



## MAYOR AND COUNCIL COMMUNICATION

DATE: September 20, 2016

**REGULAR**

ITEM #: 32

**MOTION**

**AGENDA ITEM:** Process for City Administrator Review

**SUBMITTED BY:** Sarah Sonsalla, City Attorney

**REVIEWED BY:** Julie Johnson, City Clerk

---

### **BACKGROUND:**

The City's personnel policy and employee handbook sets forth a schedule for completing performance evaluations that requires City employees to be evaluated during the six month orientation period twice; once after three months and approximately one week prior to the end of the orientation period depending on scheduling. It is unclear whether or not this policy is intended to apply to the City Administrator as it calls for performance reviews to be conducted by the department head or the City Administrator and does not speak to the process with respect to situations where the City Administrator is being reviewed.

It was mentioned in the minutes of the March 8, 2016 City Council meeting when the City approved the City Administrator's contract that a performance review after six months was suggested by one of the council members. The City Administrator's contract references that "[t]he Council will strive to review and evaluate the performance of [the City Administrator] annually." The contract language does not otherwise prohibit the City Council from conducting performance reviews at other times. A copy of the contract is included in the Council packet.

As of September 28, 2016, the City Administrator will have been with the City for six months.

### **ISSUE BEFORE COUNCIL:**

Does the City Council wish to conduct a performance review of the City Administrator at this time? If so, when would the City Council like to conduct the performance review?

### **PROPOSAL DETAILS/ANALYSIS:**

The decision whether or not the Council would like to conduct a performance review of the City Administrator is a decision that can be made by the Council in its sole discretion.

### **RECOMMENDATION:**

If the Council would like to conduct a performance review, the date and time of the performance review should be scheduled by the Council at the meeting. A copy of a form that can be used to facilitate the review has been included in the Council packet.

If the Council does not wish to conduct the performance review at this time, it may want to discuss when it thinks would be the appropriate time for it to conduct the performance review in the future.

**CITY OF LAKE ELMO  
CITY ADMINISTRATOR  
PERFORMANCE EVALUATION**

This form should be completed by each member of the Council to evaluate the City Administrator's performance in each of the areas noted below. The City Administrator should also complete a self-evaluation utilizing the same form. Performance levels can be noted, based on the following scale:

- 1 = Poor (rarely meets expectations).
- 2 = Below Average (usually does not meet expectations).
- 3 = Satisfactory (meets performance expectations).
- 4 = Above Average (generally exceeds performance expectations).
- 5 = Excellent (almost always exceeds expectations and performs at very high standard).

Each member of the Council should complete this document and forward it to the City Attorney, Sarah Sonsalla, by \_\_\_\_\_. The City Attorney will prepare a summary of the results that will be provided at the meeting that the Council can use to conduct the performance evaluation.

**Evaluation Period: March 28, 2016 TO: \_\_\_\_\_.**

**1. PERSONAL**

- \_\_\_ Invests sufficient effort toward being diligent and thorough in the discharge of the duties of the City Administrator.
- \_\_\_ Composure, appearance, and attitude fitting for an individual in this executive position.

**2. PROFESSIONAL SKILLS AND STATUS**

- \_\_\_ Knowledgeable of current developments affecting the management field and affecting city governments.
- \_\_\_ Has a capacity for and encourages innovation.
- \_\_\_ Anticipates problems and develops effective approaches for solving them.

**3. RELATIONS WITH MAYOR AND CITY COUNCIL**

- \_\_\_ Carries out directives of the Council as a whole rather than those of any one Council member.
- \_\_\_ Assists the Council on resolving problems at the administrative level to avoid unnecessary Council action.
- \_\_\_ Responds to requests for information or assistance by the Council.
- \_\_\_ Informs the Council of administrative developments.
- \_\_\_ There is a relationship of trust between member of the Council and the

**4. POLICY EXECUTION**

- \_\_\_ Implements Council action in accordance with the intent of the Council.
- \_\_\_ Supports the actions of the Council after a decision has been reached.
- \_\_\_ Enforces City policies.
- \_\_\_ Understands City's laws and ordinances.
- \_\_\_ Reviews enforcement procedures periodically to improve effectiveness.
- \_\_\_ Offers workable alternatives to the Council for changes in the law when an ordinance or policy proves impractical in actual administration.

