



COUNTY OF ONONDAGA

Office of the
County Comptroller

John H. Mulroy Civic Center, 14th Floor
421 Montgomery Street
Syracuse, New York 13202-2998
(315) 435-2130 • Fax (315) 435-2250
www.ongov.net

James V. Maturo
Deputy Comptroller/Accounting

Thomas R. Schepp II
Deputy Comptroller/Audit

Robert E. Antonacci II, CPA
Comptroller

January 12, 2016

Onondaga County Legislators
Onondaga County Executive

Re: Resolutions 230 & 231-2015

Dear Onondaga County Legislature and Onondaga County Executive Mahoney:

The Office of the Onondaga County Comptroller is charged with determining lawful claims against the County of Onondaga. It was our duty to examine the resolutions passed in December 2015 relative to salaries for certain elected officials. Accordingly, we submit to you our report wherein we reviewed past practices, the Onondaga County Charter (the "Charter"), New York State Law, and associated documents. This report was submitted to the Law Department for its review. The Law Department Response is included in our Report.

In our opinion the resolution authorizing salary increases for the County Legislature is in violation of Charter §204 and County Law §200. Our system of government at every level provides for checks and balances on each branch's power by other co-equal branches. The message of Charter §204 and County Law §200 is crystal clear. The County Executive must include in her tentative budget salary increases as a condition precedent for the Legislature to vote their own salary increases. This did not happen and therefore, again, it is our opinion Resolution #231-2015 is void.

With regard to the County Executive salary increase, Resolution #230-2015, it is our opinion the resolution is not a lawful charge of the Onondaga County taxpayers because it was not passed by Local Law. The case law and statutes regarding this analysis is a little more intensive, but suffice it to say based on our system of checks and balances, once an incumbent is known the only mechanism to increase the incumbent's salary is by local law subject to permissive referendum.

Pursuant to my duties as Comptroller, I will not certify payments of salary according to Resolutions 230-2015 and 231-2015 as they are not lawful claims against the County. Therefore, I will only certify payments of salary as stated in the 2016 budget until such time as salaries are lawfully adjusted. We are available to answer any and all of your questions.

Sincerely,


Robert E. Antonacci II, CPA, Esq.

Report on Resolutions 230-2015 & 231-2015 Increasing the Salaries of Certain Elected Officials

By Onondaga County Comptroller Robert E. Antonacci II, CPA, Esq.

Report Index

Report Section	Section Name	Page Number
I	Background and Executive Summary	1
II	Scope and Methodology	3
III	Findings and Recommendations	4
IV	Law Department Response - January 11, 2016	18
V	Exhibits	20

Section I

Background and Executive Summary

Background

On December 15, 2015, the Onondaga County Legislature (the “Legislature”) approved by resolution salary increases for the Legislature by Resolution 231-2015 and for the Onondaga County Executive (the “County Executive”) by Resolution 230-2015. Together Resolutions 230-2015 and 231-201 will be referred to as the “Resolutions” and attached as Exhibit “A”.

Thereafter, the Office of County Comptroller (the “Comptroller”) requested from the Onondaga County Law Department (the “Law Department”) an opinion as to the appropriateness of the resolutions raising elected officials pay as to both timing and procedure.

Specifically with regard to the Legislature, the Comptroller’s Office raised questions concerning the timing of said raises because Onondaga County Charter¹ (the “Charter”) §204 states in pertinent part “salaries of each County Legislator fixed and paid during a fiscal year shall not exceed the salary as specified in the Notice of Public Hearing on the Tentative Budget prepared for subject fiscal year” (Charter §204).²

With regard to the increase for the County Executive and the Legislature, our office raised concerns centered on the form of the legislation used to increase the salaries of the elected officials, i.e. resolution versus local law.

¹ <http://www.ongov.net/forms/images/charter.pdf>

² As modeled on County Law §200

Our original request is attached as Exhibit “B”. The Law Department responded in more detail by letter dated December 23, 2015, Exhibit “C”, stating in pertinent part, “The resolutions passed by the County Legislature were legal and therefore a proper County charge.”

Our report herein addresses the Resolutions and determines whether or not the Resolutions and resulting increase in salary is a lawful charge against County funds.

Executive Summary of Findings and Recommendations

The Comptroller shall pursuant to Charter §502 (d) “[a]udit and certify for payment all lawful claims or charges against the county or against funds for which the county is responsible.”

