



Agenda Item 9C

Approvals:

City Manager ES

Dept. Head \_\_\_\_\_

Attorney \_\_\_\_\_

Finance \_\_\_\_\_

# AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING

Meeting Date: December 21, 2021

**Department:**  
**Prepared By:**

City Clerk  
Joanne Baade, City Clerk *JMB*

**Subject:**

**BALLOT MEASURES CONCERNING THE POSSIBILITY OF TRANSITIONING THE OFFICES OF CITY TREASURER AND CITY CLERK TO APPOINTIVE POSITIONS**

**Fiscal Impact:**

Yes. The Orange County Registrar of Voters estimates that the base cost for the City to consolidate its November 8, 2022 General Municipal Election with the General Election being conducted by the County of Orange will be \$89,276 to \$128,933. This base cost covers the election for three members of the City Council. The City will incur an additional cost of \$17,000 to add two measures to the ballot (\$8,500 per measure). In addition to the cost that the City would be obligated to pay the County of Orange to conduct the election, the City would incur approximately \$5,000 in other election expenses (such as translation and publication costs). Consequently, if Council determines to add two measures to the General Municipal Election ballot of November 8, 2022, approximately \$151,000 will be incorporated into the draft City budget for FY 2022-23 that is submitted to Council for approval.

The Orange County Registrar of Voters estimates that the cost for the City to consolidate a Special Municipal Election with the Statewide Direct Primary Election on June 7, 2022, for the purpose of submitting two measures to the electorate, will be \$120,973 to \$165,529. In addition to the cost that the City would be obligated to pay the County of Orange to conduct the election, the City would incur approximately \$5,000 in other election expenses (such as translation and publication costs). Consequently, if Council determines to conduct a Special Municipal Election on June 7, 2022, a supplemental appropriation of \$170,500 will need to be added to the current FY 2021-22 City budget. The City Clerk will return to Council at a later date with a specific appropriation request if Council determines to call a Special Municipal Election for June 7, 2022.

**Summary:**

At its meeting of December 7, 2021, Mayor James, with the support of Councilmembers Knoblock and Duncan, requested that the City Clerk report on the possibility of adding measures to either the City's General Municipal Election of November 8, 2022 or a Special Election, to be consolidated with the Statewide Direct Primary Election of June 7, 2022.

The questions proposed to be submitted to the electors relate to whether the offices of City Treasurer and City Clerk shall be appointive, rather than elected, and would appear on the ballot as follows:

<p><b>[Insert Measure Letter] San Clemente, Appointive City Treasurer</b></p>	<p><b>YES</b></p>
<p>Shall the office of City Treasurer be appointive?</p>	<p><b>NO</b></p>

<p><b>[Insert Measure Letter] San Clemente, Appointive City Clerk</b></p>	<p><b>YES</b></p>
<p>Shall the office of City Clerk be appointive?</p>	<p><b>NO</b></p>

The proposed text of the measure to transition the office of City Treasurer to an appointive office is attached hereto as Exhibit A and the proposed text of the measure to transition the office of City Clerk to an appointive office is attached hereto as Exhibit B. The vote requirement for each measure to pass is a majority (50%+1) of the votes cast. If either, or both, of the measures pass, the measure(s) shall take effect 10 days after the Council declares and certifies the results of the election. The office(s) shall be filled by appointment thereafter upon the earlier of either a vacancy in an office or at the expiration of the current term(s) of office of the incumbent(s) (i.e., December 2024).

The next General Municipal Election in San Clemente will take place on November 8, 2022. At that time, the voters of San Clemente will be asked to fill three vacancies on the City Council. The Orange County Registrar of Voters estimates the cost for the City to consolidate its General Municipal Election with the General Election being conducted by the County to be \$89,276 to \$128,933. The cost to add two measures to that ballot would be an additional \$17,000 (i.e., \$8,500 per measure). Adding the measures to the November 8, 2022 ballot would be the most economical option because the City is already mandated by State law to conduct an election on that date for the purpose of filling three upcoming vacancies on the City Council. The cost to expand the General Municipal Election to include ballot measures would basically be limited to the additional expense the County would incur to publish the measure texts in the Voter Information Guides. Moreover, elections held in November of even-numbered years involve the

highest number of jurisdictional participation, thereby resulting in a larger pool of agencies sharing in general election costs (such as voting center operations and publication of common voter instruction pages in Voter Information Guides).

