



AGENDA REPORT  
SAN CLEMENTE CITY COUNCIL MEETING  
Meeting Date: November 7, 2018

Agenda Item 8A  
Approvals: \_\_\_\_\_  
City \_\_\_\_\_  
Dept. Head \_\_\_\_\_  
Attorney DP  
Finance JV

**Department:** City Clerk  
**Prepared By:** Joanne Baade, City Clerk/Legislative Administrator *Jmb*  
**Subject:** ***POSSIBLE BALLOT MEASURES TO TRANSITION THE CITY TREASURER AND CITY CLERK TO APPOINTIVE OFFICES, RATHER THAN ELECTED***

**Fiscal Impact:** The base cost for the City to consolidate its November 3, 2020 General Municipal Election with the 2020 Presidential Election that will be conducted by the Orange County Registrar of Voters is estimated to be \$54,565 to \$67,128. The base cost includes the election for two Members of the City Council, one City Treasurer and one City Clerk. Each measure that is placed on the ballot would add approximately \$8,500 to the election cost. Staff will request funding in the FY 2020/21 City budget for the election of City officers as well as any measures that Council determines to add to the November 3, 2020 General Municipal Election ballot.

**Summary:** At its meeting of July 31, 2018, Council directed that Staff agendize the possibility of adding measures to the November 3, 2020 General Municipal Election ballot to propose transitioning the offices of City Treasurer and City Clerk from elected to appointive. While it will ultimately be the decision of the City Council in office in 2020 to determine whether the ballot measures should be submitted to the electorate, the current Council requested that the topic be agendized for this meeting to enable a dialogue to commence.

State law requires each city to have a City Treasurer and City Clerk, either elected or appointed. The offices of City Treasurer and City Clerk are currently elected positions in San Clemente. Government Code §36508 provides that the City Council may initiate ballot measures asking whether the offices of City Treasurer and City Clerk shall be appointive. If approved by a majority of the voters voting on the measures, the City Council shall appoint a City Treasurer and City Clerk at the expiration of the terms of the incumbent officers (i.e., in December 2020) or when the positions become vacant, whichever occurs first. Government Code §36510 allows the City Council the option to adopt an ordinance to vest appointment authority with the City Manager.

Government Code §36502 requires that an elected City Treasurer or City Clerk be at least 18 years old, be a registered voter in the City, and reside in the City. The Government Code does not set eligibility requirements for an appointed City Treasurer or City Clerk. (Gov. Code §36510.)

There are two options for timing and format of the ballot measures.

The first option is to place the measures on the November 3, 2020 General Municipal Election ballot. This election would coincide with the end of the terms of the current elected City Treasurer and City Clerk. If Council chooses to add the measures to the November 3, 2020 ballot, the City Attorney's Office recommends that the following two questions appear on the ballot for the City Treasurer and for the City Clerk:

"Shall the office of City Treasurer be appointive?" There would then be an option to vote "Yes" or "No."

"If the office of City Treasurer remains elected, who should serve as City Treasurer?" A list of candidates and a write-in opportunity would follow.

The above questions would be the same for the City Clerk. The impartial analysis that will be prepared by the City Attorney would state that if a majority of voters voting on the transition measure favor making the office appointive, then the "winning" candidate would not be sworn in or serve, because their office would have been eliminated by the express terms of the transition measure. The City's and County's legal counsel have indicated that it is unclear whether the sequencing of the transition measure and the candidacies would be vulnerable to a legal challenge, but given that it has been used in a prior State-wide gubernatorial recall election, the City Attorney's Office believes that careful structuring of the ballot could significantly reduce exposure.

The second option is to place the transition measures on the March 3, 2020 Presidential Primary Election ballot. The second question relating to the election of the person to serve as City Treasurer or City Clerk if the offices remain elected would not be included on the March 3, 2020 ballot because this election does not coincide with the end of the terms of the current elected City Treasurer or City Clerk. If the transition measures pass, there would be no need to add the election of a City Treasurer or City Clerk to the November 3, 2020 General Municipal Election ballot. If either measure fails and the City Treasurer or the City Clerk remains an elected office, then adequate time would exist for Council to add the election of a City Treasurer and/or City Clerk to the November 3, 2020 General Municipal Election ballot.

Placing the measures on the November 3, 2020 General Municipal Election ballot would be less costly for the City. As explained above, the estimated cost to add two ballot measures to the November 3, 2020 General Municipal Election ballot is approximately \$17,000 added to the existing base cost of the election. The estimated cost to add two ballot measures to the March 3, 2020 Presidential Primary Election ballot is approximately \$84,128 to \$100,879, because the measures would be the only local items on the ballot.