Contrary to the assertions by the County Attorney in his letter of December 23, 2015, his duties as “the sole legal advisor” do not alleviate or eliminate the powers, duties and responsibilities of the elected comptroller.

Accordingly we have adjudicated the subject resolutions and have determined them to be invalid.³

For reasons set forth in our report, it is our opinion the raises for the Legislature violates §204 of the Onondaga County Charter and County Law §200.

With regard to the raise for the County Executive it is our opinion this salary increase runs afoul of County Law §201, and Municipal Home Rule Law (“MHR”) §24(2)h which require a Local Law subject to permissive referendum for incumbent elected officials.

³ “Doubtless some of the duties of the county comptroller are ministerial, but when deciding upon the validity of claims against the county he is charged with judicial rather than with ministerial functions” Bauman v Lyon, 77 Misc. 377, 383 (Sup Ct, Kings County 1912).

We see no other option other than the Legislature forego the raise for this calendar year and pass the raise in the appropriate manner by local law subject to permissive referendum effective during the current term, if included in the notice of the public hearing on the tentative budget consistent with Charter §204 and County Law §200.

Should the Legislature continue to desire to raise the salary of the County Executive, the Legislature must pass the raise in the appropriate manner by local law subject to permissive referendum effective during the current term.

Section II

Scope and Methodology

Scope

The purpose of this report is to (a) determine whether the subject resolutions and corresponding raises are a lawful County charge and (b) provide information and recommendations relative to salary raises for elected officials. This report encompasses:

- Timing of raises for elected officials past and present; and
- Public policy, statutes, New York State Constitution, and Charter provisions as it relates to compensation for elected officials; and
- Provide recommendations to all stakeholders as to proper business practice and policy and procedures regarding raises for elected officials.

Methodology

In order to complete our objectives, we:

- Reviewed relative County Charter and Administrative Code provisions;
- Corresponded with the Law Department;
- Reviewed New York statutes framework involving compensation for elected officials;
- Reviewed New York State Attorney General and New York State Comptroller opinions on compensation for elected officials; and

- Analyzed and compared data relative to past raises for elected County officials.

Section III

Findings and Recommendations

III-A

Legislative Salary Including Raises must be so stated in the Notice of the Public Hearing on the Tentative Budget

Charter §204 and County Law §200 require the salary of the legislators paid during the fiscal year be specified in the notice of the public hearing on the tentative budget. Onondaga County Charter §603 details how the tentative budget is prepared and presented:

On or before the fifteenth day of September of each year, the County Executive shall submit to the Clerk of the County Legislature, for consideration by such Legislature or a committee designated by the Legislature, a tentative budget for the ensuing fiscal year, a capital program for the next six fiscal years, and an accompanying budget message.

Upon submission, the tentative budget, the capital program and the budget message shall become a public record in the office of the clerk of the board of supervisors. Copies of the same shall be made available by the county executive for distribution.

The tentative budget as submitted by the county executive shall present a complete financial plan for the county and its administrative units for the ensuing fiscal year setting forth all proposed expenditures and anticipated revenues, and shall include: (1) an operation and maintenance expense budget and (2) a capital budget covering debt service, down payments and other current capital financing, and proposed borrowing. Unencumbered balances at the end of each completed fiscal year, except where appropriated for a capital improvement or other authorized continuing project, shall be treated as revenues for the county budget of the second ensuing fiscal year (Charter §603).

Charter §603 goes on to say:

The board of supervisors or a committee designated by such board shall review the tentative budget, the capital program and the budget

message as submitted to the board of supervisors by the county executive and shall, not later than the first day of October, file with the clerk of the board of supervisors its report including any recommendations proposed therein. Such report shall become a public record in the office of the clerk of the board of supervisors. Copies of the same shall be made available by the clerk of the board of supervisors for distribution (Charter §603).

Charter §604 requires a public hearing on the tentative budget called for in a public notice (Charter §604). Said public notice shall be published in the official newspaper of the County and the hearing shall not be less than five days after publication of the notice and not later than the tenth day of October (Charter §604). Charter §204 and County Law §200 require the salary of the legislators paid during the fiscal year be specified in the notice of the public hearing on the tentative budget. Charter §208(f) grants the Legislature the power to set the compensation of every elected official except the judiciary and further states “compensation of any elected official paid from county funds shall not be decreased during his term of office” (Charter §208(f)).

