



**CITY COUNCIL**

October 6, 2021

***Special Meeting***

1. Call to Order - 8:00 A.M. – City Council Chambers
2. Recitation - Pledge of Allegiance to the Flag of the United States of America
3. Roll Call
4. New Business
  - (a) Consideration of a proposed Severance Agreement and Release for City Manager Rob Straebel
  - (b) Appointment of Interim City Manager
5. Adjournment

You may join the meeting remotely

Join Zoom Meeting: <https://us02web.zoom.us/j/89201570549>

Dial by Phone: 888-788-0099 US Toll-free

Meeting ID: 892 0157 0549

Persons with disabilities who require assistance in order to participate in the electronic public meeting should contact the City Clerk at the earliest opportunity by emailing [aterry@petoskey.us](mailto:aterry@petoskey.us) or by calling 231-347-2500 to request assistance.

According to the Attorney General, interrupting a public meeting in Michigan with hate speech or profanity could result in criminal charges under several State statutes relating to Fraudulent Access to a Computer or Network (MCL 752.797) and/or Malicious Use of Electronics Communication (MCL 750.540).

According to the US Attorney for Eastern Michigan, Federal charges may include disrupting a public meeting, computer intrusion, using a computer to commit a crime, hate crimes, fraud, or transmitting threatening communications.

Public meetings are being monitored and violations of statutes will be prosecuted.



# City of Petoskey

## Agenda Memo

**BOARD:** City Council

**MEETING DATE:** October 6, 2021

**PREPARED:** October 5, 2021

**AGENDA SUBJECT:** Severance Agreement and Release

**RECOMMENDATION:** That City Council approve the proposed agreement

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**Background** Enclosed is a proposed Severance Agreement and Release for City Manager Rob Straebel. The agreement was prepared by City Attorney Jim Murray and reviewed by Rob Straebel. The agreement provides for resolution of all outstanding matters between the City of Petoskey and Rob Straebel upon his separation from the City of Petoskey, effective October 6, 2021.

**Action** City staff recommends City Council to approve the agreement as presented.

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Enclosure

## **SEVERANCE AGREEMENT AND RELEASE**

This **SEVERANCE AGREEMENT AND RELEASE** (the "Agreement") is made by the CITY OF PETOSKEY, including its current, past and present council members, insurers, attorneys, agents, representatives, and employees (hereinafter referred to as "the City " or the "Employer") and ROBERT STRAEBEL ("Employee"), jointly referred to herein as the "Parties." The purpose of this Agreement is to resolve all outstanding matters between the Parties related to the severance of the employment relationship between the Employer and Employee.

**WHEREAS**, Employee's employment with the Employer was separated on October 6, 2021 (the "Termination Date").

**WHEREAS**, Employee acknowledges and agrees that he has been paid all earned salary and/or benefits owed to him for any labor or services rendered by him for the Employer or on the Employer's behalf through the Termination Date, except for his final paycheck, which shall be paid on or before the Employer's next payroll date following the Termination Date.

**NOW, THEREFORE**, in consideration of the mutual covenants in this Agreement and other valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. **Consideration to Employee.** Employee acknowledges that the Employer is under no duty or obligation to make this Agreement, that the consideration for this Agreement is in addition to anything of value to which Employee may already be entitled, and that the Employer is providing the consideration discussed herein and Severance Payments/Benefits discussed in Paragraph 2 in return for Employee's agreement to be obligated by all the promises contained herein.

2. **Severance Payment/Benefits.** If the Employee signs this Agreement and does not revoke as provided in Paragraph 9, below, the Employer will pay Employee six (6) months of his base salary, together with Employee's health insurance benefit as currently available to Employee for the six (6) month period, in exchange for Employee's release of claims against Employer as set forth in Paragraph 3 of the Agreement and additional promises herein, including but not limited to those contained within Paragraphs 4 through 6. This sum will be paid in accordance with Employee's usual and customary payroll schedule. In addition, Employee shall be entitled to the value of accrued but unused vacation and personal leave time which will be paid in accordance with City policy and attached as Schedule A. Employer shall deduct appropriate amounts for usual withholdings, including FICA and state and federal income taxes as required by law.

