in the Spring and Autumn.

Adopted by the City Council of the City of Grand Island, Nebraska, February 14, 2012.

Jay Vavricek, Mayor

Attest:

Approved as to Form <input type="checkbox"/> _____ February 10, 2012 <input type="checkbox"/> City Attorney
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RaNae Edwards, City Clerk

RESOLUTION 2012-39 (B)

WHEREAS, on July 8, 1991 the Grand Island City Council approved Ordinance No. 7729 which banned open burning in the City of Grand Island with narrow exceptions; and

WHEREAS, at the primary election held in May, 1994 the electorate of Grand Island passed a referendum repealing Ordinance No. 7729; and

WHEREAS, on May 23, 1994 the Grand Island City Council approved Ordinance No. 7993 permitting open burning in the City of Grand Island for designated two (2) week periods in the Spring and Autumn; and

WHEREAS, on January 31, 2012 a Study Session meeting of the Grand Island City Council was held on this issue; and

WHEREAS, the Grand Island City Council believes this is an issue best decided by the electorate of the City of Grand Island.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that pursuant to Neb. Rev. Stat. §18-2520, the City Clerk is hereby directed to submit to the electors of the City of Grand Island at the next regularly scheduled primary election, the following ballot measure:

REPEAL OF OPEN BURNING

Shall Ordinance No. 7993 permitting open burning for designated two (2) week periods in the Spring and Autumn be repealed and a ban on open burning be imposed with exceptions for the outdoor cooking of food for human consumption and with written permission from the Chief of the Grand Island Fire Department the following exceptions for:

- 1. training of public or industrial fire fighting personnel;**
- 2. essential agricultural operations in the raising of crops where no nuisance or hazard is created;**
- 3. destroying dangerous materials or diseased trees;**
- 4. clearing land for roads or other construction activity; and**
- 5. recreational or other purposes?**

A vote for this measure is to repeal Ordinance No. 7993 which permits open burning for designated two (2) week periods in the Spring and Autumn and to impose a ban on open burning with the exceptions listed above.

A vote against this measure will leave Ordinance No. 7993 in place and continue to permit open burning for designated two (2) week periods in the Spring and Autumn.

Approved as to Form	☐ _____
February 10, 2012	☐ City Attorney

Adopted by the City Council of the City of Grand Island, Nebraska, February 14, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk