

RESOLUTION 2009 - 62

ORIGINAL

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF SUNNYSIDE, WASHINGTON
REPLACING RESOLUTION 2009-46
REMOVING ERIC C. SWANSEN
FROM THE POSITION OF CITY MANAGER**

WHEREAS, the City Council of the City of Sunnyside on June 2, 2009, adopted Resolution 2009-46, a resolution of the City Council of the City of Sunnyside, Washington, removing Eric C. Swansen as City Manager; and

WHEREAS, the action of the City Council of the City of Sunnyside ("City" herein) on June 2, 2009, constituted a termination of Eric C. Swansen as City Manager by majority vote of the City Council pursuant to and in compliance with Section 9 of the Employment Agreement between the City and Eric C. Swansen dated May 27, 2008, (hereinafter "Employment Agreement"); and

WHEREAS, RCW 35A.13.130 provides that at least 30 days before the effective date of the removal of the City Manager, the City Manager must be furnished with a formal statement in the form of a resolution passed by a majority vote of the City Council stating the Council's intention to remove him and the reasons therefore; and

WHEREAS, RCW 35A.13.140 provides the City Manager the opportunity for reply and public hearing; and

WHEREAS, the Council intends to correct any procedural irregularities resulting from the action taken on June 2, 2009;

NOW THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYSIDE, WASHINGTON, as follows:

SECTION 1. That the City Council of the City of Sunnyside, Washington believes City Manager Eric Swansen's performance does not meet a majority of the Council's expectations, and termination of his employment is provided for in the Employment Agreement between the City of Sunnyside and Eric C. Swansen in accordance with Section 9.A. of that Agreement.

SECTION 2. That because of performance deficiencies, the delivery of the city services that are provided to the City and to the community have been negatively impacted.


SECTION 3. Because of the performance deficiencies and negative impact, the City Council hereby removes Eric C. Swansen from the position of City Manager, effective as hereinafter provided. A copy of this resolution shall be immediately furnished to Eric C. Swansen. Eric C. Swansen may, within 30 days from the date of service upon him of such copy, reply in writing to the resolution. In the event no reply is timely filed, the resolution shall, upon the 31st day from the date of such service, constitute the final resolution removing the City Manager, and his services shall terminate upon that day. If a reply shall be timely filed with the City Clerk, the City Council shall fix a time for a public hearing upon the question of the City Manager's removal and final resolution removing the City Manager shall not be adopted until a public hearing has been had.

SECTION 4. That Eric C. Swansen will continue to receive compensation in accordance with RCW 35A.13.130 and RCW 35A.13.140 until his removal becomes effective. Upon the removal of Eric C. Swansen becoming effective as provided in RCW 35A.13.130 and RCW 35A.13.140, his compensation shall cease under the provisions of said statutes, at which time severance compensation in accordance with Section 10 of the Employment Agreement will commence.

SECTION 5. This resolution replaces Resolution 2009-46 in its entirety.

This resolution shall be effective upon passage, approval and signatures hereon as required by law.

Passed this 27th day of July, 2009.



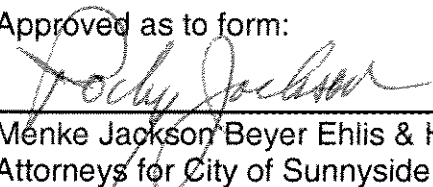
JAMES RESTUCCI, MAYOR PRO TEM

Attest:



DEBORAH A. ESTRADA, CITY CLERK

Approved as to form:



Menke Jackson Beyer Ehlis & Harper, LLP
Attorneys for City of Sunnyside