CITY OF INDIANOLA SPECIAL COUNCIL MEETING
December 10, 2015
8:00 a.m.
Agenda

1. Call to order

2. Roll call

3. Resolution approving employment agreement with Ryan Waller as City Manager

4. Other Business

5. Adjourn

City Council Special **3.**
Meeting Date: 12/10/2015

Information

Subject
Resolution approving employment agreement with Ryan Waller as City Manager

Information
In your packet is the resolution approving the employment agreement (packet) with Ryan Waller as City Manager.

Roll call is in order.

Attachments

Resolution
Employment Agreement

RESOLUTION NO. 2015-_______

RESOLUTION APPROVING EMPLOYMENT AGREEMENT WITH RYAN WALLER AS CITY MANAGER

WHEREAS, the City Council of the City of Indianola desires to employ Ryan Waller as City Manager of the City of Indianola, Iowa; and

WHEREAS, Ryan Waller desires to accept employment as City Manager; and

WHEREAS, the City Council believes it is in the best interests of the City of Indianola, Iowa to enter into an Employment Agreement with Ryan Waller in the form attached as Exhibit "A".

NOW, THEREFORE, IT IS HEREBY RESOLVED by the City Council of the City of Indianola that Ryan Waller is hereby employed as City Manager of the City of Indianola, Iowa.

BE IT FURTHER RESOLVED that the Employment Agreement in the form attached as Exhibit "A" is hereby approved and the Mayor of the City of Indianola is hereby authorized to execute said Agreement on behalf of the City of Indianola, Iowa.

DATED this 10th day of December 2015.

____
Kelly Shaw, Mayor

ATTEST:

____
Diana Bowlin, City Clerk

Section 1: Term

A. This agreement shall remain in full force and effect from January 18, 2016 until terminated by the Employer or Employee as provided in Section 9, 10 or 11 of this agreement

Section 2: Duties and Authority

A. Employer agrees to employ Ryan J. Waller as City Manager to perform the functions and duties specified in Chapter 21, Section 21.02 (Duties) of the City of Indianola, Iowa City Code and to perform other legally permissible and proper duties and functions without interference.

B. Employee is the chief administrative officer of the Employer and shall faithfully perform the duties as prescribed in the job description as set forth in the Employer's charter and/or ordinances and as may be lawfully assigned by the Employer and shall comply with all lawful governing body directives, state and federal law, Employer policies, rules and ordinances as they exist or may hereafter be amended.

Section 3: Compensation

A. Base Salary: Employer agrees to pay Employee an annual base salary of $140,000, payable in installments at the same time that the other management employees of the Employer are paid.

B. The Employer agrees to increase the Employee's base salary each year based on a performance evaluation as provided in Section 12 of this Agreement. Said increase shall be determined by the Mayor and City Council following the performance evaluation.

Section 4: Health, Disability and Life Insurance Benefits

The Employee is eligible to enroll in any benefit programs offered to all other employees of the City of Indianola, Iowa.

Section 5: Vacation, Sick, and Personal Time

A. Upon commencing employment, the Employee shall be credited with 40 accrued sick leave hours and 80 accrued vacation leave hours. In addition, beginning the first day of employment, Employee shall accrue sick leave and vacation leave on an annual basis as follows:

   I. Sick Leave shall be earned at the rate of 3.7 hours per pay period until maximum amount allowed is reached.

   II. For the purposes of accruing vacation, the Employee shall be recognized as having 12 years of service with the City of Indianola, Iowa and shall accrue at a rate of five (5) hours per pay period.

B. The Employee will be granted 24 hours of personal leave each year to be used in accordance with the City of Indianola's policies.

C. The Employee will be granted the same number of holidays as other City employees.

D. The Employee will also be entitled to all other benefits provided to the employees of the City of Indianola as described in the City's Personnel Management Guide.

Section 6: Automobile

The Employer agrees to pay to the Employee, during the term of this Agreement and in addition to other salary and benefits herein provided the sum of $4,200 per year, payable monthly, as a vehicle allowance to be used to purchase, lease, or own, operate and maintain a vehicle.

The Employee shall be responsible for paying for liability, property damage, and comprehensive insurance coverage upon such vehicle and shall further be responsible for all expenses attendant to the purchase, operation, maintenance, repair, and regular replacement of said vehicle.

