

IN THE IOWA DISTRICT COURT IN AND FOR BENTON COUNTY

JOSHUA BAKER, Plaintiff, v. CITY OF URBANA, IOWA; GARY BENSON; and JENNIFER BURKHART Defendant.	Case No. PETITION AND JURY DEMAND
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COMES NOW the Plaintiff, Joshua Baker, by and through the undersigned counsel, and for this Petition at Law and Jury Demand states as follows:

1. Plaintiff Joshua Baker (hereinafter “Chief Baker”) is a resident of Cedar Rapids, Linn County, Iowa.
2. At all times material hereto, Chief Baker was employed as the Chief of Police for the City of Urbana, Iowa.
3. Defendant City of Urbana (hereinafter “City”) is a municipality and unit of government located in Benton County, Iowa.
4. Defendant Gary Benson (hereinafter “Mayor Benson”) is the current Mayor of the City of Urbana and believed to be a resident of Urbana, Iowa.
5. Defendant Jennifer Burkhart, (hereinafter “Burkhart”) is currently employed as the City Clerk for the City of Urbana and believed to be a resident of Urbana, Iowa.
6. The acts and conduct giving rise to this petition occurred in Benton County, Iowa.
7. Chief Baker has been a long-time member of the Urbana Police Department (hereinafter “Department”).

8. He first began working for the Department as a Reserve Officer in 2014. Later, in 2020, he was selected to serve as the full-time Chief of Police.

9. As the Chief of Police, Baker has a written employment contract describing many terms and conditions of his employment, including but not limited to salary, benefits, and duties.

10. The City of Urbana is a municipality organized pursuant to the Code of Iowa.

11. According to its charter, the City has chosen to operate as a “Mayor-Council” form of government pursuant to Iowa Code chapter 372.

12. A Mayor-Council form of government requires the Mayor supervise all city officers and departments except for those that have been “delegated by law to a city manager.”

13. Under a Mayor-Council form of government, the City may adopt an ordinance providing for a “City Manager”, but is not required to do so.

14. Similarly, the City of Urbana Code of Ordinances Chapter 15.02(1) requires the Mayor to supervise all departments of the City and give direction to department heads, including Chief Baker.

15. The City of Urbana has never properly adopted an ordinance providing for a City Manager.

16. Because the City has never properly adopted an ordinance providing for a City Manager, the Mayor was and is the supervisor of all city officers, including Chief Baker and Jennifer Burkhart, pursuant to Iowa Code §372.14.

17. For many years, the City successfully operated under this form of government by utilizing the employment of a City Clerk and/or a Deputy City Clerk to perform the day-to-day functions of city government.

18. In October 2023, after the departure of long-time City Clerk Traci Wilson, the City hired Jennifer Burkhart to service as a “City Administrator.”

19. At the time Burkhart was hired, the City had also never adopted an ordinance to create a position of “City Administrator” or give any powers to a “City Administrator.”

20. Although the Council had never adopted an ordinance providing for a City Manager or City Administrator, the City and Mayor Benson permitted Burkhart to perform powers and duties of a City Manager or City Administrator, in violation of Iowa law.

21. At the time she was hired, Burkhart had no prior experience managing or overseeing the operations of a city or any department of city government.

22. At the time Burkhart was hired, she was known to be a personal friend of Deputy City Clerk Melissa Holthaus.

23. Although Burkhart lacked municipal experience, the City Council authorized her salary of more than \$80,000 per year, plus benefits.

24. Burkhart began her job as “City Administrator” on November 6, 2023. In this role, she is responsible for directly supervising Deputy City Clerk Melissa Holthaus (hereinafter “Holthaus”).

25. Neither Burkhart nor Holthaus were/are statutorily authorized to supervise Chief Baker.

26. The City of Urbana Code of Ordinances also does not authorize Burkhart or Holthaus to supervise Chief Baker.

27. Despite this clear lack of authority, both Burkhart and Holthaus attempted to control and supervise the activities of Chief Baker and the Urbana Police Department.

28. For example, on or about October 11 and November 8, 2023, Chief Baker agreed to allow a citizen to “ride along” with him during his normal shift. As part of this process, Chief Baker required all standard waivers and releases of liability to be executed to protect the City from liability.

