

1. City Council Special Meeting Agenda

Documents: [APPROVED AGENDA 6-29-12.PDF](#)

2. City Council Special Meeting Packet

Documents: [6-29-12 AGENDA AND PACKET.PDF](#)



Approved

**CITY OF YPSILANTI
SPECIAL COUNCIL MEETING AGENDA
CITY COUNCIL CHAMBERS – ONE SOUTH HURON ST.
YPSILANTI, MI 48197
FRIDAY JUNE 29, 2012
7:30 A.M.**

I. CALL TO ORDER –

II. ROLL CALL –

Council Member Bodary	P A	Council Member Robb	P A
Council Member Jefferson	P A	Council Member Vogt	P A
Council Member Murdock	P A	Mayor Schreiber	P A
Mayor Pro-Tem Richardson	P A		

III. INVOCATION –

IV. PLEDGE OF ALLEGIANCE –

"I pledge allegiance to the flag, of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all."

V. INTRODUCTIONS –

VI. AGENDA APPROVAL –

VII. AUDIENCE PARTICIPATION-

VIII. RESOLUTIONS/MOTIONS/DISCUSSIONS

1. Resolution 2012-140, approving city manager contract
2. Resolution 2012-141, approving Aubree's temporary authorization for outdoor service

IX. REMARKS BY THE MAYOR –

X. CLOSED SESSION

Closed Session to discuss pending litigation **OMA** 15.268, Section 8(e)

XI. ADJOURNMENT –

Resolution No. 2012-142 , adjourning the Special Council Meeting.



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REQUEST FOR LEGISLATION
June 27, 2012

To: Mayor, Mayor Pro Tem & City Councilpersons

From: David R. Kowal, Director of Administrative Services

Subject: Proposed City Manager Employment Agreement

SUMMARY & BACKGROUND:

The City Council previously engaged the services of the Michigan Municipal League to perform a professional executive recruitment for the position of City Manager. At special meetings held on April 26th and 27th, 2012, the Council conducted interviews with five (5) candidates for the position of City Manager. Second interviews were subsequently conducted by Council on May 14, 2012 with two (2) finalists. The requisite knowledge, skills, abilities and relevant experience that the City Manager should possess in order to be an effective chief administrative officer of the City were established by the City Council prior to commencing the recruitment process.

At its meeting of May 15, 2012, the City Council adopted a resolution to establish an ad hoc committee to draft an Employment Agreement by and between the City and Mr. Ralph Lange – the candidate it believed best matched the position profile established by the Council. The ad hoc committee consisted of Mayor Schreiber, Mayor Pro Tem Richardson, and Councilperson Robb.

ATTACHMENTS:

1. Proposed Employment Agreement negotiated by and between the City Council ad hoc committee and Mr. Lange
2. Council Resolution

CITY MANAGER APPROVAL: _____ COUNCIL AGENDA DATE: _____

CITY MANAGER COMMENTS: _____

FISCAL SERVICES DIRECTOR APPROVAL: _____



Resolution No. 2012 -140
June 29, 2012

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, the City Council previously engaged the services of the Michigan Municipal League to perform a professional executive recruitment for the position of City Manager; and

WHEREAS, the City Council at Special Meetings held on April 26th and 27th, 2012 conducted interviews with five (5) candidates for the position of City Manager; and

WHEREAS, second interviews were subsequently conducted by the City Council on May 14, 2012 with two (2) finalists; and

WHEREAS, the requisite knowledge, skills, abilities and relevant experience that the City Manager should possess in order to be an effective chief administrative officer of the City were established by the City Council prior to commencing the recruitment process; and

WHEREAS, at its meeting of May 15, 2012, the City Council adopted a resolution to establish an ad hoc committee to draft an Employment Agreement by and between the City and Mr. Ralph Lange – the candidate it believed best matched the City Manager position profile developed by the Council; and

WHEREAS, the ad hoc committee (members consisting of Mayor Schreiber, Mayor Pro Tem Richardson, and Councilperson Robb) and Mr. Ralph Lange have negotiated a proposed Employment Agreement.

