



Staff Report

TO: Honorable Mayor and Members of the Town Council
FROM: Wes Heathcock, Town Manager
DATE: November 14, 2023
RE: Consideration of a Resolution Calling for a Ballot Measure to Ask Voters Whether the Position of Loomis Town Clerk Should Be Appointive

RECOMMENDATION

The Town Council should consider proposing a ballot measure for the March 5, 2024 primary election asking voters whether the position of Town Clerk should be changed from elective to appointive. If the Council decides to propose the ballot measure, staff recommends adoption of the attached Resolution.

ISSUE STATEMENT AND DISCUSSION

Summary

State law requires every general law city to have a City (Town) Clerk, who may be elected by the voters, appointed by the Town Council, or appointed by the Town Manager. The default under state law is an elected clerk, and the Town Clerk position in Loomis has been elective since incorporation. Changing the position from elective to appointive requires a vote by the Loomis electorate. The purpose of this report is to provide the Town Council with information on the process by which the position can be changed from elective to appointive, and to provide Council with a draft Resolution for consideration should the Council decide to move forward with a ballot measure on the question.

Discussion

As noted, changing the position of Town Clerk from elective to appointive requires the affirmative vote of a majority of Loomis voters. The California Government Code governs the election process for such a ballot question.

"36508. At any municipal election, or a special election held for that purpose, the city council may submit to the electors the question whether the [town clerk], . . . shall be appointed by the city council; provided, however, that the city council shall not submit such question to the electors more often than once in an 11-month period."

“36509. **The question shall be printed on the ballots** used at the election substantially in the following form: **‘Shall the office of city clerk be appointive?’**

The words ‘yes’ and ‘no’ shall be so printed on the ballots that the voters may express their choice.”

“36510. **If a majority of the votes cast on the proposition is for it, the city council shall appoint such officer at the expiration of the terms of the officer then in office**, and on a vacancy in any such office. Such officer shall hold office during the pleasure of the city council and, notwithstanding Section 36502 to the contrary, is not required to be a resident or elector in the city. The city council may by ordinance vest in the city manager its authority to appoint such officer.”

Placing the required ballot measure before the electorate is accomplished by the Town Council adopting a resolution that:

- Calls the election and submits the proposed ballot measure wording to the Placer County Elections Office,
- Authorizes Town Council members and/or other individuals (up to five) to file a written argument regarding the measure, including providing for the filing of rebuttal arguments to the measure in accordance with filing deadlines, and
- Directs the Town Attorney to prepare an impartial analysis of the measure.

A draft Resolution is included as Attachment A to this report.

Town Clerk Duties and Responsibilities

Clerks have many administrative responsibilities, such as keeping records of all council meetings, including ordinances and resolutions; overseeing elections; administering retention of city records; and performing other significant duties imposed by state and local law. A job description for a Deputy Town Clerk is attached as Attachment B.

Elective v. Appointive Clerk

Nationally, over 80% of City Clerks are appointed. In Placer County, five of the six jurisdictions have appointed Clerks. Most recently, voters in Auburn approved changing the City Clerk position from elective to appointive in 2016. Only Loomis does not have an appointed Clerk.

The percentage of elected City Clerks in California has continued to decline. The overwhelming reasons voters statewide have chosen to make these changes is in the interest of more efficient and effective operations in the Clerk's functions, which are increasingly complex, administrative and technical in nature. Professional staff with specialized training and education can be successfully recruited and retained to serve as fulltime appointed staff who can be held accountable for the quality of their work. In contrast, elected officials must only meet age (18 years or older) and residency requirements (live in the town).

Appointment by Town Council or Town Manager

State law allows the Council to vest appointment authority of the Clerk with the Town Manager by ordinance. If the Council would like the Town Manager to appoint the Clerk, the Council will need to approve an ordinance that amends the Municipal Code provision that addresses the duties of the Town Manager.

If the measure changing the Clerk from elective to appointive is approved at the March 5, 2024 election, the ordinance vesting the Town Manager with appointment authority could be approved any time prior to the December 2024 end of term of the current Town Clerk.