3. **Release of Claims.**

(a) Employee, in his capacity as an individual and as City Manager, for himself, his heirs, executors, and assigns, releases and forever discharges the

Employer and its council members, officers, employees, agents, insurers, representatives, successors and assigns (collectively referred to as "the Releasees") from any and all claims or demands, whether known or unknown, of every kind and nature whatsoever, whether in law or in equity, which Employee may have based on his employment with the Employer, and Employee further agrees not to bring suit against the Employer concerning any and all claims or demands released. Employee specifically releases the Employer from any and all claims he might have under:

(1) The law of any jurisdiction including, but not limited to wrongful discharge of employment; constructive discharge from employment; termination in violation of public policy; discrimination; breach of contract, both express and implied; breach of a covenant of good faith and fair dealing, both express and implied; promissory estoppel; negligent or intentional infliction of emotional distress; negligent or intentional misrepresentation; negligent or intentional interference with contract or prospective economic advantage; unfair business practices; retaliation for whistleblowing; defamation; slander; negligent hiring, supervision or retention; personal injury; assault; battery; invasion of privacy; false imprisonment and conversion; and

(2) Any federal, state or municipal statute, law or ordinance, including but not limited to, Age Discrimination in Employment Act of 1967; Title VII of the Civil Rights Act of 1964 and the Civil Rights Act of 1991; the Equal Pay Act; the Americans with Disabilities Act of 1990; the Fair Labor Standards Act; the Employee Retirement Income Security Act of 1974; the Older Worker Benefit Protection Act; the Elliott-Larsen Civil Rights Act; and any other federal, state, or local laws or regulations applicable to the Parties; and

(3) Any federal, state, or local laws providing compensatory damages, punitive damages, interest costs or attorneys' fees; and/or allowing similar or related claims.

(b) Employee agrees never to file a lawsuit, claim, charge, or cause of action seeking damages, reinstatement, attorneys' fees or other personal relief against any Releasee based on the claims being released by him in this Agreement. Notwithstanding this waiver of remedies, above, nothing in this Agreement shall be construed to prohibit Employee from: (1) filing a charge not seeking personal remedies with the Equal Employment Opportunity Commission; (2) participating in any investigation or proceeding conducted by the Equal Employment Opportunity Commission; or (3) filing any charge or claim not waivable by law. The Employee agrees that if an action is filed on his behalf, he will not claim relief in the form of monetary damages or re-employment and waives any rights to said relief.

4. **Return of Employer Property.** Employee hereby covenants and agrees to promptly return to the Employer all property and documents (whether in hard copy or electronic form) of Employer, including login and password information for electronic accounts, documents (whether in print or electronic format) showing the Employer's confidential/proprietary information, work in progress, originals, and copies of business forms, computer files, diskettes, manuals, including training manuals, computer equipment, office equipment, and all other materials in Employee's possession or control that belong to the Employer, in whatever form and together with all copies.

5. **Confidentiality and Non-Disparagement.**

(a) Employee agrees that he will not provide any disparaging information or statements about Employer to any person or entity nor will he request or direct other persons to do so. Employee acknowledges that a breach of this Paragraph is a material breach of this Agreement. This provision does not apply to any testimony ordered to be provided by Employee pursuant to a court order issued by a court of competent jurisdiction or as part of a government investigation, including but not limited to any claim or complaint filed with the Equal Employment Opportunity Commission.

(b) If asked about Employee's employment with the Employer, the Employer shall provide Employee's dates of employment and position held only and represent that he voluntarily resigned from his position.

6. **No Re-employment.** Employee agrees not to reapply for employment with the Employer, or its affiliates, in the future. Employee understands and agrees that if he does so, his execution of this release shall be grounds for the Employer to deny his employment.

7. **Severability.** To the extent that any provision of this Agreement shall be determined to be invalid or unenforceable as written, the validity and enforceability of the remainder of such provision and of this Agreement shall be unaffected. If any particular provision of this Agreement shall be adjudicated to be invalid or unenforceable, the Parties specifically authorize the tribunal making such determination to edit or sever the invalid or unenforceable provision to allow this Agreement, and the provisions thereof, to be valid and enforceable to the fullest extent allowed by law or public policy.

8. **Choice of Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of Michigan, without regard to conflicts of law provisions.