**5. REPORTING**

- \_\_\_ Provides the Council with reports concerning matters of importance to the City.
- \_\_\_ Reports are accurate and comprehensive.
- \_\_\_ Reports are generally produced through own initiative rather than when requested by the Council.
- \_\_\_ Prepares a sound agenda which, prevents trivial administrative matters from being reviewed by the Council.

**6. CITIZEN RELATIONS**

- \_\_\_ Responsive to complaints from citizens.
- \_\_\_ Dedicated to the community and its citizens.
- \_\_\_ Skillful with the news media, avoiding political positions and partisanship.
- \_\_\_ Has the capacity to listen to others and to recognize their interests. Works well with others.
- \_\_\_ Willing to meet with members of the community to discuss their concerns.
- \_\_\_ Cooperates with neighboring communities.
- \_\_\_ Cooperates with the County, State, and Federal governments.
- \_\_\_ Cooperates with other organizations within the City.

**7. STAFFING**

- \_\_\_ Recruits and retains competent personnel for City positions.
- \_\_\_ Aware of staff weaknesses and works to improve their performance.
- \_\_\_ Accurately informed and concerned about employee relations.

**8. SUPERVISION**

- \_\_\_ Encourages department heads to make decisions within their own jurisdictions without City Administrator approval, yet maintains general control of administrative operations.
- \_\_\_ Instills confidence and initiative in subordinates and emphasizes support rather than restrictive controls for their programs.
- \_\_\_ Has developed a friendly and informal relationship with City staff as a whole, yet maintains the prestige and dignity of the City Administrator's office.

\_\_\_ Evaluates personnel periodically, and points out management weaknesses and strengths.

**9. FISCAL MANAGEMENT**

\_\_\_ Makes the best possible use of available funds, conscious of the need to operate the City efficiently and effectively.

\_\_\_ Possesses awareness of the importance of financial planning and control.

**10.** What performance areas would you identify as areas where the City Administrator excels? Are there certain things that have impressed you about the City Administrator's performance? What were they?

---

---

---

---

---

---

---

---

**11.** What performance areas would you identify as needing improvement? Why? What constructive, positive ideas can you offer the City Administrator to improve these areas?

---

---

---

---

---

---

---

**12. (Administrator Only) What goals for the upcoming year are to be accomplished?**

---

---

---

---

**13. Other Comments?**

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

## EMPLOYMENT AGREEMENT

**THIS AGREEMENT**, made and entered into as of March 8, 2016, by and between the City of Lake Elmo, State of Minnesota, a municipal corporation, (“Employer”), and Kristina Handt, (“Employee”).

### **WITNESSETH:**

**WHEREAS**, Employer desires to employ the services of Employee as City Administrator of the City of Lake Elmo; and

**WHEREAS**, it is the desire of the City Council (the “Council”), to provide certain benefits, establish certain conditions of employment and to set working conditions of the Employee; and

**WHEREAS**, it is the desire of the Council to: (1) secure and retain the services of Employee and to provide inducement for Employee to remain in such employment; (2) to make possible full work productivity to assuring Employee’s morale and peace of mind with respect to future security; (3) to act as a deterrent against malfeasance or dishonesty for personal gain on the part of Employee; and (4) to provide a just means for terminating Employee’s services at such time as she may be unable to fully discharge her duties or when Employer may otherwise desire to terminate her employment; and

**WHEREAS**, Employee desires to accept employment as City Administrator of the City:

**NOW, THEREFORE**, in consideration of the mutual covenants contained in this Agreement, Employer and Employee agree as follows:

### **Section 1. Duties.**

Employer agrees to employ Employee as City Administrator to perform the functions and duties specified in the City Code, and Minnesota Statutes Chapter 412, as amended, and to perform other legally permissible and proper duties and functions as the Council may from time to time assign to Employee.

### **Section 2. Term.**

- A. The term of this Agreement is from March 28, 2016 to March 28, 2019 (the “Term”). For the convenience of Employer, Employee may hold over Employee’s employment subsequent to the expiration of the Term until this Agreement is modified or superseded by a new employment agreement approved by Employee and the Council. During any holdover period, any such holding over shall also be subject to all other terms of this Agreement. If this contract is not renewed and Employee’s employment is terminated as a result, Employee shall be entitled to Severance Pay as described in Section 3, paragraph A of this Agreement.

