



CITY COUNCIL

For City Clerk's Use:

APPROVED DENIED

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: _____
Date: June 13, 2012

TO: Honorable Mayor and Members of the City Council
FROM: Jennifer K. McCain, Assistant City Attorney
SUBJECT: Proposed City Charter for Placement on the November 6, 2012 Ballot
[Supplemental Staff Report]

This supplemental staff report is provided as additional background regarding the proposed City Charter and the City Treasurer.

City Treasurer

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. A City Treasurer must be an elector of the city at the time of assuming the office. The candidate for City Treasurer must be a registered voter of the city at the time nomination papers are issued to the candidate. Cal. Gov't Code § 36502(a).

In Escondido the City Treasurer is governed by specific municipal regulations in addition to the applicable State laws. Proposition N, passed in 1986, was codified under Chapter 2, Article 4b of the Escondido Municipal Code (attached) and reflects the current municipal regulations of that office. The City Treasurer is elected at large with a term of four years. When a vacancy occurs within the first three years of the term, an election must be held to fill the vacancy between 30 days and 75 days from the occurrence. When a vacancy occurs in the last year of the City Treasurer's term, the Deputy Treasurer serves for the remainder of that term. The City Treasurer's salary must be at least 50% of the highest paid appointed department head, with the same benefits as the department head. The City Treasurer can also choose a lower salary.

As requested by the City Council at the May 23, 2012 public hearing, the Charter set forth in Resolution No. 2012-99 would provide for the City Treasurer to be an elected official with a four year term. However, Section 300 states that the duties, responsibilities, and compensation requirements would be set by the City Council by ordinance. The proposed language preserves the right of the electorate to elect a City Treasurer with independent oversight of the City's finances. It also allows the City Council to efficiently determine the duties, responsibilities, and compensation requirements of the City Treasurer position. Further, it aligns the appointment process for a vacancy to be the same for all elected officials.

History of the City Treasurer in Escondido

An overview of the history involved with the current regulations of the City Treasurer is outlined below. The City Treasurer has always been an elected position. Proposition F, enacted in 1986, essentially (1) recommitted the City Clerk and City Treasurer as elective offices even though at the time they already were elected, (2) specified capital expenditures and employees each office was entitled to, and (3) locked in a minimum salary. Proposition F was marginally passed in 1984.¹ Proposition N, enacted in 1986 replaced Proposition F with less rigid standards and brought the regulation of the City Treasurer and City Clerk more in line with the State law. Finally, Proposition U removed Section B of Proposition N, and made the City Clerk an appointed position.

Proposition F – June 5, 1984

Proposition F enacted regulations governing the City Treasurer and the City Clerk. These were in addition to applicable State laws. The regulations had little substantive effect outside of the State law applicable at that time. The regulations which had the most substantive effect outside of State law were (1) to fix a minimum salary for both positions, (2) require each office receive monies for expenditures and employees, and (3) to require that a vacancy be filled by election or a Deputy Treasurer.

Section A of Proposition F regulated the City Clerk's office. Section A was amended by Proposition N, and later repealed by Proposition U in 1998.²

Section B of Proposition F regulated the City Treasurer's office. The following is a general overview of the requirements. The City Treasurer had to be a US Citizen, a City resident, and must not have been convicted of a felony at the time they were issued nomination papers. The term was specified at four years. When a vacancy occurred within the first three years of the term, an election had to be held between 30 days and 75 days from the vacancy. When a vacancy occurred in the last year, the Deputy Treasurer served for the remainder of the term. Proposition F required that the City Treasurer be paid at least 50% of the highest paid appointed department head, with benefits similar to the department head. The proposition required the City Treasurer's office receive a budget for operating expenses and employees as well as specified increases in that budget. There was a bonding requirement of \$1,000,000 for the City Treasurer and a fiduciary bond of \$100,000 for the Deputy Treasurer. The City Treasurer alone presided over his or her office. The duties were specified as those outlined in State law, receiving and disbursing monies, and functions performed prior to September 1, 1983.

¹ Proposition F – June 5, 1984. Proposition F passed with 7,685 (51.56%) voting YES and 7,220 (48.44%) voting NO.

² Proposition U - November 3, 1998. In 1998, an amendment was proposed to repeal Section B of Proposition N, and make the City Clerk an appointed position rather than an elected one. It passed with 12,298 (52.67%) voting YES and 11,048 (47.33%) voting NO. The City Council approved ordinance 2000-35 on November 15, 2000 which implemented the change.