NOW THEREFORE BE IT RESOLVED THAT the Ypsilanti City Council does hereby approve the Employment Agreement by and between the City of Ypsilanti and Mr. Ralph Lange, attached hereto and made a part hereof, and does further authorize and direct the Mayor and City Clerk to execute the subject Employment Agreement on behalf of the City.

OFFERED BY: _____

SUPPORTED BY: _____

YES:

NO:

ABSENT:

VOTE:

YPSILANTI CITY MANAGER
EMPLOYMENT AGREEMENT
BETWEEN THE CITY OF YPSILANTI AND
RALPH A. LANGE

This agreement is made between the **CITY OF YPSILANTI**, a Michigan municipal corporation, hereinafter referred to as the "CITY" and **RALPH A. LANGE**, hereinafter referred to as the "EMPLOYEE" (hereinafter collectively referred to as "Parties") for the purposes herein. The parties have negotiated certain terms of the EMPLOYEE's employment with the Employer and have come to certain understandings about the terms and conditions of employment and wish to evidence this in writing.

In consideration of the premises and of the benefits to be derived from the mutual observance of the covenants in this Agreement, the parties agree as follows:

- 1. EFFECTIVE DATE.** The Parties acknowledge and agree that, the EMPLOYEE's start date shall be July 30, 2012.
- 2. DUTIES.** The CITY agrees to employ the EMPLOYEE as the City Manager of the CITY to perform all duties specified by Article IV, Section 4.01 of the Ypsilanti City Charter and by ordinances, and to perform such other proper duties as assigned by City Council. The EMPLOYEE agrees to carry out his duties in an efficient and conscientious manner, and to exercise his discretion and judgment in the best interests of the CITY at all times.
- 3. LENGTH OF EMPLOYMENT, TERMINATION, AND SEVERANCE PAY.** This employment agreement as City Manager is contingent upon the EMPLOYEE's acceptance of the appointment, the EMPLOYEE's approval and acceptance of this employment agreement document, approval by City Council of the EMPLOYEE's appointment to City Manager and this employment agreement document, and satisfactory completion of all pre-employment aspects of this appointment, including a drug screen, background checks, driver's record check and any other pre-employment verifications deemed necessary by City Council.

The EMPLOYEE shall be an "employee-at-will" and nothing in this agreement shall prevent, limit or otherwise interfere with the right of the City Council to terminate the employment of the EMPLOYEE at any time except as such right to terminate employment is subject to the severance benefits set forth in this agreement, or as limited by the City Charter.

- a. The Parties agree that EMPLOYEE shall remain in the employ of the CITY until June 30, 2017, unless this agreement is terminated prior to that date as provided herein.
- b. On or before June 30, 2017, the CITY and the EMPLOYEE may negotiate an extension of this agreement if both parties are desirous of doing so. In the event that mutually agreeable terms for an extension cannot be reached by the parties then this agreement shall terminate on June 30, 2017, unless previously terminated.
- c. This agreement may be terminated immediately, prior to the June 30, 2017, upon the mutual agreement of the parties.
- d. Severance benefits. In the event the EMPLOYEE is terminated by the City prior to the expiration of this Agreement, the following shall apply:
 - 1. If the EMPLOYEE is terminated for just cause prior to the expiration of this agreement, the CITY shall have no further obligation to pay any amount under this agreement and the EMPLOYEE shall not be entitled to any further compensation, including but not limited to severance pay or additional salary but will be entitled to receive pay for his vested vacation as of the time of his termination. The term "just cause" shall have the meaning commonly afforded to that term through judicial and arbitration decisions.
 - 2. If the EMPLOYEE is terminated other than for just cause prior to the expiration of this agreement, the EMPLOYEE's employment shall be terminated one hundred eighty (180) days from the date of such notice. Following such notice, the EMPLOYEE shall remain on the CITY payroll for said one hundred eighty (180) days; during which period, any health, life, disability, dental and vision insurance benefits the EMPLOYEE is receiving will remain in force. However, the Employee may, at the sole discretion of the City, be relieved of his duties and authority, and may also be removed from the position of City Manager.
 - 3. No severance shall be paid if the EMPLOYEE's employment is terminated through the expiration and non-renewal of this agreement.
 - 4. Unless specifically agreed upon in writing by the City, no severance shall be paid should Employee voluntarily resign or should the parties agree to voluntarily end this agreement.
- e. In the event the EMPLOYEE resigns his employment, he must give one hundred eighty (180) days prior written notice to the CITY. Furthermore, the EMPLOYEE shall not be entitled to any severance pay. Failure to give the required notice shall forfeit any vested vacation or sick time pay out. In the event that timely notice is given by EMPLOYEE, EMPLOYEE shall be entitled to any vested vacation or sick time payout.

