

**KAY CO. GRAND JURY
SUBMISSION OF QUESTION**

I, Jessica Pepper, formally request the Kay Co. Grand Jury to consider the following question for review.

Did the City of Blackwell violate the Charter by granting Sally Norris and succeeding City Managers powers greater than those permitted under the City Charter? Did former mayor Louis Gose, Sally Norris, and other Blackwell City personnel conspire to set terms for Norris' Employment Agreement that contravened the Blackwell City Charter?

Sally Norris was hired as City Manager in May 1998. In her contract in section 2, it states that:

*"The City Manager shall perform those duties set forth in the Charter of the City of Blackwell including but not limited to the following: a) Informing and advising the City Commission concerning the general operation of the municipal government specifically including but not limited to **changes in procedures, policies**, personnel, department heads and **the maintenance, repair, replacement or acquisition of property or equipment**. b) Preparing and administering an annual budget, as budget director and monitoring expenses and receipts in relation to said budget." (Emphasis added) (See attached City Manager Employment Agreements)*

The Blackwell City Charter states:

The City Managers duties are, "The city manager shall have the following powers and duties: (1) to see that the laws and ordinances are enforced; (2) to appoint, discipline and remove all heads of departments and all subordinate officers and employees of the city except the municipal judge, and the city attorney, all appointments to be made upon merit and fitness alone; (3) to exercise control over all departments and divisions created herein or that hereafter may be created by the city council; (4) to see that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise are faithfully kept and performed and upon knowledge of any violation thereof to call the same to the attention of the city attorney who is hereby required to take such steps as are necessary to enforce the same;

(5) to attend all meetings of the city council with a right to take part in the discussions but having no vote; (6) to recommend to the city council for adoption such measures as he may deem necessary or expedient; (7) to act as budget officer and to keep the city council fully advised as to the financial conditions and needs of the city; and (8) to perform such other duties as may be prescribed by the Charter or be required by ordinance or resolution of the city council or in the absence of such Charter provision, ordinance or resolution, to perform such duties of a city manager under the council-manager form of government provided by the laws and constitution of the State of Oklahoma to the extent the same are not in conflict with the provisions of this Charter or the ordinance of the city.

Submitted this day November 28, 2008.

Requesting Party

J. Pepper

followed for contracts involving an expenditure of five thousand dollars (\$5,000.00), or more as immediately above provided.

Sec. 7. Rules of procedure at meetings of boards.

The City Council shall make its own rules of procedure and may make such rules as it may see fit to insure the attendance of all members at the regular meetings.

Sec. 8. Right of people to propose charter amendments reserved.

The people of the City of Blackwell hereby reserve to themselves the right to propose amendments to this Charter as provided by the Constitution and Laws of the State of Oklahoma.

Sec. 9. Recording of ordinances, resolutions in book.

All ordinances and resolutions upon their final passage shall be recorded in a book kept for that purpose and shall be authenticated by the signatures of the presiding officer and the City Clerk.

ARTICLE IV

Sec. 1. City manager -- Authority of city to appoint; compensation; special election.

The City Council shall appoint a City Manager, who shall be the administrative head of the municipal government under the direction and supervision of the City Council; and the City Manager shall hold office at the pleasure of the City Council. The City Manager shall be appointed without regard to political beliefs and need not be a resident of the City of Blackwell at the time of appointment. The City Council may designate some qualified person to execute the function of the office of City Manager during the absence or disability of the City Manager.

The salary of the City Manager shall be as from time to time determined by the City Council and a majority of the City Council shall be necessary for the passage of any ordinance fixing or changing such salary.

Sec. 2. Same -- Powers and duties.

