



## MEMORANDUM

TO: Mayor Prussing  
Members, Urbana City Council

FROM: Bruce Walden, CAO  
Mona Shannon, Personnel Manager

DATE: July 20, 2005

RE: Employee Retention and Recruitment

In response to the City Council directive on May 16, 2005 to “explore methods to improve the open-ended nature of staff appointments” and the general City Council concern on how to improve employee retention and recruitment, we are providing the following memorandum and recommendations.

### Employee Retention and Recruitment

This is a multifaceted issue that includes the variables of salary, working conditions, and job and pension security. It also includes factors relating to community assets and our employment competition in the marketplace. This memo focuses on reforming the appointment process as a starting point.

### The Annual Appointment Problem

The City of Urbana is unusual in the region in that twenty-six of Urbana’s top managers and supervisors require annual reappointment by the Mayor and City Council and can be terminated at any time without notice or just cause. In contrast, our competitors often provide employment agreements, lengthy notice, and/or just cause/due process termination procedures. They also limit the number of top positions subject to this type of employment risk.

Some of the risk associated with our appointment process is inherent in the Mayor-Aldermanic form of government. This issue is particularly relevant in Urbana due to our non-staggered terms of office for the Mayor and City Council. Most of our municipal competitors or comparables are City Manager forms of government as with Bloomington, Normal, Decatur, Carbondale and DeKalb where the City Manager is the only contractual employee approved by the Mayor and

City Council. In some cases, the City Manager may have contracts with Department Heads, as is the case in Champaign. In the local marketplace the City of Champaign uses a just cause standard for lower level managers and provides three-month severance agreements (going to six months) with Department Heads and a one year severance agreement with the City Manager. Other than just cause terminations, the University of Illinois typically provides a terminal contract of four to twelve months based on tenure. Very few of our competitors have a Mayor-Aldermanic form of government. The closest Mayor-Aldermanic city is Danville. They limit their appointees to ten positions, including City Clerk, and provide four year appointments for appointees.

As indicated below, there are several steps the City can take to improve competitiveness with respect to appointments and job and pension security.

### **Number of Appointees**

The City Code provides for the annual appointment of the CAO, City Attorney, and Department Heads. But only seven of our twenty-six annual appointments are necessary under this provision. The remaining nineteen employees are appointed to avoid inclusion under civil service. The City Code does not specify that division managers are appointed offices under Section 2-42, Appointment. Our research indicates that division managers were added to the appointment list in the 1980's to avoid the restrictions and burdens of utilizing the civil service process. At that time, prior to the reform of the Civil Service Rules, the candidate pool was limited to the three top candidates which limited diversity and management choice. That is not the case today.

*We recommend that the City Council direct staff to prepare a civil service ordinance amendment that will return division managers to civil service and will provide appropriate provisions for effective implementation of this change. As you know the Civil Service Commission is appointed by the Mayor and confirmed by the City Council.*

### **Length of Appointment**

State law limits the appointment period to the term of the mayor, but does not otherwise limit the length of appointments. However, by ordinance, the City has limited appointees' terms to the fiscal year and required annual reappointment. As a consequence, initial appointments are typically less than twelve months long because appointees may only be appointed for the remainder of the fiscal year in which they are hired. This practice can result in an initial appointment of only a few months.

*We suggest that the City Council direct the staff to prepare an Ordinance to amend Sections 2-42 and 2-43 of the City Code to provide the mayor and city council with the **option** of approving longer **initial** appointments when not otherwise restricted by the statute.*

### **Employment Agreements**

Professional candidates and former and existing staff have indicated that job and pension security are very important factors in job acceptance, retention, and morale. By reducing the

appointment list, the City can reduce the number of managers that are adversely affected by these concerns.

