

STAFF REPORT

City Council Consent Item

DATE: March 6, 2023

TO: Honorable Mayor and Council Members

FROM: Casey Day, Police Chief

THROUGH: Merritt Perry, City Manager

SUBJECT: **Adopt Resolution Appointing Police Chief/City Manager to Make Determinations of Public Convenience or Necessity for Certain Alcoholic Beverage Control Licenses within the City**

STAFF RECOMMENDATION:

Staff recommends that the City Council adopt *Resolution 2023-07*.

EXECUTIVE SUMMARY:

By letter dated January 27, 2023, the City received notice from the Department of Alcohol Beverage Control (the “Department”) that it had a 90-day period to determine whether the City Council desired to retain the authority to make determinations of public convenience or necessity regarding the issuance of certain types of retail Alcohol Beverage Control Licenses. A copy of the letter is attached to this Staff Report as Attachment “1”. By way of the proposed resolution, staff recommends that the City Council retain such authority and appoint the Police Chief or, in his absence, the City Manager to make such determinations. If the City does not expressly retain the authority to make the determinations, the Department will make the determinations on behalf of the City.

As background, pursuant to section 23958 of the Business and Professions, upon receipt of an application for an ABC license or for a transfer of an ABC license, the Department must investigate to determine whether the applicant and the premises for which a license is applied qualify for a license and shall further investigate all matters which may affect the public welfare and morals.

The Department must deny an application for a license if issuance of that license would tend to create a law enforcement problem, or if issuance would result in or add to an undue concentration of licenses, *unless* the local governing body (or its designated officer) determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance. If the local governing body, or its designated subordinate officer, does not make a determination within the 90-day period, then the Department may issue a license if the applicant shows the Department that public convenience or necessity would be served by the issuance.

The proposed Resolution is intended to provide notice to the Department that the City desires to retain the authority to make determinations of public convenience or necessity within the City for

any future application for applicable licenses and delegates such determinations to the Police Chief or the City Manager.

FISCAL IMPACT:

None

RECOMMENDED COUNCIL ACTION:

Adopt *Resolution 2023-07*. Consent agenda vote.

ATTACHMENTS

- Attachment 1: Letter from the Department of Alcohol Beverage Control dated January 27, 2023
- Attachment 2: *Resolution 2023-07, A Resolution of the City Council of the City of Fortuna Designating the Police Chief and, in his absence, the City Manager to Make Determinations of Public Convenience or Necessity for Persons or Premises Applying for Certain Alcohol Beverage Control Licenses with the City*