

RESOLUTION NO. 1457

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIFE, PIERCE COUNTY, WASHINGTON AUTHORIZING THE MAYOR TO EXECUTE A SECOND AMENDMENT TO THE EMPLOYMENT AGREEMENT WITH DAVE ZABELL

WHEREAS, David K. Zabell was appointed to the position of City Manager, effective January 10, 2011; and

WHEREAS, the City and Mr. Zabell executed a document dated December 14, 2010 that is entitled "Employment Agreement between City of Fife and David K. Zabell regarding City Manager Position", said agreement being referred to herein as the "Agreement"; and

WHEREAS, the Agreement has been amended once before to reflect a modification in Mr. Zabell's salary and to change how one of his retirement benefits was paid for his benefit; and

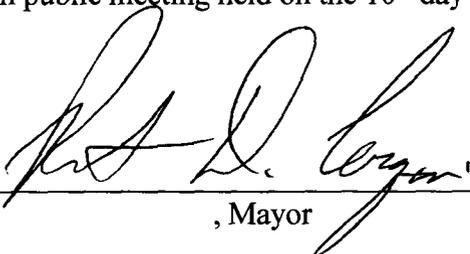
WHEREAS, Agreement paragraph 5 provides, in part, that Mr. Zabell must live within the City limits; and

WHEREAS, Mr. Zabell has found a home that meets his needs, and it is functionally located in Fife, but legally it is located in the City's urban expansion area, also known as an urban growth area; and

WHEREAS, the Council finds that the intent and spirit of Agreement paragraph 5 is met by Mr. Zabell living within any area that Fife is legally authorized to annex into the City's corporate limits at a future date, now, therefore

BE IT RESOLVED that the Council authorizes the Mayor, on behalf of the City of Fife, to execute the Second Amendment to Employment Agreement with Dave Zabell attached hereto as Exhibit A.

ADOPTED by the City Council at an open public meeting held on the 10th day of January, 2012.



, Mayor

Attest:



Carol Etgen, City Clerk

SECOND AMENDMENT
TO
EMPLOYMENT AGREEMENT
BETWEEN
CITY OF FIFE AND DAVID K. ZABELL
REGARDING CITY MANAGER POSITION

1. Dated and Parties. This document ("Second Amendment"), for reference purposes only, is dated the 10th day of January, 2012, and is entered into between the City of Fife, a Washington municipal corporation ("City") and David K. Zabell, ("Mr. Zabell").

2. Background and Purpose.

2.1 Mr. Zabell was appointed to the position of City Manager, effective January 10, 2011.

2.2 The City and Mr. Zabell executed a document dated December 14, 2010 that is entitled "Employment Agreement between City of Fife and David K. Zabell regarding City Manager Position", said agreement being referred to herein as the "Agreement".

2.3 The Agreement has been amended once before to reflect a modification in Mr. Zabell's salary and to change how one of his retirement benefits was paid for his benefit.

2.4 Agreement paragraph 5 provides, in part, that Mr. Zabell must live within the City limits.

2.5 Mr. Zabell has found a home that meets his needs, and it is functionally located in Fife, but legally it is located in the City's urban expansion area, also known as an urban growth area.

2.6 The Council finds that the intent and spirit of Agreement paragraph 5 is met by Mr. Zabell living within any area that Fife is legally authorized to annex into the City's corporate limits at a future date.

3. Amendment to Agreement Paragraph 5. Agreement paragraph 5 is hereby amended, effectively immediately, to read as follows:

5. Duties. Mr. Zabell shall perform all duties and obligations of the City Manager as required by law, and such other duties as are assigned from time to time by the City Council. The current duties and authority are set forth in Fife Municipal Code section 2.16.020, which, along with any future amendments thereto, are hereby incorporated by reference. Mr. Zabell recognizes that the City Council is the legislative and policy making body of the City and agrees to respond equally and timely to all members of Council regarding concerns brought to his attention. The City, through the City Council, recognizes that the City Manager is the


City


Zabell

individual responsible for administration and enforcement of the City's ordinances and resolutions, and of the policies and directives of the City Council, and members of the City Council shall communicate concerns regarding administration to the Manager in accordance with RCW 35A.13.120. Mr. Zabell shall attend all special and regular meetings of the City Council, unless excused, and such other meetings as required by the City Council. As City Manager, Mr. Zabell's attendance at major City sponsored events, and other significant City sponsored or non-City sponsored civic events is important, accordingly, Mr. Zabell shall exercise good judgment to assure adequate representation by the City at such events. Mr. Zabell shall live within the City limits, or within any area that has been designated as a potential annexation area, or urban growth area that could legally be annexed into the City at some future date under the Growth Management Act.

4. Confirmation of Agreement Terms. The Second Amendment terms are deemed modifications to the Agreement terms, and, except as modified herein and in the First Amendment, the Agreement, as drafted shall remain in full force and effect and its terms incorporated herein. In case of a conflict between the terms of the Agreement, the terms of the First and Second Amendments, the terms of the Second Amendment shall control.

5. Mayor Authorization to Sign. On January 10, 2012, at a regularly scheduled open public meeting, the City Council authorized the Mayor to sign this document.

6. Review by Legal Counsel. Mr. Zabell represents and acknowledges that he has read this document in its entirety and has had ample time to consider it before signing. He further represents and acknowledges that it is his understanding that this document has been reviewed and approved by the City Attorney on behalf of the city only, and not on behalf of Mr. Zabell. By virtue of this passage, he further acknowledges that he has been advised that he has

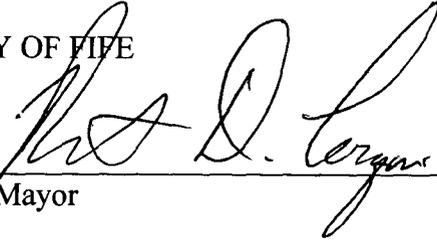

City


Zabell

the right to consult independent counsel concerning this document, and that by signing this document he acknowledges that he has afforded himself the opportunity to do so, or hereby expressly waives his right to have the document reviewed by independent legal counsel, and agrees to the terms hereof by signing the same.

CITY OF FIFE

By:



Mayor

By:



David K. Zabell

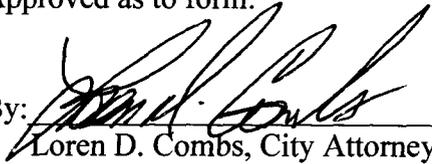
Attest:



Carol Ergen, MMC
City Clerk

Approved as to form:

By:



Loren D. Combs, City Attorney