29. A “Ride-along” is a common practice in law enforcement where a certified law enforcement officer allows another person to accompany the officer while they perform patrol

duties so that the person can experience the day-to-day role of an officer in the community. A ride-along is also commonly requested by persons interested in a law enforcement career.

30. Many Iowa law enforcement agencies permit citizens ride-along with officers.¹

31. Neither the City nor Department have a policy that prohibits ride-alongs.

32. Despite Chief Baker taking all necessary precautions and no policy prohibiting the practice, Holthaus nevertheless complained to Chief Baker that ride-alongs should not occur.

33. Chief Baker explained to Holthaus that ride-alongs were a common practice in law enforcement, and that he believed all citizens had the right to ride along upon execution of appropriate paperwork.

34. Unsatisfied, Holthaus took her complaint to (former) Mayor Mitch McDonough, Chief Baker's supervisor, on October 18, 2023.

35. McDonough declined to stop the practice, telling Holthaus there was no evidence of any wrongdoing by Chief Baker.

36. Holthaus continued to complain about the ride-alongs. She angrily confronted Chief Baker on November 8, after his second ride-along, raising her voice and demanding that he no longer allow ride-alongs, accusing him of "not doing his job."

37. Burkhart was present for this confrontational outburst by Holthaus and was responsible for her supervision.

38. Immediately after the outburst on November 8, Burkhart instructed Holthaus to put all of her "incidents" with Chief Baker in writing.

¹ <https://www.linnsheriff.org/services/ride-along/ride-along-application/>; <https://www.marshaltown-ia.gov/785/Ride-Along-Program>; <https://www.cityofpella.com/629/Police-Ride-Alongs>; <https://www.cityofdubuque.org/1140/Ride-Along-Program>; <https://police.uiowa.edu/requests>; [https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://public.powerdms.com/CRPDIA/documents/139101&ved=2ahUKEwiQ572l-t2GAxWIAHkGHY6sC8gQFnoECBkQAQ&usg=AOvVaw1sax_HWVmagTqaAwv70qOn](https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://public.powerdms.com/CRPDIA/documents/139101&ved=2ahUKEwiQ572l-t2GAxWIAHkGHY6sC8gQFnoECBkQAQ&usg=AOvVaw1sax_HWVmagTqaAwv70qOn;);

39. That day, November 8, Holthaus and Burkhart also falsely accused Chief Baker of taking approximately 15 minutes to respond to a call for service.

40. In fact, records from the Benton County dispatch log show Chief Baker responded to the call within *five* minutes.

41. On November 15, Burkhart met with Chief Baker and, without any authority to do so, demanded Chief Baker cease all ride-alongs and provide her with a copy of the ride-along policy.

42. Chief Baker provided the standard Lexipol policy used by law enforcement throughout the United States and to which the Department had subscribed.

43. In the weeks that followed, Burkhart continued to try and supervise and micromanage Chief Baker.

44. Beginning November 7, 2023 (her second day on the job) Burkhart also began maintaining a secret log to track her perceived shortcomings in Chief Baker's performance.

45. In January 2024, Gary Benson was sworn in as the new Mayor of Urbana.

46. Chief Baker met with Mayor Benson on or about January 20, 2024 to explain that Iowa law prohibited Burkart (regardless of her title) from supervising the Chief of Police.

47. Chief Baker further explained that allowing Burkhart to supervise him appeared to be in conflict with Iowa Code. He provided Mayor Benson with a copy of Iowa Code §372.14.

48. On January 22, having received no response from Mayor Benson or resolution to the matter, Chief Baker contacted City Attorney Brian Fagan to report his concerns that Burkhart was being allowed to supervise him, in violation of Iowa law.

49. Within days of contacting the Mayor and City Attorney to report his concern that the City was violating Iowa Code, Chief Baker received a document describing twelve (12) different "Concerns/Issues Presented to Mayor and Council" prepared by Burkhart that she wanted to discuss at an upcoming City Council Meeting on February 7, 2024.

50. The document identified police ride-alongs, timesheets, patrol activities, reserve officer parking, and a variety of other police-related matters.

51. The document falsely stated that the City of Urbana had adopted an Ordinance which allowed for a City Administrator to be appointed and supervise all employees, including the Chief of Police.

