



AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: May 25, 2022

Agenda Item 10D

Approvals:

City Manager ES

Dept. Head _____

Attorney CJ

Finance Jed

Department: City Manager
City Attorney

Prepared By: Scott Smith, City Attorney

Subject: INTRODUCTION OF ORDINANCE ADDING SECTION 2.

AN ORDINANCE AMENDING OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADDING SECTION 2.20.050 TO THE SAN CLEMENTE MUNICIPAL CODE RELATING TO THE CLASSIFICATION OF THE POSITIONS OF CITY CLERK AND CITY TREASURER

Fiscal Impact: There is no fiscal impact associated with the recommended action.

Summary: San Clemente's City Clerk and City Treasurer are both elected. This ordinance would bar their employment as City employees.

Background: The City's original organization provided for the direct election of the City Clerk and City Treasurer. At times, the City Clerk has also served as a City employee. Under current law, the Treasurer could also serve as a City employee. The City Council concluded that this status gives these officers dual accountability to the electorate, and also to the City Manager, who in turn reports to the City Council. The City Council asked that this ordinance be brought back to prohibit City employment of the City Clerk and City Treasurer. Council feared that this latter accountability might compromise the independence and autonomy of these two elective offices.

Discussion: This Ordinance prohibits the employment of the City Clerk or City Treasurer by the City. This would address the dual accountability issues noted by Council. The Ordinance still permits the Clerk and Treasurer to receive other benefits prescribed by Council in their elective capacities, such as the stipend currently provided for meeting attendance.

Recommended

Action: STAFF RECOMMENDS THAT the City Council consider the following action:

Introduce for first reading AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADDING SECTION 2.20.050 TO THE SAN CLEMENTE MUNICIPAL CODE RELATING TO THE CLASSIFICATION OF THE POSITIONS OF CITY CLERK AND CITY TREASURER

Attachment: Draft Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADDING SECTION 2.20.050 TO THE SAN CLEMENTE MUNICIPAL CODE RELATING TO THE CLASSIFICATION OF THE POSITIONS OF CITY CLERK AND CITY TREASURER

WHEREAS, the City of San Clemente, California ("City") is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, pursuant to Government Code Section 34851 *et seq.*, the City uses a City Manager form of government, whereby City employees report to the City Manager, who in turn reports to the City Council; and

WHEREAS, the Government Code recognizes the positions of City Clerk and City Treasurer as officers of the City (Chapters 2 and 3, respectively, of Division 3 of Title 4), rather than employees (Division 5), and imposes special duties upon them; and

WHEREAS, the Municipal Code of the City of San Clemente (the "SCMC") does not explicitly identify the positions of City Clerk and City Treasurer as employees; and

WHEREAS, the City wishes to clarify the offices and roles of the positions of City Clerk and City Treasurer in order to ensure the continued independence and accountability of those positions to the electorate directly and not as subordinate City employees; and

WHEREAS, in furtherance of this effort, on May 3, 2022, the City Council requested that the City Attorney draft an ordinance to designate the positions of City Clerk and City Treasurer as solely City officers, and not City employees.

NOW, THEREFORE, the City Council of the City of San Clemente does hereby ordain as follows:

Section 1. Incorporation of Recitals. The recitals above are true and correct and are hereby incorporated as findings as if fully set forth herein.

Section 2. CEQA. The City Council finds that this Ordinance is not a "project" subject to the California Environmental Quality Act (CEQA). The Ordinance does not qualify as a project because it has no potential to result in either a direct, or reasonably foreseeable indirect, physical change in the environment. (State CEQA Guidelines, § 15378, subd. (a).) The language merely declares that the City Clerk and the City Treasurer positions are those of officers, and not employees. In the alternative, the City Council finds that the Ordinance falls within the "common sense" exemption set forth in State CEQA Guidelines section 15061, subdivision (b)(3), which exempts activity from CEQA where "it can be seen with certainty that there is no possibility that the activity in

question may have a significant effect on the environment.” Here, it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment because the Ordinance simply clarifies the non-employment status of the positions of City Clerk and City Treasurer.

Section 3. Code Amendment. Section 2.20.050 is hereby added to Chapter 2.20 of the San Clemente Municipal Code to read as follows:

“

2.20.050 Non-employment of City Clerk and City Treasurer.

Neither the City Clerk nor the City Treasurer shall be an employee of the City. The City Clerk and the City Treasurer are ineligible for any benefit available to City employees except as otherwise specifically provided by law.”

Section 4. Publication. The City Clerk shall certify to the passage of this ordinance and cause the same to be published as required by law, and the same shall take effect as provided by law.

APPROVED AND ADOPTED this ____ day of ____, 2022.

ATTEST:

City Clerk of the City of
San Clemente, California

Mayor of the City of San
Clemente, California

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF SAN CLEMENTE)

I, JOANNE BAADE, City Clerk of the City of San Clemente, California, hereby certify that Ordinance No. _____ having been regularly introduced at the meeting of _____, 2022, was again introduced, the reading in full thereof unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on the _____ day of _____, 2022, and said ordinance was adopted by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this _____ day of _____, 2022.

CITY CLERK of the City of
San Clemente, California

APPROVED AS TO FORM:

CITY ATTORNEY