

**CITY COUNCIL OF THE CITY OF SONORA  
STAFF REPORT**

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**MEETING DATE:** JANUARY 7, 2019

**TO:** CITY COUNCIL

**FROM:** DOUGLAS L. WHITE, CITY ATTORNEY

**SUBJECT:** DISCUSSION AND ACTION CONCERNING THE POSSIBLE APPOINTMENT OF AN INTERIM CITY CLERK OR CALLING FOR A SPECIAL ELECTION FOR THE OFFICE OF THE SONORA CITY CLERK

**RECOMMENDATION:**

Staff recommends the City Council adopt Resolution No. 01-07-2019-B appointing a qualified officer of the City of Sonora ("City") to fill the position of Interim City Clerk for the remainder of the outgoing City Clerk's term.

**BACKGROUND:**

In October of 2018, Marijane Cassinetta, the City Clerk/Treasurer of the City of Sonora, provided notice of her intent to resign from her elected position effective January 2, 2019. Ms. Cassinetta was elected to City Clerk/Treasurer on June 7, 2016. She was sworn in to her four-year term on July 5, 2016.

Given the vacancy in the position of City Clerk/Treasurer in the City, the City Council of the City ("City Council") seeks to evaluate all options for filling that vacancy.

**DISCUSSION:**

When a vacancy occurs in an elective office, the City Council may fill that vacancy by either appointing a replacement, or by calling a special election.<sup>1</sup> The City Council must make such a decision within 60 days of the vacancy. A decision to take action may be primarily predicated on the City Council's decision to spend General Fund monies on conducting a special election.

A. Appointment

An office of an elected official becomes vacant upon resignation or a change in residency.<sup>2</sup> California Government Code Section 36502 requires elected city clerks and city treasurers to be "an elector of the city" and a registered voter of the city "at the time of assuming office."

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<sup>1</sup> *Id.* § 36512, subd. (b).

<sup>2</sup> Gov. Code § 36502.

Accordingly, any individual the City Council appoints to fill this office must meet these requirements.

If the City Council decides to fill a vacancy by appointment, state law governs the length of time that the appointee may hold office.<sup>3</sup> In this case, the City Council may appoint an individual to fill the remainder of Ms. Cassinetto's term of office, set to expire in 2020, because the vacancy occurred in the second half of the term of office.<sup>4</sup>

#### B. Special Election

If the City Council calls for a special election, the election must be held "on the next regularly established election date" at least 114 days from the date the council called for the special election.<sup>5</sup> The person elected holds office for the remainder of the unexpired term.<sup>6</sup>

If the City Council decides to hold a special election for the vacant seat, the "next regularly established election date" is the November 2019 Statewide General Election, scheduled for November 5, 2019.<sup>7</sup>

Special elections are expensive and essentially require the City to pay Tuolumne County ("County") to hold the special election at a cost to the City. In circumstances where the County has an election already scheduled, the City can consolidate its special election with that of the County. Even then, the City will incur its share of costs for the City Clerk race in that election. The costs may vary depending on factors established by the County and can vary year to year but normally range in the thousands of dollars. Due to these potential fiscal impacts on the General Fund, City Staff recommends that City Council elect appointment, and not a special election, to fill the office of City Clerk.

If the City Council elects to proceed with an appointment, City staff will prepare the necessary agenda item for the next meeting. The City Council's options for appointment include appointing a resident/registered voter in the City, or the City Council may appoint a Councilmember to hold the position as City Clerk Pro Tempore.<sup>8</sup>

#### **FISCAL IMPACT:**

Appointing an interim City Clerk would have little-to-no fiscal impact on the City. Holding a special election, however, could cost the City thousands of dollars.

#### **Attachments:**

1. Resolution No. 01-07-2019-B

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<sup>3</sup> *Id*

<sup>4</sup> *Id.* § 36512, subd. (b)(2)(B).

<sup>5</sup> *Id.* § 36512, subd. (b)(1).

<sup>6</sup> *Id.*

<sup>7</sup> Elec. Code § 1000, subd. (c).

<sup>8</sup> Govt. Code § 36804

**RESOLUTION No. 01-07-2019-B**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SONORA ELECTING TO  
FILL THE VACANCY IN THE POSITION OF CITY CLERK/TREASURER BY  
APPOINTMENT**

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**WHEREAS**, in October of 2018, Marijane Cassinetta, the City Clerk/Treasurer of the City of Sonora ("City"), provided notice of her intent to resign from that position effective January 2, 2019; and

**WHEREAS**, the four-year term for City Clerk/Treasurer began on July 5, 2016. The next election for City Clerk/Treasurer is not scheduled until March 2020. This vacancy arose in the second-half of the Clerk/Treasurer's term. State law provides that, in such circumstances, the replacement may hold office for the unexpired remainder of the vacant City Clerk's term; and

**WHEREAS**, to fill the vacancy, California Government Code Section 36512 requires the City Council of the City ("City Council") to call a special election or to appoint a replacement within 60 days; and

**WHEREAS**, state law requires city clerks and treasurers to be electors and registered voters of the city. An incumbent vacates their office upon moving their place of residence outside of the city; and

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Sonora by this resolution hereby elects to appoint an individual to fill the vacancy of the position of City Clerk/Treasurer, for the remainder of the City Clerk/Treasurer's term, expiring in 2020. The City Council of the City of Sonora further resolves such an appointment shall occur at a subsequent meeting of the City Council.

The foregoing resolution of the City Council of the City of Sonora was passed by the City Council at a meeting held on the 7th day of January 2019, by \_\_\_\_\_, who moved its adoption, which motion was duly seconded by \_\_\_\_\_, and the resolution adopted by the following vote:

AYES:  
NOES:  
EXCUSED:

APPROVED:

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James M. Garaventa  
Mayor of the City of Sonora

ATTEST:

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Interim City Clerk  
City of Sonora

APPROVED AS TO FORM:

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Douglas L. White  
Sonora City Attorney