



## TOWN OF LOS GATOS

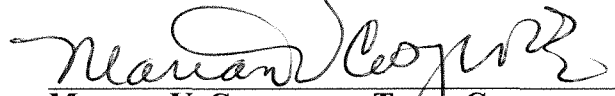
OFFICE OF THE TOWN CLERK

CIVIC CENTER  
110 E. MAIN STREET  
P.O. BOX 2  
LOS GATOS, CA 95031

### AFFIDAVIT OF CERTIFICATION

STATE OF CALIFORNIA     )  
COUNTY OF SANTA CLARA ) SS  
TOWN OF LOS GATOS     )

MARIAN V. COSGROVE, BEING FIRST DULY SWORN, DEPOSES AND SAYS THAT SHE IS THE DULY ELECTED AND QUALIFIED TOWN CLERK OF THE TOWN OF LOS GATOS; AND THAT SHE HAS HELD THE PRESENT OFFICE OF TOWN CLERK SINCE DECEMBER 6<sup>TH</sup>, 2004 AND HAS RECEIVED INSUFFICIENT INFORMATION TO CERTIFY ANYTHING BUT THE NOVEMBER ELECTION OF 2004.

  
MARIAN V. COSGROVE, TOWN CLERK  
TOWN OF LOS GATOS, CALIFORNIA  
APRIL 18, 2005

### BACKGROUND

There are continued remarks made by the Town Attorney regarding the certification of Town records, that the Office of Town Clerk is not a full time office and that the Town Treasurer's office space is to be shared by the Office of Town Clerk. Over the last sixteen years I have found that the Town Treasurers have flexible hours and make use of their office in the evenings after their regular hours of business are finished and on weekends when they have time away from their own busy schedule to attend to their duties. Occasionally the Town Clerk has been using the Treasurer's area for filing and compiling binders when the Treasurer has stopped in. We have quickly vacated that space and apologized for inconveniencing that officer at that time. We are all very busy and it is very disconcerting to have someone in your work space when you have planned your time and have to wait for your space to be vacated. Another objection to that location is the concrete pole that is in the way. There is no space for the paper work that is being worked on. It is totally ergonomically unusable. My arms hurt, my legs hurt and my back hurts when I sit there less than an hour. I will not subject myself to that sort of pain and discomfort for the Attorney, Manager and Council.

## **BACKGROUND CONTINUED**

I have worked for sixteen years for the people who elected me, for the State who mandated my duties, and for the Town employees who were also my clients.

My elected salary for that work was established by Town code and State mandate at fifteen thousand a year. Immediately after taking office the Council's Finance Committee met with me and negotiated the fulfillment of the mandated duties at fifteen thousand dollars as was stated in Town Code and then requested that for ten thousand dollars additional I would keep the Office of Town Clerk open for eight hours a day during regular office hours. This I agreed to and for sixteen years I ensured that this office was open to the public during all business hours and after hours if someone was late in arriving.

This was not the case for all other departments. Over the years other departments took hours and days off, opened at 9 a.m., closed for lunch and disappeared by 4 p.m. The Office of Town Clerk was always open, even when people were sick, on vacation or at seminars. Not only were these hours kept, because I had made an agreement with Council and therefore the people, but I also worked overtime for no pay.

For sixteen years I put Council packets together by myself, after hours, and after the last reports were completed. Everyone would be gone because the staff packets could be finished the following day, but the Council was to have their packets that evening. I did not ask staff to stay because they had no interest in staying after their regular hours without receiving overtime, and our limited budget could not afford that. The packets were usually completed by 7 p.m., but often during the earthquake days they would not be complete until 10 p.m., or once at midnight.

I also set up and cleaned up all of the Council meetings by myself, starting at 5 p.m. to set everything out and to be sure all was in readiness for Council and then putting everything away, cleaning out all the packets, locking up and ensuring all was in readiness for the Tuesday morning Planning Department meetings held in the Chambers. When Council did not finish until 1 or 2 in the morning it would mean that I could not leave until 3 a.m. Many of those late meetings were adjourned to the following evening for completion and I would have to set up and clean up all over again. Once again I wonder how the Attorney can say that the responsibilities of the Office of Town Clerk are not full time duties. As mandated Custodian of the Legislative record I do believe that I carefully fulfilled my duties in that respect.

There was no additional budget for overtime personnel for Council meetings nor was there any additional granted for handling retention of Town records. Over the years I personally moved the retention boxes, which amounted to 400 boxes in the Clerk's retention, 800 boxes in Finance, 200 Attorney boxes, 300 in the Manager's office and Human Resources, and 200 in Community Services. I hired high school students who were willing to work for me for \$3.00 an hour and dinner, to move those boxes so I could examine them, index them, and account for those particular files. The Town always looked the other way as far as addressing records management and has still not agreed to move forward on an imaging system and an appropriate up to date records management policy.

The Office of Town Clerk is a full time position mandated by state code. Not only did I work a full eight hour a day job but also spent another four hours a day volunteering my time in sorting out retention, establishing indexes, and writing the budget, strategic plan and annual report for this office. I also wrote a resolution listing 65 duties of the Town Clerk mandated by State Code, Town Code and Town Policy, and which was adopted by Council.

## **BACKGROUND CONTINUED**

The agreement with Council and the Finance Committee when I took my first Oath of Office was that the Office of Town Clerk would be evaluated for a salary increase annually as stated in Town Code and in State Code, and would begin receiving a 5% raise annually after the sixth year as in the resolution of that year regarding the Town Clerk's position. The only manager that followed the Town Code and resolutions was Bob Byer, a very professional gentleman. After that time the Office of Town Clerk was totally ignored, devalued and rudely treated. I certainly do not agree to what has transpired regarding that office and I am appalled that elected officials can write off an elected office of the people by chicanery.