However, the security of the remaining seven positions should be addressed. While we have somewhat successfully “talked around” this issue in the past, times have changed. In 2003 the average length of unemployment peaked at five months (Bureau of Labor Statistics). Terminated high level professionals typically have longer periods of unemployment and fewer opportunities for comparable employment than lower level employees. Managers who work outside of large metropolitan areas have even fewer local opportunities. These factors discourage employment candidates and their families from accepting higher risk positions or moves to smaller communities, while encouraging existing staff to secure other employment as soon as they perceive that their jobs are at risk. The perception of risk is often more important than the actual risk. Despite the best intentions of an individual mayor or council members, prospective and current appointees recognize that they can be fired without notice or cause at any time in Urbana. Clearly, this is an issue we must mitigate as we recruit a City Attorney and Police Chief and work to retain a productive staff.

The most common methods of providing job security are “just cause” policies and employment agreements. Although Urbana has historically been committed to principles of merit and due process, we are limited by statute to terms that are no longer than the mayor’s term. It can also be difficult to implement the principles of progressive discipline, document poor performance, and resolve disputes for positions with very broad authority. Since the creation of the CAO position in Urbana, the incumbents have served with employment agreements rather than “just cause” protection. Department Heads have had various informal agreements with the Mayor from time to time. We recommend the use of standardized employment agreements for appointees, approved by the City Council.

Enclosed is an employment agreement that provides notice and benefits for terminations that are not due to cause. The length of the notice period is left blank in this draft. We recommend that the notice period increase with tenure up to a cap. Some of the factors that should be considered in establishing a notice period include the length of time it takes to fill the job (4 or more months), our competitors’ practices, and monetary and operational costs. The essential element of the employment agreement is that it is sufficient to attract and retain high quality productive employees. This agreement should serve as one tool to demonstrate to the appointee that the actual risk of an unjust and unexpected discharge is very low. The Mayor is suggesting a minimum notice of four weeks, capped at twelve weeks.

*We recommend that standard agreements be approved for the CAO and all other appointees and offered to all new appointees, including our next City Attorney and Police Chief.*

BKW:ss

Attachment



## MEMORANDUM

TO: Mayor Prussing  
FROM: Bruce Walden, C.A.O.  
DATE: May 11, 2005  
RE: Staff Appointments FY 2005/06

Attached are staff appointments for fiscal year 2005-06. Appointments are scheduled for the May 16 Council meeting.

## APPOINTMENTS TO BE APPROVED FOR FY 2005/06

### **Executive Department**

Bruce Walden	Chief Administrative Officer
Vacant	City Attorney
Mona Shannon	Personnel Manager
Vacellia Clark	Human Relations Officer

### **Community Development Services Department**

Elizabeth Tyler	City Planner/Director of Community Development
Rob Kowalski	Planning Division Manager
Gordon Skinner	Building Safety Division Manager
Vacant	Grants Management Division Manager
Vacant	Economic Development Manager

### **Finance Department**

Ronald Eldridge	Comptroller
Delora Siebrecht	Office Supervisor
Bill DeJarnette	Information Services Manager

### **Fire Department**

Rex Mundt	Fire Chief
Mike Dilley	Division Chief
Michael Humer	Division Chief
Jeff McDuffy	Division Chief
Richard Rotramel	Division Chief

### **Police Department**

Eddie Adair	Police Chief
Mike Bily	Assistant Police Chief

### **Public Works**

William Gray	Director of Public Works
Gale Jamison	Assistant City Engineer
Jim Kelly	Operations Manager
N. Patrick Pioletti	Public Facilities Manager
Larry Fredrick	Fleet Manager
Mike Brunk	City Arborist
Rodney Fletcher	Environmental Manager

**DRAFT EMPLOYMENT AGREEMENT**

( \_\_\_\_\_ )

THIS AGREEMENT made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2005, by and between the City of Urbana, State of Illinois, a municipal corporation, (hereinafter called "City"), and \_\_\_\_\_ (hereinafter called "Appointee"), both of whom understand as follows:

**WITNESSETH:**

WHEREAS, the Mayor, with approval of the City Council is authorized to appoint Department Heads, a City Attorney, and such other employees as the Mayor and City Council shall deem necessary, and the Mayor is authorized to terminate such Appointees; and

WHEREAS, the Chief Administrative Officer (CAO) has been assigned the responsibility of supervising Department Heads and a City Attorney; and