52. At the time this document was prepared (January 2024) the City had not adopted an ordinance authorizing the City to hire a City Administrator or supervise Chief Baker.

53. However, even if the City had adopted such an ordinance, Iowa law prohibits Burkhart's supervision of Chief Baker under a Mayor-Council form of government.

54. On February 7, the City Council Agenda included an action item related to the alleged concerns documented by Burkhart. However, when the Council arrived at the point in the Agenda, Mayor Benson refused to allow Chief Baker to publicly address the items.

55. Instead, Mayor Benson once again falsely claimed the City had previously adopted an Ordinance creating a City Administrator and allowing Burkhart to supervise Chief Baker.

56. Mayor Benson declared that these items would be discussed by Burkhart and Chief Baker in private, despite Chief Baker's desire to have the issues discussed in a public setting.

57. Chief Baker grew more concerned by the day because the City was not properly following the law and his work environment was becoming increasingly hostile, making it difficult to perform his job.

58. On February 9, just two days after the City Council meeting, Chief Baker met with Mayor Benson, Burkhart, and City Attorney Fagan.

59. Once again, Chief Baker explained why he believed Burkhart could not supervise him and that the City was violating Iowa law by doing so.

60. He further described the ongoing hostile work environment being created by Burkhart and Holthaus.

61. Fagan stated that he would meet with the various parties and investigate Chief Baker's claims.

62. Chief Baker followed up with Fagan several more times in the weeks that followed but received no substantive response.

63. On or about April 5, Mayor Benson contacted Chief Baker to tell him that the Council would be conducting his performance evaluation at their next meeting to be held on April 10.

64. This was a surprise to Chief Baker, as Benson was newly elected and had only supervised him for a few months.

65. The sudden call for a performance evaluation was also a surprise to Chief Baker because he had no prior evaluations of this kind while employed as the Chief of Police.

66. Chief Baker specifically requested that his evaluation be conducted in open session pursuant to Iowa Code chapter 21 so that the public could also hear any alleged concerns with his performance.

67. When the City Council Agenda was published on April 8, Chief Baker's performance evaluation was not included, contrary to Mayor Benson's statement.

68. Instead, on April 10, Chief Baker was provided written notice that he was being "placed on administrative leave with pay effective immediately" and that he was being placed on leave "while the city evaluates its options for law enforcement."

69. The notice did not state that Chief Baker was being placed on leave because he committed misconduct, was insubordinate, or that any complaints had been filed against him.

70. The Mayor did not explain why, if the City was simply evaluating its options for law enforcement services, Chief Baker and other officers could not continue working and providing law enforcement protection to the citizens of Urbana.

71. On April 12, Chief Baker notified the City that his placement on administrative leave was a violation of Iowa Code Chapter 80F, which provides certain due process protections for police officers and other public safety employees.

72. Chief Baker also pointed out that the City Council has never properly adopted an ordinance creating the position of City Administrator or providing for supervisory duties of a City Administrator.

73. Agendas and Minutes from the Urbana City Council reveal that the City Council attempted to adopt such an Ordinance on April 2, 2024 – several months after Chief Baker complained of Burkhardt's improper supervision of him.

74. The Mayor serves as the presiding officer of the Council and, therefore, had knowledge of the April 2, 2024 action to adopt this Ordinance.

75. Mayor Benson and Burkhardt previously claimed that such action occurred in 2023 – which was false.

76. The City Administrator Ordinance purportedly went into effect on April 9, the day it was published.

77. Chief Baker was placed on leave the following day, without the opportunity to have a public performance evaluation.

78. Burkhardt failed to give the public proper notice that the April 2, 2024 Council Meeting would include action to waive the second and third readings of the City Administrator Ordinance.

79. Action to waive the second and third readings must also be listed as separate agenda items to notify the public that such action may be taken.

80. The April 2, 2024 Agenda contained no separate agenda items signifying the Council would vote to waive the second and third readings, in violation of Iowa Code chapter 21 – Iowa Open Meetings Act.

81. Despite the City Council’s attempt to finally adopt a City Administrator Ordinance on April 2, 2024, Minutes of City Council meeting show that the City Council has still failed to properly do so.

