



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

February 14, 1977

ATTORNEY GENERAL OPINION NO. 77- 58

Mr. Richard D. Loffswold, Jr.
Attorney at Law
116 East Forest
Post Office Box 163
Girard, Kansas 66743

Re: Cities--Property--Disposal

Synopsis: No Kansas law prohibits the disposition of city property of a city of the second class with a commission form of government in such manner as the city governing body deems appropriate and in the public interest.

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Dear Mr. Loffswold:

You advise that the City of Girard is a city of the second class, operating under a commission form of government. Two commissioners and a mayor are elected for three-year terms. One commissioner is designated commissioner of finance and revenue and the other is designated commissioner of streets and public utilities. You advise that during the term of office of the commissioner of finance and revenue, two of his sons were employed by the city to operate and manage the Municipal Golf Course, and one is currently employed full time in that capacity. During the term of office of the commissioner of streets and public utilities, the daughter of that commissioner was employed by the city during the summer months to operate and manage the children's wading pool in the city park. Applications for employment are decided upon by the mayor and the commission. You ask whether the employment of those persons constitutes nepotism which violates any statute or regulation of the State of Kansas.

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There is no Kansas statute concerning nepotism which is applicable generally to Kansas political subdivisions, or specifically to cities of the second class with a commission form of government, and as a result, I cannot conclude that the employment described above violates any Kansas law.

Secondly, you inquire concerning the disposition of city property. First, you advise that the city has undertaken a project to improve the municipal golf course, and that in the course thereof, a wooded area was cleared by city employees. As the trees were cleared, they were left lying on the ground, and any persons who so desired could cut the trees into fireplace wood and remove them from the property on their own time and at their own expense. No official notice was given to the public that the wood would be available in this manner. The children of the commissioner of streets and public utilities obtained wood in this manner, and thereafter advertised it for sale and sold it. Other persons likewise obtained wood for their own use. You ask whether the disposition of wood in this manner constitutes misappropriation of city property, or if it is otherwise an unauthorized disposition of surplus property owned by the city. Once again, I find no statute applicable generally to all political subdivisions of the state, or specially to cities of the second class with a commission form of government which prescribes a procedure for the disposal of municipal property. There are such statutes which apply to counties, and to school districts. However, I find none applicable to cities, and thus cannot conclude that the disposition of wood as described above violates any Kansas law.

You also advise that during the course of street and gutter improvement, the city disposed of fill dirt which was removed from the streets by dumping it on the property of certain individuals. Once again, no official or other public notice was given that the dirt would be available. As above, I cannot find any applicable statutes relating to the disposal of municipal property which would prohibit the disposal of dirt in this fashion.

In short, the city may provide by ordinance for the disposal of surplus city property in any fashion it deems appropriate. However, there appear to be no statutes applicable to the circumstances described above.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj