



# City of Grand Island

Tuesday, April 05, 2011  
Special Mtg./Study Session

## Item I1

**#2011-78 - Consideration of Approving Appointment of Mary Lou Brown as City Administrator and Approving Offer of Employment**

Staff Contact: Mayor Vavricek

# Council Agenda Memo

**From:** Mayor Jay Vavricek

**Meeting:** April 5, 2011

**Subject:** Council Approval of the Appointment of Mary Lou Brown as City Administrator and Employment Agreement

**Item #'s:** I-1

**Presenter(s):** Mayor Jay Vavricek

## Background

Former City Administrator Jeff Pederson resigned his position as of December 3, 2010. Grand Island City Code §2-30 states the following: **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. Mary Lou Brown was named Interim City Administrator at the December 7, 2010 City Council meeting and has served most admirably during the past several months.

## Discussion

Recruitment efforts began in late December 2010 and was structured to address the special needs affecting the City of Grand island with the hope of leveraging private sector business experience and skills to affect greater effectiveness and efficiency in the City of Grand Island... balanced by suitable background of municipal experience operations to assure success in addressing special circumstances facing our community and help policy makers develop a long term strategy for the highest most effective service in the position for the people of Grand Island.

The Employment Agreement that I have tendered along with my recommendation for appointment states that Mary Lou Brown will be compensated at step one of the pay scale

which is \$112,072.48. She will be evaluated in October 2011 and each October thereafter for potential salary increases as is approved in the City Personnel Rules. The Employment Agreement is included in the packet for your review and ultimate approval.

The person I, as Mayor, choose to work with during my tenure of elected public service, in harmony with the City Council policy making direction, is one who's already on the job. She is a known commodity. She has both private sector and municipal government experience. She has already demonstrated her job performance during her interim role over the past three months and nearly two years of finance leadership. She is uniquely familiar with our city's municipal operation with a sense of confidence of being able to work with myself and knows each City Council member and a working knowledge of each city department director with a stated desire to serve in this capacity for long term success in our community.

"As Mayor, I also know Mary Lou cares for the City of Grand Island and its people and know her private sector business abilities, her educational background, and her familiarity with local municipal operations confidently assures me, this person is the only person today who can achieve long term success in the position. She was the strongest candidate of the pool of applicants the City received in its recruitment and emulates the highest personal standards of the people of Grand Island, and I ask for the City Council's approval to appoint Mary Lou Brown as City Administrator of the City of Grand Island".

### **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**

City Administration recommends that the Council approve Mary Lou Brown as City Administrator and the Employment Agreement.

### **Sample Motion**

Move to approve Mary Lou Brown as City Administrator and the Employment Agreement.

**EMPLOYMENT AGREEMENT**

**MARY LOU BROWN**

This agreement, made upon the approval of the Grand Island City Council, entered and effective this 11<sup>th</sup> day of April 2011, by and between the CITY OF GRAND ISLAND, Nebraska, a Municipal Corporation, hereinafter called the "City", as party of the first part, and Mary Lou Brown, hereinafter called "Employee", as party of the second part, both of whom understand and agree as follows:

**Witnesseth:**

WHEREAS, the City desires to employ the services of said employee as the Administrator of the City of Grand Island, as provided for in the Code of the City of Grand Island; and

WHEREAS, it is the desire of the City Council to provide certain benefits, establish conditions of employment, and to set working conditions of said Employee for the highest performance to the people of Grand Island; and

WHEREAS, it is the desire of the City Council to: (1) secure and retain the services of the Employee and to provide inducement for her to remain in such employment; (2) to make possible full work productivity by ensuring Employee's morale and peace of mind with respect to future security; (3) to act as a deterrent against malfeasance or dishonesty for personal gain on the part of Employee; (4) to provide a just means for terminating Employee's services at such time as she may be unable to fully discharge her duties or as events may otherwise occur; and (5) to provide a just means for a clearly defined professional voluntary employment separation agreement; and

WHEREAS, Employee desires to accept employment as Administrator of said City pursuant to the laws of the State of Nebraska and the Code of the City of Grand Island.