- 4. EXCLUSIVE EMPLOYMENT.** During the term of this employment agreement, the Employee agrees to be employed exclusively by the CITY. With prior approval from City Council, the EMPLOYEE may perform services such as teaching, lecturing, and assisting other governmental agencies and other professional obligations so long as such activities do not unreasonably interfere with the EMPLOYEE's duties/responsibilities to the CITY.
- 5. SALARY.** Unless otherwise mutually agreed by the Parties, for the first two and one half (2.5) years of EMPLOYEE's employment with the City, the CITY shall pay a salary not less than \$93,500.00 per year, payable bi-weekly in installments at the same time as other employees of the City are paid. After the first two and one half (2.5) years of employment, any and all adjustments to salary shall be made only by City Council, salary shall be reviewed annually, and may be made by budget authorization.
- 6. RESIDENCE/ALLOWANCE.** The CITY desires that the EMPLOYEE reside within the City of Ypsilanti. The Parties agree that for any month during EMPLOYEE's employment that EMPLOYEE resides within the City of Ypsilanti, EMPLOYEE shall receive a housing allowance in the amount of 1/12th of 3% (\$233.75) of the EMPLOYEE's annual salary.
- 7. PROFESSIONAL DEVELOPMENT.** Employer agrees to budget for and to pay the professional dues, subscriptions, travel, and subsistence expenses of EMPLOYEE for professional participation and travel, meetings and occasions adequate to continue his professional development. Participation can include, but not be limited to the National League of Cities, International City County Management Association, Michigan Municipal League, Michigan City Managers' Association and such other national, regional, state and local governmental and community groups and their committees for which EMPLOYEE serves as a member, or when participation is beneficial to the CITY, as well as associated short courses, institutes and seminars.
- 8. INDEMNIFICATION/REIMBURSEMENT.** The CITY shall purchase and maintain insurance to defend, save harmless and indemnify the EMPLOYEE against any tort, professional liability claim, or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of EMPLOYEE's duties/responsibilities as City Manager, provided the EMPLOYEE acted both in good faith and within the scope of his duties/responsibilities as City Manager, and further provided the EMPLOYEE fully cooperates with the CITY in its defense of the claim, demand or other legal action. The CITY may, in its discretion, compromise and settle any claim or suit and pay the amount of any settlement or judgment rendered thereon. Indemnification shall not be provided to the EMPLOYEE by the CITY if the claim, demand or other legal action results from the willful

misconduct of willful insubordination of the EMPLOYEE or if the claim, demand or legal action involves any proceeding where the EMPLOYEE is the plaintiff or an adverse party to the CITY. In addition, the City shall pay or reimburse the EMPLOYEE for all normal and reasonable expenses, including travel expenses, incurred by the EMPLOYEE during his employment in connection with the EMPLOYEE's responsibilities to the City.

