



STAFF REPORT

July 27, 2022
File Number 0650-20

SUBJECT

CITY TREASURER BALLOT MEASURE OPTIONS

DEPARTMENT

City Attorney

RECOMMENDATION

Request the City Council consider and address the alternatives provided below and take preferred action.

If the City Council intends to place the City Treasurer's compensation on the ballot, it should adopt Ordinance No. 2022-16 and Resolution No. 2022-107R.

If the City Council intends to ask the voters to make the City Treasurer an appointed position, it should adopt Ordinance No. 2022-17 and Resolution No. 2022-108R.

Staff Recommendation: Provide Direction (City Attorney: Gary McCarthy, Assistant City Attorney)

Presenter: Gary McCarthy, Assistant City Attorney

FISCAL ANALYSIS

The fiscal impact of a ballot measure relating to the City Treasurer will vary with the decisions made. A routine ballot measure could cost between \$45,000 and \$75,000.

The option to reduce the City Treasurer's compensation could present significant annual savings that would vary with the proposed salary. Appointing the Director of Finance to also serve as the City Treasurer could save approximately \$100,000 to \$168,000 each year. As discussed in more detail below, if the law regarding a City Treasurer vacancy does not change, a special election to fill a City Treasurer vacancy could cost more than \$500,000. The City would not realize any savings from modifying the City Treasurer's compensation or moving to an appointed City Treasurer until the City Treasurer's current term of office expires after the November 2024 election.

PREVIOUS ACTION

On May 25, 2022, the City Council considered the City Treasurer position and compensation. The staff report from May 25 is included as Attachment "1". The City Council directed staff to provide further information regarding reducing the City Treasurer compensation or making the City Treasurer an appointed position.



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BACKGROUND

A voter initiative passed in 1984 (Proposition F), and modified in 1986 (Proposition N), has tied the City Treasurer's compensation to that of the highest paid City department head. Since the voters enacted the authorizing ordinance, only the voters can modify it. In 2012 and 2014, the City Council placed ballot measures to change the City of Escondido to a charter city which included language that would have resulted in an appointed City Treasurer. Both measures failed. However, the City Treasurer position may have been a peripheral issue as the ballot arguments for and against the ballot measures did not mention the City Treasurer.

1. Community Survey.

In December 2021, at the direction of the City Council's Revenue Measure Subcommittee, a Community Opinion Survey was conducted which sought to provide the City with a statistically reliable understanding of its residents' satisfaction, priorities, and concerns as they relate to services, facilities, and policies provided by the City. The Survey Summary Report included:

After receiving background information about the City Treasurer position, most respondents (55%) agreed that the City should eliminate the City Treasurer position. They shouldn't pay a person \$135,000 a year to do a job they may not be qualified to do, and for which the City is outsourcing the work anyway.¹ Approximately one-quarter of respondents (26%) felt the City should keep the elected City Treasurer position. The Treasurer is meant to oversee the City's investment decisions and answers directly to the voters. An additional 18% were either unsure or unwilling to answer the question.

2. Statutory v. Actual Treasurer Duties.

State and local laws provide a wide-ranging set of tasks for the City Treasurer to accomplish. Attachment "2" provides a table of the eleven statutory duties, highlights the financial category of work performed, and identifies who performs the required tasks. The Director of Finance handles eight of the tasks. One task is unique to the City Treasurer, and another task is a catch-all provision that could be accomplished by one or both. The allocation of work evolved over time and reflects a division of labor and collaboration between the Director of Finance and the City Treasurer.

The Director of Finance is the chief accounting officer of the City. (EMC § 10-27.) The individual must be qualified by sufficient accounting training, skill, and experience to be proficient in the office. (EMC § 10-17.) Further, the Director of Finance shall be independent from the City Treasurer and enjoys equal rank with the City Treasurer. (EMC § 10-15.) The Municipal Code requires that the Director of Finance consolidate all accounting matters of the City in his/her office as an entirely separate and distinct entity from all other departments. (EMC § 10-29.) Unlike the City Treasurer, the Director of Finance works under the direction and control of the City Manager and is also responsible to the City Council. (EMC § 10-29.)