Placing the measures on the March 3, 2020 Presidential Primary Election ballot would negate the need for a two-part question on the November 3, 2020 General Municipal Election ballot, and would eliminate the possibility that a candidate receiving the highest number of votes could challenge the process.

Staff conducted a survey of Orange County cities to determine if their City Treasurers were elected or appointed (see Attachment 1). Of the 34 cities in Orange County, 28 cities (82%) have appointed City Treasurers and 6 cities (18%) have elected City Treasurers. Of the 28 cities with appointed City Treasurers, the duties of the office are performed by the Director of Finance in 14 cities, the duties of the office are performed by the City Manager in 4 cities, the City Treasurer is appointed by the City Manager in 5 cities, and the City Treasurer is appointed by the City Council in 5 cities.

Staff conducted a survey of Orange County cities relative to whether their City Clerk is elected or appointed (see Attachment 2). Of the 34 cities in Orange County, 29 cities (85%) have appointed City Clerks and 5 cities (15%) have elected City Clerks. Additionally, of the 29 cities that have appointed City Clerks, the City Manager appoints the City Clerk in 17 cities, the City Council appoints the City Clerk in 11 cities, and the City Manager in one city is responsible for performing the duties of the City Clerk.

**Recommended**

**Action:** STAFF RECOMMENDS THAT the City Council determine whether to recommend to the 2020 City Council that it consider adding measures to the November 3, 2020 General Municipal Election ballot (or, alternatively, to the March 3, 2020 Presidential Primary Election ballot), to ask the electorate whether the offices of City Treasurer and/or City Clerk shall be appointive.

**Attachments:**

1. Survey of Orange County cities (City Treasurer)
2. Survey of Orange County cities (City Clerk)

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# City Treasurer Survey

City	City Treasurer Appointed or Elected
Aliso Viejo	Duties performed by Finance Director
Anaheim	Duties performed by Finance Director
Brea	Office is elected
Buena Park	Duties performed by Finance Director
Costa Mesa	Duties performed by Finance Director
Cypress	Duties performed by Finance Director
Dana Point	Duties performed by City Manager
Fountain Valley	Duties performed by Finance Director
Fullerton	Duties performed by Finance Director
Garden Grove	Duties performed by Finance Director
Huntington Beach	Office is elected
Irvine	Office is appointed by City Council
La Habra	Duties performed by Finance Director
La Palma	Office is appointed by City Manager
Laguna Beach	Office is elected
Laguna Hills	Duties performed by City Manager
Laguna Niguel	Duties performed by Finance Director
Laguna Woods	Office is appointed by City Manager

Lake Forest	Office is appointed by City Manager
Los Alamitos	Office is appointed by City Council
Mission Viejo	Duties performed by Finance Director
Newport Beach	Duties performed by Finance Director
Orange	Office is elected
Placentia	Office is elected
Rancho Santa Margarita	Office is appointed by City Council
San Clemente	Office is elected
San Juan Capistrano	Office is appointed by City Manager
Santa Ana	Office is appointed by City Manager
Seal Beach	Duties performed by Finance Director
Stanton	Office is appointed by City Council
Tustin	Duties performed by City Manager
Villa Park	Office is appointed by City Council
Westminster	Duties performed by City Manager
Yorba Linda	Duties performed by Finance Director

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# City Clerk Survey

City	City Clerk Appointed or Elected
Aliso Viejo	Office is appointed by City Manager
Anaheim	Office is appointed by City Council
Brea	Office is appointed by City Manager
Buena Park	Office is appointed by City Council
Costa Mesa	Office is appointed by City Manager
Cypress	Office is appointed by City Council
Dana Point	Office is appointed by City Council
Fountain Valley	Office is appointed by City Manager
Fullerton	Office is appointed by City Council
Garden Grove	Office is appointed by City Manager
Huntington Beach	Office is elected
Irvine	Office is appointed by City Council
La Habra	Office is appointed by City Manager
La Palma	Office is appointed by City Manager
Laguna Beach	Office is elected
Laguna Hills	Office is appointed by City Council
Laguna Niguel	Office is appointed by City Manager
Laguna Woods	Office is appointed by City Manager

Lake Forest	Office is appointed by City Manager
Los Alamitos	Office is appointed by City Council
Mission Viejo	Office is appointed by City Manager
Newport Beach	Office is appointed by City Council
Orange	Office is elected
Placentia	Office is elected
Rancho Santa Margarita	Office is appointed by City Manager
San Clemente	Office is elected
San Juan Capistrano	Office is appointed by City Council
Santa Ana	Office is appointed by City Council
Seal Beach	Office is appointed by City Manager
Stanton	Office is appointed by City Manager
Tustin	Office is appointed by City Manager
Villa Park	Duties performed by City Manager
Westminster	Office is appointed by City Manager
Yorba Linda	Office is appointed by City Manager

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