9. **Employee's Acknowledgment of Waiver of Claims.**

(a) Employee has the right to consult with an attorney prior to executing this Agreement.

(b) Employee has up to twenty-one (21) days within which to consider whether he wants to sign this Agreement, and that any changes to this Agreement, whether material or immaterial, will not restart the consideration period.

(c) Employee may sign this Severance Agreement and Release before expiration of the twenty-one (21) day period in the event he and his counsel, if any, deem that advisable.

(d) Employee has seven (7) days following his execution (signing) of this Agreement to revoke the Agreement (to change his mind). To be effective, a rescission must be in writing and delivered to the employer at the below address before the expiration of the seven-day period:

City of Petoskey  
C/O James J. Murray  
406 Bay Street, Ste. 300  
Petoskey, MI 49770  
[jmurray@plunkettcooney.com](mailto:jmurray@plunkettcooney.com)

If Employee rescinds this Agreement or any part of it, then Employee shall not be entitled to the consideration (payments) specified in Paragraph 2 of this Agreement.

(e) This Agreement shall become effective when executed, but will be rendered moot and cancelled if Employee revokes the Agreement pursuant to this Paragraph.

10. **Entire Agreement.** This Agreement, unless otherwise stated herein, contains the entire agreement relating to any claims or future rights that Employee might have with respect to Employer. This Agreement supersedes all prior agreements and understandings between the Parties, whether written or oral, pertaining to the subject matter of this Agreement. This Agreement may not be amended or changed except in writing executed by both Parties.

11. **Effective Date.** This Agreement will become effective on the date that it is signed by Employee.

**This agreement is executed by Employee without reliance on any representations by the Employer, or any of its representatives, and Employee further states that he has carefully read the foregoing release, has been advised of its meaning and consequences, is aware that by signing this agreement he is giving up and waiving legal rights, knows and understands the contents thereof and signs the same as his own free act.**

**ACKNOWLEDGED AND AGREED:**

ROBERT STRAEBEL

THE CITY OF PETOSKEY

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

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Schedule A



SEPARATION BENEFITS  
FOR  
Robert Straebel  
October 6, 2021

**Paid Time Off Benefits**

(1) <b><u>Personal Leave Time:</u></b>		
56.00 hrs. x \$58.40 =	\$	3,270.40
(2) <b><u>Current Vacation - 2021</u></b>		
136.00 hrs. x \$58.40 =	\$	7,942.40
(3) <b><u>Earned Vacation - 2022</u></b>		
(160 hrs. x 76.4%) x \$58.40 =	\$	7,138.82
(279/365 days = 76.4%)		
(4) <b><u>Floating Holiday</u></b>		
24 hrs. x \$58.40 =	\$	1,401.60
(5) <b><u>Health Savings Account</u></b>		
Proration of Health Savings Employer	\$	723.05
Contribution = \$1,385.16 x 52.2%		
(96/184 days = 52.2%)		

**Benefits Summary:**

(1) Personal Leave Time	\$	3,270.40
(2) Current Vacation		7,942.40
(3) Earned Vacation		7,138.82
(4) Floating Holiday		1,401.60
		<hr/>
Total	\$	<u>19,753.22</u>

**Employment Data:**

Current Salary:	\$58.40 /hour
Employment Date:	5/4/2015
Separation Date:	10/6/2021
Length of Service:	6 years, 5 months

This document contains all amounts and fringe benefits due to Robert Straebel upon separation from the City of Petoskey on October 6, 2021.

\_\_\_\_\_  
Robert Straebel

\_\_\_\_\_  
Alan Terry, Director of Finance

\_\_\_\_\_  
Date





# City of Petoskey

## Agenda Memo

**BOARD:** City Council

**MEETING DATE:** October 6, 2021

**PREPARED:** October 5, 2021

**AGENDA SUBJECT:** Appointment of Interim City Manager

**RECOMMENDATION:** That City Council appoint an Interim City Manager

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**Background.** Upon execution of the Severance Agreement and Release, the City of Petoskey will have a vacancy in the City Manager position. City staff recommends that City Council appoint an Interim City Manager to fill this role until City Council performs a job search to permanently fill the position.

**Action.** City staff recommends City Council appoint an Interim City Manager.

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