



CITY OF WHEATLAND

CITY COUNCIL MEETING STAFF REPORT

May 12, 2020

SUBJECT: Council Consideration and Adoption of Resolution No. 21-20 approving an Employment Agreement with Dale Klever for position of Public Works Director

PREPARED BY: Jim Goodwin, City Manager

Recommendation

Staff recommends adopting Resolution 21-20 approving the Employment Agreement as presented.

Background/Discussion

Dale Klever has been selected as the new Public Works Director for the City of Wheatland. The attached employment agreement defines the terms of that engagement.

The agreement is for two years effective June 1, 2020 and terminates May 31, 2022 if not extended by action of the City Council.

Alternatives

The City Council may choose not to approve the proposed Employment Agreement.

Fiscal Impact

No impact as the position is funded in the current budget.

Attachments

1. Resolution No. 21-20
2. Dale Klever Employment Agreement

RESOLUTION 21-20

**APPROVING AN EMPLOMENT AGREEMENT WITH DALE KLEVER FOR SERVICES
AS WHEATLAND PUBLIC WORKS DIRECTOR**

WHEREAS A vacancy will exist for the position of Public Works Director effective with the retirement of the current Public Works Director; and

WHEREAS Dale Klever is qualified for the position; and

WHEREAS the City Council wishes to enter into an Employment Agreement with Mr. Klever for services as Public Works Director.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Wheatland hereby approves the attached Employment Agreement and directs the City Manager to execute the agreement.

PASSED AND ADOPTED by the City Council of City of Wheatland, State of California this 12thth day of May 2020, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Rick West, Mayor

**AGREEMENT BETWEEN THE CITY OF WHEATLAND
AND DALE KLEVER FOR PUBLIC WORKS DIRECTOR SERVICES**

This Agreement (“Agreement”) is made and entered into this 12th day of May, 2020, by and between the City of Wheatland, a municipal corporation (“City”) and DALE KLEVER, an individual (“Klever”), who agree as follows:

1. **Employment.** City hereby appoints and employs Klever as Public Works Director of the City, and Klever hereby accepts such employment, on and subject to the terms and conditions of this Agreement.

2. **Term.** This Agreement shall remain in effect from June 1, 2020 to May 31, 2022, unless sooner terminated as provided by the termination provision below.

3. **Duties.** Klever shall perform those duties and have those responsibilities that are commonly assigned to a Public Works Director in a city in California, and as may be further set forth in the Wheatland Municipal Code. Klever also shall perform such other duties and responsibilities as assigned by the City Manager from time to time. Klever at all times shall act in the best interests of City and perform his duties in a competent and professional manner.

4. **Hours.** Klever acknowledges that his position is a part-time, hourly supervisory position. It is anticipated that Klever shall work a total of approximately 30 hours per week, four days per week, approximately 7.5 hours per day. However, that time may vary depending on City’s needs. Klever shall not engage in any conduct, other employment or business, commercial or professional pursuits, whether for compensation or otherwise, that would interfere with his responsibilities and duties to City or that would reflect unfavorably upon the interests of City. Any outside employment, consulting or business conducted by Klever during the term of this Agreement requires the prior approval of the City Manager.

5. **Compensation.**

- (a) For all services to be rendered by Klever under this Agreement, City shall provide to Klever a starting hourly wage in the amount of \$38.39 per hour, consistent with the pay for the appropriate step as provided in the position's classification. Wage shall be paid at the same time and in the same manner as other City employees are paid.
- (b) Klever shall be entitled to receive any cost of living or similar increase granted by City to miscellaneous employees during the term of this Agreement. Klever shall also be eligible for consideration of a merit-based increase in step, consistent with the steps for the position's classification, after one year of service.
- (c) Klever has elected to, and shall receive, payment in lieu of medical, dental, and vision benefits in the same manner as other City employees that receive payments in lieu of medical benefits. This payment shall not exceed \$300 per month during the term of this Agreement.