- 9. PAID VACATION.** The EMPLOYEE will begin with ten (10) days or eighty (80) hours of vacation time for the remainder of calendar year 2012. Beginning in calendar year 2013, the EMPLOYEE shall begin accruing at the rate of Fifteen (15) days or 120 hours annually upon his start date, earned and credited on a pro rata basis each pay period. Such paid vacation time shall accrue to a maximum annual accrual of thirty (30) days or two hundred forty (240) hours in accordance with City personnel rules, policies and procedures applicable to Non-Union City employees. Any vacation hours in excess of two hundred forty (240) hours are deleted as of December 31 of each year.
- 10. PERSONAL DAYS.** The EMPLOYEE shall be entitled to five (5) personal leave days per annum. Personal time shall not carry over into the next year.
- 11. COMPENSATION TIME.** The job of City Manager is an executive position and requires more than forty (40) hours per week. The normal business hours for the CITY are from 8AM to 5PM. No overtime pay is expected and none will be paid, and the EMPLOYEE will not accrue any "comp" time. The parties understand and agree that the EMPLOYEE shall manage his own time and may need to use some time during the regular business day for personal business.
- 12. INSURANCE.** The City will offer to the EMPLOYEE and their spouse the usual city medical, dental and optical insurance coverage's provided to Non-Union employees under the terms and agreements of such individual plans during the term of Employee's employment and not during any retirement. The Employee shall have no claim to retiree health insurance from the City. If the EMPLOYEE chooses to opt-out of the city's basic health insurance coverage the EMPLOYEE will receive an annual payment of seven thousand eight hundred dollars (\$7,800). This payment will be directed to cover the cost of the EMPLOYEE'S chosen basic health insurance plan in an amount not to exceed \$7,800 per year.

For the avoidance of doubt, The CITY reserves the right to alter, modify, or terminate any or all of its insurance plans and other benefits provided to Non-Union employees during the course of this contract and the EMPLOYEE may not rely on any specific coverage or term of such plans or benefits being

maintained by the CITY solely for the EMPLOYEE's benefit except for the opt-out payment noted in the prior paragraph.

13. PENSION.

a. The Employer agrees to execute all necessary Agreements to provide for participation by the Employee in a Defined Benefit Plan of the Municipal Employees' Retirement System (MERS) of Michigan ("the Plan"). The Plan shall include the following provisions:

1. B-3: Standard benefit multiplier of 2.25% (80% max).
2. Vesting: The minimum amount of MERS service credit the Employee shall be required to earn to be eligible for a retirement benefit with the Employer is eight (8) years.
3. FAC-3: The average of the highest consecutive three-year (36 months) period of earnings of the Employee's credited service.
4. RS50%: A surviving spouse benefit upon Employee's death after retiring. This benefit shall allow Employee's spouse to receive 50% of Employee's straight life allowance. Other requirements are as follows: 1). Only covers a spouse; and 2). Employee and Employee's spouse must be married one year prior to Employee's retirement and still be married at the time of Employee's death.
5. Member Contribution Rate: Employee shall be required to contribute five percent (5%) of his applicable earnings to the subject Defined Benefit Plan.

Any such benefits shall be subject to the terms and conditions of the applicable plan and policies of the Municipal Employees' Retirement System (MERS) of Michigan. The Employer and Employee shall participate in the Federal Social Security program.

b. The EMPLOYEE agrees, after three years, to open this contract benefit section with the CITY to be renegotiated to a pension plan with terms and conditions, from that point in time forward, that closely represents the terms and conditions under which other Non-Union city employees are receiving this benefit.

14. SICK LEAVE. The EMPLOYEE will receive sick leave benefits as a full time, non-union employee, according to the city of Ypsilanti NONUNION EMPLOYEES' HANDBOOK, section 3.07.

15. PREMIUMS PAID WHILE ON LEAVE. The CITY shall pay all premiums for health, life, disability, dental and vision insurance benefits that the EMPLOYEE is receiving while the EMPLOYEE is on vacation, sick leave or disability leave for up to ninety (90) days.