NOW, THEREFORE IN CONSIDERATION OF THE MUTUAL COVENANTS HEREIN CONTAINED, THE PARTIES HERETO AGREE AS FOLLOWS:

**Section 1 – Duties**

The City of Grand Island hereby agrees to employ said Employee as Administrator of the City to perform the principal functions and duties specified in the City Code for the City of Grand Island and the laws of the State of Nebraska, and to perform such other legally permissible and proper duties and functions as the Mayor and/or City Council shall from time to time assign.

**Section -2 Term and Conditions**

- A. Contract Duration. Commencing on the 11<sup>th</sup> day of April 2011 and expiring at the conclusion of the current term of Mayor Jay Vavricek.

- B. Employment Duration. The administrator shall hold office until the end of the appointing mayor's term of office, and until a successor is appointed and qualified, unless sooner removed, or the ordinance creating the office shall be repealed, except as otherwise provided by law. Nothing in this agreement shall prevent, limit, or otherwise interfere with the right of the City to terminate the services of the Employee at any time prior to the end of the term, subject only to the provisions set forth in Section 3, paragraph A(1) and A(2), of this Agreement.
- C. Expiration after resignation. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Employee to resign at any time from her position with the City, subject only to the provision set forth in Section 3, paragraph B, of this Agreement.
- D. Exclusive Employment. Employee agrees to remain in the exclusive employ of the City until termination or resignation as provided in Section 3 of this Agreement occurs. The Employee shall not use any confidential information obtained through her position as City Administrator for personal gain. Both parties acknowledge that exclusive employment shall mean that Employee shall not accept any outside employment from any sources whatsoever without first obtaining written approval from the Mayor. Outside employment shall not be construed to include occasional teaching, writing or consulting performed on the Employee's time off. It is further understood that any activity of this nature outside of the workplace cannot represent a conflict of interest or interfere with the Employee's job responsibilities or performance.
- E. Job Performance Evaluation. Employee's job performance shall be evaluated by the Mayor in October 2011 at which time a salary review will be conducted. Thereafter the Mayor, taking into consideration Council feedback, shall evaluate and review the performance of the Employee in October of each year.

### **Section 3 – Termination and Voluntary Resignation**

A(1). Termination for Just Cause. The Mayor, with the approval of the City Council, shall have the right at any time during the term of this Agreement to terminate the Employee for just cause. "Just cause" is defined as (a) a conviction of a felony or misdemeanor involving moral turpitude, (b) breach of this agreement, (c) commission of any dischargeable offense as defined in the Personnel Rules and Regulations for the City of Grand Island.

A(2). Termination for Reasons Other Than Just Cause and Consideration Given for the release of all Claims against the City. In the event the Mayor, with the approval of the City Council, during the term of this Agreement, terminates Employee for reasons other than just cause, the City agrees to pay the Employee in a single lump-sum payment an equal amount to (3) months of the Employee's salary, excluding the City's obligation for retirement, insurance, benefits or allowances for said (3) month period, within thirty (30) days of termination of Employee's employment. Upon payment of such lump-sum payment to the Employee, the Employee does hereby waive and release the City, and its officials, managers, employees, and agents from any and all claims of any nature whatsoever which may arise by

reason of such termination, including, but not limited to, an alleged breach of this contract (or any other express or implied contract), or federal law, state law, or local ordinance, or constitutional due process claim that Employee's termination by the City deprived Employee of a property interest and continued employment with the City and of a liberty interest in the Employee's good name and reputation.

B. Notice Period for Voluntary Resignation and Employee Compensation Settlement. In the event the Employee voluntarily resigns her position with the City before the expiration of the aforesaid term of employment, then Employee shall give the City sixty (60) days written notice in advance, unless the parties otherwise agree. Employee's final compensation will be determined and defined by the City of Grand Island personnel rules at the time Employee's official resignation is effective.

**Section 4 – Salary**

The City agrees to compensate employee for her services through the tenure of her employment rendered pursuant hereto an annual salary initially established at \$112,072.48 which is step 1 of the pay range for the City Administrator position, as established in the City's pay plan. In addition the City agrees to increase said salary or other benefits or both of Employee in such amounts and to such an extent as the Mayor and City Council may determine that is desirable to do so for all employees. The annual salary shall be established in the annual budget and any salary adjustment shall conform to the City's pay plan.