Integration of Town Clerk Function with Town Staff Operations

In Loomis, many of the increased obligations imposed on the position of Town Clerk over time have been performed by Town staff. Technically, the Town Clerk is responsible for Brown Act and Elections and Campaign compliance. However, that is not the division of labor Loomis has been operating under. For example, the Deputy Town Clerk and the Town Attorney have been responsible for Brown Act compliance and responding to Public Records Act requests. The Deputy Town Clerk is responsible for Elections and Campaign compliance, as well as Agenda preparation, public information and overall records management.

If the position of Town Clerk becomes appointive, it would be expected that the employee assigned those duties would work under the direction of the Town Manager, with those duties comprising only part of a larger scope of responsibilities. A Town Clerk function in which all of the work is performed by in-house staff, as opposed to the current arrangement in which some work is performed by staff and other work by an elected official, would be more straightforward to effectively manage.

Ballot Measure Timing

State law requires the resolution calling for the municipal election to be adopted at least 88 days prior to the election. To place this matter on the March 2023 ballot, the Placer County Elections Office needs the resolution by November 15, 2023. The last scheduled Town Council meeting before the elections office deadline is the November 14, 2023 meeting.

Should the measure pass, it will become effective at the end of the existing term, in December 2024.

Appointment by Town Council or Town Manager

State law allows the Council to vest appointment authority of the Clerk with the Town Manager by ordinance. If the Council would like the Town Manager to appoint the Clerk, the Council will need to approve an ordinance that amends the Municipal Code provision that addresses the duties of the Town Manager.

If the measure changing the Clerk from elective to appointive is approved at the March 5, 2024 election, the ordinance vesting the Town Manager with appointment authority could be approved any time prior to the December 2024 end of term of the current Town Clerk.

FINANCIAL AND/OR POLICY IMPLICATIONS

The cost to the Town to place the question on the March 2024 ballot may vary. The County elections staff advises that the total cost would be expected to be approximately \$7-\$15 per registered voter. With some 5,009 registered voters in Loomis, the cost to the Town for the election would be approximately \$35,063 to \$60,108.

In the event the position of Town Clerk becomes appointive, the cost of having appointed staff perform the duties currently performed by the Clerk could result in a savings, because the stipend will be eliminated and there will be no more spending to hold future elections for the position.

CEQA REQUIREMENTS

None. This is not an action that could have any possible environmental impacts.

Attachments:

- A. Resolution
- B. Job Description for Deputy Town Clerk/Administrative Services Officer

Item 14 Attachment A

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOOMIS CALLING A MUNICIPAL ELECTION TO BE HELD ON MARCH 5, 2024, FOR THE PURPOSES OF CALLING FOR THE SUBMISSION TO THE VOTERS A QUESTION RELATING TO THE OFFICE OF TOWN CLERK; REQUESTING THAT THE PLACER COUNTY BOARD OF SUPERVISORS CONSOLIDATE THE ELECTION WITH THE STATEWIDE ELECTION; AUTHORIZING THE MAYOR TO PREPARE A WRITTEN ARGUMENT IN SUPPORT OF THE MEASURE; AND DIRECTING THE TOWN ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS OF THE MEASURE

WHEREAS, currently the position of Town Clerk of the Town of Loomis is elective; and

WHEREAS, Government Code Sections 36508-36510 provide that the position of clerk may be made appointive rather than elective upon approval of the voters at a regular or special election; and

WHEREAS, the next available municipal election date will be March 5, 2024 (the "2024 Primary Election"), and the Town wishes to submit to the voters, at that election, the question of whether the Town Clerk should be made an appointive position.

NOW, THEREFORE, BE IT RESOLVED, that the Town Council of the Town of Loomis hereby resolves, declares, determines and orders as follows:

Section 1. The foregoing recitals are true and correct, and hereby incorporated by reference.

