



# TOWN OF FAIRFAX

## STAFF REPORT

### October 7, 2015

**TO:** Mayor and Town Council

**FROM:** Garrett Toy, Town Manager *GT*

**SUBJECT:** Approve a restated and amended employment agreement with the Police Chief

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#### **RECOMMENDATION**

Authorize the Town Manager to execute a restated and amended employment agreement with Chris Morin, Police Chief.

#### **DISCUSSION**

The Police Chief has had an employment agreement with the Town since August 2010. As per his contract, the job performance of the Police Chief is evaluated every August including a review of his salary and benefits. Based on his positive performance review, I am recommending a 2% increase in his base monthly salary and 2% increase in longevity pay. The net impact is that Chief's annual base salary will increase by \$2,758 per year from \$137,885 to \$140,643 and longevity pay will increase by approximately \$2,813 per year.

The Chief has also requested participation in the \$100/year vision reimbursement and \$30/month wellness program that managers currently receive per the management resolution. The agreement also has a retirement contribution provision similar to the recently approved MOU with the Fairfax Police Officers Association. Specifically, the Chief will pay 3% of the *Employer's* contribution toward CalPERS retirement. In exchange, he will receive a salary offset for his additional contribution to CalPERS. He currently pays 100% of the employee's contribution to CalPERS (i.e., 9% of his salary). However, effective January 1, 2016, the Chief will be paying 12% and the Town's (Employer's) contribution will be reduced by 3%. There is a nominal cost impact to the Town for the Chief paying more for retirement in exchange for an offsetting salary increase.

The total net monthly pay increase of the proposed revisions is approximately \$500/month or \$6,000 per year. The recommended increases would bring the Chief's salary and benefits closer in-line with the Tiburon Police Chief's salary which has a similar sized department.

#### **FISCAL IMPACT**

The Police Department's FY14-15 budget will be able to absorb the estimated increase of \$5,571.

#### **ATTACHMENT**

Restated and Amended Agreement  
Redline of Agreement

## RESTATED AND AMENDED EMPLOYMENT AGREEMENT

This **EMPLOYMENT AGREEMENT** ("Agreement") is effective as of August 1, 2015 by and between the **Town of Fairfax** (the "Town") and Christopher Morin, ("Employee")

### **RECITALS**

- A. The Town desires to employ Employee as its Police Chief, in the operation of the Police Department, in order to retain his experience, skills, abilities, background and knowledge, and is willing to engage Employee on the terms set forth below.
- B. Employee desires to work in the Employ of the Town as its Police Chief and is willing to do so on the terms set forth below.
- C. Employee was appointed Police Chief on August 1, 2010.
- D. This Agreement is a restated and amended agreement from previous agreements and incorporates changes to the prior agreement dated September 3, 2014.

**NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE RECITALS AND OF THE MUTUAL PROMISES AND CONDITIONS OF THIS AGREEMENT, IT IS AGREED AS FOLLOWS:**

**Employment:** On the terms and conditions contained in this Agreement, the Town offers to employ Employee as its Police Chief, and Employee accepts that employment

**Term:** This agreement shall remain in full force and effect from August 1, 2015 at 12:01 A.M, until terminated by the Employer or Employee.

**Duties:** The operational control of the police department for the Town shall be the responsibility of the Police Chief. The Police Chief shall be responsible for the planning, organizing, and coordination of police operations. The duties of the Police Chief shall include but not be limited to the following:

- Supervision of the daily operations of the police department.
- Supervision of all department personnel.
- Preparation and submission of the police department budget.
- Submission of reports to the Town either orally or in writing when requested or required in order to ensure the proper communication between the Town and the police department.
- Being responsible for all departmental expenditures, as well as the receipt of funds and property in the custody of the police department.
- Supervision and control of all equipment and motor vehicles belonging to or used by the police department.
- Establishing weapons, ammunition, uniforms, equipment and vehicle specifications for the police department.
- Being in charge of all special, auxiliary and/or reserve police officers.
- Supervision and control of all training programs for department personnel and the assignment of personnel to such programs.

