City of Grass Valley
City Council
Agenda Action Sheet

Council Meeting Date: September 8, 2013  Date Prepared: October 2, 2013

Prepared by: Michael G. Colantuono, City Attorney

Title: Urgency Ordinance No. 746-U, temporarily establishing the position of City Manager and Ordinance No. 747 permanently establishing the position of City Manager.

Recommended Motion: That Council: 1) Waive full reading and adopt Urgency Ordinance No. 746-U; 2) waive full reading and introduce Ordinance No. 747.

Agenda: Administrative

Background Information: Our office prepared the attached ordinances as directed by the Council. The immediate goal is to enable the City to hire an interim City Manager. By establishing a City Manager position, we expand the potential applicant pool for experienced, qualified, and interested persons to serve as an interim administrative head for the City. Long-term, the proposed change will provide the City with the same increased opportunities for City management, and promote efficient and effective oversight for City government.

Both ordinances will create a new leadership position titled “City Manager” and will eliminate the existing City Administrator position. The City Charter permits the Council to change the form of government for the City by ordinance.

The urgency ordinance may be introduced and adopted at a single meeting, and becomes effective immediately if adopted by a 4/5 vote. The reason for proceeding by this method is to allow the City to relieve the Acting City Administrator as soon as possible and to move forward with a prompt recruitment.

The standard ordinance is identical to the urgency ordinance, but does not contain the specific findings of urgency. To make these amendments permanent without needing to defend urgency findings indefinitely, we recommend that Council simultaneously consider a standard ordinance, adopted after first and second readings, which will take effect 30 days after adoption. Upon becoming effective, the ordinance will repeal the urgency ordinance. This is our standard procedure with respect to urgency ordinances.

Council Goal/Objectives: Effective and efficient City management.

Funds Available: Preparation of these ordinances used budgeted resources.

Reviewed by:

Acting City Administrator  Finance

Agenda Item # 9-1
ORDINANCE NO. 746-U

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GRASS VALLEY ADOPTING CHAPTER 2.05 OF THE GRASS VALLEY MUNICIPAL CODE ESTABLISHING THE POSITION OF CITY MANAGER

WHEREAS, the City Administrator has recently resigned from his position, and his duties have been performed by an Acting City Administrator on a temporary basis; and

WHEREAS, the Acting City Administrator is simultaneously performing the duties of Director of Public Works, and should not be expected to perform both roles any longer than absolutely necessary; and

WHEREAS, the City may need at least a month to recruit and hire a permanent replacement for the City Administrator; and

WHEREAS, the Grass Valley City Charter Article IV, section 1 empowers the City Council to establish a City Manager position and to amend the form of government for the City; and

WHEREAS, by establishing a City Manager position, the City expands the potential applicant pool and greatly increases the number of experienced, able, and interested persons to serve the City; and

WHEREAS, time is of the essence, and the City must do everything in its power to recruit an experienced and able administrative head for the long-term management of City business; and

WHEREAS, the immediate appointment of an experienced and able Interim City Manager is necessary to preserve public peace, health, and safety because the status quo places undue strain on staff who are otherwise responsible for the efficient and proper functions of their departments, which in turn provide necessary and vital services to protect the health and safety of the public; and

WHEREAS, an experienced and able administrative leader is crucial to maintaining City services and functions, and creation of a City Manager position will enable the City to quickly hire the most qualified and capable interim administrative head to meet the urgent need for leadership until a permanent appointment can be made.

NOW, THEREFORE, be it ordained by the council of the City of Grass Valley:
SECTION 1. RECITALS MADE FINDINGS.

The City Council of the City of Grass Valley hereby declares the above recitals to be true and correct.

SECTION 2. CODE AMENDMENT.