¹ After the Survey, the City Treasurer requested that the City Council end the outsourced contract with an investment manager and to increase funding for staffing within the Treasurer's General Fund budget.



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The Director of Finance is an at-will employee and can be fired at any time for any legitimate business reason.

The City Treasurer focuses his/her work on managing the City's investment portfolio. The City of Escondido Annual Budget provides an accurate list of the City Treasurer's actual duties as follows:

- Maintaining adequate bank balances to cover expenditures and investing surplus cash considering both short-term and long-term cash flow needs;
- Overseeing the City's investment program; managing the City's investment portfolio and investment policy in accordance with legal guidelines;
- Performing bond administration duties including trustee account reconciliation, oversight of debt service requirements and payments, and preparation of annual tax levies; and
- Coordinating assigned activities with other divisions, departments, and outside agencies; and preparing and maintaining a variety of investment, bank, and bond records and reports.

As of March 31, 2022, the City Treasurer managed more than \$195 million in City assets. The City Treasurer does not provide direct oversight of the Director of Finance or any accounting-related functions of the City. It is common for city treasurers to manage an agency's investment portfolio and not to be involved in accounting duties.²

The City has been fortunate to have City Treasurers who work cooperatively with the Director of Finance. However, a City Treasurer who prefers to assume all of the accounting tasks or who does not want to collaborate with the Finance Department staff would create a significant challenge for the City and could require a larger Treasurer staff than currently budgeted.

3. Full or Part-Time Treasurer Duties.

Before addressing appropriate compensation, the amount of actual work the position requires should be assessed. The voters, who are the City Treasurer's only "supervisor," have not addressed this issue. In 2018, a ballot measure in Torrance, California, sought to address this exact issue after their City Treasurer failed to show up for work for a year, yet still got her full salary and benefits. (See Attachment "3", p. 5.)

In his candidate statement in 2012, prior Escondido City Treasurer Ken Hugins wrote, "I have conducted my responsibilities on a part-time, reduced cost basis, returning to you hundreds of thousands of dollars

² For example, the Carlsbad City Treasurer's Office "is charged with the design of an effective cash management and investment program for the city and all of its agencies..." The La Mesa City Treasurer's primary responsibility is investing surplus funds in the City Treasury. The Oceanside City Treasurer "oversees the day-to-day management of the City's \$450-million-plus investment fund, ensuring this fund is protected, ample liquidity to meet the City's budgeted expenditures is maintained, and optimal investment income is generated within the parameters of prudent risk management."



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of my salary.” A 2005 email from Escondido Director of Finance Gil Rojas, Subject: History on Treasurers Salary, reads, “Ken Hugins took office on June 14, 1986, and according to Ken his intent was to be a part-time City Treasurer as was the previous Treasurer... On November 2, 1986, Ken Hugins requested a 50% reduction in salary. This would have set his salary at 25% of the City Attorney’s salary...On September 27, 1992, Mr. Hugins requested that this salary be increased to the full amount allowed stating that he would return one half of the total by direct payment to the city.” Over his more than 30 years as City Treasurer, records indicate Ken Hugins returned \$451,268 to the City.

More recently, in a May 23, 2022 email to the City Council, City Treasurer Shultz wrote,

After reviewing the notes agenda packet dealing with the agenda item regarding the Treasurer position, I would agree that the Treasurer’s salary is out of line with other Treasurer’s (*sic*) in San Diego County as illustrated by staff, and it should be discussed to have the Treasurer’s salary potentially reduced.

I would propose that the City Treasurer’s salary be tied to 50% of the Mayor’s salary. While this amount will still be higher than the median Treasurer’s salary amongst those four cities, it is also far below the elected County Treasurer.³ I believe this salary is necessary to ensure someone with the qualifications and experience will want to go through the election process and be qualified to manage the City’s investment portfolio.

In a later email, City Treasurer Shultz disagreed with a perception that he worked part-time. However, he has agreed that a substantial reduction in City Treasurer compensation would be appropriate. Thus, the statements made by our past two City Treasurers support a conclusion that the City Treasurer duties are more like a part-time job than a full-time job.