The Law Department’s Letter of December 23, 2015 states: “Section 204 cannot be read in a way that diminishes powers of elected officials”, and goes on to state the timing of the budget process precludes proposed legislative salaries from being included in the required public notice. As noted, the County Executive is to submit to the Legislature her tentative budget by September 15. The required public notice shall be published no later than October 1 and no less than five days before the public hearing (Charter §604). The public hearing on the budget shall not be held any later than October 10 (Charter §604). A reading of the Law Department’s Letter and the Charter fails to reveal the claimed impossibility of including proposed legislative salaries or diminution of elective officials’ powers.

Finding 1. The County Legislature’s pay increase violated the Charter and County Law.

Charter §204 states in relevant part:

“The salary of each county legislator fixed and paid during a fiscal year shall not exceed the salary as specified in the notice of the public hearing on the tentative budget prepared for such fiscal year.”

County Law §200(3) states in relevant part:

The salary, or the rate of per diem compensation, or both, as the case may be, fixed and paid during a fiscal year shall not exceed the salary or rate as specified in the notice of the public hearing on the tentative budget prepared for such fiscal year, published pursuant to section three hundred fifty-nine of this chapter (County Law §200(3)).

The 2016 budget on page 3-51 as posted online indicates a salary of \$46,615 for the County Legislature Chairperson, \$31,608 for County Legislature Floor Leader, and \$25,591 for a County Legislator.⁴ The Law Department indicated no salaries were included with the required notice of public hearing. If the Law Department is correct and no salary was included in such notice, then a hyper-technical reading of the Charter would indicate the County Legislators cannot be paid anything. However, equity would rule the Legislators are entitled to the amount included in the otherwise properly noticed budget. To argue, as the Law Department appears to, that Charter §204 can be rendered irrelevant by simply not complying with it has no basis in law. As the County Legislature is charged with issuing the subject public notice, they would be estopped from arguing the lack of salaries in the public notice frees them to set salaries as they see fit. The County Legislators are entitled to be paid the amounts as indicated by the 2016 budget.

Recommendations: In order for a legislative salary increase to be effective, the County Executive must include any salary increases for the Legislature in the Tentative Budget,

⁴ http://www.ongov.net/finance/documents/3_AdministrativeFinancialServices.pdf as viewed 12/18/15

the Notice of Public Hearing on the Tentative Budget must include the proposed salaries, and be accompanied by appropriate local law.

III-B

Raises for Incumbent Elected Officials must be passed by Local Law subject to Referendum on Petition

The Charter is not the only limitation on County elected officials' pay. New York State ("NYS") County Law §201 states in relevant part:

The salary of any such officer elected or appointed for a fixed term shall not be increased or diminished during the term of his office, except as the same may be increased as provided in paragraph h of subdivision two of section twenty-four of the municipal home rule law, and except as the same may be increased in accordance with a schedule providing higher rates of compensation through additional increments of salary based on time service. No new or amended schedule applicable to any such officer shall be enacted during the term of his office, except as provided in paragraph h of subdivision two of section twenty-four of the municipal home rule law.

MHR Law 24(2) in pertinent part states:

Except as otherwise provided by or under authority of a state statute, a local law shall be subject to referendum on petition if it: (h) In the case of a ... county, increases the salary of an elective officer or of an officer appointed for a fixed term, during his term of office, except where any such increase by a county is made in accordance with a schedule providing higher rates of compensation through additional increments of salary based on time service, which schedule or applicable amendment thereof was in existence prior to the commencement of such term of office.

These statutes were explained in a near-identical situation as the one giving rise to the Resolutions by the Appellate Division, Third Department in Smith v. Buono, 185 A.D.2d 559 (3rd Dept. 1992). In that instance, the Rensselaer County Executive was elected to his second term as County Executive and took office effective January 1, 1990. On January 9, 1990, the Rensselaer County Legislature passed a resolution increasing the county executive's pay by \$4,000 (*ibid* at 560). The Court stated "the salary of a county

executive may be increased during his or her term of office only by a local law subject to referendum on petition” (*ibid* at 560). The Court addressed the County’s argument that County Law §201 did not apply and concluded “there is nonetheless no authority for increasing the salary of a county executive during his or her term by mere resolution” (*ibid* at 560). As both the County Executive and County Legislator raises were attempted by resolution rather than local law subject to permissive referendum, neither raise is legal.