82. Iowa Code §380.3 requires three readings of an ordinance before it can be adopted. The second and third reading can be waived by “not less than three-fourths of all the members of the council.”

83. The Urbana City Council consists of five members. This means that at least four (4) council members must vote in favor of waiving the second and third reading of an ordinance in order to properly waive those readings.

84. When taking action to waive the second and third readings on April 2, only three council members were present, and all three voted to waive the second and third readings.

85. Three votes was insufficient to properly waive the readings because at least four votes were required by law.

86. Because the City Administrator Ordinance has not received three separate readings, nor properly waived any of those readings, it still has not passed.

87. In fact, the April 2, 2024 City Administrator Ordinance has failed by operation of law. (*“If a proposed ordinance, amendment, or resolution fails to receive sufficient votes for passage at any consideration and vote thereon, the proposed ordinance, amendment, or resolution shall be considered defeated.”*)

88. On April 2, 2024, Burkhart and Mayor Benson improperly certified that the Ordinance had passed when, in fact, it did not.

89. Despite these obvious shortcomings, Burkhart improperly published the Ordinance on April 9, 2024 as if it had properly passed.

90. As the City Clerk, it is Burkhart's responsibility to prepare an agenda and to only publish Ordinances that have properly been approved after the required readings and votes.

91. Burkhart was either unaware of her legal responsibilities or intentionally ignored them.

92. Mayor Benson and the City are responsible for supervising Burkhart and ensuring that she complies with her legal obligations and authority.

93. Chief Baker, through counsel, notified the City of these deficiencies and failures to properly adopt the City Administrator Ordinance on April 24, 2024, citing with specificity the statutes involved.

94. As of June 15, 2024, City and Burkhart continue to hold Burkhart out as the City Administrator despite actual knowledge that the Ordinance creating the City Administrator position did not pass – thereby acting in violation of Iowa law and misleading the citizens of Urbana.

95. Mayor Benson and Burkhart have continued to retaliate against Chief Baker for disclosing their mismanagement, abuse of authority, and violations of law.

96. For example, in January 2024, Burkhart unilaterally stopped allowing Chief Baker to accrue compensatory time (hereinafter “comp time”) earned for overtime hours worked by the Chief after he complained of her supervision.

97. Burkhart altered Chief Baker's timesheets without his knowledge or permission.

98. Chief Baker was entitled to accrue comp time pursuant to his employment contract, city policy, and various other laws.

99. Mayor Benson signed Chief Baker's timesheets, thereby approving of Burkhart's illegal and improper reduction of wages.

100. On January 10, 2024, Baker earned three hours of comp time. Burkhart refused to increase his accrual. Likewise, on February 10, Chief Baker earned 5.25 hours of comp time that Burkhart refused to pay.

101. Copies of Chief Baker's timesheets reveal Burkhart's actions were intentional.

102. Rather than increase his comp time accrual or pay overtime wages as required, Burkhart made a note in Chief Baker's February 10th timesheet that such hours "should be adjusted – time in should be later, etc."

103. At no time did Burkhart or Benson notify Chief Baker that they were making changes to his signed timesheets or seek agreement to amend his contract.

104. After reviewing his timesheets and paystubs, Chief Baker discovered Burkhart was altering his timesheets without his permission to eliminate his overtime hours to prevent paying him this time (either comp time or wages).

105. On April 24, 2024, Chief Baker, through counsel, notified the City of this illegal behavior, including the mandatory penalties for failing to pay wages when due.

106. Despite this knowledge, the City refused to pay these wages until June 14 – more than four months after they were required to be paid.

107. Additionally, the City has refused to pay mandatory liquidated damages and attorney fees associated with its violation.

108. Under Iowa Code chapter 91A, liquidated damages and attorney fees are mandatory and required to be paid to an employee when an employer fails to timely pay wages that are due.

109. On April 25, 2024, more than two weeks after placing Chief Baker on administrative leave, the City hired attorney Amy Reasner to investigate alleged "complaints" against Chief Baker.

110. The City's investigation of Chief Baker began just one day after he complained about (1) Burkhart improperly withholding his pay, (2) Burkhart and the Council failing to appropriately pass a City Administrator Ordinance, and (3) the City's failure to comply with Iowa Code chapter 80F.

111. Chief Baker's original notice of administrative leave on April 10 did not state that he was being placed on leave for an investigation of any type of misconduct or insubordination.

112. In fact, no person had ever filed a complaint against Chief Baker until after he reported mismanagement, abuse of authority, and violations of law by Burkhart and Mayor Benson.

113. The complaint, signed by Mayor Benson, was dated May 1, 2024 – three week *after* he placed Chief Baker on administrative leave.

114. Benson's May 1st complaint came just one week after Chief Baker's reported Burkart's intentional failure to pay his comp time.

115. The complaint was also created after attorney Amy Reasner was hired to investigate Chief Baker.

116. Iowa Code Chapter 80F provides certain due process rights for police officers and public safety professionals who are disciplined, investigated, or are the subject of complaints.

117. Among other things, Iowa Code Chapter 80F specifically prohibits initiating a formal administrative investigation against a police officer unless there has been a signed written complaint.

118. Chief Baker, through counsel, complained that, once again, the City was not complying with Iowa Code Chapter 80F because it had initiated an investigation without a signed complaint.

119. The complaint also conveniently came one week after Chief Baker exposed Benson and Burkhart's false claim that a City Administrator ordinance had been passed in 2023 when, in fact, it had not.

120. Mayor Benson's complaint included allegations that he knew were false.

121. Mayor Benson's complaint consisted of allegations that Chief Baker failed to follow orders or directions from Burkhart.

122. For example, the complaint alleges that Chief Baker "rejected Jennifer Burkhart's authority after receiving information from [Mayor Benson] to substantiate her authority per City Code in January 2024." This was false.

123. Even if the Mayor believed he was permitted to delegate supervisory authority of Chief Baker to Burkhart, at the time Mayor Benson made the May 1 complaint, he knew the City had not done so (as evidenced by the April 2, 2024 attempt to pass the City Administrator Ordinance).

124. As the Mayor was well aware, the City Council had not approved (and still has not properly approved) a City Administrator Ordinance in January 2024.

125. The complaint also alleged Chief Baker "failed to provide" the Mayor with a list of "nuisance properties." This was also false.

126. Chief Baker provided Mayor Benson with a copy of nuisance properties on April 1, 2024, prior to Benson's May 1 complaint.

127. The complaint also stated that Chief Baker "purchased tactical seat covers for the police vehicle without prior approval by the City Council."

128. This claim was also false because Chief Baker included the cost of tactical seat covers in his budget request that was approved by Council in 2023 – prior to Mayor Benson's election and before Burkhart began working for the City.

129. Neither Benson nor Burkhart asked Chief Baker about the expenditure prior to Benson's complaint.

130. If they had asked, Chief Baker would have explained his authority for the expenditure.

131. Although all of the allegations in Mayor Benson's complaint occurred prior to placing Chief Baker on administrative leave, none of the allegations were listed as the reason for placing him on administrative leave.

132. Mayor Benson's complaint was clearly pretextual and designed to retaliate against Chief Baker and try to intimidate or discredit him.

133. To date, Burkhardt has not been placed on administrative leave, suspended, or otherwise disciplined for her failure to perform job duties including, but not limited to: (1) failure to include waivers on the April 2, 2024 Agenda, (2) improperly publishing an ordinance on April 9 that had not received sufficient support to pass, and (3) intentionally altering Chief Baker's timesheet without his permission to withhold wages in violation of his contract and Iowa law.

134. The City and Mayor Benson have refused to reinstate Chief Baker despite clear evidence that Mayor Benson's complaint is false or inaccurate.

135. The City and Mayor Benson have offered no reason why Chief Baker should remain on administrative leave.

136. As a result of the Defendants' action and inaction, Chief Baker has suffered damages and will continue to suffer damages.

137. These damages include, but are not limited to, lost wages and benefits, harm to reputation and future employment prospects, emotional distress, and attorney fees and costs.

**COUNT I – VIOLATION OF IOWA CODE §70A.29
(WHISTLEBLOWER)**

138. Plaintiff realleges and incorporates herein by reference as if set forth at length Paragraph numbers 1 through 137 of this Petition.