Section 2. That the Town Council, pursuant to its right and authority, does order submitted to the voters at the 2024 Primary Election the following question/measure, relating to whether the office of Town Clerk shall be appointive (the "Measure"):

<u>MEASURE # : APPOINTIVE TOWN CLERK</u>	Yes
Shall the Office of Town Clerk be Appointive?	No

Section 3. In the event the proposition receives approval by a majority of the votes cast, the proposition is adopted, and the Town Council shall appoint such officer at the expiration of the term of the current Town Clerk, or upon a vacancy in such office. The Town Council may by ordinance vest in the Town Manager its authority to appoint such officer.

Section 4. That the vote requirement for the measure specified above to pass is a majority (50%+1) of the votes cast.

Section 5. The Town Clerk is authorized, instructed and directed to work with the Placer County Registrar of Voters, as needed, in order to properly and lawfully conduct the election. The ballots to be used in the election shall be in the form and content as required by law. The Placer County Registrar of Voters is authorized to canvass the return of the municipal election. In all Particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

Section 6. The Board of Supervisors is requested to instruct its Registrar of Voters to provide such services as may be necessary for the holding of the consolidated election. The election shall be held in all respects as if there were only one election. The Town of Loomis recognizes that the county will incur additional costs because of this consolidation and agrees to reimburse the county for those costs. The Town Manager is hereby authorized and directed to expend the necessary funds to pay for the Town's cost of placing the Measure on the election ballot. Such services provided by the county may include, but are not limited to, the following:

- Publication of notices calling the election
- Publications of notices calling for ballot arguments
- Provision of voter lists
- Obtaining and staffing polling places
- Provision and delivery of precinct supplies
- Counting of ballots and certification of election
- Other election activities authorized by law
- All aspects of election not specified above may be agreed upon by the County Clerks and the Town Manager

Section 7.

- a. Pursuant to California Elections Code section 9282, on behalf of the Town Council, the Mayor is hereby authorized to prepare a written argument in favor of the proposed Measure, not to exceed three hundred (300) words each. At the Mayor's discretion, the arguments may also be signed by members of the Town Council or a bona fide association of citizens, or by individual voters who are eligible to vote on the Measure. In the event that an argument is filed against the Measure, the Mayor is also authorized to prepare rebuttal argument(s) on behalf of the Town Council, which may also be signed by members

of the Town Council or bona fide association of citizens, or by individual voters who are eligible to vote on the Measure.

- b. Pursuant to California Elections Code section 9280, the Town Council hereby directs the Town Clerk to transmit a certified copy of the Measure to the Town Attorney. The Town Attorney shall prepare an impartial analysis of the Measure, each not to exceed five hundred (500) words in length, showing the effect of the Measure on the existing law and the operation of the Measure, and transmit the impartial analyses to the Placer County Registrar of Voters.
- c. Pursuant to California Election Code section 9285, when the Town Clerk has selected the arguments for and against the Measure, which will be printed and distributed to the voters, the Town Clerk is directed to send copies of the arguments in favor of the Measure to the authors of the arguments against, and copies of the arguments against to the authors of the arguments in favor.

Section 8. The Town Clerk is directed to file certified copies of this resolution with the Board of Supervisors and the Registrar of Voters of the County of Placer, together with the attached ballot measure.

Section 9. The jurisdictional boundaries of the Town of Loomis have not changed since the last General Municipal Election.

Section 10. This resolution shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED, this 14th day of November, 2023 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Danny Cartwright, Mayor

ATTEST:

Carol Parker, Deputy Town Clerk

Item 14 Attachment B

TOWN OF LOOMIS

FLSA: EXEMPT

DEPUTY TOWN CLERK/ADMINISTRATIVE SERVICES OFFICER

DEFINITION

Plans, directs, and coordinates the activities of the office of the Deputy Town Clerk/Administrative Service Office. Supervises the Administrative Clerk position. Assists Town Manager as needed. Coordinates, through Town Manager, Councilmembers activities - including preparation of Council agenda and packet, maintain comprehensive records of all proceedings of the Town, and filing officer for required disclosures. Coordinates special events as needed. Assist Finance Department with payroll and cash receipts. Assist front counter as needed. Processes Claims. Process paperwork for new employees and exiting employees. Compliance with the Public Records Act. Make sure meetings are conducted openly (Brown Act).