The Employer shall reimburse the Employee at the IRS standard mileage rate for any business use of the vehicle beyond the greater Des Moines area.

Section 7: Retirement

The Employee is eligible to participate in IPERS and desires to enroll. The Employer shall make all the appropriate contributions on the Employee's behalf as required by law.

In addition to the Employer's payment to the IPERS retirement program referenced above, Employer agrees to execute and keep in force all necessary agreements provided by ICMA Retirement Corporation [ICMA-RC] or any other Section 457 deferred compensation plan for Employee's participation in said supplementary retirement plan. In addition to the base salary paid by the Employer to Employee, Employer agrees to pay $3,900 per year into the designated plan on the Employee's behalf, in equal proportionate amount each pay period.

Section 8: General Business Expenses

A. Subject to prior Council approval, Employer agrees to budget and pay for reasonable professional dues, including but not limited to the International City/ County Management Association, and subscriptions of the Employee necessary for continuation and full participation in national, regional, state, and local associations, and organizations necessary and desirable for the Employee's continued professional participation, growth, and advancement, and for the good of the Employer.

B. Subject to prior Council approval, Employer agrees to budget and pay for reasonable and necessary travel and subsistence expenses of Employee for professional and official travel, meetings, and occasions to adequately continue the professional development of Employee and to pursue necessary official functions for Employer, including but not limited to the ICMA Annual Conference, the state league of municipalities, and such other national, regional, state, and local governmental groups and committees in which Employee serves as a member.

C. Subject to prior Council approval, Employer also agrees to budget and pay for reasonable and necessary travel and subsistence expenses of Employee for short courses, institutes, and seminars that are necessary for the Employee's professional development and for the good of the Employer.

D. Employer recognizes that certain expenses of a non-personal but job related nature are incurred by Employee, and agrees to reimburse or to pay said reasonable and necessary general expenses. Such expenses may include meals where Employer business is being discussed or conducted and participation in social events of various organizations when representing the Employer. Such expenditures are subject to annual budget constraints as well as state and Employer ethics and purchasing policies. The finance director is authorized to disburse such moneys upon receipt of duly executed expense or petty cash vouchers, receipts, statements or personal affidavits.

E. The Employer acknowledges the value of having Employee participate and be directly involved in local civic clubs or organizations. Accordingly, Employer shall pay for the reasonable membership fees and/ or dues to enable the Employee to become an active member in local civic clubs or organizations.

F. Recognizing the importance of constant communication and maximum productivity, Employer shall provide Employee, for business and personal use, a laptop computer, software, or tablet computer for business and personal use required for the Employee to perform their duties and to maintain communication with Employer's staff and officials as well as other individuals who are doing business with Employer.

G. Instead of providing the Employee a cellular telephone, the Employer shall pay the Employee $75 on a monthly basis.

Section 9: Termination

A. For the purpose of this agreement, termination shall occur when:

1. If the City Council votes to terminate the Employee.

2. If the Employer, citizens or legislature acts to amend any provisions of the Indianola, Iowa City Code pertaining to the role, powers, duties, authority, responsibilities of the Employee's position and/or that substantially changes the form of government, the Employee shall have the right to declare that such amendments constitute termination.

3. If the Employer reduces the base salary, compensation or any other financial benefit of the Employee, unless it is applied in no greater percentage than the average reduction of all department heads, such action shall constitute a breach of this agreement and will be regarded as a termination.

4. If the Employee resigns following an offer to accept resignation, whether formal or informal, by the Employer as representative of the majority of the governing body that the

Employee resign, then the Employee may declare a termination as of the date of the suggestion.

Section 10: Severance

Severance shall be paid to the Employee when employment is terminated as defined in Section 9.

A. If the Employee is terminated; the Employer shall provide a minimum severance payment equal to six (6) months' salary at the then current rate of pay. This severance shall be paid in a lump sum or in a continuation of salary on the existing basis, at the Employee's option,

B. The Employee shall also be compensated for all sick leave, vacation leave, and all paid holidays in accordance with the City of Indianola's personnel policies.

C. If the Employee is terminated then beginning the seventh month the Employee shall pay the cost to continue health insurance for the employee and all dependents as provided in Section 4 and pursuant to the Consolidated Omnibus Budget Reconciliation Act ("COBRA").

D. If the Employee is terminated because of a felony conviction, then the Employer is not obligated to pay severance under this section.