- (d) Klever shall not be compensated for overtime hours worked or otherwise earn or be entitled to compensatory time off for hours worked in excess of eight hours per day or 40 hours per week, and shall not otherwise be entitled to any other incentive pay.
- (e) Klever will accrue both sick and vacation leave at the same rate as other miscellaneous employees, prorated based on his part-time status.
- (f) Klever shall be entitled to participate in the City of Wheatland ICMA-RC 401(a) retirement program established by the City under the same terms as City's miscellaneous employees are allowed to participate.
- (g) Klever shall receive a phone allowance consistent with the phone allowance granted by City to other miscellaneous City employees.
- (h) Because Klever's duties may require the use of an automobile, City shall reimburse Klever for mileage incurred while performing City business (exclusive of commuting mileage) at the current Internal Revenue Service mileage rates. Klever shall be required to obtain a rider on his personal automobile insurance naming City as an additional insured, and City shall reimburse Klever for any direct expenses related thereto.
- (i) City-related direct business expenses shall be reimbursed to Klever by City. Itemized documentation shall be required for any such reimbursement.
- (j) Except as provided for in this Agreement, Klever's employment shall be governed by the City Personnel Rules and Regulations Manual (City Resolution No. 42-19), as such rules and regulations may be amended by City from time to time. If any term or condition of this Agreement is in conflict with a term or condition in the Personnel Rules and Regulations Manual, the provision in this Agreement shall govern. If any term or condition of this Agreement is inconsistent or in conflict with a federal or state law, the law shall govern.

6. Ownership of Documents. Every document, report, study, spreadsheet, worksheet, plan, blueprint, specification, drawing, map, photograph, computer model, computer disk, magnetic tape, CAD data file, computer software and any other writing or thing prepared by Klever during the term of his employment (the "Work") shall be the property of City. City shall have the right to use, modify, reuse, reproduce, publish, display, broadcast and distribute the Work and prepare derivative and additional documents or works based on the Work without further compensation to or permission from Klever.

7. Termination. The Parties intend for this Agreement to create an at-will employment relationship. This Agreement may be terminated prior to its expiration date in any one of the following ways:

- (a) By mutual agreement of the parties, expressed in writing.
- (b) By Klever, upon giving City not less than 30 days prior written notice of his election to resign from employment and terminate this Agreement.
- (c) By the death of Klever.
- (d) By City, for cause, upon giving to Klever written notice of immediate termination. The written notice of termination shall specify: (1) the particular cause(s) and the facts and circumstances justifying the termination of the Agreement for cause, and (2) the opportunity of Klever to meet with the City Council on the reasons for his termination. If Klever requests a meeting, the meeting will be held at the City Council's earliest convenience in a closed session, unless Klever requests an open session. After the meeting, the City Council may affirm, modify or reverse its discretion to terminate for cause. For purposes of this Agreement, the following will justify termination for cause: willful breach of duty; habitual neglect of duty; gross insubordination; conviction of a crime involving moral turpitude; conduct that makes it impossible or impracticable to perform the duties under this Agreement or that seriously impedes City operations; conduct that tends to bring discredit to City; conduct unbecoming an employee in public service; mishandling of City funds; any intentional misrepresentation or fraud in connection with the performance of his duties; theft of City property; violation of law; or a material breach of this Agreement.
- (e) By City, upon action of the City Manager, without cause, upon giving Klever 30 days' prior written notice of termination.

Upon termination of the Agreement, the City and Klever are released from any and all duties and obligations to the other, except as provided for in this Agreement.

8. Entire Agreement. The parties intend this writing to be the sole, final, complete, exclusive, and integrated expression and statement of the terms of their contract concerning the subject matter addressed in the Agreement. This Agreement supersedes all prior oral or written negotiations, representations, contracts or other documents that may be related to the subject matter of this Agreement, except those other documents that may be expressly referenced and incorporated in this Agreement as provided above.

