



## REPORT TO CITY COUNCIL

**To:** Honorable Mayor and Members of the City Council

**From:** Jason Simpson, City Manager

**Prepared by:** Candice Alvarez, MMC, City Clerk  
Barbara Leibold, City Attorney

**Date:** February 13, 2024

**Subject:** City Treasurer Vacancy

### **Recommendation**

1. Adopt AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, AMENDING LAKE ELSINORE MUNICIPAL CODE SECTION 2.42.070 REGARDING FAILURE TO FILL A VACANCY OF THE CITY TREASURER SEAT;
2. Introduce by title only and waive further reading of AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, AMENDING LAKE ELSINORE MUNICIPAL CODE SECTION 2.42.070 REGARDING FAILURE TO FILL A VACANCY OF THE CITY TREASURER SEAT; and
3. Pursuant to Government Code section 36512, take one of the following actions:
  - A. Nominate and appoint a qualified individual to fill the vacancy for the City Treasurer seat;
  - B. Accept applications until March 1, 2024, consider submitted applications, and appoint a qualified individual to fill the vacancy for the City Treasurer seat at the March 12, 2024 City Council meeting; or

C. Call a Special Election and adopt the following Resolutions:

- a. Adopt A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, CALLING FOR THE HOLDING OF AN ALL-MAIL BALLOT SPECIAL MUNICIPAL ELECTION ON TUESDAY, AUGUST 6, 2024, FOR THE ELECTION TO FILL A VACANCY OF THE CITY TREASURER AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA RELATING TO GENERAL LAW CITIES;
- b. Adopt A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, ADOPTING REGULATIONS FOR CANDIDATES FOR ELECTIVE OFFICE PERTAINING TO CANDIDATES STATEMENTS SUBMITTED TO THE VOTERS AT AN ALL-MAIL BALLOT SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY AUGUST 6, 2024; and
- c. Adopt A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE TO RENDER SPECIFIED SERVICES TO THE CITY RELATING TO THE CONDUCT OF AN ALL-MAIL BALLOT SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, AUGUST 6, 2024 TO FILL A VACANCY OF THE CITY TREASURER

**Background**

On November 3, 2020, the City of Lake Elsinore held a General Election for three of its City Council Districts and for City Treasurer, which was consolidated with the statewide General Election. Following the election, the County Registrar of Voters canvassed the election returns and certified the results to the City Council on December 3, 2020. A total of 19,602 votes were cast for the City Treasurer.

On January 18, 2024, City Treasurer Allen Baldwin passed away, thereby leaving the City Treasurer seat vacant. The City Council may consider several options for filling the vacancy.

**Discussion**

Vacancy

Once the City Council has determined that a vacancy for the City Treasurer seat exists, Government Code Section 36512 and Lake Elsinore Municipal Code ("LEMC") Section 2.42.060 govern the process for filling the vacancy. Government Code section 1770 specifies when a public office, such as a City Treasurer elective office, is deemed vacant and includes, under Section 1770(a), "the death of the incumbent." Therefore, the City Treasurer seat became vacant on January 18, 2024.

## City Treasurer Vacancy

LEMC Section 2.42.060 provides that the City Council shall fill the vacancy by appointment. Additionally, LEMC Section 2.42.070 states that if the City Council fails to fill the vacancy within 30 days from the commencement of the vacancy, the City Council shall call a special election to fill the vacancy. The LEMC's 30-day appointment period conflicts with state law. Government Code section 36512(b) requires the City Council to act within 60 days from the commencement of the vacancy to either fill the vacancy by appointment or call a special election to fill the vacancy. Consequently, the City Attorney is recommending revision to the LEMC to conform to Government Code 36512(b) which will allow the City Council until March 17, 2024 to make an appointment or call a special election to fill the vacancy.

### Appointment

The City Council may choose to fill the vacancy by appointment. If the City Council chooses to appoint a person to the seat, the process for determining an appointment is up to the City Council.

As an example of option 3A, the City Council could nominate a qualified candidate without engaging in an application process and appoint that person immediately.

If the City Council selects option 3B, the City Council may consider establishing a process for taking applications and considering qualified candidates. To do so, the City Council would need to adopt the proposed Urgency Ordinance so that the City Council would have 60 days to fill the vacancy (instead of the current 30 days), thereby allowing the City Clerk time to solicit and accept applications through March 1, 2024, the public to submit applications during that period, and the City Council to consider submitted applications and make an appointment at its meeting on March 12, 2024.

Lake Elsinore Municipal Code Section 2.42.050 and Government Code Section 34882 establish the eligibility requirements for appointment. The candidate must reside in the City of Lake Elsinore and be a qualified elector (registered voter).

### Special Election

If the City Council selects option 3C, a special election must be called and held on the next regularly established election date not less than 114 days from the call of the election (on or after June 6, 2024). Elections Code section 1000 establishes the following as election dates:

- (a) The first Tuesday after the first Monday in March of each even-numbered year that is evenly divisible by four.
- (b) The first Tuesday after the first Monday in March of each odd-numbered year.
- (c) The second Tuesday of April in each even-numbered year.
- (d) The first Tuesday after the first Monday in June in each even-numbered year that is not evenly divisible by four.
- (e) The first Tuesday after the first Monday in November of each year.

Since none of the established election dates fall between June 6, 2024 and August 9, 2024, an all-mail ballot election would have to be conducted (Elections Code Section 1003(f)). The all-mail

## City Treasurer Vacancy

ballot election would need to be conducted on Tuesday, August 6, 2024, to allow the public time to submit a petition-in-lieu of filing fees. The estimated cost for a City-wide all-mail ballot election would be \$130,500.

### Recommendation

Staff recommends option 3B to accept applications from the public and appoint a qualified candidate to serve as City Treasurer until a new City Treasurer is elected in the next election for City Treasurer to be held on November 5, 2024.

### Fiscal Impact

There is no fiscal impact if the City Council selects option 3A or 3B. However, if the City Council selects option 3C, the estimated cost for a City-wide all-mail ballot election would be \$130,500.

### Attachments

- Attachment 1 – Urgency Ordinance
- Attachment 2 – Ordinance
- Attachment 3 – Application
- Attachment 4 – Resolution Calling Election
- Attachment 5 – Resolution Adopting Candidates Statement Regulations
- Attachment 6 – Resolution Requesting County Election Services