**Standard Police Employee Benefits:** Unless herein specified otherwise, the Police Chief is entitled to all the employee benefits and definitions outlined in the Fairfax Police Officers Association (FPOA) Memorandum of Understanding.

**Base Salary:** The Police Chief shall receive the sum of \$11,720.24 per month base salary which reflects a 2% increase to base pay effective 8/1/2015. Effective 1/1/16 the Police Chief will receive a salary offset increase of 3% of base pay in exchange for the Police Chief paying 3% of the Towns portion of retirement costs for an adjusted base salary of \$12,071.85. In addition, the TOWN agrees that it shall not at any time during this contract reduce the salary, compensation or other benefits except to the extent that such reduction is negotiated with the Police Chief.

The Police Chief is an exempt employee and therefore not eligible for overtime pay.

**Longevity Pay:** In addition to the base salary provided, the Police Chief shall receive Longevity Pay in the amount of 7% of base pay.

**Professional Achievement/Certificate Pay:** The Police Chief shall, in addition to the amount of incentive pay outlined in the Police Officer Association MOU for possession of a Supervisory Certificate, receive an additional 2.5% for possession of a POST Management Certificate.

**Additional Compensation:** The Police Chief's salary and benefits shall be reviewed annually (July of each year) for cost of living or equity adjustments as well as any other benefit adjustments as deemed appropriate by mutual agreement between the Town and the Police Chief.

**Performance Reviews.** Performance reviews will occur on August 1<sup>st</sup> of each fiscal year. The review of the performance of the Police Chief shall be subject to a process, form, criteria, and format for the evaluation, which shall be mutually agreed upon by the Employer and Police Chief. The Police Chief's salary and benefit package shall also be reviewed on an annual basis.

**At Will Employment.** The Police Chief will serve at the pleasure of the Town and may be terminated with or without cause by the Town Manager with ratification by the Town Council. Subject to, and in accordance with, civil service and town personnel ordinances and regulations the appointment, removal or demotion of the position of Police Chief shall require ratification by the Town Council per Resolution 09-20.

**Reversion Rights:**

- If the Town Council, or Town Manager with ratification from the Town Council, elects to terminate the Police Chief from his position without cause, the Police Chief would then have the right to revert to the position which he was promoted from, Administrative Sergeant of Police, his permanent rank.
- If the Police Chief is terminated for cause (as defined in Government Code §19572), there would be no reversionary rights.

The Police Chief may appeal any discipline or discharge as described in Chapter 2.56 of the Town's Municipal Code and the Town's Personnel Rules.

**Probationary Period:** The Police Chief shall have a twelve (12) month probationary period as described in Chapter 2.56.070 of the Town's Municipal Code beginning August 1, 2010 and ending July 31, 2011. If rejected from probationary status "without cause", the Police Chief will be reinstated to the position he was promoted from as outlined in "Reversion Rights" above.

**Hours of Work:** The Police Chief agrees to devote that amount of time and energy which is reasonably necessary for him to faithfully perform his duties as Police Chief under this employment agreement.

It is recognized that the Police Chief must devote a great deal of time and effort outside normal office hours to the business of the Town. Accordingly, the Police Chief will be allowed to take reasonable amounts of time off and be allowed to have flexibility in scheduling his time as he shall deem appropriate

during normal office hours, and at such times as the Police Chief determines will least adversely impact the Police Department.

It is also recognized that flexible scheduling is essential in order to properly supervise and meet with supervisors and employees of the department who do not work normal business hours. The Police Chief is expected to schedule some of his hours to coincide and work with these employees. In addition, when a shift supervisor is absent due to vacancy, long term absence or occasional vacation coverage, and minimum staffing is otherwise met, the Police Chief, at his discretion, may fill in as the shift watch commander if scheduling allows. For any such shift that the Police Chief works as the Watch Commander, he will be compensated at the rate of \$100 for each Watch Commander shift worked.