One may attempt to distinguish Smith v. Buono by claiming the Resolutions did not attempt to raise the salaries during a term of office. Informal Attorney General Opinion 1934, 51 State Department 84 addresses the meaning of “term” concisely. The Attorney General determined that “term” means “the particular incumbent’s term rather than the term of the office” (1934 Atty Gen [Inf Ops] 51 State Department 84, 84, attached as Exhibit “D”). The informal opinion goes on to cite Castree v. Slingerland, 139 Misc. 632 (Sup. Ct. Saratoga County, 1932) which stated:

The provision of law forbidding a change in the compensation of an official during his term of office is inexorable. It admits of no exceptions and it affords no opportunity for evasion by those charged with the responsibility of fixing such compensation. *The purpose of this law is not only to protect the public against the evil of permitting a public official to use his official power and prestige to augment his own salary but also to protect him against the equally unjust action of a reduction in his compensation by an unfriendly board having authority to fix the salary.* This beneficent legislation removes from the lawmakers the temptation to control the other branches of government by promises of reward in the form of increased compensation or threat of punishment by way of reduced salaries (*emphasis added*).

The Attorney General ratified this view in a 1991 opinion and wrote “there is a dearth of decisional law and opinions construing this provision of the County Law, we have found

some clear indication of the legislative intent underlying the statute (Att. Gen. Opn. No. I 91-7). After citing the relevant portions of Castree, the opinion goes on to state:

Citing Castree, an opinion of the Attorney General concluded that substantially similar language in a predecessor to section 201 refers to the particular incumbent's term rather than the term of the office (Att. Gen. Opn. No. I 91-7).

The situation presented to the Attorney General was one where the incumbent served less than the calendar term of office. Using the logic of the Castree and the Attorney General Opinions, the mirror image of the situation must also be true. When an incumbent serves more than the calendar term of office, the word "term" refers to the particular incumbent's time in office.

MHR §24(2)h requires a local law subject to permissive referendum when increasing the salary of an elected official during his term of office (MHR §24(2)h). As noted, Castree and associated Attorney General Opinions broadly define "term" in this instance to include the whole of the elected official's time in office. When a salary increase for the first year of a new calendar term of an elected official is passed during the budget process, by operation of the Charter the passage is necessarily before election day. This point is salient because once election day occurs, it is typically known who will occupy the particular office, barring death, disqualification, or some other intervening factor. It is this period, between election day and the start of the calendar term, which Castree and associated Attorney General Opinions apply to. Any attempt to distinguish Smith on the basis of "term" will fail.

New York State Law provides one mechanism for increasing incumbent elected officials' salary and it is by a local law subject to permissive referendum.⁵ The County Attorney's Office's attempt to say the Resolutions were passed in a manner that tracked a local law is unpersuasive. Local laws have specific requirements under MHR §20, which include a minimum seven-day aging period and specific public hearing held on notice. No such aging, notice, or public hearing was held specific to the Resolutions.

The Resolutions also include provisions that require an annual adjustment of certain County elected officials' salaries pursuant to the Consumer Price Index (the Resolutions). Resolution 231 states:

RESOLVED, that, annually, on and after January 1, 2017, and each successive January 1, the amounts of annual compensation for those officials listed hereinafter shall be adjusted by the percentage change on the most recently published consumer price index (Consumer Price Index - Urban [CPI - U] (base year 1982 - 1984 = 0, not seasonally adjusted)) existing at the time of the annual budget presentation (Chairperson - County Legislator, Comptroller, County Clerk, County Executive, County Legislator, Floor Leader - County Legislature, and Sheriff); provided, however, that in the event of an adjustment that would result in a decrease, no such adjustment shall occur for that year; (Resolution 231-2015).

Resolution 230-2015 has the same language but only applies to the office of County Executive (Resolution 230-2015). Resolution 225-2006 had a similar requirement which said "the County Executive is hereby requested to include a 2% increase in the salaries of elected officials, except the District Attorney, each year in the proposed County Budget" (Resolution 225-2006). For reasons best known to the County Executive, such increases for the County Executive were not included in the 2010 or 2011 budgets. A salary increase was proposed for the Legislature in the 2010 budget, but was ultimately

⁵ New York State Constitution Art. IX, §2(c)(1) grants local governments the power to adopt local laws not inconsistent with the Constitution and Laws of New York State, except the State Legislature has the power to further restrict adoption of such local laws, including the compensation of officers and employees.

unadopted. Unlike the Resolutions, Resolution 225-2006 had a mechanism to implement the raises (the County Executive was to include the raises as part of the proposed County Budget or as identified in the Charter, the tentative budget). Without a similar mechanism, the Resolutions will have to rely either on the County Executive's tentative budget, or an amendment as passed by the Legislature. In either case, the proposed CPI raise would require a local law when done during the term of the relevant elected official.