Section 11: Resignation

In the event that the Employee voluntarily resigns his/her position with the Employer, the Employee shall provide a minimum of 30 days' notice unless Employer and Employee agree otherwise.

Section 12: Performance Evaluation

A. Employer shall conduct an initial performance evaluation in July 2016 with the second evaluation to occur in January 2017. Thereafter, a review of the performance of the Employee shall occur annually in January. The evaluation will subject to a process, form, criteria, and format mutually agreed upon by the Employer and Employee.

B. Unless the Employee expressly requests otherwise in writing, the evaluation of the Employee shall at all times be conducted in executive session of the governing body and shall be considered confidential to the extent permitted by law. Nothing herein shall prohibit the Employer or Employee from sharing the content of the Employee's evaluation with their respective legal counsel.

Section 13: Hours of Work

It is recognized that the Employee must devote a great deal of time outside the normal office hours on business for the Employer, and to that end Employee shall be allowed to establish an appropriate work schedule.

The schedule shall be appropriate to the needs of the Employer and shall allow Employee to faithfully perform his or her assigned duties and responsibilities.

Section 14: Ethical Commitments

Employee will at all times uphold the tenets of the ICMA Code of Ethics, a copy of which is attached hereto and incorporated herein. Specifically, Employee shall not endorse candidates, make financial contributions, sign or circulate petitions, or participate in fund-raising activities for individuals seeking or holding elected office, nor seek or accept any personal enrichment or profit derived from confidential information or misuse of public time.

Employer shall support Employee in keeping these commitments by refraining from any order, direction or request that would require Employee to violate the ICMA Code of Ethics. Specifically, neither the governing body nor any individual member thereof shall request Employee to endorse any candidate, make any financial contribution, sign or circulate any petition, or participate in any fund-raising activity for individuals seeking or holding elected office, nor to handle any matter of personnel on a basis other than fairness, impartiality and merit.

Section 15: Outside Activities

The employment provided for by this Agreement shall be the Employee's primary employment. Recognizing that certain outside consulting or teaching opportunities provide indirect benefits to the Employer and the community, the Employee may elect to accept limited teaching, consulting or other business opportunities with the understanding that such arrangements must neither constitute interference with nor a conflict of interest with his or her responsibilities under this Agreement.

Section 16: Indemnification

Beyond that required under Federal, State or Local Law, Employer shall defend, save harmless and indemnify Employee against any obligation to pay money or perform or no perform action, including without limitation, any and all losses, damages, judgments, interests, settlements, penalties, fines, court costs and other reasonable costs and expenses of legal proceedings including attorney's fees, and any other liabilities arising from, related to, or connected with any tort, professional liability claim or demand or any other threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitrative or investigation, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties as City Administrator or resulting from the exercise of judgment or discretion in connection with the performance of program duties or responsibilities, unless the act or omission involved willful or wanton conduct. The Employee may request and the Employer shall not unreasonably refuse to provide independent legal representation at Employer's expense and Employer may not unreasonably withhold approval. Legal representation, provided by Employer for Employee, shall extend until a final determination of the legal action including any appeals brought by either party. The Employer shall indemnify Employee against any and all losses, damages, judgments, interest, settlements, penalties, fines, court costs and other reasonable costs and expenses of legal proceedings including attorney's fees, and any other liabilities incurred by, imposed upon, or suffered by such Employee in connection with or resulting from any claim, action, suit, or proceeding, actual or threatened, arising out of or in connection with the performance of his or her duties. Any settlement of any claim must be made with prior approval of the Employer in order for indemnification, as provided in this Section, to be available.

Employee recognizes that Employer shall have the right to compromise and unless the Employee is a party to the suit which Employee shall have a veto authority over the settlement, settle any claim or suit; unless, said compromise or settlement is of a personal nature to Employee. Further, Employer agrees to pay all reasonable litigation expenses of Employee throughout the pendency of any litigation to which the Employee is a party, witness or advisor to the Employer. Such expense payments shall continue beyond Employee's service to the Employer as long as litigation is pending. Further, Employer agrees to pay Employee reasonable consulting fees and travel expenses when Employee serves as a witness, advisor or consultant to Employer regarding pending litigation.

Section 17: Residency and Housing

The Employee agrees to establish residency in the City of Indianola within one year of starting employment.