B. Employee will serve at the will of the Council. Nothing in this Agreement prevents, limits or otherwise interferes with the right of the Council to terminate the services of Employee at any time, subject only to the provisions set forth in Section 3, paragraph A of this Agreement.

C. Nothing in this Agreement prevents, limits or otherwise interferes with the right of the Employee to resign at any time, subject only to the provisions of Section 3, paragraph B, of this Agreement.

D. Employee agrees to remain in the exclusive employ of Employer and neither to accept other employment nor to become employed by any other employer during the term of Employee's employment.

The term "employed" is not to be construed to include occasional teaching, writing, consulting or military reserve service performed on Employee's time off.

### **Section 3. Termination and Severance Pay.**

A. To the extent permitted by law, during the term of this Agreement, if the Employee is terminated by the Council and at that time Employee is willing and able to perform Employee's duties under this Agreement, then Employer agrees to pay Employee a lump sum cash payment equal to six months aggregate salary and to continue to provide and pay for the benefits described in Section 9. for a period of six months and in addition, Employee shall receive the cash equivalent of Employee's accumulated PTO pursuant to the City's Personnel Policy and Employee Handbook (collectively "Severance Pay"). If Employee is convicted of a crime involving theft or fraud as defined in Minnesota Statutes Chapter 169, as amended, or terminated for other conduct involving malfeasance or nonfeasance in office, gross misconduct, Employee's breach of any material obligations under this Agreement or any other agreement with Employer, Employee's willful or repeated failure or refusal to perform or observe Employee's duties, responsibilities and obligations to Employer, Employee's use of alcohol or drugs in a manner which affects the performance of the Employee's duties, responsibilities and obligations to Employer, or commission by Employee of any willful or intentional act which could reasonably be expected to injure the reputation of Employer or Employee, Employer shall have no obligation to pay Severance Pay. The lump sum cash payment included in Severance Pay shall be paid in accordance with Minnesota Statutes Section 465.722, if applicable.

B. Employee will give Employer 45 days' notice in advance of resignation, unless the parties agree to waive this notice. In the event that Employee resigns, Employer shall have no obligation to pay Severance Pay.

C. In the event of the death of Employee, this Agreement shall terminate. Employee's heirs shall be only paid Employee's earned salary and accrued PTO not paid; any unpaid expense reimbursements; and any benefits payable under any life insurance

policy maintained by Employer for the benefit of Employee, subject to the terms and conditions of such policy.

**Section 4. Availability for Duties.**

Employer and Employee acknowledge that it is critical for Employee to be available to perform Employee's duties on behalf of Employer at Employer's principal place of business and other City job sites as necessary.

**Section 5. Salary.**

Employer agrees to pay Employee for Employee's services rendered pursuant hereto an annual salary of \$107,500 payable in installments at the same time as other employees of the Employer are paid, effective as of March 28, 2016.

Upon completion of the orientation period outlined in the City's Personnel Policy and Employee Handbook, September 28, 2016, Employee's annual salary will be \$112,500.

Employer agrees to increase the salary and other benefits of Employee in such amounts and to such extent as the Council may determine that it is desirable to do so on the basis of an annual performance evaluation of Employee.

**Section 6. Performance Evaluation.**

A. The Council will strive to review and evaluate the performance of Employee annually. The review and evaluation will be in accordance with specific criteria developed jointly by Employer and Employee. The criteria may be modified as the Council may from time to time determine in consultation with the Employee.

B. The Council and Employee will annually define in writing the goals and performance objectives they jointly determine necessary for the proper operation of the City and the attainment of the Council's policy objectives and will further establish a relative priority among those various goals and objectives. The goals and objectives will generally be attainable within the time limitations as specified and the annual operating and capital budgets and appropriations provided.

C. In carrying out the provisions of this Section, Council and Employee mutually agree to abide by the provisions of applicable state and federal law.



**Section 7. Outside Activities.**

Employee must not spend more than 10 hours per week in teaching, counseling or other non-Employer, non-military reserve connected business without prior approval of the Council.

**Section 8. PTO and Military Leave.**

A. Employee will accrue, and have credited to Employee's personal account, paid time off ("PTO") at the same rate and under the same conditions as other general employees of the Employer. Solely for the purposes of calculating PTO benefits, the Employee will be deemed to have completed her 5<sup>th</sup> year of employment as March 28, 2016.