16. BEREAVEMENT. The CITY agrees the EMPLOYEE shall be allowed four (4) working days each year as paid funeral leave for the death in the immediate family (spouse, EMPLOYEE's spouse or spouse's parents or step-parents, or grandparents, brothers, sisters, children, step-children, brother-in-law, and sister-in-law).

17. HOLIDAYS. The EMPLOYEE shall receive paid holidays in accordance with those uniformly provided for the CITY's full-time department heads.

18. PERFORMANCE EVALUATION.

- a. City Council shall evaluate the performance of the EMPLOYEE annually on a list of prioritized and attainable goals set by City Council in consultation with EMPLOYEE.
- b. This review and evaluation shall be in accordance with specific criteria developed by City Council in consultation with EMPLOYEE. The Evaluation Committee shall provide the EMPLOYEE with a summary of written statements and findings of the City Council and provide an adequate opportunity for the EMPLOYEE to discuss his evaluation with the City Council.

19. INTERPRETATION OF CONTRACT.

- a. This Agreement constitutes the entire understanding between the City and the EMPLOYEE. There are no oral understandings, terms or conditions and no party has relied on any representation, express or implied, not contained in this Agreement.
- b. This Agreement may be changed only by a written amendment signed by both parties.
- c. The Parties restate and incorporate all other provisions of the City's personnel rules, policies and procedures not inconsistent herewith and agree that all such rules, policies and provisions remain in effect. If there is any conflict between the provisions of this Employment Agreement and the rules, policies and provisions of the personnel policies of the CITY, the provisions of this Employment Agreement shall control.
- d. This agreement is binding upon and inures to the benefit of the heirs and personal representatives of the EMPLOYEE.
- e. If any provision or any portion of this agreement is held to be unconstitutional, invalid, or unenforceable, the remainder of this agreement shall not be affected and shall remain in full force and effect.

20. Arbitration The Employee agrees that any dispute, matter or controversy involving claims for monetary damages and/or employment related matters including, but not limited to, any and all claims relating to termination of employment and discrimination shall be arbitrated pursuant to the Employment Arbitration Rules and Mediation Procedures of the American Arbitration

Association, as amended by AAA from time to time. This paragraph expressly includes, but is not limited to, claims arising under State or Federal common law, statute, regulation or constitution such as: the Civil Rights Act of 1871, 42 U.S.C. §1983; the Civil Rights Act of 1866, 42 U.S.C. §1981; Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§2000 *et seq.*; the Equal Pay Act, 29 U.S.C. §206(d); the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. §1001 *et seq.*; the Americans With Disabilities Act, 42 U.S.C. §12101 *et seq.*; the Family Medical Leave Act, 29 U.S.C. §2611; Age Discrimination in Employment Act or the Older Workers' Benefit Protection Act; the Elliott-Larsen Civil Rights Act, MCLA. §37.2101 *et seq.*; the Whistleblowers' Protection Act, MCLA. §15.361 *et seq.*; the Michigan Persons With Disabilities Act, MCLA. §§37.1101 *et seq.*; the Payment of Wages and Fringe Benefits Act, MCLA. §408.471 *et seq.* THE EMPLOYEE IS AWARE THAT HE OR SHE IS CHOOSING TO ARBITRATE THESE CLAIMS AND IS WAIVING THE RIGHT TO ADJUDICATE THESE CLAIMS IN A JUDICIAL FORUM AND IS WAIVING ANY RIGHT TO JURY TRIAL.

The Employee and Employer agree that, in addition to the Employment Arbitration Rules and Mediation Procedures of the American Arbitration Association, the following will apply to any arbitration arising under the terms of this agreement:

- A. Any arbitration shall take place at the office of the Employer in the City of Ypsilanti, Michigan.
- B. In the disposition of the substance of the dispute, the arbitrator shall be governed by the City's Charter, Personal Policies and rules, except as modified by this Agreement, and otherwise by the laws of the state of Michigan which shall govern the interpretation of the Employer's Personnel Policy.
- C. The decision of the arbitrator, when made in accordance with his or her jurisdiction and authority, shall be final and shall bar any suit, action, or proceeding instituted in any Court, or before any administrative tribunal. Judgment on any award by the arbitrator may be entered in any court of competent jurisdiction

21. Forum and Law. This contract shall be governed by the law of the State of Michigan, and all jurisdiction and venue shall be exclusively in Washtenaw County, Michigan.