There is also an opportunity for the City to call a Special Municipal Election for June 7, 2022 for the purpose of submitting the subject measures to the electorate. A Special Municipal Election could be consolidated with the Statewide Direct Primary Election that will be conducted on June 7, 2022. The Orange County Registrar of Voters estimates that the cost for the City to submit two ballot measures to the electors as part of the primary election would be \$120,973 to \$165,529. This cost would cover the City joining the election and paying its pro rata share of the general election costs that are divided among all jurisdictions that participate in the election and would also cover the full cost associated with publishing the texts of the City's two measures in the Voter Information Guides.

At this time, Staff recommends that Council determine if it wishes to submit the above measure(s) to the voters at either the General Municipal Election of November 8, 2022 or a Special Municipal Election to be called for June 7, 2022. Staff will then return to Council at a future date with resolutions necessary to call the election for the date desired and to formally request that the Orange County Board of Supervisors allow the City to consolidate its election with the election being conducted on the same date by the Orange County Registrar of Voters. If Council determines to call a Special Municipal Election for June 7, 2022, the City Clerk will also include in her report a recommendation that Council approve a supplemental appropriation to the FY 2021-22 City Clerk election budget to accommodate the special election.

**Recommended  
Action:**

STAFF RECOMMENDS THAT the City Council:

1. Determine whether to add measure(s) relating to transitioning the City Treasurer and/or City Clerk to appointive offices to either the General Municipal Election ballot of November 8, 2022 or a Special Municipal Election to be held on June 7, 2022.
2. Direct the City Clerk to return to Council with the resolutions necessary to call an election for the determined election date and to formally request that the Orange County Board of Supervisors allow the City of San Clemente to consolidate its election with the election being conducted on the same date by the Orange County Registrar of Voters.

- Exhibits:**
- A) Proposed text of measure for appointive City Treasurer
  - B) Proposed text of measure for appointive City Clerk

**Notification:** Mark Taylor, City Treasurer

Exhibit A

Full Text of Measure \_\_\_\_\_

ORDINANCE NO. -----

**AN ORDINANCE OF THE PEOPLE OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ENACTING A NEW CHAPTER 2.14 OF TITLE 2 OF THE SAN CLEMENTE MUNICIPAL CODE ESTABLISHING THE APPOINTIVE OFFICE OF CITY TREASURER, SUBJECT TO APPROVAL OF A MAJORITY OF THE ELECTORS VOTING ON THE MEASURE AT THE (INSERT WHETHER GENERAL OR SPECIAL) MUNICIPAL ELECTION TO BE HELD TUESDAY, (INSERT DATE), 2022**

**WHEREAS**, pursuant to California Government Code Section 36502, the office of San Clemente City Treasurer is currently an elective office; and

**WHEREAS**, Government Code Section 36508 and Elections Code Section 9222 authorize the City Council to submit to the electors the question of whether the elective City Treasurer shall be an appointive office and, if a majority of voters voting on the measure approve it, the office shall become appointive; and

**WHEREAS**, an appointive City Treasurer gives the City the ability to recruit candidates for the office of City Treasurer who have the requisite training, skills and experience necessary to fulfill the important responsibilities of the office of City Treasurer; and

**WHEREAS**, on (insert date), pursuant to State law, the City Council adopted Resolution No. -----, submitting this ordinance to the voters at the (insert whether General or Special) Municipal Election on Tuesday, (insert date), 2022; and

**WHEREAS**, all other legal prerequisites to the adoption of this ordinance have occurred.

**NOW, THEREFORE**, the People of the City of San Clemente do ordain as follows:

**Section 1:** Chapter 2.14 of Title 2 of the San Clemente Municipal Code is hereby enacted to read as follows:

**“Chapter 2.14 – CITY TREASURER**

**2.14.010 – Office established – Appointment and compensation.**

Pursuant to California Government Code Sections 36501 and 36508, there is hereby established the office of City Treasurer. The City Treasurer shall be appointed by, and shall serve at the pleasure of, the City Council and shall not be required to be a resident or elector of the City. The City Treasurer shall receive such compensation as shall be fixed from time to time by resolution or ordinance of the City Council. Notwithstanding the above, pursuant to

Government Code Section 36510, the City Council may, by ordinance, vest in the City Manager its authority to appoint the City Treasurer.

