

PROPOSED REPEAL OF CHAPTER 2.20 AND ENACTMENT OF NEW ORDINANCE

CITY OF PACIFIC
WASHINGTON

ORDINANCE NO. 12-1826

AN ORDINANCE REPEALING ORDINANCE 1213 § 1, 1993 and ORDINANCE 366 § 1, 1963, AS CODIFIED AT SECTION 2.20.010 OF THE PACIFIC MUNICIPAL CODE AND ESTABLISHING THE PROCEDURE FOR EMPLOYMENT OF A CITY ATTORNEY

WHEREAS, the City adopted Ordinance 1213 § 1 and Ordinance 366 § 1, authorizing the Mayor to appoint a city attorney, a city prosecutor and legal counsel for indigent defense; and

WHEREAS, the City Council recognizes the need to enter into professional services contracts to provide the City with services for the city attorney, the city prosecutor and legal counsel for indigent defense; and

WHEREAS, the City Council finds that it would be in the best interest of the City to review and enter into professional services contracts for the above-mentioned services rather than giving the power of appointment for these positions to any one individual;

NOW THEREFORE, THE CITY COUNCIL OF PACIFIC, WASHINGTON DOES ORDAIN AS FOLLOWS:

Section 1. Repeal of Ordinance 1213 § 1 and Ordinance 366 § 1

Ordinance 1213 § 1, 1993 and Ordinance 366 § 1 1963, as codified at section 2.20.012 of the Pacific Municipal Code and titled “City Attorney- Appointment – Duties and Compensation,” be and hereby is repealed.

Section 2. Professional Services Contracts

The function of the city attorney, city prosecutor and legal counsel for indigent defense shall be provided for by a professional services contract, with each one respectively, and entered into by the City Council. The compensation for and terms and conditions of such legal professional services shall be established within said professional services contracts and approved by the City Council. Furthermore, only the City Council can revoke the professional services contracts for these legal services.

Section 3. Severability

If any section, sentence, clause or phrase of this ordinance should be held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 4. Effective date

This Ordinance shall be published in the official newspaper of the City and shall take effect and be in full force five days after the date of publication.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 9th DAY OF JULY, 2012.

CITY OF PACIFIC:

I hereby veto this said Ordinance, contingent on Attachment "A".

Veto Override by Council on 7/23/12 –
Ordinance Adopted 7/9/12

Cy Sun, Mayor

ATTEST/AUTHENTICATE:

Veto Override by Council on 7/23/12 – Ordinance Adopted 7/9/12

Jane Montgomery, City Clerk

APPROVED AS TO FORM:

Veto Override by Council on 7/23/12 – Ordinance Adopted 7/9/12

Kenyon E. Luce, City Attorney

8. ORDINANCES/RESOLUTIONS

A. Ordinance No. 12-12-1830 – Providing For The Appointment And Hiring Of Officers And Employees Of The City Of Pacific.

Councilmember McMahan stated that the City of Tenino did this same Ordinance. He asks Ken Luce about the authority by Council to require authority into firing. Ken Luce states there are about 11 cities that have adopted this Ordinance and until it is challenged into the courts they are legal. Councilmember Jones stated that MRSC stance is that it is not within Council bounds to confirm firings of an appointed officer and employee. Councilmember McMahan move that Council adopt Ordinance 1830; Councilmember Hulse second; Councilmember McMahan moved that Council amend said Ordinance in two ways: section 1; before all appointments insert except as provided in Pacific Municipal Code 2.64 then the sentence resumes all appointments and strike the words (and firing); Councilmember Putnam second; All ayes.

Council Comment: Councilmember Putnam states the code as written is broken and to clarify if they are Civil Service then the exemption applies; this only to hiring of non Civil Service employees.

Public Comment: None.

	Aye	Nay
Councilmember Walker	X	
Councilmember Guier	X	
Councilmember McMahan	X	
Councilmember Putnam	X	
Councilmember Jones	X	
Councilmember Hulse	X	
Councilmember Steiger	X	

THE MOTION CARRIED 7 to 0.

B. Ordinance No. 12-1826 – An Ordinance Repealing Ordinance 1213 1, 1993 and Ordinance 366 1, 1963, As Codified At Section 2.20.010 Of The Pacific Municipal Code And Establishing The Procedure For Employment Of A City Attorney

Councilmember Jones moved to approve Ordinance No. 12-1826; Councilmember Hulse second;

Council Comment: Councilmember Jones states that the position of attorneys for the City need to be exempt from termination. The Mayor has two appointments to make; Police Chief and City Clerk. Councilmember Putnam asks Ken Luce if Council is on firm legal ground with this Ordinance. Ken Luce replied yes.

Public Comment: Paula Wiech asks if this applies to the hearing examiner as well. Ken Luce replied that it does not.

Aye Nay

B. Application For NPS RTCA Assistance – Kate Hull, 102 Alder Lane S – Kate stated the Park Board would like to send In this for this grant and it is at no additional cost to the City. Councilmember Hulsey move to approve the application for NPS RTCA Assistance; Councilmember Jones second;

	Aye	Nay
Councilmember Walker	X	
Councilmember Guier	X	
Councilmember McMahan	X	
Councilmember Putnam	X	
Councilmember Jones	X	
Councilmember Hulsey	X	
Councilmember Steiger	X	

THE MOTION CARRIED 7 to 0.

C. Reservoir Leak – The City of Pacific’s concrete water reservoir has a weeping floor joint that needs to be repaired. Research was done to find options for repair. The anticipated repair cost is \$3,000. The Water Operation & Maintenance fund 2012 budget allocated \$10,000 for repairs and maintenance. As of this meeting \$9,978.33 has been expended. The balance of funds allocated for the year is \$21.67. Staff recommends that the repair be authorized and note be made by staff that this needs to be included in the Budget Amendment to appropriate an additional \$10,000 for this line item. Councilmember Jones move to approve; Councilmember Steiger second; Councilmember Jones states that the Public Works Committee has reviewed the options and recommend the City repair the leakage at this time. All the votes were ayes.

D. Veto Of The Mayor, Ordinances – Councilmember Jones briefs the Council that on July 16th Council received vetoes on Ordinances No. 1826, 1827 and 1830 by the Mayor. Councilmember Jones motioned to override the Mayor’s veto of Ordinance 1826; Councilmember Hulsey second; Councilmember Jones reads the Mayor’s points on why he vetoed the Ordinance. All the votes were ayes.

Gary Nisthke – Believed the Mayor had previously agreed to the three Ordinances.

Tim Parker – Stated this was a tactic to take power away from the Mayor.

Russell Tyree – States that it sounds reasonable and is in favor of the Ordinances.

Councilmember Jones made a motion to override the Mayor’s veto on Ordinance 1827; Councilmember Guier second; All ayes.

Councilmember Jones motion for Council to override the Mayor’s veto on Ordinance 1830; Councilmember Walker second; All ayes.

E. Contract For Legal Services – A contract between the City of Pacific and Luce Lineberry & Kenney, P.S. is presented. Councilmember Jones states he has prepared a Resolution and reads the summary. Councilmember Hulsey moved to approve Resolution No. 12-1182; Councilmember Jones second; Councilmember Putnam moved to amend the Resolution to clarify that the contract is between the City of Pacific and Luce Lineberry and Kenney, P.S. and the contract in section two to end the first sentence with “after work for the City” and strike “under the direction of the City Council”; Councilmember Jones second; All ayes on the amendment.