The City Manager shall have the following powers and duties: (1) to see that the laws and ordinances are enforced; (2) to appoint, discipline and remove all heads of departments and all subordinate officers and employees of the City except the Municipal Judge, and the City Attorney, all appointments to be made upon merit and fitness alone; (3) to exercise control over all departments and divisions created herein or that hereafter may be created by the City Council; (4) to see that all terms and conditions imposed in

favor of the City or its inhabitants in any public utility franchise are faithfully kept and performed and upon knowledge of any violation thereof to call the same to the attention of the City Attorney who is hereby required to take such steps as are necessary to enforce the same; (5) to attend all meetings of the City Council with a right to take part in the discussions but having no vote; (6) to recommend to the City Council for adoption such measures as he may deem necessary or expedient; (7) to act as Budget Officer and to keep the City Council fully advised as to the financial conditions and needs of the City; and (8) to perform such other duties as may be prescribed by the Charter or be required by ordinance or resolution of the City Council or in the absence of such Charter provision, ordinance or resolution, to perform such duties of a City Manager under the council-manager form of government provided by the laws and Constitution of the State of Oklahoma to the extent the same are not in conflict with the provisions of this Charter or the ordinance of the City.

ARTICLE V

Sec. 1. Municipal court.

A Municipal Court is hereby established for the City of Blackwell and to preside over said Court there is hereby created one Municipal Judge; and all proceedings coming before the Municipal Court in said City shall be heard and determined by the Municipal Judge. Such Court shall have jurisdiction as follows: (1) to have original jurisdiction, to hear and determine all violations of the ordinances of said City and violations of this Charter; (2) jurisdiction in proceedings had for the collection of licenses, fees and all other revenues as provided by ordinance, except such actions as may fall within the exclusive jurisdiction of other courts, or such other actions for violation of City ordinances as may be made triable before other courts by the Constitution and Laws of the State.

An appeal may be had and taken from said Municipal Court in the same manner and in the same way and within the same time and to the same court as is provided or may hereinafter be provided by the Laws and the Constitution of the State of Oklahoma for appeals from police courts of cities of the first class existing under the Laws of Oklahoma; and the appeal bond, in case of appeal, to be conditioned the same as is or may be provided by the Laws of the State of Oklahoma providing for appeals from police courts of cities of the first class.

In all offenses charged before the Municipal Court the accused shall be entitled to release on an appearance bond until trial in such an amount as may be fixed by the Municipal Judge and all forfeitures of bonds, including appeal and appearance bonds, shall be collected by an appropriate action instituted by the City Attorney of said City. Such actions may be brought in any court having jurisdiction of such matters under the Laws of the State. All moneys collected in such proceedings shall be turned in to the City treasury.

EMPLOYMENT AGREEMENT

THIS AGREEMENT is made between the City of Blackwell, Oklahoma, a municipality, hereinafter referred to as "The City" and SARA J. NORRIS, hereinafter referred to as "Manager".

WITNESSETH:

For and in consideration of the mutual promises and agreements hereinafter set forth, the City and Manager agree as follows:

Section 1 - Employment

The City hereby employs, engages and hires Manager and Manager hereby enters into the employment of the City as the City Manager for said municipality subject to the general supervision of the municipality's government consistent with the terms hereof.

Section 2 - Duties

The City Manager shall perform those duties set forth in the Charter of the City of Blackwell including but not limited to the following:

a) Informing and advising the City Commission concerning the general operation of the municipal government specifically including but not limited to changes in procedures, policies, personnel, department heads and the maintenance, repair, replacement or acquisition of property or equipment.

b) Preparing and administering an annual budget, as budget director and monitoring expenses and receipts in relation to said budget.

Section 3 - Compensation

The City shall pay Manager and Manager shall accept from the City, in payment for Manager's services hereunder, a base salary of Three Thousand Dollars (\$3,000.00), per month during the term of this agreement. Further, the City shall reimburse Manager for all necessary expenses incurred by Manager while performing the duties of Manager's employment.

Section 4 - Best Efforts

Manager shall devote his whole time, energy and attention to the performance of his duties, subject at all times to the direction and control of the Board of Commissioners of the City of Blackwell, and he shall promptly obey and comply with all rules, regulations and orders that may from time to time be issued by said Board of Commissioners.

Section 5 - Term of Employment

The term of this agreement shall be commence May 15, 1998, and terminate on June 30, 1998. Provided, however, either party to this contract may terminate this agreement upon thirty (30) days notice to the non-terminating party. It is further agreed that this contract shall be renewed automatically for successive one year terms unless either party notifies the other in writing of termination as set forth above.