22. Bar of Action. The Employee agrees not to commence any action or suit relating to his employment with the Employer more than 6 months after the occurrence of the facts giving rise to the claim, or more than 6 months after the date of termination of this Agreement, whichever is earlier, and to waive any statute of limitations to the contrary. In the event that the statute of limitations applicable to such a claim is less than 6 months, the Employee agrees that the shorter statute of limitations shall be applicable.

23. Facsimile Signatures. The Parties agree that signatures on this Agreement may be delivered by facsimile in lieu of an original signature, and the Parties agree to treat facsimile signatures as original signatures and agree to be bound by this provision.

Ralph A. Lange

DATED:

CITY OF YPSILANTI

BY: _____

Paul T. Schreiber, Mayor

BY: _____

Frances McMullan, City Clerk

APPROVED AS TO FORM: ***✓***

John M. Barr City Attorney



REQUEST FOR LEGISLATION
June 26, 2012

TO: Mayor and Council

FROM: Frances M. McMullan, Interim City Manager

SUBJECT: Approval of application for temporary expansion of outdoor service area from Aubree's Saloon, Inc.

SUMMARY & BACKGROUND:

Aubree's Saloon, Inc., 39-41 E. Cross St., Ypsilanti, MI 48198 has applied to the City of Ypsilanti and Michigan Liquor Control Commission requesting to temporarily expand its outdoor service area to the adjacent City-owned parking lot on August 11, 2012 to celebrate their 40th year of being a business in Ypsilanti.

Sandee French, owner, has indicated that the event will be open to the public and they plan to erect a tent, provide food and entertainment and host a get together for past employees and customers.

All necessary documentation has been submitted to the Special Events Coordinator for review and approval. However, pursuant to the Liquor Control Code of 1998, the Michigan Liquor Control Commission cannot consider approval of the application without the approval of the local legislative body.

RECOMMENDED ACTION: Approval

ATTACHMENTS: Resolution
Application of Aubree's Saloon, Inc.

COUNCIL AGENDA DATE: June 29, 2012

CITY MANAGER COMMENTS: _____

CITY MANAGER APPROVAL: _____

FINANCE DIRECTOR APPROVAL: _____



Resolution No. 2012-141
June 29, 2012

RESOLVED BY THE COUNCIL FOR THE CITY OF YPSILANTI:

WHEREAS, Aubree's Saloon, Inc., 39-41 E. Cross St., Ypsilanti, MI 48198 has applied to the City of Ypsilanti and Michigan Liquor Control Commission requesting to temporarily expand outdoor service area to the adjacent City-owned parking lot on August 11, 2012 to celebrate their 40th year of being in business in Ypsilanti; and

WHEREAS, the Michigan Liquor Control Commission cannot consider the approval of this request without the approval of the local legislative body pursuant to the provisions of the Liquor Control Code; and

WHEREAS, Aubree's Saloon, Inc. has provided necessary documentation for approval to the Special Events Coordinator and is awaiting approval.

NOW, THEREFORE, BE IT RESOLVED THAT the Ypsilanti City Council approves the application of Aubree's Saloon, Inc. for temporary expansion of outdoor service area in the area of the City-owned parking lot adjacent to 39-41 E. Cross St., Ypsilanti, MI 48198.

OFFERED BY: _____

SUPPORTED BY: _____

YES: NO: ABSENT: VOTE:



Resolution No. 2012 -142
June 29, 2012

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

That the City Council Meeting be adjourned, on call, by the Mayor or two (2) members of Council.

OFFERED BY: _____

SUPPORTED BY: _____

YES: NO: ABSENT: VOTE: