Special Workshop Meeting Agenda
Fortuna City Council
Wednesday, June 24, 2020 – 5:00 P.M.

We May Disagree, but We Will Be Respectful of One Another
All Comments Will Be Directed to the Issue at Hand, and Addressed to the City Council
Personal Attacks are Unacceptable

*This meeting is being held in accordance with the Brown Act as currently in effect under the State Emergency Services Act, the Governor’s Emergency Declaration related to COVID-19, and the Governor’s Executive Order N-29-20 issued on March 17, 2020 that allows attendance by member of the City Council, City staff, and the public to participate by teleconference, videoconference, or both.

*To submit public comments for this meeting prior to the meeting, please email comments to cityclerk@ci.fortuna.ca.us. All public comments received by noon on June 24, 2020, will be read into the record (limit to 3 minutes) during the meeting. If your public comments are received after noon on June 24, 2020, they may not be read into the record, but will be included in the official minutes.

To provide public comment during the meeting, you can call 1-669-900-9128 and enter Meeting ID: 818 2547 9221 and Password: 598804 press star (*) 9 on your phone - this will raise your hand. You will continue to hear the meeting on the call. When it is time for public comment on the item you wish to speak on, the Clerk will unmute your phone. You will hear a prompt that will indicate your phone is unmuted. Please state your name and begin your comment. You will have 3 minutes to comment.

I. CALL TO ORDER / FLAG SALUTE / ROLL CALL

II. ORAL COMMENTS FROM THE PUBLIC

Members of the Public may be heard on any item on the Special Meeting Agenda. Speakers addressing the Council will be limited to 3 minutes per speaker. Be advised, by law the City Council cannot deliberate or take action on issues presented during Oral Comments that are not shown on the Agenda.

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III. DISCUSSION ITEMS

A. Transaction and Use Tax (Measure E) for November 2020 Ballot

IV. BUSINESS ITEMS

A. Approve Selection of Chief of Police and Authorize the City Manager to Execute the Contract Documents

V. ADJOURN

Pursuant to Government Code Section 54957.5, any non-confidential documents or writings that the City distributes, less than 72 hours before a regular meeting, to all or a majority of the legislative body's members must be made available to members of the public at the same time as the distribution. Documents and information related to the agenda topics are available for review at City Hall, 621 11th Street, between the hours of 8:00 AM to 5:00 PM. Members of the public are invited to come to the meeting and comment. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk at 725-7600. Notification prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

Siana L. Emmons, City Clerk
DATE: June 24, 2020

TO: Honorable Mayor and Council Members

FROM: Siana Emmons, City Clerk/Human Resources Manager

THROUGH: Merritt Perry, City Manager

SUBJECT: Approve Selection of Chief of Police and authorize City Manager to Execute the Contract Documents

STAFF RECOMMENDATION:

Approve the selection of the Police Chief and authorize the City Manager to execute the Police Chief contract between the City and Casey Day.

EXECUTIVE SUMMARY:

The Chief of Police position has been vacant since December 2019, and during this time, the City launched two separate recruitments in an effort to attain a qualified candidate for this important City position. Both recruitments included a two-panel interview process, including representatives from the department as well as local professionals possessing expertise in the field. The initial recruitment did not result in the selection of a successful candidate. The second recruitment, resulted in three qualified candidates, of which, Casey Day was selected and given a conditional offer of employment. Mr. Day has successfully completed the rigorous background and physical components of the recruitment process, and with Council approval, the City is prepared to enter into an employment contract. City Attorney, Ryan Plotz has reviewed the form of the contract.

Attached is the contract, which pending City Council approval, will be executed between the City and Casey Day.

FISCAL IMPACT:

The total pay and benefits cost of the Police Chief contract have been included in the Fiscal Year 2020-21 budget.

RECOMMENDED COUNCIL ACTION:

1. Receive staff presentation and review Council questions with staff
2. Open Public Hearing
3. Close Public Hearing
4. Motion to approve the selection and authorize the City Manager to execute the City Police Chief contract between the City and Casey Day. Roll call vote

ATTACHMENT:

• Exhibit A – Draft Contract for City Police Chief
AGREEMENT FOR AT-WILL-EMPLOYMENT OF CHIEF OF POLICE

THIS AGREEMENT is made and entered into this XX day of July 2020, by and between Casey Day, hereinafter called “Employee” and the City of Fortuna, a California municipal corporation, hereinafter called "Employer".

RECITALS

WHEREAS, Section 2.08.100 of the Fortuna Municipal Code confers the power of appointment of City employees on its City Manager; and,

WHEREAS, based on such power of appointment, the City Manager has selected Casey Day to be appointed as Chief of Police for the City of Fortuna after a competitive selection process; and,

WHEREAS, it is the desire of the parties to establish certain conditions of employment within the framework of an at-will employment relationship; and,

WHEREAS, the City of Fortuna desires to employ Casey Day and Casey Day desires to be employed as Chief of Police for the City of Fortuna on the terms and conditions of this agreement; and,

NOW THEREFORE, based on the mutual covenants, conditions and terms recited herein and made a material part hereof, the parties agree as follows:

SECTION 1. DUTIES

A. Under the administrative direction of the City Manager, Employer agrees to employ Employee as Chief of Police for the City of Fortuna to perform the functions and duties of Chief of Police as set forth in the Fortuna Municipal Code, resolutions, ordinances, and/or other regulations of the City, as well as the laws, rules and regulations of the State of California, and such other legal and reasonable duties as the City Manager may direct.

B. Neither the City Council nor its members shall interfere with the execution by Employee of his powers and duties. Except for the purpose of inquiry, the Council and its members shall deal directly with City departmental administration solely through the City Manager, and neither the Council nor its members shall give orders to Employee or any subordinate thereof, either publicly or privately.

SECTION 2. TERM OF AGREEMENT

A. The term of this Agreement, unless terminated earlier as provided for in this Agreement, shall be for a period of two (2) years, commencing on July XX, 2020, and expiring on July XX, 2022.
B. Employee agrees to devote his productive time, ability, and attention to the Employer’s business during the term of this Agreement. Employee may, however, undertake limited outside consultation or other professional activities with the prior and continuing written approval of the City Manager and to the extent that such activities do not in any way interfere with or adversely affect his full-time employment with the City or the performance of his duties as provided herein. It is specifically understood and agreed that any outside consultation or other professional activities shall be secondary to this employment.

C. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Employer to terminate this Agreement at any time, or the right of Employee to resign at any time from his position, subject to the provisions as set forth in Section 3 of this Agreement.

SECTION 3. TERMINATION OF EMPLOYMENT; SERVERANCE PAY

A. **Termination: General.**

This Agreement shall terminate upon the occurrence of any of the following events:

1. Upon written notice given to the City Manager by the Employee; or
2. Upon the death of the Employee; or
3. Upon the effective date of retirement from the Employer's service pursuant to CALPERS; or
4. Upon the Employee's permanent disability or the Employee's inability to perform the essential duties of his position; or
5. Upon the decision of the City Manager to terminate Employee with or without cause.

B. **Termination: For Cause.**

"Termination for Cause" shall include:

1. Willful breach of this Agreement, as interpreted pursuant to California Labor Code Section 2924.
2. Habitual neglect of the duties required to be performed by this Agreement, as interpreted pursuant to California Labor Code Section 2924.
3. Continued incapacity to perform the duties required under this Agreement, as interpreted pursuant to California Labor Code Section 2924.
4. Any act of dishonesty, fraud, misrepresentation or other acts of moral turpitude.
5. Conviction of any act which would constitute a crime, whether misdemeanor or felony, and which would bring disrespect to the position of Chief of Police or the City of Fortuna.
6. Willful violations of Employer policies of a serious nature, including for example, Employer's Sexual Harassment or "Drugs in the Work Place" policies.

C. **Severance.**

1. In the event Employee is terminated without cause, Employer agrees to pay Employee a lump sum cash severance payment, equal to the total of the Employee's then current aggregate salary, benefits, and deferred compensation that he would have been entitled to receive for a period of three (3) months under the terms of this Agreement. Employee shall also be compensated for all earned and unused vacation, floating holidays, sick leave, and other accrued benefits to date.
Earned sick leave will be compensated according to the same provisions as other Unrepresented employees.

2. In the event Employee is terminated by the City Manager for cause or conviction, pursuant to Section 3. B above, Employer shall have no obligation to pay the aggregate severance sum designated in Section 3.C.1 or such other amounts except for Employee’s salary through the effective date of such termination and all earned and unused vacation.

D. **Resignation.**

In the event Employee voluntarily resigns his position for retirement before expiration of the previously mentioned term of employment, then Employee shall give the City Manager one hundred eighty (180) days advance written notice, unless the parties agree otherwise. If Employee voluntarily resigns his position with the City of Fortuna for any reason other than retirement, Employee shall provide Employer a minimum of one hundred twenty (120) days written notice. If Employee voluntarily resigns, regardless of the reason, Employee will be compensated under the same terms and conditions for unused earned time that would be accorded to other Fortuna Police Employees Association employees, however Employer shall have no obligation to pay the aggregate severance sum designated in Section 3.C.1.

**SECTION 4. COMPENSATION OF EMPLOYEE**

A. **Pay.**

Employer agrees to pay Employee for his services under this Agreement an initial annual base salary of $110,000 payable in installments as other City employees are paid. Employee shall be entitled to 5% Longevity pay should he meet the requirements as outlined in the unrepresented resolution. No other compensation shall be paid to Employee except as identified in this agreement.

B. **Benefits, Vacation, Holiday, Sick Leave, Management Leave, Floating Holidays.**

Except as hereinafter provided, Employee shall receive such other and further benefits in such amounts and to such extent as are accorded to other Unrepresented Group employees of Employer, including, retirement, health insurance, life insurance, workers compensation, State Disability Insurance, vacation, holidays sick, and bereavement leave. Employee shall receive 80 hours of administrative leave per year in recognition of the time employee must work outside normal office hours. No other benefits or incentives shall be paid to the employee.

C. **Vehicle Use.**

Employer agrees to provide Employee with exclusive use of a City vehicle to conduct City business within a 300-mile radius of Fortuna. The vehicle shall be fully equipped as necessary for Employee to perform his public safety duties, including emergency response. Employee shall abide by and comply with all City policies and procedures relating to operating a City vehicle for City business, including but not limited to not permitting civilians to be passengers.

D. **Uniform Allowance.**
During the term of this Agreement Employer agrees to provide a $1,000 uniform allowance annually to be paid at the same time and in the same manner as other FPEA members.

E. **Professional Dues and Subscriptions.**

Employer agrees, to the extent it is financially able and with the City Council's approval, to budget for and pay for professional dues and subscriptions, and to provide a reasonable travel allowance necessary for Employees continued professional participation, growth, and advancement and for the good of the Employer.

G. **Continuing Education.**

Employee is expected to meet all of the education and training requirements necessary to obtain and maintain the following Peace Officer Standards and Training (POST) Certifications and will receive the following incentives for each certificate for each possessed Certificate in good standing. Annual amounts to be paid at a prorated amount per pay period.

- $2,500 annually for the Advanced Certificate.
- $2,500 annually for Supervisory Certificate.
- $5,000 annually for the Executive Certificate.

H. **Other Terms.**

Any matters relating to the employment of Employee as Police Chief that are not specified herein shall be handled according to the applicable policies, rules, and regulations of Employer, and any applicable local, state or federal laws and regulations that would apply to other at-will-management employees of the City of Fortuna.

**SECTION 5. MISCELLANEOUS PROVISIONS**

A. The terms herein shall constitute the entire agreement between the parties and this Agreement supersedes any and all prior written or oral agreements or representations between the parties related to this Agreement.

B. 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.

C. If any provisions of the Employer's Personnel Rules, Regulations, or Policies conflict with the at-will employment status described in this Agreement, such conflicts will be resolved in favor of the at-will status contained in this Agreement.

D. This Agreement shall be governed by the laws of the State of California.

E. The parties agree that any ambiguity in this Agreement shall not be construed or interpreted against or in favor of, either party.
F. This Agreement contains the full agreement of the parties. Any modification or changes in this Agreement shall not be binding on either party unless such changes or modification is in writing and signed by both parties.

G. The parties agree that they will, at all times, assist each other in defending any litigation involving the City of Fortuna, or Employee's duties with the City, and Employer agrees to defend any claim or action against the Employee that arises out of an act or omission occurring within the scope of employment. The parties shall each comply with the requirements of Government Code Section 825, or its successor in implementing this paragraph.

IN WITNESS WHEREOF, the parties have executed this Agreement, both in duplicate, on the day and year first above written.

EMPLOYEE: ______________________________ CIVIL SERVICE COMMISIONER:

Casey Day, Chief of Police

Merritt Perry, City Manager

APPROVED AS TO FORM:

__________________________________________
Ryan T. Plotz, City Attorney