Finding 2: A “mere” resolution is insufficient to raise the salary of an incumbent elected official. The safeguard of a local law subject to permissive referendum, and passage of same, is the only mechanism at this time which can raise the pay of the incumbent County Executive. Local laws subject to permissive referendum afford protections not only to incumbent elected officials, but to the public at large. Local Laws subject to permissive referendum afford all stakeholders an aging process, notice provisions, public hearing where the County Executive must face the citizenry, a veto process, and a final say by the public by permissive referendum.

Recommendation: If the Legislature desires to raise the pay of the County Executive, it must pass a local law subject to permissive referendum.⁶

III-C

Good Policy is to Pass Raises During the Budget Process and Prior to an Election

Past Practices Show No Consistency or Common Practice

Reliance on a past practice does not make an illegal act legal. “Past practice” may be helpful when negotiating or attempting to determine the meaning of an ambiguous

⁶ Also, we question the validity of the new CPI plan without use of local law on an annual basis. As there is currently no salary increase under the CPI provision at this time, this issue was not explored in detail.

term, it is irrelevant when dealing with clear and concise language. “[W]here the statutory language is clear and unambiguous, the court should construe it so as to give effect to the plain meaning of the words used” (PBA v. City of New York, 41 NY 2d 205, 208 (1976)). With regard to salary increases of elected officials, just because it was done before does not make an instant action legal or appropriate. However, as the claim of “past practices” was proffered, and as an exercise of simple intellectual curiosity, we traced the evolution of elected official salary increases over the past 30 years. As the instant salary increases affected the Legislature and the Executive, we refrain from analysis of other elected offices primarily because none of those offices are subject to the instant resolutions, but for future CPI adjustment. It should be noted only the County Executive and Legislature have the ability to even propose salary raises, much less execute such proposals. While other elected officials may submit budget proposals, it is ultimately up to the County Executive to include such proposals with the tentative budget. With regard to this, there has been no time in past 30 years where both the Legislature and Executive branch received raises by resolution in the year of election *after* Election Day.

Germane to this discussion of past practices, the Law Department’s Letter states:

“The public had an opportunity to be heard on this matter. Speakers attended and participated in the public comment period held before the County Legislature on December 15, 2015. The raises were first discussed publically at the County Legislature’s Way & Means Committee meeting in December 2014 and then thereafter throughout 2015 by the public, elected officials, and candidates for office” (See Exhibit “C”, p. 3).

It should be noted that the proposal for salary increases brought before the Legislature was in the form of a *local law* on January 5, 2015. No further proposals were brought before the Legislature until the December 11, 2015 Ways and Means Committee meeting.

The Resolutions

Our analysis of raises for the Legislature and Executive follow in Charts attached as Exhibit “E” and “F”. A partial summary of which follows:

On December 15, 2015, the Legislature passed resolutions 230-2015 and 231-2015. Resolution 230-2015 purports to increase the salary of the County Executive to \$155,871 and provides subsequent annual increases to be calculated “at the time of the annual budget presentation” (Resolution 230-2015). Resolution 230-2015 further states, “RESOLVED, that any prior legislation setting the annual compensation for such elected official shall be read in a manner consistent with this instant legislation” (Resolution 230-2015). The last adjustment to the County Executive’s salary was purported to be done by Resolution 134-2003 (attached as Exhibit “G”). Resolution 134-2003 was passed on June 2, 2003 and made four adjustments as follows: \$109,828 for 2004, an additional \$3,295 for 2005, an additional \$3,394 for 2006, and additional \$3,496 for 2007 (Resolution 134-2003). There was an intervening election between the passage of Resolution 134-2003 on June 2, 2003 and the first pay increase effective January 1, 2004.