WHEREAS, the City, upon the recommendation of the CAO, appointment by the Mayor, and confirmation by the City Council desires to employ the services of \_\_\_\_\_ as \_\_\_\_\_ of the City of Urbana; and

WHEREAS, it is the desire of the City to provide certain benefits, establish certain conditions of employment, and to set working conditions of said Appointee; and

WHEREAS, it is the desire of the City to:

1. Secure and retain the services of the Appointee and to provide inducement for him to remain in such employment;
2. Make possible full work productivity by assuring Appointee's morale and peace of mind with respect to employment security;
3. Act as a deterrent against malfeasance or dishonesty for personal gain on the part of the Appointee;

4. Provide a means for terminating Appointee's service at such time as he may be unable fully to discharge his duties due to disability or when the City may desire to terminate his employ for any reason.

WHEREAS, the Appointee desires to accept employment as \_\_\_\_\_ of the City of Urbana.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

**Section 1. Duties.** The City hereby agrees to employ \_\_\_\_\_ as \_\_\_\_\_ of Urbana to perform the functions and duties of said office as set forth in the Municipal Code of Urbana, and to perform other legally permissible duties and functions as the Mayor and CAO shall from time to time assign. The Appointee shall devote his full attention and effort to the office and perform the aforementioned duties and functions in a professional manner.

**Section 2. Status and Term.**

(a) The Appointee shall serve for an indefinite term beginning \_\_\_\_\_ at the pleasure of the Mayor. The parties recognize that this position is subject to reappointment by the Mayor and confirmation by the City Council. It is the intent of this Agreement that the obligations set forth herein are nevertheless continuous without the parties reaffirming the Agreement.

(b) Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Mayor to terminate the employment of the Appointee at any time or to decline to reappoint, subject only to the provisions set forth in Section 4, paragraphs (a), (b) and (c) and Section 5 of this Agreement and any provisions set forth in the Municipal Code, including 65 ILCS5/3.1-35-10.

(c) Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Appointee to resign at any time from his position with the City, subject only to the provisions set forth in Section 4, paragraphs (d) and (e), of this Agreement.

(d) The Appointee agrees to remain in the exclusive employ of the City for an indefinite period and shall neither accept other employment or become employed by any other employer without the prior written approval of the CAO until notice of resignation is given.

The term "employed" (and derivations thereof as used in the preceding paragraph) shall include employment by another legal entity or self employment; however, shall not be construed to include occasional teaching, writing, or consulting performed on Appointee's time off, and with the advance approval of the CAO.

**Section 3. Administrative Leave.** The CAO may place the Appointee on Administrative Leave with full pay and benefits at any time during the term of this Agreement.

**Section 4. Termination, Notice and Separation Benefits.**

(a) Except as provided in subsection (b), in the event the Mayor terminates the employment of the Appointee or the Appointee is not reappointed, during such time that the Appointee is willing and able to perform his duties under this Agreement, then the Mayor shall give the Appointee written notice at least \_\_\_\_\_ prior to the Appointee's date of termination. The Mayor shall provide the Appointee one week's additional notice per each full year of City service, up to a maximum of \_\_\_\_\_ notice. Upon termination, the City shall provide a payout of all of Appointee's credited, but unused sick leave and vacation leave. In addition, for the lesser of ninety (90) calendar days after the date of termination or the time the Appointee secures medical insurance through attainment of employment, the City shall pay for medical insurance in such amounts as had been received by the Appointee and the Appointee's dependents at the time of such termination. If the employee elects medical continuation coverage at the time of termination, the City shall pay the employer share of such continuation and the Appointee shall timely pay his share of such coverage. Upon written rejection of such continuation and submission of proper documentation, the City shall reimburse the Appointee for the premiums paid for alternative medical coverage, not to exceed the time period above or the



City cost of providing City continuation coverage. No other additional benefits shall accrue or be credited during this period.