Section 6 - Fringe Benefits

The City shall extend to Manager the same fringe benefits extended to other City employees including vacation, sick and related leaves of absence, health insurance, life insurance and retirement benefits.

Provided, however, should Manager desire to become a member of and participate in the International City Managers Association Retirement Plan, the City will contribute a sum not to exceed 6% of Manager's base salary to said retirement plan in lieu of contributions to the Oklahoma Municipal Retirement Fund. If the Manager does not immediately elect to participate in the ICMARP upon execution of this Agreement, the Manager shall provide 30 days advance written notice to the Commissioners of any future election to so participate.

Section 7 - Dues, Subscriptions and Memberships

Dues for membership in professional organizations or local civic organizations or local civic organizations and subscriptions to national or state publications shall be submitted to the Board of Commissioners of the City for approval on an item by item basis. In addition, attendance at schools, short courses or seminars and expenditures therefore, shall be approved prior to incurring such expenses. All such expenses shall be properly documented with receipts and shall comply with the Policy and Procedures Manual.

Section 8 - Automobile

The City may provide to Manager an automobile and pay all expenses attributable thereto including all insurance, repairs, maintenance and fuel. Manager shall have free and unrestricted use

IN WITNESS WHEREOF, the parties have executed this agreement this 19th day of May, 1998.

THE CITY

City of Blackwell, Oklahoma

By *Louis Gose*
Louis Gose, Mayor

MANAGER

Sara J. Norris
Sara J. Norris

EMPLOYMENT CONTRACT

This Contract is entered into this 23rd day of June 2008, by and between the City of Blackwell, Oklahoma, a municipality (hereinafter call "City"), and Michael J. Jeffers (hereinafter called "Manager").

WITNESSETH:

WHEREAS, the parties hereto desire to enter into an employment contract which will provide incentives for the Manager to perform in his employment, to authorize the Manager to exercise full productivity and professional judgment on behalf of the City with all appropriate security, provide a just and fair means for termination of the Manager's services at the will of the City; and

WHEREAS, the Manager desires to be engaged in the stated employment with the City;

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

SECTION ONE, TERM

This Agreement shall be effective for six (6) months beginning June 23, 2008.

- A. Nothing in the agreement shall prevent, limit, or interfere with the right of the city to terminate the services of the Manager prior to the expiration of the contract date. Any such termination shall be subject to the provisions set forth in section three of this contract.
- B. Nothing in this agreement shall prevent, limit, or interfere with the right of the Manager to resign at any time and such resignation shall be subject to the provisions set forth in section three of this contract.

SECTION TWO, DUTIES OF EMPLOYMENT

Duties of the Manager are described in the Charter and the Ordinances of the City of Blackwell, Oklahoma, and are affirmed for the purposes of this contract. The Manager shall be delegated all necessary and reasonable authority to fulfill the responsibilities that are required by the charter, ordinances, and other duties legally prescribed by majority vote of the City Council, including duties set forth in an approved job description.

- A. The Manager shall be cognizant of the importance of public relations and community visibility, and shall strive to accomplish presence in these areas.

CONSENT AGENDA ITEM "D"

- B. The Manager shall verbally notify the Mayor or the President of the Council anytime the Manager utilizes paid or unpaid leave for a period of longer than three (3) work days.
- C. Although forty (40) hour work weeks are a standard performance expectation, normal working hours may occur outside typical eight (8) hour day cycles. It is anticipated that the Manager may work additional hours not with the typical 8:00 A.M. to 5:00 P.M. framework which is a condition of his employment and taken into consideration in the compensation package herein.
- D. Anytime the Manager is on leave, he shall maintain communications with the Mayor and appropriate personnel to insure that daily operations of the City are maintained.
- E. The Manager may serve on state or national professional boards or committees, which appointments are recognized as part of his official duties for the City.
- F. Manager agrees to abide by all the laws of the United States and State of Oklahoma, the policies, rules and regulations of the City of Blackwell and the resolution, policies and rules and regulations of the Authorities of the City.

