


**STAFF REPORT
TOWN COUNCIL MEETING
January 12, 2010**

TO: The Mayor and Town Council
FROM: Dave Larsen, Town Attorney 
SUBJECT: Calling Election Regarding Term Limits

RECOMMENDATION:

It is recommended that Town Council adopt the attached resolution calling a special election to consider a citizen initiative regarding term limits (or to adopt an amended version calling said election to be held at the November general election).

DISCUSSION:

In order to understand what has occurred to date, it will be helpful to read the "WHEREAS" provisions in the attached resolution. Having done so, you can see that despite the citizen proponents' intent that this initiative measure be decided in June, Town Council is nonetheless allowed to call the election for either June or November, due to the County's decision that the proponents' written request for a special election should have appeared on the face of their petition rather than in a separate document.

Elections Code § 9214 contains the voting requirements for a local initiative. (See enclosed copy). The proponents' petition contains the required number of votes under 9215. Accordingly, Town Council would have been required to do one of three things: (1) adopt the ordinance attached as Exhibit B to the resolution, in which case there will be no need for an election; ¹ (2) order a special election; or (3) ask for a report covering one or more specified issues before doing anything else. ² *Id.*

However, because the proponents' petition does not contain on its face "a request that the ordinance be immediately submitted to a vote of the people at a special election" County staff has determined that Elections Code § 9215 rather than 9214 applies. (See enclosed copy).

Election Code § 9215 contains the voting requirements for a local initiative which does not contemplate a special election. The proponents' petition also contains the required number of votes under this section. Accordingly, the Town Council is required

¹ Based on past Council direction, staff assumes that Council does not want to adopt the proponents' ordinance in lieu of holding an election, but this remains an option you may consider.

² Staff assumes that the types of reports you may request under Elections Code § 9214 (c) will not assist you in deciding how to proceed, but has provided a copy of this section (which is the same as 9215(c)) for your review, so that you can make an informed decision concerning whether to request a report before either adopting the ordinance yourself or calling an election so the voters can decide whether to adopt it.

to do one of the above three things. The only difference is that under subsection (2) above, Council is required to request that the measure be held at a general election unless it is otherwise allowed to be held at a special election under subsection (2) above. County counsel indicates that Town Council is allowed to call a special election in this instance, based on either Elections Code § 1405 (a) (See enclosed copy) or Elections Code § 10201 (See enclosed copy).

Therefore, you are required by law to call the election (or adopt the ordinance yourself) given that the proponents' petition has been found sufficient by the County Registrar. However, you are allowed to decide whether the ordinance should be voted on at a special election in June, or at the regular election in November.

The proposed resolution provides for a June special election. If you wish to modify it to provide for a November general election, you will want to pull this item from consent in order to do so. Staff is prepared to offer alternative language.

FISCAL IMPACT:

Since you are required to adopt the resolution in any event, the only relevant fiscal impact staff is aware, is the relative cost of holding a special rather than a general election.

CEQA IMPACT:

It is self-evident that adoption of the attached resolution will not have the type of impact that will trigger the need to comply with the California Environmental Quality Act.

RESOLUTION NO. _____

**A RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF LOOMIS CALLING A SPECIAL
ELECTION ON INITIATIVE REGARDING TERM LIMITS**

WHEREAS, citizen proponents have taken the steps necessary to place a term limits initiative on the ballot, including circulation of a petition complying with the applicable requirements;

WHEREAS, the proponents have provided separate prior written notice to the Town and County that they are requesting that this measure be voted on at a special election on June 8th;

WHEREAS, the County Registrar's Office has certified that the proponents have gathered enough signatures to place this measure on the ballot;

WHEREAS, the County Counsel's Office has determined that the proponents are entitled to have their measure decided by the voters;

WHEREAS, the County Registrar's Office and the County Counsel's Office have determined however, that because the proponents' request for a special election does not appear on the face of the petition, that the Town Council may require this measure to be voted on in either June or November;

NOW, THEREFORE, the Loomis Town Council does resolve as follows:

Section 1. The Town Council hereby calls a special election to submit the term limits initiative measure to the voters, a copy of which is attached as Exhibit A;

Section 2. The Town Council requests and directs the Registrar of Voters to place the measure on the June 8, 2010 ballot in order to allow the initiative to be decided at a special election at that time.