(b)(1) Notwithstanding subsection (a) above, the following reasons shall constitute grounds to terminate the employment of the Appointee without the notice and benefits provided in 4(a):

- (i) violation of the conditions of employment requirement set forth in Section 9;
- (ii) a willful breach of this Agreement;
- (iii) conviction of a felony, or conviction of a criminal act relating to employment with the City or a criminal act for personal gain, or entry into an agreement for court supervision for such an offense;
- (iv) conduct relating to City employment which, while not necessarily criminal in nature, violates the City's established work rules or standards of conduct in some substantial manner;
- (v) substantially misrepresenting the facts or providing false information during the application process for this appointment when such conduct is identified as the reason for termination within the first eighteen months of employment; or
- (vi) repeated failure to satisfactorily perform required duties.

Termination for reasons set forth in 4(b) shall not be considered a "separation in good standing" and the Appointee shall not be entitled to any payment for accrued, unused sick leave.

(b)(2) Prior to the time that the Mayor terminates or declines to reappoint the Appointee without the notice and benefits specified in subsection(a) for any of the reasons set forth in Section (b)(1) above, the Mayor shall provide the Appointee with written notice of proposed termination/non-reappointment which contains the reason and factual basis for such action. In the case of a non-reappointment, such notice shall be provided fifteen (15) or more calendar days in advance of the end of the appointment. Within seven (7) calendar days of notice of such

termination or non-reappointment, the Appointee may request an opportunity to respond to the reasons and factual basis provided by the Mayor. If such a request to respond is made, the Appointee shall be provided an opportunity to meet with the Mayor. The meeting may be informal in nature. If the Appointee chooses to attend this meeting, he may respond to the notice of proposed termination under (b)(1). At such meeting, the Appointee may be represented by an attorney of his choice and present evidence or information relevant to the reasons and factual basis set forth in the notice of proposed termination under (b)(1). Thereafter, the decision of the Mayor as to whether reasons set forth in subsection (b)(1) exist or do not exist shall be final as between the parties.

(c) In the event the City at any time during the term of this Agreement reduces the salary of the Appointee from its then-current year level, except as part of an across-the-board reduction for all comparable Appointees of the City, or in the event the City refuses, following written notice, to extend to the Appointee any non-salary benefit customarily available to all comparable Appointees, or in the event the Appointee resigns following a request, whether formal or informal, by the Mayor or CAO that he resign, then, in those events, the Appointee may, at his option, be deemed to be "terminated" within the meaning and context of the paragraph 4(a) above; provided that such option to be deemed terminated must be exercised by written notice from the Appointee to the Mayor and CAO within ten (10) working days of notification of such reduction, refusal to extend benefits or request of resignation. In that event, the deemed termination shall be effective four weeks from the date that the Appointee provided such timely written notice and the Appointee's salary will be returned immediately to the pay rate in effect immediately prior to any reduction in pay that prompted the deemed termination.

(d) In the event the Appointee voluntarily resigns his position, other than a resignation accepted under 4 (c) above, the Appointee shall give the Mayor and CAO written notice at least four (4) weeks prior to the last work day, unless the CAO and the Appointee or the Mayor and the Appointee agree otherwise. Upon such termination, the City shall payout 100% of vacation and

50% of sick leave credited, but unused. However, unless there is agreement to the contrary, if the Appointee fails to provide such notice to the Mayor and CAO, any right for cash payout of unused accrued sick leave shall terminate, except for the Appointee's rights to creditable service under IMRF and/or a mandatory City deposit under the post-employment health savings plan, if any.

(e) It is understood that after notice of termination in any form, the Appointee and the City will cooperate to provide for an orderly transition. Specific responsibilities during such transition may be specified in a written separation agreement.

**Section 5. Disability.** If the Appointee is totally disabled or otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or ill health and provides timely documentation satisfactory to the City, he shall be eligible for a leave of absence for up to 12 months. During such an approved absence, the Appointee must first exhaust all accrued, unused sick leave. The Appointee then may use any type of leave for which he is eligible including credited vacation, duty injury leave (if applicable), and/or unpaid leave. During any such periods of unpaid leave, the Appointee shall be eligible to continue his medical insurance in the same manner as an employee on FMLA leave. For FMLA leaves of absence, paid leave, if taken, shall be substituted for unpaid FMLA leave. If the Appointee is unable to return to work at the end of such a paid or unpaid leave of absence, the City shall have the option to terminate the employment of the Appointee subject to the requirements imposed on the City by Section 4, paragraph (a). Any notice required by 4(a) may be provided during the period of the approved leave of absence. Nothing herein shall limit the City's ability to fill the Appointee's position on a regular basis if it has been determined that the Appointee will be unable to return to work at the end of his approved leave of absence or on a temporary basis, if such a determination has not been made.