SECTION THREE, TERMINATION, SEVERANCE AND RENEWAL

The City reserves the right to terminate the services of the Manager at any time, with or without cause. The performance of duties of the office of Manager, as outlined herein, constitutes merely an employment at will. Therefore, a severance agreement is appropriate in the mutual interest of the parties hereto.

- A. In the event the City desires to terminate this contract, and the employment of the Manager, the City shall notify the Manager in writing at least thirty (30) days prior to the effective termination date. At the discretion of the City, the Manager shall continue to perform his duties during the period of notice.
- B. In the event the Manager desires to terminate his employment with the City, he shall give written notice to the City at least thirty (30) days prior to the effective termination date, unless the parties agree otherwise. The Manager may continue to perform his duties during the period of notice, at the discretion of the City. The City shall not be obligated for severance payments to the Manager if the Manager initiates the termination.

- C. In the event the City desires to terminate the Manager's employment without cause, during the term of this contract, the City shall pay to the Manager a severance payment in the amount equal to one (1) month salary benefits, payable in one (1) equal monthly payments, including payment of all retirement benefits, exclusive of sick leave, from the effective date of the termination.
- D. In the event the City desires to terminate the Manager's employment for cause, during the term of this contract, no severance payments will be due. However, any accrued or vested benefits will be paid from the effective date of the termination. Termination for cause may be made upon (a) conduct which results in conviction of a felony or crime involving moral turpitude, (b) malfeasance, (c) misfeasance or (d) nonfeasance.
- E. This agreement shall be automatically renewed for a (6) month term from six months to six months unless the City notifies the Manager as provided in Section Three A, or the Manager notifies the City as provided in Section Three B.
- F. In the event it becomes necessary for the City to make across-the-board reductions in salary or benefits for City employees, and the City reduces the salary or benefits of the Manager in a percentage greater than the across-the-board reductions for other City employees, the manager shall have the option to be deemed constructively terminated at the date of such reduction.
- G. Any severance and retirement payments required herein shall be paid to the Manager, from final date of employment, as follows: (1) severance payments in one (1) equal monthly payment, (2) retirement benefits paid within thirty (30) days.

SECTION FOUR, SALARY AND BENEFITS

- A. Salary review shall be encompassed in a performance evaluation of the Manager pursuant to City ordinance, in conjunction with municipal budget preparation and at a designated anniversary date.
- B. Salary for services as manager shall begin at \$90,000.00 annually. The salary may be adjusted by majority vote of the City Council.
- C. The Manager shall receive three (3) weeks paid vacation. In case of a significant health event, the Manager shall be entitled to benefits granted by the Family Medical Leave Act.

- D. As a condition of maintaining his professional credential the Manger is committed to complete annual continuing education requirements. The Manager will be allowed to join and subscribe to local, state, and national organizations at the expense of the City.
- E. The City shall also provide funds for the Manager's attendance at conferences, institutes and seminars of these organizations sufficient to enable him to continue his credential status, provided any attendance outside of Oklahoma will require specific council approval.
- F. Comprehensive medical insurance and Retirement benefits will not be provided for the Manager, his spouse and dependents. The same amount or percentages provided to all City Employees will be provided and will be placed monthly in a Roth IRA as provided by the manager.
- G. Manager acknowledges that duties as City Manager include General Manager of the Blackwell Municipal Authority and that manager will not receive additional compensation for that role.

SECTION FIVE, GENERAL PROVISIONS

The text herein shall constitute the entire agreement between the parties and may not be modified except in writing and executed by the parties hereto.

- A. The City may evaluate the performance of the Manager at any time; however an annual performance evaluation shall be conducted by the Council on or about the first of March of each year. The anniversary date of this agreement shall be the effective date designated in Section One unless otherwise agreed upon by the City and Manager in writing.
- B. If any provision or portion thereof as contained in this contract shall be adjudged in violation of any law, then only that provision or portion thereof shall be severed here from and shall have no force or effect whatsoever.
- C. This agreement is subject to the approval of the Blackwell City Council.

Michael J. Jeffers, Manager

CONSENT AGENDA ITEM "D"

Mark Cordell, Mayor

CONSENT AGENDA ITEM "D"