

**CITY OF SOMERTON
WRITTEN DESCRIPTION OF RATIFICATION ACTION
PURSUANT TO A.R.S. §38-431.05(B)(3)**

**THE RATIFICATION OF THE CITY COUNCIL'S APPROVAL OF
RESOLUTION 2019-019: A RESOLUTION OF THE MAYOR AND COUNCIL
OF THE CITY OF SOMERTON, ARIZONA, CREATING AND ELIMINATING
CERTAIN POSITIONS WITHIN THE ORGANIZATION WILL TAKE PLACE
AT THE SOMERTON CITY COUNCIL MEETING ON OCTOBER 1, 2019 AT 7
P.M. AT SOMERTON CITY HALL,
143 N. STATE AVENUE, SOMERTON, AZ 85350.**

Pursuant to A.R.S. § 38-431.05, the Somerton City Council may ratify prior action taken on September 11, 2019 to approve Resolution No. 2019-019: A Resolution of The Mayor and Council of the City of Somerton, Arizona, Creating and Eliminating Certain Positions Within the Organization.

On September 3, 2019, the City Council held a Work Session to discuss the potential restructuring of City positions.

At the meeting, City Manager Ian McGaughey stated that to better serve the community and City Council, staff is considering restructuring certain City positions as follows:

- Hiring a full-time City Attorney/Chief Personnel Officer
- Eliminate the contract city attorney position
- Eliminate the contract city prosecutor position
- Eliminate the Human Resource Manager position (also known as “Human Resources”)
- Adding an administrative assistant position to the Human Resources department
- Other potential personnel changes or restructuring with respect to human resources and legal departments.

Mr. McGaughey, with the help of a PowerPoint presentation, presented to Council a summary of the hours worked for the City by both the contract City Attorney and the contract Prosecutor.

Councilman Gonzalez inquired about the total savings for the City by eliminating the two contract positions and creating the positions of City Attorney/Chief Personnel Officer and administrative assistant. Mr. McGaughey provided the information: The City is currently paying roughly \$100,000 per year for 13 hours a week of legal services for both City Attorney and contract Prosecutor. By eliminating the Human Resources manager position

and replacing with a full-time City Attorney/Chief Personnel Officer and part-time Administrative Assistant, the financial impact for the City would essentially be a wash.

Vice-Mayor Garcia commented that it makes sense to have a full-time City Attorney.

Candice Orduno, City Prosecutor, addressed the Council and expressed concerns about conflicts that may exist as a result of combining the City Attorney and City Prosecutor positions. She stated that certain duties of the City Prosecutor may be in direct conflict with those of the City Attorney, which could require the City to retain outside counsel. She then provided several examples:

- There may be issues related to Police Department personnel, which may necessitate that the City hire an outside attorney,
- The City may risk waiving prosecutorial immunity by having the same person perform prosecutorial and non-prosecutorial functions.
- There may be conflicts in situations in which the City is the victim of a crime.
- There may be issues with separation of powers when it comes to oversight of Council Members
- It may be a conflict of interest for the City Prosecutor to oversee the City Magistrate.

Ms. Orduno expressed her hope that the City would consider not combining the positions. Ms. Orduno also recommended that the City staff contact the Arizona League of Cities and Towns to confirm that her concerns are valid.

Councilman Gonzalez thanked Ms. Orduno for the information that she presented.

City Attorney Jorge Lozano noted that both the Prosecutor and the Human Resources Director were notified about the meeting in writing.

A copy of the agenda for the September 3, 2019 Work Session is available at www.somertonaz.gov, under Government > Mayor and Council > City Agendas and Minutes > City Council Agendas -From September 1, 2015, Forward to Present. [Click here](#) for a direct link to the agendas page.

On September 11, 2019, the City Council held a Special Meeting that included the following agenda item: “Discussion and possible action to approve Resolution 2019-019: A Resolution of The Mayor and Council of the City of Somerton, Arizona, Creating and Eliminating Certain Positions Within the Organization.” Resolution 2019-019 involved the following changes to the organization:

- a. The City Attorney shall no longer be a contracted position effective October 14, 2019.

- b. The City Prosecutor shall no longer be a contracted position effective October 14, 2019.
- c. The Human Resource Manager position (also known as “Human Resources”) shall no longer be a City position effective October 14, 2019.
- d. The position of full-time City Attorney/Chief Personnel Officer shall be created, reporting to the City Council, and subject to terms and conditions set forth by the Council.
- e. The position of Administrative Assistant will be added to the Human Resources department, subject to the reporting structure of that department.

A complete copy of Resolution 2019-019 is attached hereto, and is available at the Office of the City Clerk, 143 N. State Avenue, AZ 85350.

At the September 11, 2019 meeting, City Manager Ian McGaughey spoke in favor of Resolution 2019-019. He began by discussing the current cost of the City’s legal services. He estimated that the City pays about \$100,000 each year for an average of roughly 13 hours of legal services per week. Mr. McGaughey explained that Resolution 2019-019 would involve the creation of a full-time salaried position that would entail a minimum of forty hours a week of legal work. Mr. McGaughey further noted that the new position would be responsible for providing advice on policy development and administration and overseeing the Human Resources Department for compliance and risk management. In addition, Resolution 2019-019 would create a new part-time administrative assistant position in the Human Resources Department to assist with various duties.