**Administrative Leave:** In recognition of the long hours required to accomplish the requirements of the job, including attendance at numerous meetings outside normal working hours, the Police Chief shall receive ten (10) administrative leave days per fiscal year. The Police Chief may carry over up to 20 days of Administrative leave.

**Vacation Leave:** The Police Chief, at his option, may convert to cash, 80hrs of accrued vacation time each year.

**Holidays:** The Police Chief shall receive eleven (11) paid holidays at 10 hours per holiday for a total of 110 hours per year.

- January 1, New Year's Day
- 3rd Monday in January, Martin Luther King Jr. Holiday
- 3rd Monday in February, President's Day
- Last Monday in May, Memorial Day
- July 4, Independence Day
- 1st Monday in September, Labor Day
- September 9<sup>th</sup>, Admission Day
- November 11, Veteran's Day
- Thanksgiving Day
- Friday after Thanksgiving
- December 25, Christmas Day

The Police Chief will be paid by separate check for all authorized holidays, along with uniform pay, in the last pay periods of May and November of each year. Payment will be made at the Police Chief's regular rate of pay at the time payment is made. Holiday pay is paid in arrears.

**Compensation for Temporary Assignment:**

In the event the Police Chief serves as "Acting Town Manager" for a period longer than 15 days, he shall receive an additional 5% of base pay for the time worked in the higher classification beginning on the 16th day when approved by the Town Manager or Town Council.

**Prior Unused Leave "Compensatory Balance":** All previously accrued and unused compensatory leave as of August 1<sup>st</sup>, 2010 shall be grandfathered and remain available for use by the Police Chief. The Police Chief may opt to be paid for any portion of unused grandfathered leave at the set rate of pay that was in effect prior to appointment as Police Chief.

**Education Leave:** In order to promote continued development of skills, knowledge and abilities among the management team of the Town, the Town Manager may grant time off to the Police Chief for education leave. Such leave may be received in order to attend professional, technical or managerial workshops, courses, conferences, conventions, seminars, or related activities. The costs for attendance at these activities including travel, per diem, registration, tuition, material or other reasonable costs are legitimate Town expenses.

A tuition and textbook reimbursement program shall be available to encourage and financially assist continued education and to broaden the Police Chief's background so as to improve job knowledge, skills and capacities of his present job.

The Police Chief will be reimbursed a portion (to be determined by the Town Manager) of the tuition and/or fees for textbooks and supplies under certain conditions for professional and technical courses offered by accredited colleges, universities, business, trade, or correspondence schools or by an otherwise accepted professional association or institute.

Conditions under which reimbursements may be approved are as follows:

- The course work must relate to the employee's present position or must be beneficial to the employee's related professional development, or must enhance career advancement potential within the Town as follows:
- An improvement in skills or knowledge required by the present position;
- Preparing the employee for changes in duties due to the different use of a position or class;
- Preparing the employee for the assumption of new and different duties as a result of a recent professional appointment; or
- Preparing the employee for promotional opportunities.

Requests for reimbursement must be approved by the Town Manager before enrollment in the course.

Reimbursement will be made for tuition fees and/ or required textbooks and a reasonable amount of supplies verified by receipts upon completion of the course with a grade of "C" or better, "satisfactory", "pass", or the equivalent.

The Police Chief must have completed his or her probation period.

The Police Chief must not be receiving funds for the same course from any other source, such as Veteran's Benefits, scholarships, etc.

**Automobile:** The Town shall provide a police vehicle for use by the Police Chief and shall pay all attendant operating and maintenance expenses and insurance. The vehicle is to be used by the Police Chief in connection with the performance of his duties as Police Chief and for his professional growth and development. Since the Police Chief is required to be "on call" twenty-four (24) hours a day and is required to report to an incident or event, the police vehicle may be used for personal reasons.

**Mobile Phone/PDA Device:** The Police Chief is required to maintain and utilize a mobile device supplied by or reimbursed by the Town.

**Health and Life Insurance Benefits:** The Town shall contribute to the Health/Dental benefits for the Police Chief an amount of dollars equal to the current CAL PERS Family premium for the Kaiser Health plan and Delta Dental Health plan for the Police Chief and his eligible dependents. Any balance remaining from the Town's contribution amount outlined above, will be added to gross salary, but not to exceed \$200 a month.

