



## Legislation Details (With Text)

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**Title:** RESOLUTION AUTHORIZING CITY CLERK SALARY ADJUSTMENT  
AND CONSIDERATION OF NOVEMBER 2019 BALLOT MEASURE  
FOR APPOINTED CITY CLERK  
(Assistant to the City Manager Nico De Anda-Scaia)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. 1. Draft Resolution #19-xxxx, 2. 2. Resolution 15-6967 - June 9, 2015, 3. 3. Resolution 15-6989 - July 28, 2015, 4. 4. California City Clerks List - Elected and Appointive Comparison Data, 5. 5. SUPPLEMENTAL Letter from Howard Longacre (added 1-22-19 at 6pm).pdf

Date	Ver.	Action By	Action	Result
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### Honorable Mayor and Members of the Hermosa Beach City Council Regular Meeting of January 22, 2019

#### RESOLUTION AUTHORIZING CITY CLERK SALARY ADJUSTMENT AND CONSIDERATION OF NOVEMBER 2019 BALLOT MEASURE FOR APPOINTED CITY CLERK (Assistant to the City Manager Nico De Anda-Scaia)

#### Recommended Action:

Staff recommends that the City Council:

1. Adopt Resolution No. 19-XXXX adjusting the compensation of the elected City Clerk back to its previous base salary rate as of June 9, 2015; and
2. Direct the City Attorney to bring back to the City Council the resolution required for placing a ballot question on the November 2019 General Municipal Election, asking voters to change the elected City Clerk position to an appointed office.

#### Executive Summary:

After 29 years of service to Hermosa Beach, City Clerk Elaine Doerfling will be retiring at the conclusion of her current term in November 2019. The City has been fortunate to have had Ms. Doerfling serve the City with such professionalism and distinction these many years. Ms. Doerfling was uniquely qualified having had city clerk training and experience in other cities before she ran for and was elected Hermosa's City Clerk.

Due to the evolving nature of federal, State and local requirements and increasing complexities within the field of city clerkship, the vast majority of cities assure that they have a certified professional serving as city clerk by having an appointed, rather than an elected clerk. As she prepares for her retirement from City service, Ms. Doerfling affirms that transitioning this role to an appointed position is in the best interest of the City and its residents; therefore, along with the offices of the City Manager and City Attorney, she recommends that the City Council consider placing a measure on the November 2019 Ballot asking voters whether the City Clerk position should be an appointed office.

The base salary of the elected City Clerk has been adjusted multiple times on a temporary basis over the years to account for changing duties within the City Clerk's Department and increased responsibilities associated with coordinating municipal elections. Circumstances have changed within the office of the City Clerk since the last salary adjustment which merit readjusting the base salary of this position back to the previous rate in effect on June 9, 2015. Resolution No. 19-XXX (Attachment 1) is, therefore, presented to City Council for consideration and adoption to make that adjustment.

### **Background:**

State law requires every general law city have a city clerk, who may be either elected by the voters or appointed. The City Clerk position in Hermosa Beach has been an elected position serving four-year terms since the City was incorporated in 1907, as per California Government Code §36502.

### **City Clerk Compensation**

Currently, the City Clerk receives a fulltime base salary of \$77,616 with full retirement and health benefits. Over the years, the compensation of the City Clerk has been periodically adjusted on a temporary basis to account for additional duties and time associated with the City's elections. The last election-related pay increase was approved by Council on June 9, 2015 by Resolution No.15-6967 (Attachment 2) for the term of June 16, 2015 to November 15, 2015 and equated to doubling the Clerk's part-time salary to compensate for fulltime hours that were anticipated leading up to the City's municipal election that November. Subsequently, at its July 28, 2015 meeting, the City Council adopted Resolution No. 15-6989 (Attachment 3) updating the City Clerk's duties and base salary to fulltime compensation effective November 16, 2015. This compensation update was to remain in full force until such time that the resolution was amended or repealed by the City Council.

### **City Clerk Duties and Responsibilities**

The responsibilities of the City Clerk are enumerated in the California Government Code and in City of Hermosa Beach Resolution No. 15-6989 (Attachment 3). The City Clerk's duties include, but are not limited to:

- Record and maintain a record of Council proceedings.
- Keep all ordinances and resolutions of the Council.
- Assure that records of the Council meetings and Council correspondence are kept in such a manner that the information contained therein will be readily accessible and open to the public.
- Be the custodian of the City seal.
- Administer oaths.