4. Compensation.

Today, the City Treasurer makes a fixed salary that does not change whether the individual works full-time, part-time, or not at all. We may have a hard-working City Treasurer today, but the City would be obligated to pay the Treasurer’s salary even if that individual chose to not work.

City Treasurer’s current salary is \$105,997,⁴ a salary more than three times the annual salary received by City Councilmembers, \$34,061.

The following chart displays the salaries of elected City Treasurers in the County.

³The San Diego County Treasurer is also the Tax Assessor. The Treasurer-Tax Assessor collects all property taxes in the county and manages an \$11 billion investment portfolio. Because of the wide range and often overlapping duties and the independent authority of elected officials, it is not easy to compare treasurer salaries across organizations.

⁴The Escondido City Treasurer also receives a \$5,100 car allowance, \$5,740 as a cafeteria benefit, and family health care. Total compensation exceeds \$150,000.



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Table 1

Elected Treasurer Compensation in San Diego County

City	Annual Salary	Compensation Authority
Carlsbad	\$12,840	Fixed amount in Muni. Code.
Escondido	\$105,997	Percentage + benefits fixed by Voter Initiative
La Mesa	\$6,948	City Council determines
National City	\$11,031	City Council determines
Oceanside	\$24,100	City Council determines

The average salary for the other four elected City Treasurer’s in San Diego County is \$13,742. The Carlsbad City Treasurer receives a flat rate of \$1,070/month plus a car allowance set by City Council Resolution. La Mesa, National City, and Oceanside allow the City Council to set the City Treasurer’s salary at any level they chose.

Because of the formula adopted by the voters in 1986, Escondido’s City Treasurer earns roughly 7.7 times more salary than the average salary of other elected City Treasurers in San Diego County. Changing the law to authorize the City Council to determine the City Treasurer’s salary, as done in La Mesa, National City, and Oceanside, would allow the City Council maximum flexibility to set the City Treasurer’s salary based on market demand, technical skills, education and experience, or any other reason.

5. Recent Statewide Ballot Measures.

Placing a measure on the ballot to change the current structure of the Treasurer’s position is no guarantee of success. A recent survey of ballot measures seeking to change the City Treasurer from an elected to an appointed position in California identified seven ballot measures between 2016 and 2020. Excerpts from the pertinent ballot measures and the respective arguments are included as Attachment “3”. While the facts and circumstances regarding each ballot measure varied, there may be some lessons to learn.

Only two of the seven measures succeeded. Notably, the successful measures to appoint the City Treasurer, Rio Vista in 2018 and El Segundo in 2020, had supporting ballot arguments signed by the elected City Treasurer. In contrast, the effort to appoint the City Treasurer in Oceanside in 2020 failed by a 3 to 1 margin. In Oceanside, the City Treasurer opposed the ballot measure. Escondido’s City Treasurer has advocated retaining an elected position.

Attachment “3” also illustrates how common it is for these measures to lack ballot arguments, either for or against. Ballot arguments offer some indication of community support or opposition to a measure. Proponents and opponents of the measure have an opportunity to submit their arguments and any



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rebuttals. There is no cost to submit a ballot argument and the City Council or individual Councilmembers, local organizations, or individual voters could submit a ballot argument. Measures in three cities (Angels, Torrance, and National City) had no arguments submitted in support of the measure. The City Councils had incurred the costs of a ballot measure, but did not take advantage of their opportunity to submit supporting arguments. In Angels and National City, potential voters or community associations also did not bother to submit opposing arguments for the voter information guide. Not surprisingly, the measures with no supporting arguments failed.

Comments in support of changing the City Treasurer from an elected to an appointed position include addressing the lack of technical qualifications, professional skills, and finance/accounting experience. Proponents may point to the increasingly complex nature of municipal finance, changing regulations, and the fact that two thirds of California cities have appointed treasurers. Other supportive arguments address saving taxpayer money, streamlining City operations, and improving government efficiency.

