



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 12/21/2021

ITEM NO: 18

---

**DATE:** December 15, 2021  
**TO:** Mayor and Town Council  
**FROM:** Laurel Prevetti, Town Manager  
**SUBJECT:** Adopt a Resolution for the California Public Employees' Retirement System Retirement Plan to Waive the 180-Day Retiree Rehire Wait Period and to Appoint a Retiree as an Interim Town Attorney and Approve the Employment Agreement Between the Town of Los Gatos and the Interim Town Attorney

**RECOMMENDATION:**

Adopt a resolution for the California Public Employees' Retirement System retirement plan to waive the 180-day retiree rehire wait period and to appoint a retiree as an Interim Town Attorney (Attachment 1) and approve the Employment Agreement between the Town of Los Gatos and the Interim Town Attorney (Attachment 2).

**BACKGROUND:**

The Town has an existing agreement with the California Public Employees' Retirement System (CalPERS) to provide its retirement program to employees. The CalPERS retirement program is governed by Public Employees' Retirement Law (PERL). PERL contains the rules and regulations that a contracting agency must adhere to related to the hire of a CalPERS retiree, referred to as a retired annuitant. PERL requires that a non-safety retired annuitant may not work for a CalPERS contracting agency unless the retired annuitant has been retired for at least 180-days (Gov. Code section 7522.56). In lieu of the 180-day wait period, an agency's governing body may approve a resolution to waive the 180-days. PERL also requires that if a retired annuitant will be rehired into a vacant position while a recruitment for a permanent replacement is taking place, the governing body must approve a resolution appointing the retired annuitant as an interim employee [Gov. Code section 21221(h)].

As an appointee of the Town Council, the Town Attorney is employed under an Employment Agreement that specifies the terms and conditions of employment.

**PREPARED BY:** Lisa Velasco  
Human Resources Director

---

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

---

DISCUSSION:

Robert Schultz has been employed as the Town of Los Gatos Town Attorney since December 2013. Recently, Mr. Schultz provided his notice of intent to retire from the Town with his last day of work to occur on December 30, 2021 resulting in a CalPERS retirement effective date of December 31, 2021.

The Town has entered into an agreement with the executive recruitment firm of Teri Black & Co. to facilitate the search for a new Town Attorney. The typical span of the recruitment timeline to hire an executive position is four months. To allow for uninterrupted time sensitive work in the Town Attorney's office and provide for continued support to the Town Council, Town Manager, Town staff, boards, and commissions, the Town Council requested staff to rehire Robert Schultz as an Interim Town Attorney until the permanent replacement is hired.

Before Mr. Schultz can be hired as a retired annuitant, the Town Council must adopt a CalPERS resolution to request that the reemployment begins earlier than the 180-day wait period and to appoint Mr. Schultz as an Interim Town Attorney. A retired annuitant may be appointed in an interim position provided that there is an open recruitment to fill the vacancy and the same individual may only be appointed to the vacant position one time. The rate of pay may not be less than or more than the current approved salary range for the vacant position. Also, a retired annuitant may not work more than 960 hours in a CalPERS fiscal year. The CalPERS fiscal year begins July 1 and ends on June 30. The tentative first day of employment as a retired annuitant for Mr. Schultz is January 1, 2022, subject to CalPERS approval of the executed resolution.

Finally, because the Town Attorney is one of two Town Council appointed positions, an approved agreement outlining employment terms and conditions must be executed prior to the commencement of employment.

CONCLUSION:

Staff recommends that the CalPERS resolution to waive the 180-day wait period exception for Robert Schultz and to appoint to the Interim Town Attorney position be adopted by Council while the recruitment for a permanent replacement takes place. Because Mr. Schultz' existing employment agreement and all related amendments will end with the separation of his employment on December 30, 2021, staff recommends that a new employment agreement is approved.

FISCAL IMPACT:

It is anticipated that the rehire of a retired annuitant will result in overall budget savings given that the retiree will no longer be eligible for benefits related to permanent employment except the Town's contribution to Medicare.

PAGE 3 OF 3

SUBJECT: Adopt a CalPERS Resolution and Approve an Employment Agreement

DATE: December 15, 2021

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachments:

1. CalPERS Resolution
2. Employment Agreement – Town Attorney