- Take affidavits and depositions.
- Certify copies of official records.
- Conduct elections.
- Responsible for publication of official notices of the City.
- Receive all claims filed against the City.
- Assure compliance with directives, administrative procedures and policies.
- Coordinate, record and retain the Statements of Economic Interests of all elected and appointed officials and staff, as required by the Political Reform Act .
- Collect and maintain all candidate Campaign Finance Forms, as required by the Political Reform Act.

In addition to these basic, historic duties, the Legislature has assigned ever greater and more complex responsibilities to the City Clerk over the years, particularly in the area of public records management, an area that has burgeoned in the era of electronic communications. The City Clerk also administers the City's campaign finance ordinance.

### **Discussion:**

Under State law, there are only three requirements individuals must meet to run for and serve in the elected position of City Clerk: be at least 18 years old, live in the City and be a registered voter in Hermosa Beach. The City is prohibited from establishing any other requirements or qualifications beyond those listed in State law. However, due to the complexities associated with the position, it is essential that the Clerk have all required certifications, training and experience.

In Hermosa Beach, as obligations under State Government Code imposed on the City Clerk have increased over time, the City Manager's Department has absorbed key responsibilities of the City Clerk's Department, including agenda management, general records management and coordination of electronic document management systems, candidate and elected official orientations, public information, and oversight of the City website and calendars. Additionally, in the summer of 2018, City Clerk Department staff began reporting directly to the City Manager's Department. Altogether, the absorption of key responsibilities by the City Manager's Office, merit readjusting the base salary of the elected City Clerk to more adequately reflect current duties and oversight. Therefore, staff recommends that the Clerk's compensation return to its previous rate from June 9, 2015, and that this change be adopted by resolution, effective through November 2019.

### **Elected Versus Appointed City Clerk**

As noted above, under the elected clerk system, there is no guarantee that a future holder of the elected position would have the necessary qualifications and experience required, since the only statutory eligibility requirements for the position are to be a registered voter and resident of the City of Hermosa Beach. When this position becomes vacant in November 2019 following the retirement of Ms. Doerfling, given the small size of the City's population, there is no assurance that a qualified individual will be elected to the post.

Further, with an elected city clerk, the voters are the only oversight to ensure she/he dutifully carries out the responsibilities of the job; the only review, therefore, comes via elections. Appointed clerks undergo regular performance reviews and may be disciplined or terminated for nonperformance.

For these reasons and others, the majority of cities throughout the state and the country have appointed city clerks, hired based on professional standards for the position as well as experience and credentials, rather than through a general election process.

According to available data from 2016, of California's 482 municipalities, approximately 73% have appointed city clerks (Attachment 4). Nationally, over 80% of city clerks are appointed with the percentage of municipal elected city clerks continuing to decline year over year. In the South Bay region specifically, these numbers are more closely split across municipalities. Cities of the South Bay region address the appointment issue as follows:

CITY	POPULATION	CITY CLERK ELECTED or APPOINTED
Carson	92,636	Elected
El Segundo	16,893	Elected
Gardena	58,829	Elected
Hawthorne	87,662	Elected
Inglewood	111,795	Elected
Lawndale	33,365	Elected
Lomita	20,403	Appointed
Manhattan Beach	35,488	Appointed
Palos Verdes Estates	13,663	Appointed
Rancho Palos Verdes	42,884	Appointed
Redondo Beach	67,717	Elected
Rolling Hills	1,895	Appointed
Rolling Hills Estates	8,184	Appointed
Torrance	147,101	Elected
Hermosa Beach	19,616	Elected

Making this position appointed will:

- Help ensure the City is able to appoint individuals to the position of city clerk that possess the necessary qualifications and expertise.
- Eliminate the potential for individuals to be elected to this position that require duties that they are unqualified to perform, which could cause serious problems for the City.
- Allow for continuous oversight of daily operations.
- Help facilitate more straightforward and effective management by having a city clerk function in which all of the Clerk's Department responsibilities are 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.

For the various reasons outlined in this report, the City Clerk, along with the offices of the City Manager and City Attorney agree that transitioning this role to a professional appointed position is in the best interest of the City and its residents. It is, therefore, recommended that the City Council consider placing a measure on the November 2019 Ballot, asking voters whether the City Clerk position should be an appointed office.