Those who oppose appointing a City Treasurer will emphasize preserving the voter's right to elect government officials and to hold those elected officials accountable. The terms transparency, independence, and watchdog are used to oppose a change from an elected to an appointed City Treasurer. Another trend is an emphasis on the need to avoid too much power in the city council, city manager or other "unelected bureaucrats."

In Torrance, although no one wrote an argument in support of an appointed City Treasurer, opponents wrote, "Our City Treasurer has not been to work in over a year. She's still getting \$65,000 a year – plus a car allowance of \$450 per month and benefits paid with your taxes." The opponents conceded that the City Council had no ability to address the City Treasurer's lack of accountability and advocated for recalling the City Treasurer as opposed to waiving the right to vote for one. The opponents wrote, "Don't give up our future choice because of the sins of the City Treasurer. Help us recall our City Treasurer and elect someone who will do the job." The Torrance measure failed by an almost 2 to 1 ratio.

Finally, the lack of supporting arguments by the city councils, local associations, or other interested individuals may indicate a lack of preparation. Successful ballots are well organized, straightforward, and have community support. Those measures without ballot arguments may communicate a message of voter indifference to the measure.

6. Ballot measure opportunity.

Under state law, when a mayor, councilmember, or city treasurer vacancy exists, the City Council has a choice to either fill the vacancy by an election or appoint an individual to complete the term of office. However, the City's voter-approved ordinance requires the City Council to set an election no less than 30 days and no more than 75 days from the date of the vacancy.⁵ The relatively tight window to act means

⁵ EMC section 2-94(a) provides: If the office of Treasurer shall become vacant during the first three (3) years of the term, the city council shall set an election to be held not less than thirty (30) days nor more than seventy-five (75) days after the date on which the vacancy occurred for the purpose of selecting a treasurer to fill the remaining portion of the term.



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the City might be forced to conduct a special election to fill the vacancy. In such a scenario, the City would be responsible to pay all costs associated with a special election. The County Registrar of Voters verified that a special election could cost the City more than \$500,000. This is not a budgeted cost.

Using the same vacancy procedures for all elected officials, as provided in state law, simplifies the process, provides greater flexibility, and could save substantial amounts of taxpayer funds. If the City Council decides to pursue a ballot measure, staff strongly recommends establishing one vacancy process for all elected officials. To do so, the voters would need to amend Escondido Municipal Code § 2-94, Term of Office and Filling of Vacancy.

7. Timing.

The City Council could place a ballot measure on the upcoming election in November 2022. Any changes to the City Treasurer's compensation or elected status, approved by the voters, would not become effective until December 2024. Thus, the City Council has multiple opportunities to bring forward a ballot measure at later consolidated elections before Mr. Shultz's current term in office expires.

CITY COUNCIL OPTIONS

If the City Council prefers to act now, staff has provided two options for consideration with associated implementing ordinances and resolutions to place the proposed changes before the voters. Staff has not studied to any significant degree the viability of a City Treasurer ballot measure.

Option 1: Position Remains Elected but with Lower Salary.

Compensation should be related to job duties and responsibilities and should be adequate to ensure viable candidates seek the position. At this time there is no statutory requirements for academic, professional or experience for the City Treasurer position. Since the City Treasurer works for the voters, and the voters have not addressed whether or not the position is full-time or part-time, the City Treasurer is free to determine how and when he performs his duties. City Treasurer Shultz has indicated his support to reduce the City Treasurer salary.

Setting the City Treasurer's compensation in an annual resolution provides maximum flexibility as the City Council can adjust the amount periodically to any level necessary to reward performance and retain competent individuals. The annual compensation resolution could also provide a check and balance on our local government expenditures. For example, at the federal level, the U.S. Congress sets the U.S. President's compensation. (3 U.S.C. 102.)



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To authorize the City Council to periodically address the City Treasurer’s salary, Escondido Municipal Code § 2-95 would be repealed and replaced to read:

Repeal	Replace
<p>Sec. 2-95. Salary and benefits.</p> <p>The city council shall fix the treasurer’s salary annually at no less than one half (1/2) the highest salary paid to a city department head other than the city manager, unless a lower salary is requested by the city treasurer, with benefits equal to those provided such appointee.</p>	<p>Sec. 2-95. Salary and benefits.</p> <p>The city treasurer shall receive such compensation as may from time to time be determined by resolution of the city council.</p>

The proposed change would also allow the exact amount of compensation to be determined at a later date, presumably before the next City Treasurer term begins in December 2024.