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Proposition N– November 4, 1986³

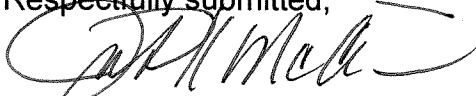
Two years later, Proposition N was proposed as an amendment to Proposition F to clarify ambiguities and simplify the regulations of the City Treasurer and City Clerk in accordance with the general laws of the State. Section C of the proposition applied to the City Treasurer. Proposition N was codified under Chapter 2, Article 4b of the Escondido Municipal Code (attached) and reflects the current municipal regulations of that office.

Conclusion

Article III of the Charter proposed as set forth in Resolution No. 2012-99 provides for an elected City Treasurer with a four year term. The duties, responsibilities, and compensation of the City Treasurer would be set by the City Council by ordinance. Any vacancy would be filled by appointment by the City Council and the appointed officer would serve the remainder of the term.

Section 306 of the Charter clearly states that the Charter shall supersede all other provisions of the laws pertaining to the City Treasurer. An impartial analysis will provide the voters with a description of the Charter and the impact it will have on Proposition N as well other impacts on current municipal laws. The impartial analysis is published in the ballot pamphlet so the voters will be fully informed before they vote on the Charter.

Respectfully submitted,



JENNIFER K. MCCAIN
Assistant City Attorney

³ Proposition N – November 4, 1986. Proposition N passed with 10,190 (60.65%) voting YES and 6,612 (39.35%) voting NO.

Escondido Municipal Code

Chapter 2 ADMINISTRATION

ARTICLE 4B. CITY TREASURER

Note

*Editor's note—Art. 4B contains § c of an amendment to Proposition F (City Clerk/City Treasurer Accountability Initiative), as approved at an election held on Nov. 4, 1986. Proposition F was originally approved at an election held June 5, 1984.

Sec. 2-93. Treasurer's position created.

The office of treasurer of the City of Escondido is created as an elected position, responsible for conduct of the office in accordance with the laws of the State of California and pursuant to these provisions unless repealed, or amended by the state legislature or the people of the City of Escondido by public vote. (Prop. F., § C(1), 11-4-86)

Sec. 2-94. Term of office and filling of vacancy.

(a) 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.

(b) When a vacancy occurs during the fourth year of the term, the deputy treasurer shall perform all the duties of the treasurer for the remaining period of the term. (Prop. F., § C(2), 11-4-86)

Sec. 2-95. Salary and benefits.

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. (Prop. F., § C(3), 11-4-86)

Sec. 2-96. Operating expenses, employees and capital expenditures.

(a) The city council shall appropriate monies for operating expenses, employee salaries and benefits, and capital expenditures as are reasonably required to fulfill the duties and responsibilities of the city treasurer.

(b) The treasurer shall be authorized to have at least two (2) employees, including one who shall be designated by the treasurer as deputy treasurer. The deputy treasurer shall be subject to the same qualifications and oath of office as the treasurer.

(c) Salaries and benefits for employees of the treasurer shall be approved by the city council in an amount equal to other city employees with the same or equivalent job classification. (Prop. F., § C(4), 11-4-86)

Sec. 2-96.1. Fiduciary bond requirements.

Fiduciary bond requirements for the treasurer and deputy treasurer shall be set by the city council after consideration of recommendations from the city treasurer and city manager. (Prop. F., § C(5), 11-4-86)

Sec. 2-96.2. Management of treasurer's office.

The treasurer shall have sole responsibility for management of that office, including, but not limited to,

appointment of a deputy treasurer, hiring and discharge of employees and developing budgets for operating and capital expenditures. (Prop. F., § C(6), 11-4-86)

Sec. 2-96.3. Duties and responsibilities.

In addition to those functions, duties, and responsibilities mandated by state law and herein, the treasurer shall in accordance with all applicable provisions of state law governing the duties and responsibilities of the treasurer with respect to the handling of city funds:

- (1) Receive directly or through other departments of the city all monies collected by or on behalf of the city and hold same by 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. Nothing in this section shall relieve the city council from its fiduciary responsibility with respect to city funds, for which both the city treasurer and city council shall be held accountable. (Prop. F., § C(7), 11-4-86)

Sec. 2-96.4. Audit.

The city treasurer and city council annually shall select an independent certified public accountant to conduct an audit of the internal controls of the office of city treasurer. (Prop. F., § C(8), 11-4-86)