9. Notices. All notices required to be given by any Party shall be made in writing and shall be effectuated (i) by personal delivery, (ii) via reputable overnight courier service, (iii) by email with a reply confirming delivery, or (iv) first-class U.S. mail, postage prepaid. Notices sent by overnight courier or mail to Klever must be addressed his most recent residence address as shown on the City's payroll records, and notices to the City sent by overnight courier or mail must be addressed to the City Council and mailed to City Hall. Notices delivered personally or by email shall be deemed communicated as of the date of actual receipt; notices sent via overnight courier shall be deemed communicated as of the date delivered by the courier; and mailed notices shall be deemed communicated as of the date of receipt or the third day after mailing, whichever occurs first.

10. **Successors and Assigns.** This Agreement is personal to Klever. He may not transfer or assign the Agreement or any part of it. Subject to this restriction on transfer and assignment, this Agreement shall bind, and inure to the benefit of, the successors, assigns, heirs and legal representatives of the parties.

11. **Amendments.** This Agreement may be amended only by a subsequent writing approved and signed by both parties. Any amendment by City must be approved by the City Council at a noticed public meeting. Individual City Council members do not have the authority, express or implied, to amend, modify, waive, extend or in any way alter this Agreement or the terms and conditions of Klever’s employment.

12. **Waiver.** The waiver at any time by either party of its rights with respect to a default or other matter arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or matter.

13. **Construction and Interpretation.** The parties agree and acknowledge that this Agreement has been arrived at through negotiation and that each party has had a full and fair opportunity to revise the terms of this Agreement. Consequently, the normal rule of construction that any ambiguities are to be resolved against the drafting party will not apply in construing or interpreting this Agreement.

14. **Partial Invalidity.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

15. **Governing Law and Venue.** Except as otherwise required by law, this Agreement shall be interpreted, governed by, and construed under the laws of the State of California. The County of Yuba will be venue for any state court jurisdiction and the Eastern District of California will be venue for any federal court litigation concerning the enforcement or construction of this Agreement.

CITY OF WHEATLAND

DALE KLEVER

Jim Goodwin, City Manager

Dale Klever

Attest:

Lisa Thomason, City Clerk



CITY OF WHEATLAND

CITY COUNCIL MEETING STAFF REPORT

May 12, 2020

SUBJECT: City Council consideration of Zoning Amendments to implement programs from the City of Wheatland 4-Year (2017-2021) Housing Element Update.

PREPARED BY: Tim Raney, Community Development Director

Recommendation

Staff recommends that the City Council: (1) adopt the attached ordinance amending Section 18.27.060 of the Wheatland Zoning Code, creating Chapter 18.55 of the Wheatland Zoning Code, rezoning three properties totaling 21.75 acres (APNs 015-500-008-000, 015-360-001-000, and 015-350-012-000), and rezoning a 2.24-acre property (APN 015-500-018-000) to include the Emergency Shelter Combining District and (2) waive the full reading of the ordinance.

Discussion

On April 28, 2020, city staff introduced the attached ordinance to the Wheatland City Council. The Wheatland City Council voted to introduce and waive the first reading of the attached Ordinance amending the Wheatland Zoning Code and the Wheatland Zoning Map for implementation of the City of Wheatland 4-Year (2017-2021) Housing Element (Attachment 2).

Staff Recommendation

The City of Wheatland staff recommends City Council adopt and waive the second reading of the attached Ordinance amending the Wheatland Zoning Code and the Wheatland Zoning Map for implementation of the City of Wheatland 4-Year (2017-2021) Housing Element.

Fiscal Impact

Staff time to coordinate with HCD and prepare and process the proposed Zoning Amendments is the only current cost to the City. Staff hopes to receive the SB 2 grant funds, once the Housing Element is certified, which will assist in implementing the City's Housing Element Programs.

Attachments

1. Ordinance amending Section 18.27.060 of the Wheatland Zoning Code, creating Chapter 18.55 of the Wheatland Zoning Code, rezoning three properties totaling 21.75 acres (APNs 015-500-008-000, 015-360-001-000, and 015-350-012-000), and rezoning a 2.24-acre property (APN 015-500-018-000) to include the Emergency Shelter Combining District.
2. April 28, 2020 DRAFT Wheatland City Council Minutes.