DISTINGUISHING CHARACTERISTICS

The Deputy Town Clerk/Administrative Services Officer is a vital member of the management team. As such, duties include long and short-range planning, working towards smooth coordination and effective operations of the Town. This position is self-directing, organized and must have good communication skills as well as the ability to handle a variety of tasks and responsibilities simultaneously. Demonstrates tact and discretion and is a highly professional and motivated individual.

REPORTS TO

Administrative direction received from the Town Manager.

EXAMPLES OF DUTIES

- Attends Town Council meetings and Study Sessions
- Records all official proceedings, prepares minutes
- Prepares legal notices and publications
- Prepares and organizes printing and distribution of the Council agendas and packets
- Files and indexes of all proceedings of the Town Council
- Serves as the official custodian of public records (ordinances, resolutions, contracts, deeds, agreements, etc.), and maintains overall responsibility for the Town records management system, including retrieval and copying of documents for the public and Town staff
- Serves as Elections Official and coordinates elections with Placer County
- Serves as filing officer for required disclosures under the Political Reform Act (700 forms, etc) and annual mandates
- Keeps track of annual employee policy review and AB 1234 and AB 1825 training
- Administers oaths of office, when Town Clerk is absent, to elected officials, commissions, and Town employees
- Provides staff assistance to the Town Manager
- Prepares and presents staff reports and other necessary correspondence as needed
- Assists in developing, planning, and implementing goals and objectives

- Monitors and approves expenditures for Administrative (Admin.) and Clerks office
- Trains, motivates and evaluates Admin. personnel
- Assists in developing and implementing systems and procedures
- Maintains the safekeeping, updating of all official municipal documents
- Works with the Town Engineer on the processing/filing for assessment/noticing/maintenance districts and processes the annual Director Charges through the County
- Processes and maintains claims (risk management) with SCORE
- Assists the public and staff by providing information and research assistance
- Maintains Personnel records, Town Policies and Procedures
- Prepares Clerks and assists with Admin. budget
- Receives and processes petitions and summons
- Codifies, distributes updates and copies of Town Municipal Code
- Process new employees paperwork for CalPers, health benefits, etc.
- Schedules appointments, meetings, travel arrangements as needed for Council through Town Manager
- Assists with telephones and public at the counter as needed
- Coordinates special events and reserving town properties for special events
- Maintains professional ethics, trust and confidentiality of the office
- Maintains a positive and cooperative working relationship with the public and staff

TYPICAL PHYSICAL REQUIREMENTS

Must be free from any physical, emotional, or mental condition which might adversely affect the ability to perform essential job functions. Capable of standing or sitting for long periods of time. Ability to meet deadlines and work under pressure.

DESIRABLE QUALIFICATIONS

Knowledge of:

- Functions and organizations of California Local Government
- Principals and practices of office management and supervision
- Ralph M. Brown Act, Political Reform Act, and Election law
- English usage, grammar and public speaking skills
- Operation of all standard office equipment with emphasis on computer word processing
- Records management procedures
- Format and content for notices, ordinances, resolutions, and other documents
- Public relation skills to provide an excellent impression to the public on behalf of the Town
- Budgeting

Ability to:

- Communicate clearly and concisely, both orally and in writing
- Understand governmental laws, codes and procedures
- Organize and maintain office records, retention/destruction and file system
- Gain cooperation through discussion and persuasion

- Prepare and administer a budget
- Select, supervise, train and evaluate assigned staff
- Provide information and material in compliance with laws, regulations and policies

Training and Experience:

A Bachelor's degree from an accredited college with emphasis on public or business administration, or, five years of progressively responsible administrative experience involving public contact and records management skills. Word processing skills required. Certified Municipal Clerk standing desirable or within five years of initial position.