Section 3. The Town Council requests and directs the Registrar of Voters to print in the sample and official ballots the following question, or to otherwise include on in said ballots the question of whether the voters are in favor of adopting the ordinance attached as Exhibit B:

“Are you in favor of adopting the following ordinance which would amend the Loomis Municipal Code to provide term limits for Loomis Town Council members as follows?

[Insert provisions of the proposed ordinance attached as Exhibit B].

Section 4. The Town Council authorizes and directs the County Clerk, to provide all necessary election services including: publication of notice of election, printing and mailing of sample ballots, printing official ballots, providing precinct supplies, appointing and training election officers, obtaining and renting polling places, preparing voter indexes, mailing appropriate notification / verification notices for polling places / precinct boards, processing absentee ballots, providing voter count by precinct and canvassing the results of the election.

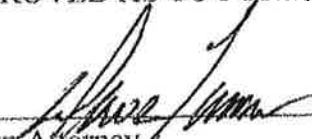
Section 5. A map of the current Loomis Town boundaries is available to the County upon request. The Town's boundaries have not changed since incorporation.

ADOPTED this ___ day of January, 2010, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAINED:

Mayor

APPROVED AS TO FORM:



Town Attorney

ATTEST:

Town Clerk

Exhibit "A"

TOWN OF LOOMIS

ORDINANCE NO. _____

AN INITIATIVE OF THE LOOMIS TOWN
CITIZENS ENACTING TERM LIMITS

WHEREAS, citizen proponents have taken the steps necessary to place an initiative measure on the ballot;

WHEREAS, the initiative measure proposes term limits for Loomis Town Council members; and

WHEREAS, proponents are requesting that this ordinance be submitted to the vote of the Loomis citizens in order to determine the will of the people;

NOW, THEREFORE, the people of the Town of Loomis ordain as follows:

Section 1. Section 2.04.012 is added to the Loomis Municipal Code as follows:

2.04.012 Elections, powers and terms of office. The electorate shall elect a council of five at large members for a four-year term of office. The council shall constitute the legislative and governing body of the town and shall have the authority to duly exercise all powers of the town, and to adopt such ordinances and resolutions as may be proper in the exercise thereof. Two and three council members shall be elected alternately at the general municipal election each even number year. No council member shall serve more than two consecutive four year terms. Any council member, who has served two consecutive four year terms as of August 1, 2010 shall be ineligible to serve as a council member again until eight years have passed since the last four year term was served. Council members who are currently in office at the time this section takes effect, shall be able to complete their remaining term."

Section 2. It is self-evident that passage of this ordinance will not have the types of impacts that trigger the need to comply with the California Environmental Quality Act.

If the required number of voters casts a vote in favor of this ordinance, it shall be considered adopted on the date that the vote is declared by the Loomis Town Council and shall take effect ten days thereafter pursuant to Elections Code § 9217.

Mayor

ELECTIONS CODE

1405. (a) Except as provided below, the election for a county, municipal, or district initiative that qualifies pursuant to Section 9116, 9214, or 9310 shall be held not less than 88 nor more than 103 days after the date of the order of election.

(1) When it is legally possible to hold a special election on an initiative measure that has qualified pursuant to Section 9116, 9214, or 9310 within 180 days prior to a regular or special election occurring wholly or partially within the same territory, the election on the initiative measure may be held on the same date as, and be consolidated with, that regular or special election.