139. In good faith and as described herein, Chief Baker reported acts he reasonably believed were evidence of violations of law or rule, mismanagement, and abuse of authority. These acts

include, but are not limited to, hostile work environment, improper supervision in violation of Iowa Code §372.14, failure to pay wages in violation of Iowa Code chapter 91A, false complaints and failure to follow procedures in violation of Iowa Code chapter 80F, failure of Burkhart and others to provide proper public notice of Council actions in violation of Iowa Code chapter 21, improperly publishing an unapproved ordinance, and failure of Burkhart and the City Council to comply with waiver requirements in violation of Iowa Code §380.3.

140. Chief Baker reported these improper acts, violations of law and policy, and abuse of authority to Mayor Benson, City Attorney Brian Fagan, City Clerk Jennifer Burkhart, and attorney investigator Amy Reasner.

141. Defendants intentionally and wrongfully interfered with Chief Baker's employment, business and professional relationships, reputation, and prospects by placing him on administrative leave and refusing to return him to active employment.

142. Defendants intentionally and wrongfully retaliated against Chief Baker after he disclosed, in good faith, evidence of violations of law or rule, mismanagement, or abuse of authority by the City of Urbana, Gary Benson, Jennifer Burkhart, and Melissa Holthaus.

143. Examples of retaliation include, but are not limited to, refusing to pay Chief Baker overtime wages, filing false complaints against him, and placing him on administrative leave.

144. Defendants' actions were intentional, willful, wanton, malicious, and specifically directed at Chief Baker.

145. Chief Baker was engaged in a statutorily protected activities pursuant to Iowa Code §70A.29 when he disclosed evidence of violations of law or rule, mismanagement, or abuse of authority by the City of Urbana, Gary Benson, Jennifer Burkhart, and Melissa Holthaus.

146. Iowa Code §70A.29 is a law that was clearly established at the time of the illegal acts.

147. These acts of interference and retaliation have caused Chief Baker to sustain damages

including, but not limited to, lost wages, future earnings, loss of vacation, sick, and other paid leave, and loss retirement and pension benefits. In addition, Chief Baker has sustained personal injuries including severe emotional distress, anxiety and fatigue. Chief Baker should also be compensated for all direct and accidental damages including damage to his reputation and future employment prospects, attorney fees, costs, litigation expenses, and appropriate equitable relief pursuant to the provisions of Iowa Code §70A.29(3)(a).

WHEREFORE Plaintiff prays for judgment against Defendants for relief including reinstatement, punitive damages, civil damages up to three times annual wages and benefits and any other equitable relief the Court deems appropriate, including attorney fees, costs, and litigation expenses.

**COUNT II – VIOLATION OF IOWA CODE CHAPTER 91A
(FAILURE TO PAY WAGES AND RETALIATION)**

148. Plaintiff realleges and incorporates herein by reference as if set forth at length Paragraph numbers 1 through 147 of this Petition.

149. The Iowa Wage Payment Collection Act (Iowa Code Chapter 91A) requires employers to timely pay all wages due to employees. The City is an employer within the meaning of the Act.

150. Iowa Code §91A.2 defines wages to include compensation owed by an employer for labor or services rendered by an employee, as well as vacation, holiday, and sick leave which are due an employee under an agreement or policy of the employer.

151. Chief Baker had a written employment contract with the City that required payment of overtime wages.

152. Despite these requirements, the Defendants knowingly and intentionally failed to compensate Chief Baker for his labor and services by refusing to properly pay overtime wages.

153. When Chief Baker reported that he was not properly compensated, the Defendants retaliated against him by launching a false and unwarranted investigation.

154. In addition to unpaid wages and expenses, Iowa Code chapter 91A requires the payment of liquidated damages, attorneys' fees, and costs when an employer intentionally fails to pay wages as they become due.

155. There is no doubt the failure to pay wages was intentional, as evidenced by Burkhardt's hand-written notes on Chief Baker's timesheet.

156. Defendants' actions were intentional, willful, wanton, malicious, and specifically directed at Chief Baker.

157. Chief Baker was engaged in statutorily protected activities pursuant to Iowa Code chapter 91A.

158. Iowa Code chapter 91A was clearly established at the time of the Defendants' illegal acts.

159. The Defendants' failure to pay wages when they became due has been a proximate cause of damage to Chief Baker.

160. The Defendants' actions and inactions related to Chief Baker's wages have allowed it to be unjustly enriched at his expense.