**Section 6. Performance Evaluation.** The CAO shall evaluate in writing the performance of the Appointee at least once annually. Said evaluation shall be in accordance with specific

criteria developed in consultation with the Appointee and the CAO. Said criteria may be added to or deleted from as the CAO may from time to time determine in consultation with the Appointee. The Mayor may choose to participate with the CAO and the Appointee in any step of the performance evaluation process.

**Section 7. Salary.** The City agrees to pay the Appointee for his services rendered pursuant hereto in accordance with the City's classification and compensation plan or ordinances from time to time enacted which govern such compensation. The beginning salary will be \_\_\_\_\_ Dollars (\$\_\_\_\_\_ ) per year, (\$\_\_\_\_\_ per hour). Throughout this agreement salary shall refer to the Appointee's base pay. The base hourly rate shall be calculated by dividing the annual salary by 2,087 hours. A week's salary shall be the hourly rate multiplied by forty (40) regardless of the hours worked, except for permissible deductions under the Fair Labor Standards Act.

**Section 8. Other Benefits.** All applicable provisions of the Benefits Program and the Policy and Procedures for non-bargaining unit employees, as they may be amended from time to time shall apply to the Appointee as they would to other non-bargaining unit employees of the City, except as the terms and conditions of this Agreement or the text of such documents may preclude them or modify them. Any deposits in the post employment savings plan for the payout of unused sick leave shall be subject to plan rules. Notwithstanding any other section of this agreement, the combined total of cash payouts and deposits to the post employment savings plan for any unused, credited sick leave shall not exceed 100% of the value of such sick leave. It is acknowledged that the Appointee shall be entitled to set, subject to the control of the CAO, a flexible work week hourly schedule; and additionally, in recognition of the many hours worked beyond the normal work week, the CAO may from time to time authorize additional paid leave to be taken by the Appointee. The Appointee acknowledges that he is exempt from the provisions of the Fair Labor Standards Act and is not entitled to overtime pay or compensatory time. The Appointee shall be credited initially with twenty (20) days of vacation leave, and shall be credited

with twenty (20) days of vacation leave on each subsequent service anniversary, until he has completed three (3) years of service. At the beginning of his fourth year of service and on each subsequent anniversary, he shall be credited with twenty-five (25) days of vacation. All other provisions of the City's policies concerning non-bargaining unit vacation shall apply.

**Section 9. Conditions of employment.** The Appointee shall establish within six (6) months of employment his principal place of residency within the corporate limits of the City and maintain such residency at all times during the term of this Agreement, unless he obtains written authorization from the CAO for a temporary exception. The Appointee shall notify the Personnel Division in writing of any change in address within five (5) working days of such change. The Appointee shall adhere to any other conditions of employment specified in the offer letter signed by the Appointee (true copy attached).

**Section 10. Temporary Housing Expenses and Travel.** The City shall reimburse the Appointee for temporary housing expenses, travel or property storage incurred by the Appointee within the first \_\_\_\_\_ days of employment up to a maximum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_). It is the intention of the City and the Appointee that the purpose of the payment is to partially alleviate the cost to the Appointee of maintaining a temporary residence pending relocation to Urbana and travel between Urbana and his home in \_\_\_\_\_. The Appointee shall submit proof of such expenses in such detail as the City may reasonably require prior to any such reimbursement and such payments shall be subject to payroll tax withholdings as required by federal and/or state law.

**Section 11. Moving Expenses.** The Appointee shall be reimbursed for the reasonable and necessary expenses of moving himself and his personal property from his home in \_\_\_\_\_, to Urbana, Illinois up to a maximum of \_\_\_\_\_. The Appointee shall submit proof of such expenses in such detail as the City may reasonably require prior to any such reimbursement and in accordance with such terms as the CAO may specify in writing.