(2) When it is legally possible to hold a special election on an initiative measure that has qualified pursuant to Section 9116, 9214, or 9310 during the period between a regularly scheduled statewide direct primary election and a regularly scheduled statewide general election in the same year, the election on the initiative measure may be held on the same date as, and be consolidated with, the statewide general election.

(3) To avoid holding more than one special election within any 180-day period, the date for holding the special election on an initiative measure that has qualified pursuant to Section 9116, 9214, or 9310, may be fixed later than 103 days but at as early a date as practicable after the expiration of 180 days from the last special election.

(4) Not more than one special election for an initiative measure that qualifies pursuant to Section 9116, 9214, or 9310 may be held by a jurisdiction during any period of 180 days.

(b) The election for a county initiative that qualifies pursuant to Section 9118 shall be held at the next statewide election occurring not less than 88 days after the date of the order of election. The election for a municipal or district initiative that qualifies pursuant to Section 9215 or 9311 shall be held at the jurisdiction's next regular election occurring not less than 88 days after the date of the order of election.

9212. (a) During the circulation of the petition, or before taking either action described in subdivisions (a) and (b) of Section 9214, or Section 9215, the legislative body may refer the proposed initiative measure to any city agency or agencies for a report on any or all of the following:

(1) Its fiscal impact.

(2) Its effect on the internal consistency of the city's general and specific plans, including the housing element, the consistency between planning and zoning, and the limitations on city actions under Section 65008 of the Government Code and Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

(3) Its effect on the use of land, the impact on the availability and location of housing, and the ability of the city to meet its regional housing needs.

(4) Its impact on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses.

(5) Its impact on the community's ability to attract and retain business and employment.

(6) Its impact on the uses of vacant parcels of land.

(7) Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization.

(8) Any other matters the legislative body requests to be in the report.

(b) The report shall be presented to the legislative body within the time prescribed by the legislative body, but no later than 30 days after the elections official certifies to the legislative body the sufficiency of the petition.

9214. If the initiative petition is signed by not less than 15 percent of the voters of the city according to the last report of registration by the county elections official to the Secretary of State pursuant to Section 2187, effective at the time the notice specified in Section 9202 was published, or, in a city with 1,000 or less registered voters, by 25 percent of the voters or 100 voters of the city, whichever is the lesser number, and contains a request that the ordinance be submitted immediately to a vote of the people at a special election, the legislative body shall do one of the following:

(a) Adopt the ordinance, without alteration, at the regular meeting at which the certification of the petition is presented, or within 10 days after it is presented.

(b) Immediately order a special election, to be held pursuant to subdivision (a) of Section 1405, at which the ordinance, without alteration, shall be submitted to a vote of the voters of the city.

(c) Order a report pursuant to Section 9212 at the regular meeting at which the certification of the petition is presented. When the report is presented to the legislative body, the legislative body shall either adopt the ordinance within 10 days or order an election pursuant to subdivision (b).

9215. If the initiative petition is signed by not less than 10 percent of the voters of the city, according to the last report of registration by the county elections official to the Secretary of State pursuant to Section 2187, effective at the time the notice specified in Section 9202 was published, or, in a city with 1,000 or less registered voters, by 25 percent of the voters or 100 voters of the city, whichever is the lesser number, the legislative body shall do one of the following:

(a) Adopt the ordinance, without alteration, at the regular meeting at which the certification of the petition is presented, or within 10 days after it is presented.

(b) Submit the ordinance, without alteration, to the voters pursuant to subdivision (b) of Section 1405, unless the ordinance petitioned for is required to be, or for some reason is, submitted to the voters at a special election pursuant to subdivision (a) of Section 1405.

(c) Order a report pursuant to Section 9212 at the regular meeting at which the certification of the petition is presented. When the report is presented to the legislative body, the legislative body shall either adopt the ordinance within 10 days or order an election pursuant to subdivision (b).

10201. A proposition may be submitted at a regular election, or a special election may be called, by ordinance or resolution, for the purpose of voting on a proposition.