Title 2 "ADMINISTRATION AND PERSONNEL" of the Grass Valley Municipal Code is hereby amended to add a new Chapter 2.05 entitled "City Manager" to read as follows:

Chapter 2.05

CITY MANAGER

Sections:
2.05.010 Established.
2.05.020 Reference to Administrator.
2.05.030 Appointment of City Manager.
2.05.040 Powers and Duties.
2.05.050 Relations with City Council.
2.05.060 Department Cooperation.
2.05.070 Attendance at Commission Meetings.
2.05.080 Removal of City Manager.
2.05.090 Conflicts within Code.

2.05.010 Established.

The council - manager form of government is adopted for the City. There is established the position, duties and office of City Manager for the City.

A. The position of City Manager is hereby created to be filled by a non-civil service employee exempt from Article IX of the City Charter and not by a merit or classified service employee.

B. The City Manager shall be the chief executive and administrative officer of the City.

C. The City Manager shall be appointed by the City Council wholly on the basis of his or her administrative and executive ability and qualifications.

D. The City Manager shall serve at the pleasure of the City Council.
2.05.020 Reference to Administrator.

Whenever the word "Administrator" or "City Administrator" appears in existing ordinances, it shall be deemed to mean and refer to the City Manager, and all ordinances not expressly repealed by this chapter and not inconsistent with the provisions of this chapter, referring to or respecting the rights, duties, powers and obligations of the Administrator, are continued in full force and effect.

2.05.030 Appointment of City Manager.

A. The City Council shall appoint a City Manager for an indefinite term.
B. The salary of the City Manager shall be established by the City Council at a level commensurate with the responsibilities of the position.
C. The City Manager shall serve under the terms of an employment agreement, which shall establish salary, provide for benefits, termination compensation, and terms and conditions of employment.
D. At time of appointment, the City Manager need not be a resident of the City or State but shall be selected solely for his or her executive and Administrative qualifications.
E. No person elected as a member of the City Council of the City of Grass Valley shall, subsequent to such election, be eligible for appointment as City Manager until (1) one year has elapsed after such City Council member shall have ceased to be a member of the City Council.

2.05.040 Powers and Duties

The City Manager shall be chief executive and administrative officer of the City under the direction and control of the City Council. Except as otherwise provided in this chapter, the City Manager shall be responsible for the efficient administration of all the affairs of the City that are under his or her control, by law or by direction of the City Council. In addition to the general powers as administrative head, the City Manager shall have the following specific duties, responsibilities and powers:

A. To enforce all laws and ordinances of the City and see that all franchises, contracts, permits and privileges granted by the City Council are faithfully observed.
B. To control order and give direction to all heads of departments, other than the City Attorney, and to subordinates officers and employees of the City under his or her jurisdiction.
C. To appoint, promote, demote, discipline, transfer, or remove, any and all officers and employees of the City, excepting elective officers and the City
Attorney. The City Manager may also grant severance packages in an amount authorized by the City Council, to any and all officers and employees of the City, excepting elective officers and the City Attorney.  

1. The City Manager shall consult with the City Council prior to appointing, dismissing or taking disciplinary action against the Chief of Police.

D. To establish an organizational structure of offices, departments, positions and units within the City as may be indicated in the interest of efficient, effective, and economical conduct of the City's business.

E. To keep the City Council fully informed and advised of the financial, administrative, physical, and operational condition of the City and of its future needs in each area, and make such recommendations and present such plans and programs concerning the affairs of the City as he or she shall deem to be necessary or desirable.

F. To recommend to the City Council the adoption of such ordinances and resolutions as deemed necessary or appropriate.

G. To attend all meetings of the City Council unless excused by the City Council or appoint a designated representative.

H. To prepare and submit the proposed annual budget to the City Council for its approval and administer the city budget and capital improvement plan once approved.

I. To be responsible for purchasing in accordance with municipal, state and federal codes for all departments of the City.

J. To negotiate contracts, agreements, purchases and other actions subject to council approval and may sign, in lieu of the mayor, on behalf of the City.