According to Mr. McGaughey, the proposed changes would provide the City with more hours of services at a higher technical level for essentially the same costs, or perhaps at a cost savings, depending on the salary level for the new full-time position. Mr. McGaughey also stated that any conflicts of interest should be rare and manageable.

In summary, Mr. McGaughey explained that Resolution 2019-019 would promote efficiency and higher levels of service with limited or no financial impact.

With regard to the deliberations, Councilmember Miguel Villalpando noted that City Manager was tasked with assessing what changes or improvements could be made in the services provided by the City to the community and its employees. Councilmember Villalpando then expressed his support for the recommendation.

Councilmember Juan Castillo stated that if the City Manager believes the changes are in the best interest of the organization, then he is supportive of the City Manager’s recommendation.

On a motion by Councilmember Villalpando, the City Council considered whether to approve Resolution 2019-019, A Resolution of The Mayor and Council of the City of Somerton, Arizona, Creating and Eliminating Certain Positions Within the Organization. The motion passed by a vote of 5 to 0. Mayor Anaya recused himself from participating in the matter. Councilman Galindo did not attend the meeting due to a conflict with his work schedule.

Following the vote, Candice Orduno, the City's Prosecutor, voiced her objection to the City Council's approval of Resolution 2019-019. She explained that she has thoroughly enjoyed service as Prosecutor for the past eight to 10 years. She then provided the following summary of her work and compensation: "From 2017 through 2019, I've had a total of 434 cases. My pay is one fifty an hour. The average pay for 2017-2018 has been thirty-five thousand. That does not include cost, expenses, staff or inflation costs of living. The average total hours that I've worked, 231 hours per year. That equates to about 19 hours per month."

Ms. Orduno explained that she has family ties to Somerton and has developed great relationships with the police department, court, and other agencies. Ms. Orduno then questioned whether Resolution 2019-019 would result in any cost savings for the City in light of the salary for the new full-time position and future cost of living increases. Ms. Orduno also expressed concern about the changes being passed by resolution, insofar as the position of City Attorney is governed by a City ordinance that has not been amended.

Ms. Orduno stated that she contacted the general counsel for the Arizona League of Cities and Towns regarding the consolidation of three positions (City Attorney, Prosecutor, and Human Resources). She explained that the general counsel advised that certain parameters and restrictions should be put in place when there is a combined prosecutorial position. Finally, she stated that the Arizona State Bar Ethics Committee is researching the matter.

The agenda for the September 11, 2019 City Council meeting is available at www.somertonaz.gov, under Government > Mayor and Council > City Agendas and Minutes > City Council Agendas -From September 1, 2015, Forward to Present. [Click here](#) for a direct link to the agendas page.



Resolution

OFFICE OF THE
MAYOR
CITY OF SOMERTON

2019-019

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SOMERTON, ARIZONA, CREATING AND ELIMINATING CERTAIN POSITIONS WITHIN THE ORGANIZATION

WHEREAS, in order to provide for the most efficient delivery of service to the citizens of the City of Somerton and to maintain sound financial structure for the city in its finances and operations, it has been determined that a reorganization of certain city positions has become necessary;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Somerton, Arizona:

Section 1:

The changes are to be as follows:

- a. The City Attorney shall no longer be a contracted position effective October 14, 2019.
- b. The City Prosecutor shall no longer be a contracted position effective October 14, 2019.
- c. The Human Resource Manager position (also known as "Human Resources") shall no longer be a City position effective October 14, 2019.
- d. The position of full-time City Attorney/Chief Personnel Officer shall be created, reporting to the City Council, and subject to terms and conditions set forth by the Council.
- e. The position of Administrative Assistant will be added to the Human Resources department, subject to the reporting structure of that department.

Section 2:

The City Manager and his designees are authorized to take all steps necessary and proper to implement this Resolution and carry out its intents and purposes.

Section 3:

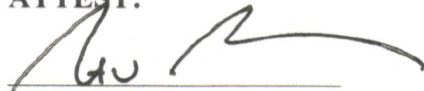
In the event of a conflict between the provisions of this resolution and any other resolution, regulation, or policy of the City of Somerton, the conflicting provisions are hereby provisionally amended, superseded, and replaced, and the provisions of this resolution shall govern.

Section 4:

If any section, subsection, sentence, clause, phrase, or portion of this resolution is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this resolution.

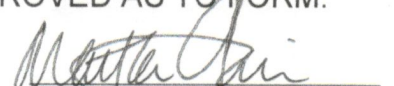
PASSED AND ADOPTED by the Mayor and City Council of Somerton this **11 OF SEPTEMBER OF 2019.**

ATTEST:



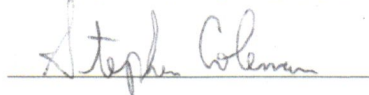
Ian McGaughey, City Clerk

APPROVED AS TO FORM:



Martha Garcia, Vice-Mayor

APPROVED AS TO FORM:



Steve Coleman
Pierce Coleman PLLC