



TO: Mayor Shaun Sipma
Members of the City Council

FROM: City Attorney's Office

DATE: November 19, 2018

SUBJECT: APPOINTMENT OF SPECIAL ASSISTANT CITY ATTORNEY FOR CONFLICT CASE

I. RECOMMENDED ACTION

A. Move to appoint Ward County State's Attorney Roza Larson or her designee as Special Assistant Minot City Attorney to prosecute Ward County Case No. 51-2018-CR-02238.

II. DEPARTMENT CONTACT PERSONS

Kelly Hendershot, City Attorney 857-4755
Stefanie Stalheim, Assistant City Attorney

III. DESCRIPTION

On November 11, 2018, a city employee was charged with a criminal offense in violation of a City ordinance. The City recommends the appointment of a special assistant city attorney to avoid any conflict of interest or appearance of impropriety.

IV. IMPACT

The City Attorney's Office generally attempts to make itself available as conflict counsel for the Ward County State's Attorney's office. Given the same, there is no expense associated with appointing the Ward County State's Attorney's Office as conflict counsel other than covering any general fees or costs associated with prosecuting this case that would rise above and beyond typical prosecution costs. Examples of any such expenses would include deposition costs, transcript requests, and any mileage requests; those expenses would exist regardless of prosecutor. As the case is presently venued in Ward County, North Dakota, which is the same courthouse where our proposed conflict counsel is located, there generally would not be any travel expenses or other fees associated with this appointment, unless this matter is appealed to the ND Supreme Court.

V. ALTERNATIVES

Decline the City Attorney's recommendation to appoint the Ward County State's Attorney's office as conflict counsel and propose that another attorney be appointed.

VI. TIME CONSTRAINTS

The next court appearance in this matter is scheduled for 11:30 a.m. on December 4, 2018. Given the same, the City recommends that conflict counsel be approved and appointed as soon as possible to give them time to review the case file and response to any discovery requests, should any such request be received.

VII. LIST OF ATTACHMENTS

- A. Appointment of Special City Attorney – Council