WHEREFORE, Plaintiff prays for judgment against Defendants for relief including awarding him damages in an amount that will fully and fairly compensate him for his past, present and future losses as shown here; awarding him liquidated damages in an equal amount, as provided by law; awarding him costs and attorney's fees he has incurred, and will incur, in pursuit of this matter; awarding him punitive damages as provided by law; taxing costs of this matter to the Defendants; and granting him such additional further relief as the Court deems appropriate on the premises.

**COUNT III – VIOLATION OF IOWA CODE CHAPTER 80F
(PEACE OFFICER BILL OF RIGHTS)**

161. Plaintiff realleges and incorporates herein by reference as if set forth at length Paragraph numbers 1 through 160 of this Petition.

162. Iowa Code chapter 80F provides certain due process and other rights for police officers and other public safety employees.

163. At all times material hereto, Chief Baker was an officer as defined by §80F.1(1)(f) and, therefore, afforded the protections of the statute.

164. The Defendants violated Iowa Code chapter 80F by filing false complaints; initiating a formal administrative investigation without a signed written complaint; by failing to provide Chief Baker with proper notice of complaints filed against him; by failing to properly notify Chief Baker of the results of the formal administrative investigation; by failing to commence and complete the investigation in a reasonable amount of time; and by retaliating against Chief Baker for exercising his 80F rights.

165. Chief Baker was engaged in statutorily protected activities pursuant to Iowa Code chapter 80F, Iowa Code §70A.29, Iowa Code chapter 21, and Iowa Code chapter 91A.

166. Chief Baker complained to the City that it was not complying with the requirements of Iowa Code chapter 80F.

167. Iowa Code chapter 80F was clearly established at the time of the illegal acts.

168. Defendants' failure to comply with Iowa Code chapter 80F was intentional, willful, wanton, malicious, and specifically directed at Chief Baker.

169. Defendants' violation of Chapter 80F have caused Chief Baker to sustain actual damages including, but not limited to, lost wages, future earnings, loss of vacation, sick, and other paid leave, and loss retirement and pension benefits. In addition, Chief Baker has sustained personal injuries including severe emotional distress, anxiety and fatigue, and damage to his reputation and

employment prospects. Chief Baker should also be compensated for all actual damages including attorney fees, costs, litigation expenses, and punitive damages.

WHEREFORE Plaintiff prays for judgment against Defendants for relief including actual damages described herein, punitive damages, attorneys fees and costs, any other relief the Court deems appropriate under the circumstances.

COUNT IV – NEGLIGENT HIRING, SUPERVISION, AND RETENTION

170. Plaintiff realleges and incorporates herein by reference as if set forth at length Paragraph numbers 1 through 169 of this Petition.

171. Jennifer Burkhart was employed as the Urbana City Clerk at all times material hereto.

172. Burkhart retaliated against Chief Baker because he was engaged in protected activities including, but not limited to, reporting violations of law, abuse of authority, or mismanagement pursuant to Iowa Code §70A.29, Iowa Code chapter 80F, Iowa Code chapter 21, and Iowa Code chapter 91A.

173. The City of Urbana and Mayor Gary Benson have a duty to protect Chief Baker from harmful actions of an employee of the City, including but not limited to retaliation.

174. The City of Urbana and Mayor Gary Benson knew or should have known that Jennifer Burkhart was retaliating against Chief Baker and was incompetent and/or unfit for continued employment.

175. The City of Urbana and Mayor Benson were negligent or reckless in the hiring, supervision, and/or retention of Jennifer Burkhart as the City Clerk and employee of the City.

176. The City of Urbana and Mayor Benson were negligent or reckless in permitting, or failing to prevent, negligent, tortious, or other wrongful conduct by Jennifer Burkhart on its premises or with instrumentalities under its control.

177. As a direct and proximate cause of the City's and/or May Benson's action and inaction, Chief Baker suffered repeated acts of retaliation and reprisal as described herein.

178. Their action and inaction are the proximate cause of Chief Baker's injuries and damages.

179. The City of Urbana's and Mayor Benson's actions were intentional, willful, wanton, malicious, and specifically directed at Chief Baker.