The California Attorney General opined that a city council (or the electorate) has wide discretion to set a city treasurer’s salary, but not “so low a figure that no competent person would accept the office.” (84 Cal. Atty Gen.13,18.) The Attorney General acknowledged setting the city treasurer’s salary equal to that of a city councilmembers’ salary because the state-law duties of the office, “do not necessarily require the city treasurer’s full-time attention, especially if the city has a finance department responsible for performing the financial affairs of the city.” (Supra. at 18.)

Given the proposed language, the City Council could address a future salary for the next term of office now, or could do so at a later date. The City Council could select the average salary of other elected city treasurers in San Diego County, \$13,742, as a starting point. A major risk of lowering the salary too much, could result in a lack of viable candidates. As City Treasurer Shultz has mentioned, it costs money to run for office, and qualified individuals may not be interested in the office if the salary is too low.

City Treasurer Shultz’s proposed reduction to one half the mayor’s salary would produce an annual salary of \$39,870.54 and according to Mr. Shultz should attract qualified applicants for the office. This amount remains significantly higher than the other elected city treasurers in the county and almost \$6,000 more than Escondido City Councilmembers earn.

The City Council might consider matching the City Treasurer salary to the salary received by City Councilmembers, \$34,061. While this amount is less than the amount suggested by the City Treasurer, it is significantly higher than the countywide elected city treasurer average. State law provides very specific guidance regarding how and when City Council salaries can be adjusted. The standardized approach to City Treasurer and City Councilmember salaries and vacancy procedures has the value of simplicity and



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would allow straightforward messaging. The salary level when combined with the prestige of elected office might be enough.

If the City Council decides to address the City Treasurer salary and vacancy procedures, the proposed ballot language would state:

To authorize the city council to determine the city treasurer's compensation and to standardize vacancy procedures for all City of Escondido elected officials, shall Ordinance 2022-16 amending the Escondido Municipal Code be approved?

Option 2: Appoint Director of Finance as City Treasurer.

On May 25, 2022, the City Council asked for more information about changing the City Treasurer position from elected to appointed. The government of a general law city is vested in governing officers and employees, which include a City Treasurer. (Cal. Gov't Code § 36501(c).) The City Treasurer may be elected or appointed. The City Council may submit to the voters whether the City Treasurer should be appointed. (See Cal. Gov't Code §§ 36503, 36508-336510.) Approximately two thirds of California cities have appointed treasurers. In San Diego County, 13 of 18 cities have appointed city treasurers.

In practice, most of a City Treasurer's statutory duties involve accounting tasks and, in Escondido, the Director of Finance completes almost all of the accounting tasks. Cities with an appointed City Treasurer typically will hire an expert in municipal investment management to address their cash management and investment portfolio. Perhaps most importantly, any individual hired to perform the City Treasurer duties would have the requisite education, training, and experience. An appointment also means the authority to terminate employment when standards are not met.

The appointment of a City Treasurer also provides a check and balance that currently does not exist. Today, the City Treasurer has broad latitude to do whatever he/she wants to do, both in terms of daily work and to a certain extent, the City's investment portfolio. The City has been fortunate to have capable City Treasurers who have maintained positive and collaborative relationships with our Directors of Finance.

Statewide, a more common approach builds upon the professional acumen of a Director of Finance because they have the necessary training and experience to accomplish the City Treasurer duties. Most Directors of Finance in California also serve as City Treasurers and the functions of treasury and finance staffs are merged. Typically, Directors of Finance are hired by the City Manager. The Escondido Director of Finance already performs most of the duties required by state law, and Finance Department employees could easily manage the merger. A 2019 budget exercise by the previous Director of Finance, estimated this approach would save about \$167,000 in annual personnel costs. It is the most efficient use of accounting and financial management resources and ensures an integrated process of accounting and investment management without duplicative effort. A review of the 2023 Treasury section budget indicates the City could save \$100,000 to \$168,000 per year, primarily as the result of deleting the City Treasurer compensation.



