



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item 15

**#2012-304 - Consideration of Modifying Language Relative to Residency Requirements for City Department Directors**

Staff Contact: Robert J. Sivick, City Attorney

# Council Agenda Memo

**From:** Robert J. Sivick, City Attorney

**Meeting:** October 9, 2012

**Subject:** Consideration of Modifying Language Relative to Residency Requirements for City Department Directors

**Item #'s:** I-5

**Presenter(s):** Robert J. Sivick, City Attorney

## Background

On December 4, 2001 the Grand Island City Council (Council) approved expanding the area where Department Directors could reside to within ten miles of the City of Grand Island (City) zoning jurisdiction. Since the City has zoning jurisdiction for two miles beyond its borders this in effect extended the acceptable area of residency for Directors to twelve miles beyond the City's borders. On December 18, 2001 the Council approved Resolution 2001-314 which among other things incorporated the new residency requirements for Directors into the employee handbook. That requirement is memorialized in the City Personnel Rules and Regulations (Personnel Rules) §3.12.

This matter was the subject of a Study Session meeting of the Council on October 2, 2012. At that meeting the Council directed the City Legal Department to remove language referring to the City's zoning jurisdiction from the Director residency requirements as that language existed in no other provisions related to residency of other City employees. The Resolution before you this evening is the result of the City Legal Department's efforts to comply with that directive.

## Discussion

Residency requirements for municipal employees have been the subject of litigation across the country for the last few decades. Generally Courts are prone to strike down residency requirements that lack a legitimate public purpose related to the operation of municipal government. The most obvious example of such a legitimate public purpose would be public safety but would also include public utilities and infrastructure.

The Human Resources Department conducted a survey of residency requirements for Department Directors in other Nebraska cities and compiled the following data:

**RESIDENCY REQUIREMENTS FOR DEPARTMENT DIRECTORS**

|              |  |
|--------------|--|
| Hastings     | No written policy. Strongly recommended  |
| La Vista     | Only City Administrator & Police Chief   |
| Bellevue     | Only City Administrator & Assistant City Administrator   |
| Kearney      | All Directors are required to live within City limits  |
| Lincoln      | No residency requirement for Directors   |
| Omaha        | No residency requirement for Directors   |
| Norfolk      | No residency requirement for Directors - some positions have a response time if in public works or public safety                                     |
| Fremont      | Residency requirement for City Administrator, Police & Fire Chief within 20 minutes of city limits and Utility Mgr. has to live within service area. |
| Papillion    | No residency requirements for Directors  |
| Columbus     | No residency requirements for Directors. Police & Fire Chiefs follow the 30 minute rule in place for their department members                        |
| North Platte | No residency requirement for Directors   |

The Human Resources Department compiled the present residency requirements for City employees as listed below:

**CURRENT RESIDENCY REQUIREMENTS FOR CITY EMPLOYEES**

|                                       |  |
|---------------------------------------|--|
| Department Directors:                 | Within 10 miles of the zoning jurisdiction           |
| Emergency Management Employees:       | Within a 25 mile radius of the City limits           |
| Utilities Department Employees:       | Residency boundaries of the department               |
| Sworn Police Officers (FOP Contract): | Within 35 miles of city limits                       |
| Firefighters (IAFF Contract):         | Within a 35 mile radius of the City limits           |
| Parks & Streets (AFSCME Contract):    | No residency requirement                             |
| IBEW Wastewater:                      | No residency requirement                             |
| IBEW Service/Clerical                 | No residency requirement                             |
| IBEW Utilities & Finance:             | Residency Boundaries as established in the contracts |
| Non-union:                            | No residency requirement                             |

The Human Resources Department compiled data on the residency of City employees broken down by Department as listed below:

|                 | <b>GI</b> | <b>OTHER</b> | <b>TOTAL</b> | <b>% GI</b> |
|-----------------|-----------|--------------|--------------|-------------|
| ADMINISTRATION  | 4         | 1            | 5            | 80%         |
| BUILDING        | 9         | 2            | 11           | 82%         |
| EMER MANAGEMENT | 17        | 1            | 18           | 94%         |
| FINANCE         | 28        | 4            | 32           | 88%         |
| FIRE            | 38        | 28           | 66           | 58%         |

|                 |            |           |            |            |
|-----------------|------------|-----------|------------|------------|
| HUMAN RESOURCES | 2          | 2         | 4          | 50%        |
| LEGAL           | 3          | 0         | 3          | 100%       |
| LIBRARY         | 26         | 2         | 28         | 93%        |
| PARKS           | 24         | 5         | 29         | 83%        |
| PLANNING        | 3          | 0         | 3          | 100%       |
| POLICE          | 75         | 18        | 93         | 81%        |
| PUBLIC WORKS    | 61         | 13        | 74         | 82%        |
| UTILITIES       | 128        | 6         | 134        | 96%        |
| <b>TOTAL</b>    | <b>418</b> | <b>82</b> | <b>500</b> | <b>84%</b> |

The Resolution before you for consideration removes the language in §3.12 of the Personnel Rules referring to the City’s zoning jurisdiction and states the requirement in terms of miles (twelve) which is the case with all other City residency requirements.

### **Alternatives**

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

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**

The City Administration recommends the Council approve Resolution 2012-304 which amends Personnel Rule §3.12 by removing language referring to the City’s zoning jurisdiction and stating the residency requirement for City Department Directors as twelve miles from the City limits.

### **Sample Motion**

Move to approve Resolution 2012-304 which amends Personnel Rule §3.12 by removing language referring to the City’s zoning jurisdiction and stating the residency requirement for City Department Directors as twelve miles from the City limits.

RESOLUTION 2012-304

WHEREAS, on December 18, 2001 the Grand Island City Council approved Resolution 2012-314 which among other things incorporated residency requirements for City of Grand Island Department Directors as within ten (10) miles of the City's zoning jurisdiction; and

WHEREAS, the City's zoning jurisdiction is two (2) miles beyond the City limits, making the residency requirements for Department Directors as twelve (12) miles beyond the City limits; and

WHEREAS, reference to the City's zoning jurisdiction is confusing and not referenced in any other residency requirements for City employees,

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the City of Grand Island Personnel Rules and Regulations §3.12 be amended as follow:

**Sec. 3.12 RESIDENCY**

All Department Directors are required to reside within ~~ten~~ **twelve (12)** miles of the zoning-jurisdiction ~~City limits~~. All Emergency Management employees are required to reside within a twenty-five **(25)** mile radius of the City ~~limits~~ of Grand Island. All Utilities Department employees are required to reside within the residency boundaries of the department. Residency for police and fire employees are established by contracts.

Employees that drive City vehicles home and senior management personnel need to check their department's Standard Operating Procedures in reference to residency requirements.

Employees subject to particular residency requirements will establish residency in compliance with that requirement within six **(6)** months after the calendar day of the start of employment in the City position subject to that residency requirement and will maintain such residency during the term of employment in that position. For purposes of these Personnel Rules and Regulations, residency will mean the employee's domicile.

Adopted by the City Council of the City of Grand Island, Nebraska, October 9, 2012.

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Jay Vavricek, Mayor

Attest:

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RaNae Edwards, City Clerk