**Section 5 - Hours of Work**

It is recognized and understood by Employee the expected work week for City employees is forty (40) hours per week. It is further understood and recognized by Employee that she is the City Administrator and, as such, is expected to and shall devote whatever time is necessary and desirable to her employment activities in order to promote and carry out her job and the duties associated therewith.

**Section 6 - Vacation Leave, Medical Leave and Holiday Pay**

Employee shall be entitled to receive the same vacation leave, sick leave, and holiday benefits accorded to other employees of the City pursuant to the Personnel Rules and Regulations, including provisions governing the accrual and payments therefore on termination of employment, provided that the Employee shall earn a minimum of twenty (20) days of vacation leave per calendar year. The employee will not be restricted from the use of vacation leave during her introductory period as City Administrator. Upon termination Employee will be paid for all accrued vacation leave. Additionally, upon termination the value of all accrued medical leave shall be deposited in the Employee's VEBA account.

**Section 7 – Disability Health and Life Insurance**

Employee shall be entitled to receive the same insurance coverage for life, accident, sickness, disability income benefits, and major medical as is accorded to employees pursuant to the Personnel Rules and Regulations for the City of Grand Island.

**Section 8 – Retirement/Pension Contribution**

Employee shall be entitled to receive the same retirement benefits and pension contribution as are accorded to other employees of the City per the City of Grand Island personnel rules and Regulations.

**Section 9 – Other Terms and Conditions of Employment**

- A. Conditions of Employment. The City Council shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the City Code, or any other law.
  
- B. Personnel Rules and Regulations Applicability. The provisions of the Personnel Rules and Regulations of the City of Grand Island as they now exist or hereafter may be amended shall apply to the Employee as they would to all other employees of the City with the exception of any conflicting items specifically referenced in this agreement.

**Section 10 – General Provisions**

- A. The text herein shall constitute the entire agreement between the parties.
  
- B. This agreement shall be binding upon and inure to the benefit of the heirs at law and personal representative of the Employee.
  
- C. This agreement shall become effective commencing the date herein as approved by the City Council through the expiration of the below referenced Mayor’s current term of office, however, employment as the City Administrator shall continue until a successor is appointed and qualified as outlined by Grand Island City Code §2-35.
  
- D. In order to promote long term stability in the position, sustain the leadership and use of institutional knowledge of the Employee, maintain administrative and Council member interaction, and consistency in service to the people of Grand Island, the terms and provisions of this Agreement are deemed to be extendable with the mutual consent of the Employee and re-elected Mayor Jay Vavricek or the Mayoral successor, upon approval of the City Council.

CITY OF GRAND ISLAND, NEBRASKA  
A Municipal Corporation

By: \_\_\_\_\_  
Mayor Jay Vavricek

Attest:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Employee

Date: \_\_\_\_\_

Approved by the City Attorney:

\_\_\_\_\_



b

RESOLUTION 2011-78

WHEREAS, under Neb. Rev. Stat., §16-308, the office of City Administrator for the City of Grand Island, Nebraska, is an appointed position; and

WHEREAS, under Grand Island City Code, §2-30, the office of City Administrator for the City of Grand Island, Nebraska shall be appointed by the mayor and approved by the council; and

WHEREAS, under Grand Island City Code, §2-35, the office of City Administrator for the City of Grand Island, Nebraska may be administered by a negotiated contract; and

WHEREAS, the mayor has chosen on the basis of executive and administrative qualifications with special reference to actual experience, or knowledge of accepted practice in respect to the duties of the office, Mary Lou Brown, to hold the office of City Administrator for the City of Grand Island, Nebraska; and

WHEREAS, this position appointed by the Mayor and confirmed by the City Council shall hold the position to which they may be appointed until the end of the Mayor's term of office; and

WHEREAS, this position appointed by the Mayor may be removed at any time by the Mayor with approval of a majority of the City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that a negotiated contract for the position of City Administrator is to be offered to Mary Lou Brown and she is hereby duly appointed the City Administrator for the City of Grand Island, Nebraska, until the end of the Mayor's term of office.

Adopted by the City Council of the City of Grand Island, Nebraska, April 5, 2011.

\_\_\_\_\_  
Jay Vavricek, Mayor

Attest:

\_\_\_\_\_  
RaNae Edwards, City Clerk

Approved as to Form    ☐ \_\_\_\_\_  
April 1, 2011            ☐ City Attorney