K. To administer all contracts of which the City is a party, and assure that the City's interests are safeguarded, terms are enforced and all elements of any contract are faithfully administered, delegating such oversight and authority as he or she deems appropriate.

L. To investigate, when necessary, the affairs of the City and any department or division thereof and any contract obligation of the City; further, it shall be the duty of the City Manager to investigate all complaints in relation to matters concerning the administration of the City government and in regard to the service maintained by the public utilities in the City.

M. To exercise general supervision over all public buildings, public parks, public facilities, and all other real and personal property, assets, utilities, and other public properties which are under the control and jurisdiction of the City.

N. Cooperate with all community organizations whose purpose is to serve the welfare and best interests of the City and its people, business and organizations, and to provide such persons, businesses and organizations, within lawful limits, assistance through the City government.

O. Prepare the City Council agenda to ensure all matters concerning the attention of the City Council are included in a timely manner.
P. To perform such other duties and exercise such other powers as may be delegated to the City Manager from time to time by ordinance or resolution or other official action of the City Council.
Q. To perform the duties of labor relations director, risk manager, oversight of redevelopment successor agency, and such other duties as may be appointed or assumed from time to time.
R. To evaluate, at least annually, the performance of all department heads, the city clerk, and such other employees who report to the city manager.
S. To represent the city in its public, media and intergovernmental relations.
T. To assure that employees and volunteers are adequately trained.
U. To file and prosecute actions on behalf of the city in the small claims courts. With the written consent of the City Attorney, the City Manager is authorized to reduce the claim of the city by an amount not in excess of the jurisdictional limits of the small claims court as established by Code of Civil Procedure Section 116.2 then in effect, in order to bring the claim within the jurisdictional maximum amount of a small claims court.
V. To issue administrative directives, general rules and regulations as he/she may deem necessary for the general conduct of the city and its departments.

2.05.050 Relations with City Council.

The City Council and its members shall deal with the administrative services of the City only through the City Manager and shall not interfere with the execution of the powers and duties of the City Manager, except for purposes of inquiry. Neither the City Council nor any member thereof shall give orders to any subordinates of the City Manager, except that this limitation and prohibition does not apply to the City Council's relations with the City Attorney.

2.05.060 Department Cooperation.

It shall be the duty of all subordinate officers and employees and the City Attorney to assist the City Manager in administering the affairs of the City, efficiently, economically, and harmoniously.

2.05.060 Attendance at Commission Meetings

A. The City Manager may attend any and all meetings of the Planning Commission, and any other commission, board or committee created by the City Council, upon his or her own volition or on direction of the City Council. At such meetings which the City Manager attends, he or she shall be heard by such commission, board or commission as to all matters upon which he or she wishes to address the members.
B. The City Manager shall cooperate to the fullest extent with the members of commissions, boards or committees appointed by the City Council.

2.05.070 Removal of City Manager

The City Manager may be removed from his or her position in accordance with this section.

A. During a period of 90 days immediately following any change in the composition of the City Council, by election or appointment, the City Council shall take no action whether immediate or prospective, to remove the City Manager from office. The purpose of this provision is to allow any newly elected or appointed member to the City Council to observe the actions and ability of the City Manager in the performance of the office of City Manager.

B. The City Manager shall at all times serve at the pleasure of the City Council and, subject to the provisions of this section, may be removed from office at any time, other than as described in paragraph (A) by three affirmative votes of City Council members, with or without cause.

C. The removal of the City Manager shall be effected only by the City Council and shall be done in accordance with all applicable laws and ordinances and in compliance with the City Manager’s employment agreement, provided no such agreement may control over the City Charter or this Code.

2.05.080 Conflicts within Code.

To the extent that any provision of this chapter conflicts with any other provision of the Grass Valley Municipal Code, the provisions of this chapter shall apply.

SECTION 3. CHAPTER 2.04 REPEALED.