The full time position of Town Clerk, honored throughout our country, and still elected in at least a third of the municipalities and all of the counties, has more than enough responsibility to warrant a full time officer.

For thirteen years I took care of the annual budget for this office. Three years ago the Town Manager asked that her analyst take over that duty. I was happy to have the help. The budget was well set in my thoughts during these years of budget reductions. The first year I released our high school interns and met the budget cut percentages. The second year I released my half time deputy and met the office reductions. The third and fourth year I put my position on the line and the Office of Town Clerk would take drastic cuts but leave the existing staff with full pay and benefits. All other departments were feeling the deep loss of resources both in funding and man hours.

This strategy did not work. Had I know that the Office of Town Clerk would become the Manager's Clerk's Office with all of the Town Clerk's salary going to one person instead of being used for student help, I would never have agreed to think about retirement, but would have made it clear that I was remaining as the Clerk and would have saved the budget by removing another deputy instead of myself.

Having performed all these duties myself before, I will now ask who was taking the responsibility for formulating, watching and overseeing the budget in the Clerk's Office for the last three years. I had taken care of those functions for thirteen years, and had watched over the line items to be sure we were on course. In past years we always came in close to our allocated resources and many years were able to purchase a capital item when the books were checked. I have never felt that I have taken anything from the Town and believe I have given ten times over in respect and service to this organization.

I have received the attached letter this week and would like you to know the following:  
The Town Manager established a policy three years ago that asked that department heads carry a cell phone with them so they would be readily accessible if she needed them. She also asked that we reimburse the Town for personal use of the phone. I did so and since I have a large family budgeted \$20 a month toward cell phone use. I paid that bill to the Town during that time.

The Manager also noted that it would be a good policy to have employees pay their own personal calls on the office phones realizing that people can take calls at work saving the Town off times if the staff feels comfortable about receiving calls from family and personal associates as long as they pay for them. I also budgeted another \$20 a month for those calls.

My question now is who was in charge of the phone records for the Town Clerk's Office during this time? For thirteen years this office received monthly reports of the individual phones in this office. The Town Clerk reviewed these records and discussed them with her deputies. My personal calls were paid for as I received them.

### **BACKGROUND CONTINUED**

During the last three years someone else was reviewing those records. I did not receive them. Who was watching and asking questions? Who is watching and questioning in other departments? Who is watching and questioning the calls in the Manager's office?

I am happy to pay my bill as I have done in the past, but I would like my questions answered first and I would like to see a print out of the records I should have received for the last three years. After that I'll be pleased to have you take \$20 a month from my pay check until paid.

I feel that Council, Attorney and Manager owe me an immeasurable amount of compensation, courtesy and respect. I upheld the Office of Town Clerk for sixteen years, an elected office mandated by our government, and I will continue to hold this office with honor and serve this post for the people who elected me.



# TOWN OF LOS GATOS

## OFFICE OF THE TOWN MANAGER

(408) 354-6832

FAX: (408) 399-5786

CIVIC CENTER

110 E. MAIN STREET

P.O. BOX 949

LOS GATOS, CA 95031

April 1, 2005

Marian Cosgrove  
P.O. Box 2  
Los Gatos, CA 95031

Dear Ms. Cosgrove:

It has come to my attention that from December 2003 to January 2005, inclusive, you accepted numerous collect telephone calls totaling \$775.59. I understand that these were personal calls from one or more members of your family. The cost of these calls has thus far been borne by the Town. Enclosed for your information is a breakdown showing the monthly cost of collect calls accepted by you during the subject period.

The use of the Town's telephone system in this way is improper and the cost of such use must, therefore, be borne by the user rather than by the public. Accordingly, please reimburse the Town for these collect telephone calls in the amount of \$775.59. Should you believe that the facts contained in this letter are incorrect or that you are not obligated to reimburse the Town, please provide me with an explanation. Should you fail to provide an explanation, I will assume that you agree with the facts stated in this letter and, nevertheless, refuse to reimburse the Town for the cost of these collect telephone calls.

Sincerely yours,

**DEBRA J. FIGONE**

Town Manager

DJF:pg

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cc: Mayor and Town Council  
Orry P. Korb, Town Attorney

Enclosure



**Collect Telephone Calls  
Accepted in the Town Clerk's Office**

	<u>354-6830</u>	<u>354-6834</u>	<u>Total</u>
<b>2003</b>			
<i>December</i>	\$ 35.08		\$ 35.08
<b>2004</b>			
<i>January</i>	\$ 28.29		\$ 28.29
<i>February</i>	\$ 149.09		\$ 149.09
<i>March</i>	\$ 74.75		\$ 74.75
<i>April</i>	\$ 3.99		\$ 3.99
<i>May</i>	\$ -		\$ -
<i>June</i>	\$ 14.06		\$ 14.06
<i>July</i>	\$ -		\$ -
<i>August</i>	\$ 26.74		\$ 26.74
<i>September</i>	\$ -		\$ -
<i>October</i>	\$ 57.85		\$ 57.85
<i>November</i>	\$ 150.93	\$ 21.72	\$ 172.65
<i>December</i>	\$ 87.53	\$ 101.13	\$ 188.66
<b>2005</b>			
<i>January</i>	\$ 24.43		\$ 24.43
<b>Total</b>			<b>\$ 775.59</b>