

Mayor

David Allison

Council Members

Tom Bailer

Cathy Sherman

Jeff Guard

Melina Meyer

Anne Schaefer

Kristin Carpenter

Ken Jones

City Manager

Helen Howarth

City Clerk

Susan Bourgeois

Deputy Clerk

Tina Hammer

Student Council

Ari Jeppson-Bolin

**Special City Council Meeting
March 22, 2022 @ 12:00 pm
Cordova Center Community Rooms
Agenda**

A. Call to order

B. Roll call

Mayor David Allison, Council members Tom Bailer, Cathy Sherman, Jeff Guard, Melina Meyer, Anne Schaefer, Kristin Carpenter, and Ken Jones

C. Approval of agenda..... (voice vote)

D. Disclosures of Conflicts of Interest and Ex Parte Communications

- conflicts as defined in 3.10.010 https://library.municode.com/ak/cordova/codes/code_of_ordinances should be declared, then Mayor rules on whether member should be recused, Council can overrule
- ex parte should be declared here, the content of the ex parte should be explained when the item comes before Council, ex parte does not recuse a member, it is required that ex parte is declared and explained

E. Communications by and petitions from visitors

1. Audience Comments regarding agenda items..... **(3 minutes per speaker)**

F. New Business

2. Council approval of Restated Employment Agreement with..... **(roll call vote)(page 1)**
City Clerk **Susan Bourgeois** (may be discussed in executive session)

G. Audience participation

H. Council comments

I. Executive Session

3. Council may choose to go into an executive session for item 2 before approval because the City Clerk's contract approval is a matter the immediate knowledge of which would clearly have an adverse effect upon the finances of the government.

City Council is permitted to enter into an executive session if an explicit motion is made to do so calling out the subject to be discussed and if that subject falls into one of the 4 categories noted below. Therefore, even if specific agenda items are not listed under the Executive Session header on the agenda, any item on the agenda may trigger discussion on that item that is appropriate for or legally requires an executive session. In the event executive session is appropriate or required, Council may make a motion to enter executive session right during debate on that agenda item or could move to do so later in the meeting.

J. Adjournment

Executive Sessions per Cordova Municipal Code 3.14.030

- **subjects which may be considered are:** (1) matters the immediate knowledge of which would clearly have an adverse effect upon the finances of the government; (2) subjects that tend to prejudice the reputation and character of any person; provided that the person may request a public discussion; (3) matters which by law, municipal charter or code are required to be confidential; (4) matters involving consideration of governmental records that by law are not subject to public disclosure.
- **subjects may not be considered in the executive session except those mentioned in the motion calling for the executive session, unless they are auxiliary to the main question**
- **action may not be taken in an executive session except to give direction to an attorney or labor negotiator regarding the handling of a specific legal matter or pending labor negotiations**

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AGENDA ITEM 2
City Council Meeting Date: 3/22/2022
CITY COUNCIL COMMUNICATION FORM

FROM: Laura Cloward, Human Resources Director
DATE: 3/18/22
ITEM: City Clerk Contract Approval
NEXT STEP: Council Approval of Contract

ORDINANCE
 MOTION

RESOLUTION
 INFORMATION

I. REQUEST OR ISSUE: Employment Agreement approval for City Clerk Susan Bourgeois.

II. RECOMMENDED ACTION / NEXT STEP: Council suggested motion: to approve the restated employment agreement between the City of Cordova and Susan Bourgeois.

III. FISCAL IMPACTS: Bourgeois will receive a salary increase of 4%.

IV. BACKGROUND INFORMATION: City Council conducted its annual evaluation of the City Clerk; it was a positive evaluation with an above average outcome. Bourgeois asked for a salary increase and a small adjustment regarding contract end date (Feb. 15, 2025) so that the next end date would fall before the changeover of Council members that occurs after a March election. One other change was in the termination clause – Clerk has been required to provide 30 days’ notice of her resignation and now there is a provision that says Council will also be required to provide 30 days’ notice if the intent is not to renew the contract.

V. LEGAL ISSUES: Charter and Code regarding City Clerk can be found online:

https://library.municode.com/ak/cordova/codes/code_of_ordinances?nodeId=CHCOAL_ARTIITHCO_S2-6CICL

https://library.municode.com/ak/cordova/codes/code_of_ordinances?nodeId=TIT3AD_CH3.16CICL

Roll Call Vote because Code 3.12.080 Meetings-Passage of Proposals requires...

The council shall vote on a roll call vote where a majority of all members is required, or upon request of any council member. The results of all votes shall be entered into the minutes of the meeting.

VI. SUMMARY AND ALTERNATIVES: Council could choose not to approve the contract.

RESTATED EMPLOYMENT AGREEMENT

This Restated Employment Agreement (“Agreement”) is by and between the City of Cordova, Alaska, (“Cordova”), a municipal corporation, and Susan Bourgeois (“Clerk”), and is effective as of April 4, 2022 (“Effective Date”).