The Town will pay premium for life insurance coverage of \$100,000 for the Police Chief.

Effective 8/1/2015, the Police Chief is eligible to be reimbursed for eye exams, prescription glasses/contacts, vision plan premiums paid out of pocket and co-pays for vision plans as required for the employee and dependents. The annual fiscal year amount is \$100. Unused amounts may be carried forward to the next fiscal year. The maximum amount that can be carried over from one year to the next is \$100 for a maximum reimbursement of \$200 in any one fiscal year. Employee must submit copies of

receipts indicating the amount and a description of the service or goods paid for by the employee or dependent in that fiscal year to be eligible for reimbursement.

Effective 8/1/2015 the police chief will received \$30/month as part of the Town's wellness program for managers. The payment is to compensate managers for those costs they incur to maintain their mental and/or physical well-being such as gym/club memberships, health therapies, and recreational/educational classes.

**Retirement:** The Police Chief is enrolled in the California Public Employee's Retirement System (3% @ 50 formula), and as of 7/1/2013 pays the full 9% employee portion of his retirement. Effective 1/1/2016 the Police Chief will pay 3% of the Towns portion of retirement for a total of 12% employee payment towards retirement. The employee paid portion will be tax deferred.

**Retiree Health Benefits:** The Town will reimburse the Police Chief, upon retirement from the Town of Fairfax an amount up to the CalPERS Kaiser Employee only Basic Monthly Rate to cover medical insurance premiums (HMO and/or Medicare) based upon the following formula: (Note: Since the Police Chief has been with the Town of Fairfax for over ten years, prior years of Lateral Police service are counted as time served in Fairfax for the purposes of the following formula).

10 years of service	50%
15 years of service	75%,
20 years of service	100%

Upon Retirement, the former Police Chief shall annually submit written evidence of medical coverage (e.g. premium bill from health care insurance provider and related proof of Medicare premiums when eligible/applicable) to the Town as requested to be eligible for reimbursement. Should proof not be provided after a good faith effort by the Town to obtain documentation, the Town may withhold reimbursement. It is understood that to continue in the CalPERS health plan during retirement, that the employee is required to sign up for Medicare when eligible as outlined in the CalPERS Medicare Enrollment Guide.

Retirees enrolled in a CalPERS health plan understand that premium reimbursements from the Town include the Town's cost to CalPERS for the Minimum Employee Contribution (MEC) established by PEMCHA if applicable. The employee's monthly premium from their chosen health plan is then reduced by the amount of the Town's MEC contribution. If the employee is not part of the CalPERS health plan and the Town still has a cost established by PEMCHA, the employee's reimbursement from the Town will not be reduced.

This retiree Health Benefit will continue as stated above after this agreement expires.

**Professional Membership Fees:** The costs for membership in professional organizations necessary and relevant to the job of Police Chief shall be paid for by the Town.

**Severability of Provisions:** If any clause or provision of this contract shall be determined to be illegal by a court of competent jurisdiction, the remainder of this contract shall not be affected thereby.

**Entire Agreement:** This is the entire agreement between the parties. It replaces and supersedes any and all oral agreements between the parties, as well as any prior writings. Modifications and amendments to this agreement, including any exhibit or appendix, shall be enforceable only if they are in writing and are signed by authorized representatives of both parties.

**Modification:** No change or modification of this contract shall be valid unless it shall be in writing and signed by both of the parties.

On Behalf of the Town of Fairfax:

Accepted By:

\_\_\_\_\_  
Garrett Toy, Town Manager

\_\_\_\_\_  
Christopher Morin, Police Chief

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

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

## RESTATED AND AMENDED EMPLOYMENT AGREEMENT

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### RECITALS

- A. The Town desires to employ Employee as its Police Chief, in the operation of the Police Department, in order to retain his experience, skills, abilities, background and knowledge, and is willing to engage Employee on the terms set forth below.
- B. Employee desires to work in the Employ of the Town as its Police Chief and is willing to do so on the terms set forth below.
- C. Employee was appointed Police Chief on August 1, 2010.
- D. This Agreement is a restated and amended agreement from previous agreements and incorporates changes to the prior agreement dated ~~September 3, 2014~~ September 4, 2013.

**NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE RECITALS AND OF THE MUTUAL PROMISES AND CONDITIONS OF THIS AGREEMENT, IT IS AGREED AS FOLLOWS:**

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**Term:** This agreement shall remain in full force and effect from ~~August 1, 2015~~ September 3rd, 2014 at 12:01 A.M, until terminated by the Employer or Employee.

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The Police Chief is an exempt employee and therefore not eligible for overtime pay.

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  - Preparing the employee for the assumption of new and different duties as a result of a recent professional appointment; or
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**Retirement:** The Police Chief is enrolled in the California Public Employee's Retirement System (3% @ 50 formula), and as of 7/1/2013 pays the full 9% employee portion of his retirement. Effective 1/1/2016 the Police Chief will pay 3% of the Town's portion of retirement for a total of 12% employee payment towards retirement. As an existing sworn officer with the Town under the 3%@50 Public Employees Retirement System, the Town will continue to provide for the Police Chief this same retirement formula. Effective September 1<sup>st</sup>, 2011, the Police Chief will contribute 2.5% towards the employee portion of retirement and the Town will pay the remaining employee portion. Effective July 1<sup>st</sup>, 2012, the Police Chief will contribute an additional 2.5% for a total of 5% of the employee portion of retirement. The Town will continue to pay the remaining employee portion. Effective 7/1/2013 the Police Chief will contribute an additional 4% for a total of the full 9% employee portion. The employee paid portion will be tax deferred.

**Retiree Health Benefits:** The Town will reimburse pay the Police Chief, upon retirement from the Town of Fairfax an amount up to the CalPERS Kaiser Employee only Basic Monthly Rate to cover medical insurance premiums (HMO and/or Medicare) at the Cal PERS Kaiser employee only rate based upon the following formula: (Note: Since the Police Chief has been with the Town of Fairfax for over ten years, prior years of Lateral Police service are counted as time served in Fairfax for the purposes of the following formula).

10 years of service	50%
15 years of service	75%,
20 years of service	100%

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eligible/applicable) to the Town as requested to be eligible for reimbursement. Should proof not be provided after a good faith effort by the Town to obtain documentation, the Town may withhold reimbursement. It is understood that to continue in the CalPERS health plan during retirement, that the employee is required to sign up for Medicare when eligible as outlined in the CalPERS Medicare Enrollment Guide.

Retirees enrolled in a CalPERS health plan understand that premium reimbursements from the Town include the Town's cost to CalPERS for the Minimum Employee Contribution (MEC) established by PEMCHA if applicable. The employee's monthly premium from their chosen health plan is then reduced by the amount of the Town's MEC contribution. If the employee is not part of the CalPERS health plan and the Town still has a cost established by PEMCHA, the employee's reimbursement from the Town will not be reduced.

This retiree Health Benefit will continue as stated above after this agreement expires.

**Professional Membership Fees:** The costs for membership in professional organizations necessary and relevant to the job of Police Chief shall be paid for by the Town.

**Severability of Provisions:** If any clause or provision of this contract shall be determined to be illegal by a court of competent jurisdiction, the remainder of this contract shall not be affected thereby.

**Entire Agreement:** This is the entire agreement between the parties. It replaces and supersedes any and all oral agreements between the parties, as well as any prior writings. Modifications and amendments to this agreement, including any exhibit or appendix, shall be enforceable only if they are in writing and are signed by authorized representatives of both parties.

**Modification:** No change or modification of this contract shall be valid unless it shall be in writing and signed by both of the parties.

On Behalf of the Town of Fairfax:

Accepted By:

\_\_\_\_\_  
Garrett Toy, Town Manager

\_\_\_\_\_  
Christopher Morin, Police Chief

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

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