Title 2 “ADMINISTRATION AND PERSONNEL” of the Grass Valley Municipal Code is hereby amended to repeal Chapter 2.04 entitled “City Administrator.”

SECTION 4. SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person or
circumstance is for any reason held to be invalid or unconstitutional by the
decision of any court of competent jurisdiction, such decision shall not affect the
validity of the remaining portions of this Ordinance or its application to other
persons and circumstances. The City Council of the City of Grass Valley hereby
declares that it would have adopted this Ordinance and each section, subsection,
sentence, clause, phrase or portion thereof irrespective of the fact that any one
or more sections, subsections, sentences, clauses, phrases, or portions be
declared invalid or unconstitutional and, to that end, the provisions hereof are
hereby declared to be severable.

SECTION 5. DECLARATION OF URGENCY. This Ordinance is hereby declared
to be an urgency measure necessary for the immediate protection of the public
health, safety and welfare, all as specific herein.

SECTION 6. EFFECTIVE DATE. This Chapter shall become effective
immediately upon passage and adoption if passed and adopted by at least four-
fifths vote of the City Council pursuant to Article VII, section 1 of the Grass Valley
City Charter.

SECTION 7. PUBLICATION. The City Clerk shall certify to the passage and
adoption of this Ordinance and shall cause the same to be published once in a
newspaper of general circulation in the City.

INTRODUCTION, FINAL PASSAGE AND ADOPTION by the City
Council of the City of Grass Valley occurred at a meeting thereof held on the 8th
day of October 2013, by the following vote:

AYES: 

NOES: 

ABSENT: 

ABSTAINING:

______________________________
Dan Miller, Mayor

APPROVED AS TO FORM: ATTEST:

______________________________
Michael G. Colantuono, City Attorney  Kristi K. Bashor, City Clerk
ORDINANCE NO. 747

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GRASS VALLEY ADOPTING CHAPTER 2.05 OF THE GRASS VALLEY MUNICIPAL CODE ESTABLISHING THE POSITION OF CITY MANAGER

WHEREAS, the Grass Valley City Charter Article IV, section 1 empowers the City Council to establish a City Manager position and to amend the form of government for the City; and

WHEREAS, allowing the Council to appoint a City Manager would allow the City to meet changing circumstances and needs over time, and would best serve the purposes of efficient and effective City government; and

WHEREAS, creating a new position for City leadership would expand the potential recruitment opportunities for the City, and would attract a greater number of experienced and talented individuals for the position.

NOW, THEREFORE, be it ordained by the Council of the City of Grass Valley:

SECTION 1. URGENCY ORDINANCE REPEALED.

The Urgency ordinance adopted on October 8, 2013 is repealed as of the effective date of this ordinance as described in SECTION 4 below.

SECTION 2. CODE AMENDMENT.

Title 2 "ADMINISTRATION AND PERSONNEL" of the Grass Valley Municipal Code is hereby amended to add a new Chapter 2.05 entitled "City Manager" to read as follows:

Chapter 2.05

CITY MANAGER

Sections:
2.05.010 Established.
2.05.020 Reference to Administrator.
2.05.030 Appointment of City Manager.
2.05.040 Powers and Duties.
2.05.050 Relations with City Council.
2.05.060 Department Cooperation.
2.05.070 Attendance at Commission Meetings.
2.05.080  Removal of City Manager.
2.05.090  Conflicts within Code.

2.05.010  Established.

The council-manager form of government is adopted for the City. There is established the position, duties and office of City Manager for the City.

A. The position of City Manager is hereby created to be filled by a non-civil service employee exempt from Article IX of the City Charter and not by a merit or classified service employee.
B. The City Manager shall be the chief executive and administrative officer of the City.
C. The City Manager shall be appointed by the City Council wholly on the basis of his or her administrative and executive ability and qualifications.
D. The City Manager shall serve at the pleasure of the City Council.