**2.14.020 – Bond requirement.**

Pursuant to California Government Code Section 36518, the City Treasurer shall furnish a corporate surety bond to be approved by the City Council in a reasonable amount recommended by the City Attorney and fixed by the City Council, by resolution, and may be changed during the City Treasurer's term of office. The bond shall be conditioned upon the satisfactory performance of the duties imposed upon the City Treasurer by statute, ordinance, or resolution. Any premium for such bond shall be a proper charge against the City.

**2.14.030 – Powers and Duties**

The City Treasurer shall have such powers and perform such duties as are prescribed by Sections 41001 through 41007 of the California Government Code and by any other provisions of law applicable to deposit, investment and safekeeping of public funds of the City."

**Section 2:** If this ordinance is passed by a majority of San Clemente voters voting on the matter at the (insert election date) Election, it shall take effect 10 days after the City Council declares and certifies the results of the election by resolution. The position of City Treasurer shall be filled by appointment thereafter upon the earlier of either a vacancy in the office or at the expiration of the current term of office of the incumbent (i.e., December 2024).

**Section 3:** If any part of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining parts of the ordinance. The People declare that they would have adopted this ordinance, and each part of it, irrespective of the possibility that some part or parts of it might be declared invalid or unconstitutional.

**Section 4:** The City Clerk is hereby directed to publish this ordinance at least once, within 15 days after the election results are certified, in a newspaper of general circulation published and circulated in the City of San Clemente.

PASSED, APPROVED AND ADOPTED BY THE PEOPLE OF THE CITY OF SAN CLEMENTE this --- day of --- , 2022.

---

MAYOR of the City of  
San Clemente, California

**EXHIBIT B**

**Full Text of Measure \_\_\_\_\_**

**ORDINANCE NO. ----**

**AN ORDINANCE OF THE PEOPLE OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ENACTING A NEW CHAPTER 2.10 OF TITLE 2 OF THE SAN CLEMENTE MUNICIPAL CODE ESTABLISHING THE APPOINTIVE OFFICE OF CITY CLERK, SUBJECT TO APPROVAL OF A MAJORITY OF THE ELECTORS VOTING ON THE MEASURE AT THE (INSERT WHETHER GENERAL OR SPECIAL) MUNICIPAL ELECTION TO BE HELD TUESDAY, (INSERT DATE), 2022**

**WHEREAS**, pursuant to California Government Code Section 36502, the office of San Clemente City Clerk is currently an elective office; and

**WHEREAS**, Government Code Section 36508 and Elections Code Section 9222 authorize the City Council to submit to the electors the question of whether the elective City Clerk shall be an appointive office and, if a majority of voters voting on the measure approve it, the office shall become appointive; and

**WHEREAS**, an appointive City Clerk gives the City the ability to recruit candidates for the office of City Clerk who have the requisite training, skills and experience necessary to fulfill the important responsibilities of the office of City Clerk; and

**WHEREAS**, currently the majority of California cities have appointive City Clerks; and

**WHEREAS**, on (Insert date), 2022, pursuant to State law, the City Council adopted Resolution No. ----, submitting this ordinance to the voters at the (Insert whether General or Special) Municipal Election on Tuesday, (insert date), 2022; and

**WHEREAS**, all other legal prerequisites to the adoption of this ordinance have occurred.

**NOW, THEREFORE**, the People of the City of San Clemente do ordain as follows:

**Section 1:** Chapter 2.10 of Title 2 of the San Clemente Municipal Code is hereby enacted to read as follows:

**“Chapter 2.10 – CITY CLERK**

**2.10.010 – Office established – Appointment and compensation.**

Pursuant to California Government Code Sections 36501 and 36508, there is hereby established the office of City Clerk. The City Clerk shall be appointed by, and shall serve at the pleasure of, the City Council and shall not be required to be a resident or elector of the City. The

City Clerk shall receive such compensation as shall be fixed from time to time by resolution or ordinance of the City Council. Notwithstanding the above, pursuant to Government Code Section 36510, the City Council may, by ordinance, vest in the City Manager its authority to appoint the City Clerk.

