



STAFF REPORT

May 25, 2022
File Number 0650-40

SUBJECT

CONSIDERATION OF CITY TREASURER POSITION AND COMPENSATION

DEPARTMENT

City Attorney

RECOMMENDATION

Request the City Council consider and provide direction to staff on (1) any proposed modifications to the current language in the Escondido Municipal Code relating to the City Treasurer's position and/or salary including, but not limited to, the potential to achieve financial savings, and (2) if required, the preparation of a ballot measure for the November 2022 general election related to the City Treasurer position and/or salary.

Staff Recommendation: None (City Attorney: Michael R. McGuinness)

Presenters: Michael Morasco, City Councilmember and Michael R. McGuinness, City Attorney

FISCAL ANALYSIS

The San Diego County Registrar of Voters indicates that placement of this ballot measure on the November 2022 Gubernatorial General Election ballot could cost between \$45,000 and \$75,000. The actual costs will depend on how many jurisdictions participate in the election as the Registrar assigns election costs in a consolidated election through the use of a weighted average method.

Should the matter go before the voters, and there is a reduction in the salary approved by the electorate, any savings achieved by that reduction would not be realized until December 2024 at the end of the current City Treasurer's term. Nothing prohibits, and the Escondido Municipal Code specifically allows, the City Treasurer to accept a lower salary than that provided for under existing law.

PREVIOUS ACTION

None.

BACKGROUND



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On April 6, 2022, Councilmember Morasco requested a Future Agenda item to discuss and consider potential modifications to the City Treasurer position including whether the position should continue to be an elected position and the amount of compensation for the position provided for in the Escondido Municipal Code (“EMC”). Currently the City Treasurer position, including its duties and compensation, is provided for in EMC sections 2-93 through 2-96.4.

1. Elected Position.

State law allows a general law city such as the City of Escondido to appoint a City Treasurer. (Government Code section 36501(c).) When appointed, the City has the authority and discretion to decide the qualifications for the eligible candidates, what responsibilities to give that position, how to staff the office, and set the amount of compensation for the position provided it is not in conflict with State law. State law also permits the electorate to adopt an initiative measure to make the City Treasurer an elected position and to fix the compensation for that official. (84 Ops.Cal.Atty.Gen. 13 (2001) (Opinion No. 00-905).)

Escondido voters approved Proposition F making changes to the offices of the City Clerk and the City Treasurer. Adopted at the June 1984 election with a vote of 51.56% YES to 48.44% NO, Proposition F repealed all previous ordinances and resolutions regarding the Clerk’s and Treasurer’s positions, recommitted the Clerk and Treasurer as elected positions, limited the budget and staff size of the offices, and set a minimum salary for the positions by requiring that these elected officials receive a salary of at least one half of the highest salary of an appointed department head other than the City Manager.

Two and a half years later, on November 4, 1986, the voters approved Proposition N, the “City Clerk and City Treasurer Accountability Initiative” which amended Proposition F by clarifying ambiguous terms and simplifying regulation of these offices. The vote was 60.65% YES and 39.35% NO. Specifically, Proposition N provided that the Treasurer’s salary shall be fixed by the City Council “annually at no less than one half 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.”¹ In 1998, the voters adopted Proposition U which amended Proposition N by making the City Clerk an appointive position.

Today, the City Treasurer is elected at large with a term of four years. Because the elected position of City Treasurer came about by a vote of the people, any repeal or amendment to the Code must be placed on

¹ There is some confusion surrounding the actual language of the proposition. The proposition as submitted to the voters read in relevant part as follows: “...salary annually at no less that one-half the highest salary paid to an appointed City department head other than the City Manager...” However, the word “appointed” is not found in the EMC at section 2-95 which codified Proposition N nor in Resolution No. 86-258 which called for the holding of the election on the proposed amends to Proposition F. The word does appear in the redlined version of Proposition F which appeared in the ballot materials. The absence of the word “appointed” is not material to the implementation of the ordinance.



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a ballot for a public vote. (Elections Code section 9222.) Further, EMC section 2-93 specifically provides that “The office of treasurer of the City of Escondido is created as an elected position ... unless repealed, or amended by the state legislature or the people of the City of Escondido by public vote.”

The current City Treasurer, Douglas W. Shultz, has served in that role since first elected in 2016. In 2020, given the absence of any declared candidates for the position, and pursuant to Elections Code section 10299, the City Council adopted Resolution No. 2020-121 to appoint Mr. Shultz as City Treasurer effective December 9, 2020. The City Treasurer’s current term expires in December 2024.

2. Duties and Responsibilities.

Pursuant to the Code, the City Treasurer has the following duties and responsibilities:

1. Receive directly or through other departments of the city all monies collected by or on behalf of the city and hold same for deposit or investment;
2. Make disbursements for expenditures authorized by the city council;
3. Perform all other functions necessarily incidental to the proper fulfillment of the treasurer’s duties and responsibilities; and
4. With the City Council, annually select an independent certified public accountant to conduct an audit of the internal controls of the office of city treasurer. (EMC sections 2-96.3, 2-96.4.)

In addition to the above, State law provides additional duties for a City Treasurer. (Government Code section 41001-41007; sections 53630 *et. seq.*) As to the internal functions of the office of the City Treasurer, the official has sole responsibility for management of the office including the appointment of a deputy treasurer, hiring and discharge of employees and developing budgets for operating and capital expenditures. (EMC section 2-96.2.) At this time, the City Treasurer’s Office has the following staff: the City Treasurer, an Accountant I, and a Senior Accounting Assistant. The *draft* General Fund FY 2022/23 Operating Budget for the City Treasurer’s Office as of May 11, 2022, was \$238,080.

The City’s Human Resources Department has studied how other municipalities in San Diego County staff a city treasurer position. In the County, there are 13 public agencies which have typical or statutory city treasurer functions performed by the Director of Finance or Director of Administrative Services. Escondido is one of five public agencies in the County with an elected City Treasurer. The other cities are Oceanside, Carlsbad, National City, and La Mesa. The County of San Diego also has an elected treasurer referred to as the County Treasurer – Tax Collector.

3. City Treasurer Salary.

As noted above, pursuant to EMC section 2-95, the City Council is required to fix the treasurer’s salary “annually at no less than one half 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



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such appointee.” At this time, Mr. Shultz has a salary of \$105,997 and receives benefits consistent with other city employees at that salary range.

A review of the salaries for elected city treasurers in San Diego County reflects that the median salary for that position is \$12,840. The following are the current salaries: Oceanside (\$24,190); Carlsbad (\$12,840); National City (\$11,031) and La Mesa (\$6,948). As a result, Mr. Shultz’s salary has a variance of 87.89% above the median.

Similar to the length of the City Treasurer’s term, State law does not permit the City to directly or indirectly reduce this official’s compensation and/or benefits during a pending term. (80 Ops.Cal.Atty.Gen. 119 (1997) (Opinion No. 97-103) (employment relationship between elected officials and city is contractual and reduction in compensation during term of office would impair the obligation of a contract or deprive official of vested property right); *Betts v. Board of Administration* (1978) 21 Cal.3d 859, 863 (compensation and retirement benefits for office of State Treasurer are contractually vested upon acceptance of employment).

CONCLUSION

At this time, City staff seek direction from the City Council on any proposed changes to the EMC related to the City Treasurer’s office which would be brought forward for a public vote at the November 2022 Gubernatorial General Election.