

Opinion No. 56-6412

March 26, 1956

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. Jose E. Armijo, District Attorney, Fourth Judicial District, Las Vegas, New Mexico

We have your letter of March 21, 1956, requesting an opinion from this office upon the following question:

Is the Town Clerk of the Town of Las Vegas an elective or appointive office?

We are of the opinion that the Town Clerk of the Town of Las Vegas is an appointive office and not an elective office.

First, we note that § 14-16-3, N.M.S.A., 1953, provides that the corporate authority of towns is in the mayor, four trustees and one recorder, who by the provisions of § 14-16-4, N.M.S.A., 1953, is the clerk of the town. There are provisions made for the election of the trustees, §§ 14-16-2 and 3, N.M.S.A. There is no provision made in the statutes for the election of the clerk of a town.

We call your attention to § 14-17-2, N.M.S.A., 1953, which provides that the mayor with the consent of the majority of the board of trustees shall appoint all officers except those who may be required by law to be elected. Since there is no requirement that the clerk be elected, it seems clear that the town clerk is one of the officers which is to be appointed.

We find further authority for the appointment of the town clerk in § 14-22-10, N.M.S.A., 1953, which directly authorizes the board of trustees to select the clerk, and § 14-22-9 authorizes the board of trustees to fix the compensation for such office. This is part of the Laws of 1891, Chapter 32, which has been carried forward for all towns organized under this law prior to its repeal by § 16, Chapter 117, Laws of 1909. By the authority of Chapter 67, Laws of 1912, all towns organized under Chapter 32, Laws of 1891, continued to have the authority granted under Chapter 32, Laws of 1891.

It is our understanding that the Town of Las Vegas was organized in 1903 under Chapter 32, Laws of 1891, and for the reasons herein set forth we are of the opinion that the Town Clerk of Las Vegas is not an elective office, but rather it is an appointive office.

By Fred M. Standley

Assistant Attorney General