**Section 12. Vehicles.** The City agrees to furnish a vehicle for use by the Appointee or to reimburse the Appointee for the use of his private vehicle as occasionally required in the course of his employment in accordance with written City policy. Such written policy shall change from time to time. At this time, this position has / has not (choose one) been identified as a position that requires regular take-home use of a vehicle.

**Section 13. Professional Development.**

(a) The City agrees to budget and to pay for professional memberships in professional organizations relevant to the Appointee's profession, consistent with the City's administrative policy, and such terms as the CAO may specify in writing. Participation in such professional organizations, including meetings, contributing to professional publications and other such activities is encouraged and, subject to the prior approval of the activities by the CAO, shall be considered a part of the Appointee's normal job duties.

(b) The Appointee shall also receive authorization to attend, plus registration, travel and reasonable expenses for short courses, conferences and seminars that are necessary for his personal development and, in the judgment of the CAO, for the good of the City. Approval and payment shall be subject to budget limitations and to established travel policies and procedures.

**Section 14. Copyrights.**

(a) Any copyrights or patents for materials produced as part of the Appointee's normal work duties shall be the property of the City.

(b) If the Appointee desires to produce such copyrightable or patentable materials related to City employment outside of his normal work duties, the Appointee shall inform the CAO in writing prior to commencing such work. Prior to approval, the CAO and the Appointee shall reduce their understanding with respect to such work to writing in such form as has been approved by outside legal counsel.

**Section 15. Financial Disclosure, Ethics, and Purchasing.**

(a) The Appointee shall make timely and accurate financial disclosures as required by law, ordinance and written City policy.

(b) Ethics/Purchasing. The Appointee acknowledges that he is restricted from buying from or selling certain goods or services to the City. The Appointee acknowledges the existence of such restrictions contained in the City's policies, ordinances and state statutes, as they may exist or may be amended or promulgated from time to time. The Appointee shall adhere to all ethics requirements as required by law, ordinance and written City policy.

**Section 16. Indemnification.** The City shall defend, save harmless and indemnify the Appointee against any action, including but not limited to, any tort, professional liability claim or demand, or other non-criminal legal, equitable or administration action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of the Appointee's duties as an employee or officer of the City, other than an action brought by the City against the Appointee, or an action filed against the City by the Appointee. In addition, the City shall pay the reasonable expenses for the travel, lodging, meals and lost work time of the Appointee should the Appointee be subject to such, should an action be pending after termination of the Appointee. The City shall be responsible for and have authority to compromise and settle any action, with prior consultation with the Appointee, and pay the amount of any settlement or judgment rendered thereon.

The Appointee shall cooperate fully with the City in the settlement, compromise, preparation of the defense or trial of any such action.

**Section 17. Bonding.** The City shall bear the full cost of any fidelity or other bonds required of the Appointee under any law or ordinance.

**Section 18. Notices.** Notices pursuant to this Agreement shall be considered given by deposit in the custody of the United States Postal Service, certified mail, postage prepaid, addressed to the CAO's Office, 400 S. Vine Street, Urbana, Illinois 61801, and to the Appointee's

home address on file in the Personnel Division. Alternatively, notices required pursuant to this Agreement may be personally served or served in the same manner as is applicable to civil suits in the State of Illinois. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

**Section 19. General Provisions.**

- (a) The text herein shall constitute the entire Agreement between the parties.
- (b) This Agreement shall become effective immediately upon execution by the Mayor.
- (c) If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.
- (d) No amendment of this Agreement shall be effective unless in writing and signed by both parties hereto.

Appointee

IN WITNESS WHEREOF, the City has caused this Agreement to be signed and executed on its behalf by the Mayor and duly attested by its City Clerk, and the Appointee has signed and executed this Agreement, both in duplicate, the day and year first written above.

**CITY OF URBANA, ILLINOIS**

By: \_\_\_\_\_  
Mayor

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
Appointee

\_\_\_\_\_  
(Print Name)

Date: \_\_\_\_\_