



Staff Report

TO: Honorable Mayor and Members of the Town Council
FROM: Wes Heathcock, Town Manager
Jeff Mitchell, Town Attorney
DATE: July 9, 2024
RE: Process for Appointment of Town Clerk

Recommendation

Provide direction on the Town Council's preferred process for appointing a Town Clerk.

Issue Statement and Discussion

At the March 5, 2024 election, the voters of Loomis approved Measure A, which made the position of Town Clerk an appointed position rather than an elected position. The current Town Clerk's term of office will end December 8, 2024.

The governing state law (Government Code Section 36510) gives the Town Council two options: The Council can appoint the Town Clerk directly, or the Town Council can "by ordinance vest in the [town] manager its authority to appoint [the town clerk]."

Currently, the Loomis Municipal Code ("LMC") sets forth duties of the Town Clerk (attachment A). The LMC also grants to the Town Manager the authority to "appoint, remove, promote and demote any and all officers and employees of the town, except elective officers and the town attorney, subject to the personnel rules and regulations of the town." (LMC 2.12.040.C.) In the opinion of the Town Attorney, the Council has therefore already granted to the Town Manager, by ordinance, the authority to appoint the Town Clerk. This item is brought to the Town Council for discussion, to see if the Council would prefer to make Town Clerk appointments directly. If so, staff would prepare an ordinance that would effect this direction.

Staff's recommendation is that the Town Manager continue to have the authority to appoint the Town Clerk. The Town Clerk position is part of the Town administration and will regularly receive direction from the Town Manager. Furthermore, since Loomis staff is small, the Town Clerk fills other duties assigned in the Deputy Town Clerk job description (which will be modified for the Town Clerk position). In particular, the Town

Clerk position is also the administrative officer position which oversees assigned administration. If the position is removed from the manager oversight, the assigned administration will need to be reassigned to another department head. Additionally, the position performs duties that are required to comply with state and local regulations, therefore, the manager needs to be able to govern the position performance.

In the Town Attorney's experience, the Town Clerk is almost always appointed by the Town Manager, as are all other officer and employees who are not directly elected. The exception is the Town Attorney, because of the unique attorney/client relationship with the Town Council.

CEQA Requirements

The proposed action is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines section 15061(b)(3) and is not a project pursuant to section 15378 because it will not result in a direct or reasonably foreseeable indirect physical change in the environment.

Financial and/or Policy Implications

There is no fiscal impact to the Town of Loomis.

Attachments

- A. Loomis Municipal Code Chapter 2.16 – Town Clerk

CHAPTER 2.16
TOWN CLERK

§ 2.16.010. Records.

The town clerk shall keep an accurate record of the proceedings of the town council in books bearing appropriate titles and devoted exclusively to such purposes. The books shall have a comprehensive general index.

A. Meeting Records.

1. Meetings of the council and planning commission that occur at any building will be documented using technology that records the audio (voice) portion of deliberations. Meetings of other bodies of the town may be recorded in the same manner or a written record of summary minutes made as circumstances warrant. Meetings at locations other than Loomis Depot may be recorded or may only have written summary minutes documenting meeting actions, if any.
2. Visual recording may augment audio recording of meetings at such time as the town council approves the use of such recordings.
3. All official documents representing actions or decisions of the council shall contain a record of the vote on the item and the signature of the mayor, mayor pro tem or in the case of the planning commission, or other town bodies, the chairperson or chairperson pro tem. These signatures shall be attested by the town clerk and/or their deputy.

B. Written Minutes.

1. The written minutes of a meeting of the council, planning commission and other bodies of the town are the official record of the particular meeting.
2. Council minutes shall be prepared by the town clerk, or their deputy, and shall be subject to approval of the council.
3. Minutes of other meetings of town appointed bodies shall be prepared by the body's minute taker, who can be a town staff person, and filed with the town clerk after approval of the body.

C. Meeting Record Retention.

1. The town clerk shall publish and preserve approved written minutes as required by California and federal law.
2. All resolutions and ordinances and other official documents representing actions and decisions of the Body shall be preserved and published as required by California state law.
3. Audio and visual recordings shall be retained by the town clerk as required by California and federal law but for no less than five years.

(Ord. 9 § 2-1(a), 1985; Ord. 73 § 1, 1988; Ord. 241 § 1, 2009)

§ 2.16.020. Ordinances.

The town clerk shall keep a book marked "Ordinances" and record in it all town ordinances with a certificate annexed to each, stating the following:

- A. It is a true and correct copy of a town ordinance;
- B. The ordinance number; and
- C. It has been published or posted pursuant to law.
(Ord. 9 § 2-1(b), 1985; Ord. 73 § 1, 1988)

§ 2.16.030. Town seal.

The town clerk shall be the custodian of the town seal. When the seal of this town is required in the execution of a public security or instrument of payment, as such terms are defined in Section 5500 of the State Government Code, the town clerk may cause the seal to be printed, engraved, stamped or otherwise placed in facsimile thereon.

(Ord. 9 § 2-1(c), 1985; Ord. 73 § 1, 1988)

§ 2.16.040. Oaths.

The town clerk may administer oaths or affirmations and take and certify affidavits and depositions pertaining to town affairs and business which may be used in any court or proceedings in the state.

(Ord. 9 § 2-1(d), 1985; Ord. 73 § 1, 1988)

§ 2.16.050. Additional duties.

The town clerk is also responsible for other designated functions as set forth in the job description for town clerk as approved from time to time by the town council.

(Ord. 9 § 2-1(e), 1985; Ord. 73 § 1, 1988)