February 14, 1977

Curt T. Schneider
Attorney General

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.
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 im-
prove 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 disposi-
tion 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 disposi-
tion of wood as described above violates any Kansas law.

You also advise that during the course of street and gutter im-
provement, 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 appli-
cable 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. How-
ever, there appear to be no statutes applicable to the circum-
stances described above.

Yours very truly,

CURT T. SCHNEIDER
Attorney General