WHEREAS, Clerk is currently employed by Cordova pursuant to that certain Restated Employment Agreement dated April 4, 2019, which expires by its terms on April 4, 2022; and

WHEREAS, Cordova and Clerk wish to restate the terms and conditions of Clerk’s employment by Cordova.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, Cordova and Clerk agree as follows:

SECTION ONE: DUTIES OF CLERK

Clerk shall be employed by Cordova and hold the title “City Clerk” of Cordova. Clerk shall perform all duties and discharge all responsibilities of that position as prescribed from time to time by the laws of the State of Alaska, the Charter of the City Cordova, the Cordova Municipal Code, as the same may be amended from time to time, and such other duties as may be reasonably directed by the City Council.

SECTION TWO: COMPENSATION OF CLERK

1. **SALARY**. For services performed Clerk shall receive an annual salary of \$97,694.19 minus applicable withholding and deductions. Such salary shall be payable in accordance with the Cordova Municipal Code and Cordova’s regular and customary payroll practices. This salary amount shall be effective through February 15, 2023, on or about, at which time an annual review by the City Council shall be conducted. Clerk shall receive any and all salary increases, such as COLA adjustments, given to all other exempt employees of the City of Cordova during the term of this agreement.

2. **EXEMPT POSITION**. Clerk acknowledges that the position of City Clerk is exempt from the overtime requirements of state and federal minimum wage and overtime laws, and as such Clerk is expected to work whatever hours are necessary to accomplish the goals and requirements of the position. The customary work week at Cordova for full time, exempt employees is Monday through Friday from 8:00 a.m. to 5:00 p.m. However, Clerk acknowledges that the specified work hours and work week may differ depending on the needs of the City Council, and that Clerk may frequently be required to work beyond the confines of the regular work week and work hours. Time sheets shall be submitted to the Mayor or his/her designee on the City Council for signature in accordance with the schedule utilized for other non-elected, non-collectively bargained employees.

3. **BENEFITS**. Clerk shall be entitled to participate in State of Alaska PERS retirement benefits, and City-sponsored health and life insurance benefits on the same basis as other full-time regular employees of the City of Cordova, subject to the City’s right to amend or

terminate such benefits at any time. City shall supply Clerk with a cell phone for business and personal use, subject to City policies and public record keeping requirements.

4. **PAID TIME OFF.**

- a. Annual Leave - Clerk shall accrue annual leave at a rate of 20 hours per month. Annual leave may be carried over from year to year. Annual leave accumulated in excess of 240 hours shall be forfeited on December 31 of each year. All accrued annual leave shall be cashed out upon separation, subject to the limitations of Section 4, Paragraph 2 hereof. Annual leave must be requested two weeks in advance. Requests for annual leave shall be submitted to the City Council at any of its regularly scheduled twice-monthly meetings.
- b. Medical Leave - Clerk shall accrue medical leave at a rate of 15 days per year. Medical leave shall be carried over from year to year. Fifty percent (50%) of Clerk's accrued medical leave shall be cashed out upon separation on favorable terms up to a maximum of 520 hours, subject to the limitations of Section 4, Paragraph 2 hereof. For an absence due to sudden illness or other unanticipated events, Clerk shall telephone the Mayor or the designated City Council representative as soon as possible prior to the time Clerk is scheduled to report for work.
- c. Miscellaneous - Annual and sick leave both accrue during the period of time Clerk is on a paid leave, but not during leave without pay. Neither annual leave nor sick leave may be advanced.

5. **TRAVEL, MEETINGS, AND PROFESSIONAL DEVELOPMENT.** Clerk shall receive allowance for travel, out-of-town meetings or professional development expenses as authorized by the City Council in the budget for each fiscal year or as approved in advance by the City Council from time to time. Subject to the foregoing, Clerk agrees to pursue professional development to attain and/or maintain the designation of Certified Municipal Clerk.

SECTION THREE: PERFORMANCE EVALUATION

The City Council shall evaluate the performance of Clerk no less frequently than annually during the term of this Agreement. The evaluation shall be completed in accordance with written guidelines of expected standards of performance and personal conduct and a written performance evaluation procedure approved by the City Council prior to each evaluation and provided in advance to Clerk.

SECTION FOUR: TERM, TERMINATION AND SEVERANCE PAY.

1. **TERM.** The term of the Agreement is from the Effective Date though February 15, 2025 unless terminated earlier pursuant to Paragraph 2 of this Section Four.

2. **TERMINATION.** The Agreement and Clerk's employment hereunder are terminable at will and at any time by the City Council without any notice of any kind whatsoever, with or without cause, it being expressly and explicitly understood by Clerk that she holds her

position at the will of the City Council of the City of Cordova. City Council will notify City Clerk not less than 30 days before expiration of this employment agreement of intention to not renew the contract. Clerk understands and agrees that no representations or course of conduct by the City Council shall establish any legally enforceable expectation of her continued employment by the City Council.