180. Chief Baker was engaged in statutorily and otherwise protected activity when performing his job as Chief of Police and reporting misconduct and violations of law, abuse of authority, and mismanagement.

181. Chief Baker's statutory protections under Iowa Code 70A, 80F, 21, and 91A, as well as the law prohibiting retaliation, requiring Defendants to protect him therefrom, and negligent hiring, supervision, and retention were well-established at the time of the illegal acts.

182. Chief Baker has suffered damages as a direct and proximate result of the City of Urbana's and Mayor Benson's negligence in hiring, supervision, and retaining Jennifer Burkhart as an employee.

183. Chief Baker's damages include, but are not limited to, lost wages, future earnings, loss of vacation, sick, and other paid leave, and loss retirement and pension benefits. In addition, Chief Baker has sustained personal injuries including severe emotional distress, anxiety and fatigue, and damage to his reputation and employment prospects. Chief Baker should also be compensated for all actual damages including attorney fees, costs, litigation expenses, and punitive damages.

WHEREFORE Plaintiff prays for judgment against Defendants for relief including actual damages described herein, punitive damages, attorneys fees and costs, any other relief the Court deems appropriate under the circumstances.

COUNT V – VIOLATION OF IOWA CODE 21 – OPEN MEETINGS

184. Plaintiff realleges and incorporates herein by reference as if set forth at length Paragraph numbers 1 through 183 of this Petition.

185. The City of Urbana is a government body within the meaning of Iowa Code chapter 21.

186. On April 2, 2024, the City of Urbana published a City Council Meeting Agenda.

187. The Agenda failed to reasonably apprise the public of action that would be taken at that meeting.

188. Specifically, the Agenda did not disclose that the City Council would be voting to waive the second and third readings of a proposed Ordinance to create the position of City Administrator and other related matters.

189. Minutes of the April 2, 2024 meeting reveal the City Council did vote waive the second and third readings of the proposed Ordinance, without the required notice to the public.

190. Chief Baker was aggrieved by the lack of notice, as it related to his employment and the claims stated herein.

191. The notice requirements of Iowa Code chapter 21 were well established at the time of the illegal acts.

WHEREFORE, Plaintiff requests the Court find a violation of Iowa Code chapter 21 occurred; void any action taken for which notice was not given; impose a fine against each council member who participated in the violation; and award reasonable attorneys fees and costs associated with enforcement of this action.

COUNT VI – BREACH OF CONTRACT

192. Plaintiff realleges and incorporates herein by reference as if set forth at length Paragraph numbers 1 through 191 of this Petition.

193. Chief Baker began his full-time employment with the City of Urbana on January 1, 2021.

194. Chief Baker and the City entered into a written employment contract on or about December 9, 2020.

195. The contract provided for compensation, insurance, and other employment benefits, including but not limited to wages, comp time, vacation pay, sick leave, health insurance, holidays, hours of work, cell phone reimbursement, and duties.

196. Pursuant to his contract, Chief Baker was responsible for providing and enforcing rules and regulations of the Department, not Burkhardt.

197. Despite the terms of the contract, the City failed to comply with some or all of the terms.

198. The City refused to allow Chief Baker to accrue comp time or pay wages for overtime, in violation of Section 2 – Hours of Work.

199. The City required Chief Baker to perform duties that were not included in the contract.

200. The City interfered with Chief Baker's duties to provide rules and regulations for the Department, and properly supervise its officers.

201. The City failed to provide Chief Baker with annual performance evaluations as required by the contract.

202. The City's refusal to comply with the terms of the contract resulted in damages to Chief Baker including, but not limited to, lost wages and benefits.

203. Chief Baker was participating in a protected activity when insisting the terms of his contract be followed, and when he disclosed mismanagement, violation of laws, and abuse of authority.

204. The laws against breach of contract and enforcement of contracts were well-established at the time of the illegal acts.

WHEREFORE, Plaintiff prays for judgment against Defendants in a reasonable amount to be determined by a jury to sufficiently compensate him for his damages, for the costs of this action, and for any other and further relief which the court deems appropriate.

DEMAND FOR JURY TRIAL

COMES NOW the Plaintiff and hereby demands trial by jury for each and every issue raised by the Petition herein, as provided by law.

Respectfully submitted,

/s/ Kellie L. Paschke

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