B. Employee shall be entitled to military reserve leave time pursuant to federal and state law and City policy.

C. Employee's PTO account shall begin with a balance of 10 days at the time of hire.

**Section 9. Dental, Health and Life Insurance.**

Employer agrees to provide a benefits package that includes health, dental and life insurance along with other benefits as outlined in the City's Personnel Policy and Employee Handbook. Employee may use accumulated PTO for leave for Employee's self, and for any member of Employee's household regardless of marital status, for any of the events and circumstances stated in the Family and Medical Leave Act of 1993 (29 C.F.R. Part 825). Such leave shall be administered pursuant to the applicable language of the City's Personnel Policy and Employee Handbook.

**Section 10. Dues, Subscriptions and Professional Development.**

Employer will pay for Employee's dues and related membership costs to the League of Minnesota Cities, MCMA and ICMA. In addition, the Employer will pay for Employee to attend the annual League of Minnesota Cities and MCMA conferences. In addition, the city will pay dues for one local service club, provided that routine attendance is made. Any out of state travel must be approved in advance by the City Council. Other dues, subscriptions, or conference attendance deemed desirable for Employee's professional participation, growth and development may be paid if preapproved by the Council.

**Section 11. Indemnification.**

Employer will defend, hold harmless and indemnify Employee against any tort, professional liability claim or demand or other legal action arising out of an alleged act or omission occurring in the performance of Employee's duties as City Administrator. Employer will compromise and settle any claim or suit and pay the amount of any settlement, judgment or reasonable attorneys' fees rendered thereon consistent with Minnesota Statutes Section 466.07, as amended. Employer shall pay any costs and reasonable attorneys' fees incurred by the Employee to defend charges of a criminal nature brought against Employee that arose out of the reasonable and lawful performance of duties for the City as provided in Minnesota Statutes Section 465.76, as amended.

**Section 12. Bonding.**

Employer will bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

**Section 13. Other Terms and Conditions of Employment.**

A. The Council, in consultation with Employee, may fix such other terms and conditions of employment as it may determine from time to time relating to the performance of Employee, provided those terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the City Code or any other law.

B. Except as otherwise provided in this Agreement, all provisions of the City Code, and regulations and rules of the Employer relating to PTO, retirement and pension system contributions, holidays and other fringe benefits and working conditions as they now exist or hereafter may be amended, apply to Employee as they would to other employees of Employer.

**Section 14. Notices**

Notices pursuant to the agreement are given by deposit in the custody of the United States mail, postage prepaid, addressed as follows:

(1) EMPLOYER:           City of Lake Elmo  
                                  Attn: City Clerk  
                                  3800 Laverne Avenue N.  
                                  Lake Elmo, MN 55042

(2) EMPLOYEE:           Kristina Handt  
                                  1314 Island Drive  
                                  Forest Lake, MN 55025

Alternatively, notices required pursuant to this Agreement may be personally served in the same manner as is applicable to process in a civil action. Notice shall be deemed

given as of the date of personal service or as of the date of deposit of such written notice in the United States mail.

**Section 15. General Provisions.**

A. This Agreement constitutes the entire agreement between the parties and supersedes all prior written and oral agreements between the parties.

B. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of Employee.

C. This Agreement may be amended at any time by mutual consent of Employer and Employee.

D. This Agreement may be executed in any number of counterparts.

E. This Agreement shall be interpreted pursuant to Minnesota law.

F. The rights of Employee hereunder are personal and may not be assigned or transferred unless consented thereto in writing by Employer.

G. The invalidity of any portion of this Agreement will not and shall not be deemed to affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provisions.

H. The failure of either party to complain of any default by the other party or to enforce any of such party's rights, no matter how long such failure may continue, will not constitute a waiver of the party's rights under this Agreement. No waiver of any provision of this Agreement shall constitute a waiver of any other provision or a waiver of the same provision at any later time.

**IN WITNESS WHEREOF**, the City of Lake Elmo by its City Council has caused this Agreement to be executed and delivered in its behalf by its Mayor and duly attested by its City Clerk, and Employee has executed this Agreement as of the day and year first above written.


THE CITY OF LAKE ELMO, MINNESOTA  
EMPLOYER

By

  
Mike Pearson

Its: Mayor

Attest:

  
Julie Johnson, City Clerk

EMPLOYEE

  
Kristina Handt