2.05.020  Reference to Administrator.

Whenever the word "Administrator" or "City Administrator" appears in existing ordinances, it shall be deemed to mean and refer to the City Manager, and all ordinances not expressly repealed by this chapter and not inconsistent with the provisions of this chapter, referring to or respecting the rights, duties, powers and obligations of the Administrator, are continued in full force and effect.

2.05.030  Appointment of City Manager.

A. The City Council shall appoint a City Manager for an indefinite term.
B. The salary of the City Manager shall be established by the City Council at a level commensurate with the responsibilities of the position.
C. The City Manager shall serve under the terms of an employment agreement, which shall establish salary, provide for benefits, termination compensation, and terms and conditions of employment.
D. At time of appointment, the City Manager need not be a resident of the City or State but shall be selected solely for his or her executive and administrative qualifications.
E. No person elected as a member of the City Council of the City of Grass Valley shall, subsequent to such election, be eligible for appointment as City Manager until (1) one year has elapsed after such City Council member shall have ceased to be a member of the City Council.

2.05.040  Powers and Duties
The City Manager shall be chief executive and administrative officer of the City under the direction and control of the City Council. Except as otherwise provided in this chapter, the City Manager shall be responsible for the efficient administration of all the affairs of the City that are under his or her control, by law or by direction of the City Council. In addition to the general powers as administrative head, the City Manager shall have the following specific duties, responsibilities and powers:

A. To enforce all laws and ordinances of the City and see that all franchises, contracts, permits and privileges granted by the City Council are faithfully observed.

B. To control order and give direction to all heads of departments, other than the City Attorney, and to subordinates officers and employees of the City under his or her jurisdiction.

C. To appoint, promote, demote, discipline, transfer, or remove, any and all officers and employees of the City, excepting elective officers and the City Attorney. The City Manager may also grant severance packages in an amount authorized by the City Council, to any and all officers and employees of the City, excepting elective officers and the City Attorney.
   1. The City Manager shall consult with the City Council prior to appointing, dismissing or taking disciplinary action against the Chief of Police.

D. To establish an organizational structure of offices, departments, positions and units within the City as may be indicated in the interest of efficient, effective, and economical conduct of the City's business.

E. To keep the City Council fully informed and advised of the financial, administrative, physical, and operational condition of the City and of its future needs in each area, and make such recommendations and present such plans and programs concerning the affairs of the City as he or she shall deem to be necessary or desirable.

F. To recommend to the City Council the adoption of such ordinances and resolutions as deemed necessary or appropriate.

G. To attend all meetings of the City Council unless excused by the City Council or appoint a designated representative.

H. To prepare and submit the proposed annual budget to the City Council for its approval and administer the city budget and capital improvement plan once approved.

I. To be responsible for purchasing in accordance with municipal, state and federal codes for all departments of the City.

J. To negotiate contracts, agreements, purchases and other actions subject to council approval and may sign, in lieu of the mayor, on behalf of the City.

K. To administer all contracts of which the City is a party, and assure that the City's interests are safeguarded, terms are enforced and all elements of
any contract are faithfully administered, delegating such oversight and authority as he or she deems appropriate.

L. To investigate, when necessary, the affairs of the City and any department or division thereof and any contract obligation of the City; further, it shall be the duty of the City Manager to investigate all complaints in relation to matters concerning the administration of the City government and in regard to the service maintained by the public utilities in the City.

M. To exercise general supervision over all public buildings, public parks, public facilities, and all other real and personal property, assets, utilities, and other public properties which are under the control and jurisdiction of the City.

N. Cooperate with all community organizations whose purpose is to serve the welfare and best interests of the City and its people, business and organizations, and to provide such persons, businesses and organizations, within lawful limits, assistance through the City government.

O. Prepare the City Council agenda to ensure all matters concerning the attention of the City Council are included in a timely manner.

P. To perform such other duties and exercise such other powers as may be delegated to the City Manager from time to time by ordinance or resolution or other official action of the City Council.