Clerk shall provide the City Council with written notice of her resignation no less than thirty (30) days prior to the effective date of her resignation or expiration of this employment agreement. If Clerk resigns without providing such notice, then Clerk shall forfeit all benefits, if any, which Clerk otherwise would be entitled to receive under this Agreement, including without limitation the cash out of any accrued, unpaid annual or medical leave.

Dismissal and grievance procedures applicable to other City employees as provided in the Cordova Municipal Code, if any, shall not apply to the termination of Clerk's employment by the City Council.

3. **SEVERANCE PAY.** If the City Council terminates Clerk's employment without cause, and Clerk executes and does not revoke a waiver and release prepared or approved by the City Council, then Cordova shall pay Clerk a lump sum severance payment equal to three months' salary for Clerk, minus applicable withholdings and deductions.

If Council terminates Clerk's employment with cause or if Clerk resigns her employment, regardless of cause, then Clerk shall receive no severance pay. Any of the following shall constitute "cause" for termination: (i) Clerk's failure to satisfactorily perform her duties in accordance with the provisions of this Agreement, (ii) Clerk's intentional failure to obey any lawful directive of the Council, (iii) Clerk's intentional failure to comply with the Charter of the City of Cordova or with the Cordova Municipal Code, (iv) intentional and willful misconduct which the Council reasonably believes reflects adversely on Clerk's position, including but not limited to, dishonesty, fraud, embezzlement, substance abuse, and criminal misconduct, or (v) any other acts or omissions of Clerk which constitute "cause" under Alaska law.

SECTION FIVE: OTHER EMPLOYMENT

Clerk acknowledges that she must devote a great deal of time outside normal City office hours to the business of Cordova. Clerk shall not undertake employment with any person or entity other than Cordova without prior approval of the City Council.

SECTION SIX: INDEMNIFICATION BY CORDOVA

Cordova shall indemnify, hold harmless and defend Clerk against all claims and liability which may result from any claim, action or suit by any person based upon alleged injury to or death of a person or alleged loss of or damage to property that may occur or that may be alleged to have been caused by Clerk in the performance of her official duties during the duration of her employment with Cordova under this Agreement; provided, however, that Cordova shall not be obliged to indemnify, hold harmless or defend Clerk against any claim or liability arising out of or resulting from acts or omissions which, in the sole judgment of Cordova, may occur or that may

be alleged to have been caused by Clerk while acting outside of course and scope of her official duties, or from any false, deceptive, dishonest or criminal act or omission under the laws and regulations of the United States of America, the State of Alaska and/or any political subdivision thereof.

SECTION SEVEN: GENERAL PROVISIONS

1. **CHOICE OF LAW, EXCLUSIVE VENUE.** Any controversy or claim arising out of or related to this Agreement or the breach thereof shall be governed by the laws of the State of Alaska, and the City of Cordova, Alaska, and the exclusive forum for any legal proceedings regarding such dispute shall be the Superior Court for the State of Alaska, Third Judicial District at Cordova.

2. **ASSIGNMENT.** This Agreement shall not be assignable, in whole or in part, by either Party without the written consent of the other Party.

3. **SEVERABILITY.** In the event any provision of this Agreement is deemed to be void, invalid, or unenforceable, that provision shall be severed from the remainder of this Agreement so as not to cause the invalidity or unenforceability of the remainder of this Agreement. All remaining provisions of this Agreement shall then continue in full force and effect. If any provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope and breadth permitted by law.

4. **WAIVER.** The waiver by either Party of a breach of any of the provisions of this Agreement by the other Party shall not operate or be construed as a waiver of any subsequent breach by a Party.

5. **AMENDMENT.** This Agreement may be amended in writing by mutual agreement of the Parties.

6. **APPLICATION OF CITY CODE AND PERSONNEL POLICIES.** Unless expressly contrary to a provision hereunder or as contrary to the laws of the State of Alaska, the Charter of the City of Cordova, or the Cordova Municipal Code, Clerk's employment shall be subject to the personnel policies and rules applicable to non-elected, non-represented employees of Cordova, as the same may be amended from time to time, to the extent the same are not in conflict with an express, lawful provision of this Agreement.

7. **INTEGRATED AGREEMENT.** This Agreement constitutes the entire Agreement between Clerk and Cordova, and supersedes all prior oral or written understandings, if any, between Clerk and Cordova, including without limitation, the predecessor restated employment agreement dated April 4, 2019.

IN WITNESS WHEREOF, the City Council of the City of Cordova has caused this Agreement to be signed and executed on the City Council's behalf by its Mayor and duly attested by its Human Resources Officer, and Susan Bourgeois has executed this Agreement for and on behalf of herself, on the day and year first written above.

City Council of the City of Cordova, Alaska

By: _____
Mayor David Allison

Date: _____

Human Resources Officer of City of Cordova, Alaska

Laura Cloward

Date: _____

Clerk

Susan Bourgeois

Date: _____

Draft