In order to expedite the Employee's residency within the City of Indianola, Employee has indicated the need for a short-term loan to be used to expedite the purchase of a house within the City of Indianola. Employee has agreed to make his best effort to obtain this loan individually through various lending sources however, in the event that Employee is unsuccessful in obtaining such loan, then the Employer shall provide a loan to Employee, under the following terms and conditions:

(i) The amount of the loan shall not exceed $20,000.

(ii) The loan balance shall carry interest at the rate of 4% per annum.

(iii) The loan shall be repaid in full to the Employer with proceeds from the sale of Employee's residence in Illinois, to the extent that the proceeds are sufficient to repay all principal and interest due.

(iv) Should the proceeds of the sale of Employee's home not be sufficient to repay all principal and interest due, then employee shall repay the balance no later than 12 months from the date the loan funds are disbursed.

(v) Should the Employee's employment with the Employer be terminated, for any reason, prior to full repayment of the loan, the entire loan balance will immediately become due and owing.

(vi) The Employer and Employee shall execute any and all documents necessary to document this transaction.

Nothing in this section shall prevent the Employee from repaying the loan and/or interest earlier than required in the preceding paragraph.

Section 18: Moving and Relocation Expenses

The Employer shall pay a sum payment of $8,000 to vendors selected by the Employee to cover relocation costs. In the event Employee's employment with Employer is terminated by Employee prior to the third anniversary of Employee's start of employment with Employer, Employee shall reimburse

Employer for such relocation costs as follows:

(i) Prior to Employee's first anniversary of employment with Employer: 100% of the costs:

(ii) From Employee's first anniversary of employment until Employee's second anniversary of employment: 66.66% of the costs:

(iii) From Employee's second anniversary of employment until Employee's third anniversary of employment: 33.33% of the costs:

(iv) After Employee's third anniversary of employment: No repayment obligation.

Employee shall reimburse Employer, when required under this section, within 30 days of Employee's notice of resignation.

Section 19: Bonding

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

Section 20: Other Terms and Conditions of Employment

A. The Employer, only upon agreement with Employee, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the City of Indianola, Iowa, local ordinances or any other law.

B. Except as otherwise provided in this Agreement, the Employee shall be entitled, at a minimum, to the highest level of benefits that are enjoyed by or offered to other appointed employees, department heads or general employees of the Employer as provided in the Charter, Code, Personnel Rules and Regulations or by practice.

Section 21: Notices

Notice pursuant to this Agreement shall be given by depositing in the custody of the United States Postal Service, postage prepaid, and addressed as follows:

(a) EMPLOYER:
City of Indianola
110 N. 1st Street
Indianola, Iowa 50125

(b) EMPLOYEE:
Ryan J. Waller
1704 Wildberry Dr. Unit B
Glenview, IL 60025

Notice shall be deemed given as of the date of personal service or as the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Section 22: General Provisions

A. Integration. This Agreement sets forth and establishes the entire understanding between the Employer and the Employee relating to the employment of the Employee by the Employer. Any prior discussions or representations by or between the Employer and Employee are merged into and rendered null and void by this Agreement. The Employer and Employee by mutual written agreement may amend any provision of this agreement during the life of the agreement. Such amendments shall be incorporated and made a part of this agreement.

B. Binding Effect. This Agreement shall be binding on the Employer and the Employee as well as their heirs, assigns, executors, personal representatives and successors in interest.

C. Effective Date. This Agreement shall become effective on January 18, 2016.

D. Severability. The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both Employer and Employee subsequent to the expungement or judicial modification of the invalid provision.

E. Precedence. In the event of any conflict between the terms, conditions and provisions of this Agreement and the provisions of Council's policies, or Employer's ordinance or Employer's rules and regulations, or any permissive state or federal law, then, unless otherwise prohibited by law, the terms of this Agreement shall take precedence over contrary provisions of Council's policies, or Employer's ordinances, or Employer's rules and regulations or any such permissive law during the term of this Agreement.

IN WITNESS WHEREOF, the City of Indianola has caused this agreement to be signed and executed on its behalf by its Mayor and duly attested by its City Clerk, and the Employee has signed and executed this agreement, both in duplicate.

Kelly B. Shaw, Mayor

Diana Bowlin, City Clerk

Ryan J. Waller

Employee: Ryan J. Waller

Executed this the 10th day of December, 2015.