Q. To perform the duties of labor relations director, risk manager, oversight of redevelopment successor, and such other duties as may be appointed or assumed from time to time.

R. To evaluate, at least annually, the performance of all department heads, the city clerk, and such other employees who report to the city manager.

S. To represent the city in its public, media and intergovernmental relations.

T. To assure that employees and volunteers are adequately trained

U. To file and prosecute actions on behalf of the city in the small claims courts. With the written consent of the City Attorney, the City Manager is authorized to reduce the claim of the city by an amount not in excess of the jurisdictional limits of the small claims court as established by Code of Civil Procedure Section 116.2 then in effect, in order to bring the claim within the jurisdictional maximum amount of a small claims court.

V. To issue administrative directives, general rules and regulations as he/she may deem necessary for the general conduct of the city and its departments.

2.05.050   Relations with City Council.

The City Council and its members shall deal with the administrative services of the City only through the City Manager and shall not interfere with the execution of the powers and duties of the City Manager, except for purposes of inquiry. Neither the City Council nor any member thereof shall give orders to any subordinates of the City Manager, except that this limitation and prohibition does not apply to the City Council's relations with the City Attorney.
2.05.060 Department Cooperation.

It shall be the duty of all subordinate officers and employees and the City Attorney to assist the City Manager in administering the affairs of the City, efficiently, economically, and harmoniously.

2.05.070 Attendance at Commission Meetings

A. The City Manager may attend any and all meetings of the Planning Commission, and any other commission, board or committee created by the City Council, upon his or her own volition or on direction of the City Council. At such meetings which the City Manager attends, he or she shall be heard by such commission, board or commission as to all matters upon which he or she wishes to address the members.

B. The City Manager shall cooperate to the fullest extent with the members of commissions, boards or committees appointed by the City Council

2.05.080 Removal of City Manager

The City Manager may be removed from his or her position in accordance with this section.

A. During a period of 90 days immediately following any change in the composition of the City Council, by election or appointment, the City Council shall take no action whether immediate or prospective, to remove the City Manager from office. The purpose of this provision is to allow any newly elected or appointed member to the City Council to observe the actions and ability of the City Manager in the performance of the office of City Manager.

B. The City Manager shall at all times serve at the pleasure of the City Council and, subject to the provisions of this section, may be removed from office at any time, other than as described in paragraph (A) by three affirmative votes of City Councilmembers, with or without cause.

C. The removal of the City Manager shall be effected only by the City Council and shall be done in accordance with all applicable laws and ordinances and in compliance with the City Manager's employment agreement.
provided no such agreement may control over the City Charter or this Code.

2.05.090 Conflicts within Code.

To the extent that any provision of this chapter conflicts with any other provision of the Grass Valley Municipal Code, the provisions of this chapter shall apply.

SECTION 3. CHAPTER 2.04 REPEALED.

Title 2 “ADMINISTRATION AND PERSONNEL” of the Grass Valley Municipal Code is hereby amended to repeal Chapter 2.04 entitled “City Administrator.”

section 4. SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to other persons and circumstances. The City Council of the City of Grass Valley hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

SECTION 5. EFFECTIVE DATE. This Ordinance shall be in full force and effect thirty (30) days after adoption as provided by Article VII, § 2 of the City Charter.

SECTION 6. PUBLICATION. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published once in a newspaper of general circulation in the City.

INTRODUCED and first read at a regular meeting of the City Council on the 8th day of October, 2013

FINAL PASSAGE AND ADOPTION by the City Council of the City of Grass Valley occurred at a meeting thereof held on the ____ day of _________ 2013, by the following vote:

AYES:

NOES:

9-14
ABSENT:

ABSTAINING:

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Dan Miller, Mayor

APPROVED AS TO FORM:

Michael G. Colantuono, City Attorney

ATTEST:

Kristi K. Bashor, City Clerk

9.15