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A City Treasurer and Director of Finance are mutually dependent on each other. Typically, the City Treasurer focuses on investments but all the accounting tasks, including accounting for the city's investments, are done through the City's financial management system and managed by the Director of Finance.

The City Council would continue to ensure adequate supervision and oversight of the City Manager and Director of Finance. One could make a strong argument that this approach provides greater transparency and control of municipal finances because the Director of Finance is actually supervised. In contrast, a city treasurer working only for the voters has wide latitude and little supervision into their daily activities or investment management.

If the City Council decides to pursue appointment of the City Treasurer, beginning in December 2024, the ballot measure would repeal Escondido Municipal Code Chapter 2, Article 4B, City Treasurer, and authorize the City Council to amend Escondido Municipal Code section 2-63, as follows:

Repeal	Replace
<p>Sec. 2-63. Power to control departments, appointive officers, employees.</p> <p>The city manager shall have the power to exercise control over all departments of the city and over all appointive officers and employees thereof, except the city treasurer and city attorney and their employees.</p>	<p>Sec. 2-63. Power to control departments, appointive officers, employees.</p> <p>The city manager shall have the power to exercise control over all departments of the city and over all appointive officers and employees thereof, except the city attorney and their employees.</p>

The implementing ordinance would not need to address the City Treasurer duties described in Chapter 2, Article 4B since the Director of Finance's duties described throughout Escondido Municipal Code Chapter 10, Finance, Article 2, Director of Finance, already encompass the City Treasurer duties.



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If approved by the voters, Ordinance 2022-17 would repeal and replace an obsolete provision with a statutory appointment of the Director of Finance as the City Treasurer.

Repeal	Replace
<p>Sec. 10-15. Relation to other offices.</p> <p>The office of director of finance shall be independent from the city clerk and the city treasurer and shall enjoy equal rank with such offices.</p>	<p>Sec. 10-15. City treasurer.</p> <p>The director of finance shall be also be the city treasurer and shall have and exercise all of the powers, duties, and responsibilities of the office as described in state and local laws.</p>

Prospective ballot language to appoint the City Treasurer would read:

Shall the office of city treasurer be appointive?

CONCLUSION

Changing the City Treasurer's salary or elected status requires voter approval. If the City Council prefers to act now, the Community Opinion Survey indicated support for a salary reduction or making the City Treasurer an appointed official. Ken Huggins supported a lower salary during his 30+ years of service as City Treasurer, and City Treasurer Shultz has agreed that a salary reduction would be appropriate. Ordinance 2022-16 also addresses standardizing the vacancy process for all elected officials.

If the City Council decides to pursue a salary reduction, approval of Ordinance 2022-16 and Resolution 2022-107R would place the matter before the voters on the November 2022 ballot.

Alternately, the City Council could approve Ordinance 2022-17 and Resolution 2022-108R to ask the voters to make the City Treasurer an appointed position.

If the City Council chooses to proceed with a ballot measure, the City Council or individual council members may submit ballot arguments for or against the proposed measure, before August 18th.

Finally, the City Council could choose to take no action as this time, because any salary or an appointed status would not take effect until after the November 2024 election and the City Council has multiple opportunities to place a matter on a ballot before the November 2024.



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ATTACHMENTS

- a. Attachment "1" – Consideration of City Treasurer Position and Compensation Staff Report, May 25, 2022
- b. Attachment "2" – Statutory Duties, Finance Categories & Actual Task Performance
- c. Attachment "3" – Statewide City Treasurer Ballot Measures 2016 through 2022

RESOLUTIONS

- a. Resolution No. 2022-107R
- b. Resolution No. 2022-107 Exhibit "A"
- c. Resolution No. 2022-108R
- d. Resolution No. 2022-108 Exhibit "A"

ORDINANCES

- a. Ordinance No. 2022-16
- b. Ordinance No. 2022-17