AGENDA
ITEM

7

AGENDA STAFF REPORT

DATE: April 17, 2019

TO: Mayor and Council Members

APPROVED BY: David B. Dale, City Manager

PREPARED BY: David Dale, City Manager
Carlos Campos, City Attorney
Denise Garcia, H.R./R.M. Manager

SUBJECT: Second Reading and Adoption of Ordinance No. 2019-1198, An Ordinance of the City Council of the City of Calexico, Amending Section 2.02.110 and Chapter 2.07 of the Calexico Municipal Code Regarding the Appointment Process and Duties of the City Clerk

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Recommendation:

Staff requests adoption of Ordinance No. 2019-1198, an Ordinance of the City Council of the City of Calexico Amending Section 2.02.110 of Chapter 2.02 of the Calexico Municipal Code and Chapter 2.07 of Title 2 of the Calexico Municipal Code Regarding the Appointment Process and Duties of the City Clerk.

Background:

California Government Code Section 36501 sets out the governing officers of a general law city, one of which is the City Clerk.

On October 2, 2012, the City Council adopted Ordinance No. 1144 amending Section 2.02.110 and adding Chapter 2.07 to the Calexico Municipal Code regarding the appointment process and duties of the City Clerk. Ordinance No. 1144 vested the City Manager with the authority to appoint the City Clerk as well as to remove, promote and demote the City Clerk.

Thereafter, on January 6, 2016, the City Council repealed Ordinance No. 1144, through the adoption of Ordinance No. 1166 which granted the City Council, as opposed the City Manager, the authority to appoint the City Clerk and to remove, promote and demote the City Clerk.

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City Staff is now recommending the adoption of the proposed ordinance which amends Section 2.02.110 and Chapter 2.07 of the Calexico Municipal Code to grant the City Manager the authority to appoint the position of City Clerk, along with the duties to remove, promote and demote other officers and employees of the City and to clarify the employment status and job duties of the City Clerk.

First reading of the Ordinance was introduced to Council at the Regular Meeting of April 3, 2019.

Fiscal Impact:

None.

Coordinated With:

City Attorney

Attachments:

1. Ordinance No. 2019-1198, an Ordinance of the City Council of the City of Calexico Amending Section 2.02.110 of Chapter 2.02 of the Calexico Municipal Code and Chapter 2.07 of Title 2 of the Calexico Municipal Code Regarding the Appointment Process and Duties of the City Clerk.

ORDINANCE NO. 2019- 1198

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALEXICO AMENDING SECTION 2.02.110 OF CHAPTER 2.02 OF THE CALEXICO M UNICIPAL CODE AND CHAPTER 2.07 OF TITLE 2 OF THE CALEXICO MUNICIPAL CODE REGARDING THE APPOINTMENT PROCESS AND DUTIES OF THE CITY CLERK

WHEREAS, California Government Code section 36501 sets out the governing officers of a general law city, one of which is the City Clerk; and

WHEREAS, the office of the City Clerk for the City of Calexico was formerly appointed by the City Manager; and

WHEREAS, on January 6, 2016 the City Council of the City of Calexico adopted Ordinance No. 1166 granting the City Council the authority to appoint the City Clerk, as well as to remove, promote and demote the City Clerk; and

WHEREAS, the City Council now desires to amend the Calexico Municipal Code to Grant the City Manager the authority to appoint the position of City Clerk, along with the duties to remove, promote and demote other officers and employees of the City, and to clarify the employment status and job duties of the City Clerk.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CALEXICO CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION ONE. Section 2.02.110 of Chapter 2.02 of the Calexico Municipal Code is hereby amended to read as found below. Amendments are <u>underlined</u> and deletions are ~~stricken~~ for ease of review:

> **"2.02.110 – Powers of appointment.**
> It shall be the duty of the city manager to appoint, remove, promote and demote any and all officers and employees of the city, except the ~~city clerk and~~ city attorney."

SECTION TWO. Chapter 2.07 of Title 2 of the Calexico Municipal Code is hereby amended in its entirety to read as found below. Amendments are <u>underlined</u> and deletions are ~~stricken~~ for case of review:

> **"Chapter 2.07 – CITY CLERK**
>
> **Sections:**
> **2.07.010 – Appointment of City Clerk.**
> **2.07.020 – Duties.**
> **2.07.010 – Appointment of City Clerk.**

The City Clerk shall be appointed by the city manager~~council~~, subject to the approval of the city council, to ~~and shall~~ serve at the will and pleasure of the city manager~~council~~ and may be dismissed without cause. Prior to appointment of the city clerk by the city manager~~council~~, a committee consisting of the city manager and two members of the city council may be appointed by the city council to evaluate the applicants and make a recommendation on the appointment. Subject to the approval of the city council, the city manager may execute a written contract with the city clerk describing the conditions of his/her appointment.

2.07.020 – Duties.

Except as otherwise provided in this code, the city clerk shall perform the duties prescribed by the general laws and statutes of the state pertaining to duties of city clerks. In addition thereto, the city clerk shall perform such other duties not in conflict with her/his mandatory duties, as prescribed in a city job description, or which the city manager may from time to time assign."

SECTION THREE. This ordinance shall take effect thirty (30) days after its adoption.

SECTION FOUR. Based on the entire record before the City Council, and all written and oral evidence presented to the City Council, the City Council hereby finds that this Ordinance is exempt from review under the California Environmental Quality Act ("CEQA"), pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has not potential for resulting in physical change to the environment, directly or indirectly.

SECTION FIVE. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The City Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof. By enacting this Ordinance, the city ordains that nothing herein shall be deemed to conflict with or duplicate federal or state law, or otherwise or to license any activity that is prohibited thereunder except as mandated by such laws.

SECTION SIX. The City Clerk shall certify the passage of this Ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published as required by law, in a local newspaper of general circulation and which is hereby designated for that purpose.

PASSED, ADOPTED AND APPROVED at a regular meeting of the City Council of the City of Calexico this _____ day of _____, 2019.

_____

Lewis Pacheco, Mayor

ATTEST:

_____

Gabriela T. Garcia, City Clerk

APPROVED AS TO FORM:

_____

Carlos Campos, City Attorney