#### **2.10.020 – Bond requirement.**

Pursuant to California Government Code Section 36518, the City Clerk shall furnish a corporate surety bond to be approved by the City Council in a reasonable amount recommended by the City Attorney and fixed by the City Council, by resolution, and may be changed during the City Clerk's term of office. The bond shall be conditioned upon the satisfactory performance of the duties imposed upon the City Clerk by statute, ordinance, or resolution. Any premium for such bond shall be a proper charge against the City.

#### **2.10.030 – Powers and Duties**

The City Clerk shall have the powers, duties and responsibilities granted to and imposed upon the office of the City Clerk pursuant to the following:

A. The provisions of Chapter 2 of Part 3 of Division 3 of Title 4 of the California Government Code (commencing with Section 40801), with the exception of the financial and accounting duties set forth in Government Code Sections 40802 through 40805;

B. Other general laws of the State, with the exception of those financial powers and duties imposed upon the City Clerk by Title 4, Div. 3, Part 2, Chapter 4 of the California Government Code (commencing with Section 37201);

C. The provisions of this Code; and

D. The ordinances and resolutions of the City Council.

The principal functions of the City Clerk shall be to:

A. Attend all meetings of the City Council and be responsible for the recording and maintenance of a record of all the actions of the Council;

B. Keep all ordinances and resolutions of the Council in such a manner that the information contained therein will be readily accessible and open to the public. The City Clerk shall attach to the original copy of each ordinance a certificate which shall state the date the ordinance was adopted and, as to an ordinance requiring publication and/or posting, that the ordinance has been published and/or posted in accordance with law;

C. Keep all records of the Council and of the office of the City Clerk in such manner that the information contained therein will be readily accessible and open to the public until such time as any of the records may be destroyed or reproduced and the original destroyed, in accordance with State law;

D. Serve as the official custodian of all City records;



- E. Be the custodian of the seal of the City;
- F. Prepare the Council agendas, in conjunction with and under the direction of the City Manager;
- G. Perform the duties prescribed by the California Elections Code in conducting municipal elections, except where said election duties are performed by the Orange County Registrar of Voters or similar agency;
- H. Perform the duties imposed upon City Clerks by the California Political Reform Act;
- I. Be responsible for the publication of all official advertising required by law with respect to matters coming before the City Council;
- J. Be responsible for the maintenance and distribution of the Municipal Code;
- K. Be responsible for accepting all claims filed against the City and its officers, agents or employees, pursuant to Chapters 1 and 2 of Part 3 of Division 3.6 of the California Government Code (commencing with Section 900) and Chapter 3.04 of Title 3 of this Code; and
- L. Perform such other duties consistent with this Code as may be required of the City Clerk by the City Council or City Manager."

**Section 2:** If this ordinance is passed by a majority of San Clemente voters voting on the matter at the (insert election date) Election, it shall take effect 10 days after the City Council declares and certifies the results of the election by resolution. The position of City Clerk shall be filled by appointment thereafter upon the earlier of either a vacancy in the office or at the expiration of the current term of office of the incumbent (i.e., December 2024).

**Section 3:** If any part of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining parts of the ordinance. The People declare that they would have adopted this ordinance, and each part of it, irrespective of the possibility that some part or parts of it might be declared invalid or unconstitutional.

**Section 4:** The City Clerk is hereby directed to publish this ordinance at least once, within 15 days after the election results are certified, in a newspaper of general circulation published and circulated in the City of San Clemente.

PASSED, APPROVED AND ADOPTED BY THE PEOPLE OF THE CITY OF SAN CLEMENTE this --- day of ---, 2022.

---

MAYOR of the City of  
San Clemente, California