### Ballot Measure

The Government Code authorizes the City Council to submit to the voters the question of whether or not to make the position appointed:

#### *Government Code §36508:*

*At any municipal election, or a special election held for that purpose, the City Council may submit to the electors the questions whether the elective officers, or any of them except Council members, 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.*

#### *Government Code §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 appointed?"*

*The words "yes" and "no" shall be so printed on the ballots that the voters may express their choice.*

If a majority of voters approve making the position appointed, Government Code §36510 provides that the City Council can, by ordinance, delegate its appointment authority to the City Manager:

#### *Government Code §36510:*

*If a majority of the votes cast on the proposition is for it, the City Council shall appoint such officers at the expiration of the terms of the officers then in office, and on a vacancy in any such office. Such officers shall hold office during the pleasure of the City Council and, notwithstanding Section 36502 to the contrary, are not required to be residents or electors in the City. The City Council may by ordinance vest in the City Manager its authority to appoint such officers.*

*(Amended by Stats. 1963, Ch. 509.)*

Delegating appointment authority to the City Manager is recommended for the following reasons:

1. Selection of the next City Clerk would be handled with the same selection process already used for other positions in the City to ensure a qualified candidate is appointed.
2. Since the City Clerk is responsible for coordinating and conducting elections and processing possible recalls, potential conflict situations that can occur when the City Clerk is appointed by

the City Council would be avoided.

3. Supervision and performance evaluation would be provided most effectively since most day-to-day direction and oversight of City operations is provided by the City Manager.

Placing a ballot measure before the electorate is accomplished by City Council adoption of a resolution that:

- Submits proposed ballot measure wording to the Los Angeles County Elections Official;
- Authorizes City 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 City Attorney to prepare an impartial analysis of the measure.

If the City Council places the recommended measure on the ballot this year and it is successful, the change would be effective at the end of the existing elected term of the City Clerk in November 2019.

#### Next Steps

Direct staff to return to Council with a discussion item concerning future base salary of the City Clerk position as of November, 2019. This matter should return to Council at the same meeting as the resolution for a ballot question on the November 2019 General Municipal Election.

#### Summary

Whether appointed or elected, the City Clerk works for the people. The question is which selection process would produce the most qualified person to hold the position for years to come. Over two-thirds of California cities appoint its clerks, choosing from candidates who are professionals in their field and making their selection based on experience and qualifications.

Staff, therefore, recommends that the City Council direct the City Attorney's Office to draft a resolution for City Council consideration calling for a measure to be placed on the ballot for the November 2019 General Election asking voters if the position of City Clerk should be elected or appointed. If so directed, staff would bring a draft resolution forward within the next several months.

#### General Plan Consistency:

This report and associated recommendations have been evaluated for their consistency with the City's General Plan. Relevant policies are listed below:

#### Governance Element:

*1.6 Long-term Considerations.* Prioritize decisions that provide long-term community benefit and discourage decisions that provide short-term community benefit but reduce long-term opportunities.

*2.6 Responsive to Community Needs.* Continue to be responsive to community inquiries, providing public information and recording feedback from community interactions.

#### Fiscal Impact:

Fiscal implications associated with the recommended action include immediate savings of \$17,926 through the end of the Fiscal Year due to the reduction in base salary of the elected City Clerk from full-time to part-time pay. Part-time pay for this position would equate to an annual base salary of \$38,808. The addition of a ballot measure to the November 2019 ballot has an anticipated cost of between \$5,000 - \$10,000. If the ballot measure is successful, personnel costs budgeted for the elected position would be applied toward the future appointment of a full-time permanent executive City Clerk.

**Attachments:**

1. Draft Resolution 19-XXXX
2. Resolution 15-6967 - June 9, 2015
3. Resolution 15-6989 - July 28, 2015
4. California City Clerks List - Elective and Appointed Comparison Data

**Respectfully Submitted by:** Nico De Anda-Scaia, Assistant to the City Manager

**Concur:** Elaine Doerfling, City Clerk

**Noted for Fiscal Impact:** Viki Copeland, Finance Director

**Legal Review:** Mike Jenkins, City Attorney

**Approved:** Suja Lowenthal, City Manager