



MEETING OF MARCH 7, 2023

TO: Mayor Jordan and City Council
THRU:
FROM: Kit Williams, City Attorney
DATE:
SUBJECT: **Senior Assistant City Attorney Position**

RECOMMENDATION:

City Council approval to create a Senior Assistant City Attorney position in the City Attorney's Office

BACKGROUND:

For over 21 years, I have managed the City Attorney's Office without asking for any increase in personnel. Indeed, the City Attorney's Office has not had an increase in personnel for over three decades. Fayetteville's population has more than doubled during that time and the City of Fayetteville's workforce has had to also be substantially increased. I have also kept the City Prosecutor's Office at the same head count it was when I was sworn in office on March 1, 2001.

The City Attorney's Office has been pushed thin these last few years with so much work needing to be done that I have often earned no vacation hours for months because my vacation bank was full, but I had too much to do to go on vacation. The amount of legal work we really need to do for just the normal day-to-day legal advice that is requested sometimes delays our responses and makes full legal research a real challenge. When the City gets sued as it was twice in the last few months, it becomes much more difficult to timely accomplish our normal work and also prepare lengthy answers, motions and briefs, conduct and respond to discovery requests (depositions, etc.), attend hearings and trials, etc. The bottom line is that after three decades, the Fayetteville City Attorney's Office needs a third attorney.

This is especially true not only because of increasing litigation against the City, but also the likely new condemnation cases that will have to be tried for the \$40 Million Water Transmission Main to access Beaver Water District's new transmission line to the Tontitown area. In addition, I understand the City is instituting a new procedure that could require the City Attorney's Office to review many more Freedom of Information requests submitted to City Departments and our responses, thereto. This might become a real time burden that must be accomplished very quickly to comply with the Freedom of Information Act.

DISCUSSION:

Therefore, I propose that the City Council create a new Senior Assistant City Attorney position to which I will appoint Assistant City Attorney Blake Pennington who has proven his competence and value during his more than nine years of service. This will leave his current Assistant City Attorney position open for which I anticipate many highly qualified, competent, and desirable applicants.

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By adding this first new position to the City Attorney's Office in three decades, my office will be able to improve our responsiveness both to the City Council and City Staff. Our most important work shall remain to offer quality, effective legal advice to accomplish City Council and Mayoral goals while avoiding dangerous legal risks as much as possible.

In my over two decades working as City Attorney, the City of Fayetteville has avoided the repetition of legal mistakes that cost our taxpayers and ratepayers several million dollars in the 1990's. That has been accomplished because the City Council heeded my legal advice the few times a significant, costly legal mistake could have been made. The City Council properly upheld their duty to protect the City treasury despite occasional political pressures to take a chance.

With the sufficient legal staffing that a third attorney would bring to the City Attorney's Office, I feel much more confident that we can continue to provide excellent and timely legal advice and effective legal defense of the City of Fayetteville far into the future.

BUDGET/STAFF IMPACT:

ATTACHMENTS: City Attorney Memo - Addition of a FTE - 1, SENIOR ASSISTANT CITY ATTORNEY JOB DESCRIPTION