The salary increase from 2007 to 2008 appears to have been done during the 2008 budget process pursuant to Resolution 225-2006. Once again, there was an intervening election between the passage of this salary increase and the effective date of said salary increase. Resolution 225-2006 established a policy for reviewing the salaries of elected county officials and, among other things, requested the County Executive to include a 2%

increase in the salaries of elected officials, excepting the District Attorney, in each proposed budget (Resolution 225-2006 and attached as Exhibit “H”). Resolution 225-2006 also repealed Resolution 165-1995 (Resolution 225-2006). Resolution 165-1995 repealed Resolution 695-1979, which had previously fixed the County Executive’s salary with that of the District Attorney and County Court Judges (Resolution 165-1995 and attached as Exhibit “I”). One attempt was made in 2008 by Legislator Buckel to repeal Resolution 225-2006 and the matter was referred to the Ways and Means Committee (Journal of the Legislature 2008, pp. 432-435 and attached as Exhibit “J”). Resolution 225-2006 was ultimately repealed by resolution 224-2010 on October 12, 2010, after the public hearing for the 2011 Budget (Journal of the Legislature 2010, pp. 312-313).

Resolution 231-2015 purports to increase the salary of the members of the Legislature as follows: County Legislator to \$29,430, Floor Leader of the Legislature to \$36,349, and Chairperson of the Legislature to \$53,607 (Resolution 231-2015). Resolution 231-2015 has a similar adjustment clause as Resolution 230-2015, and includes not only County Legislator, Floor Leader of the Legislature, and Chairperson of the Legislature, but also includes the offices of Comptroller, County Clerk, County Executive, and Sheriff (Resolution 231-2015). Resolution 231-2015 also states “RESOLVED, that any prior legislation setting the annual compensation for such elected officials shall be read in a manner consistent with this instant legislation” (Resolution 231-2015). The last adjustment to the salaries of County Legislator, Floor Leader of the Legislature, and Chairperson of the Legislature was accomplished by Local Law 16-2006 (attached as Exhibit “K”). Section 3 of Local Law 16-2006 states “This Local Law shall supercede [sic] any prior inconsistent local law, resolution, or charter provision, including

section 204 of the Onondaga County Charter”, and Section 4 states “This local law shall take effect in accordance with section 20, 21 and 24 of the MHR Law, subject to permissive referendum” (Local Law 16-2006).

III-D

Equal Dignity – Resolutions are not Local Laws

Even if one were to agree the Resolutions tracked closely to a local law, a resolution cannot amend, abolish, or otherwise alter a local law. The Court of Appeals has stated “a legislative act of equal dignity and import is required to modify a statute, and that nothing less than another statute will suffice” (NYPIRG v Dinkins, 83 N.Y.2d 377, 385 (1994)). “A resolution is not legislation in the strictest sense of the word. It is a ministerial act declarative of the will of the corporation” (CIV. SERV. EMPLOYEES ASSN. v. City of Troy, 36 AD 2d 145, 147 (3rd Dept. 1971)). The last Legislature pay increases were accomplished by Local Law 16-2006. Similarly, the County Executive’s salary was last increased during the 2008 budget process and passed prior to the election for the calendar term commencing January 1, 2008. In this instance, as previous salaries were established by the budget process prior to the election for the next term, or by a specific local law, only a local law subject to permissive referendum can change the salaries at this time.

III-E

Powers and Duties of County Officers:

Comptroller and the Law Department

The Onondaga County Comptroller is the chief accounting and auditing officer of the County (Charter §502(a)). Among his powers, he is to “[a]udit and certify for

payment all *lawful* claims or charges against the county or against funds for which the county is responsible for” (Charter §502(d), *emphasis added*). “Doubtless some of the duties of the county comptroller are ministerial, but when deciding upon the validity of claims against the county he is charged with judicial rather than with ministerial functions” Bauman v Lyon, 77 Misc. 377, 383 (Sup Ct, Kings County 1912). The Comptroller has the authority to audit and certify all lawful claims or charges against the County.

The Department of Law’s powers are defined by Charter §702, which states in full:

Except as otherwise provided in this charter or the administrative code, the county attorney shall be the sole legal advisor for the county and, on its behalf in county matters of a civil nature, advise all county officers and employees and, where in the interest of the county, prepare all necessary papers and written instruments in connection therewith; prosecute or defend all actions or proceedings of a civil nature brought by or against the county; prepare resolutions, ordinances, legalizing acts and local laws to be presented for action by the board of supervisors, together with notices and other items in connection therewith; and perform such other and related duties as may be prescribed by law, by the county executive or by resolution of the board of supervisors (Charter §702).

The Law Department’s Letter of December 23, 2015 (see Exhibit “C”) seems to indicate that even if an elected official or administrative head has a contrary opinion on a matter, his or her opinion must be subservient to the opinion of the County Attorney as head of the Law Department. This logic has no basis in commonsense or even the cases alluded to (as the Law Department’s Letter failed to provide citations, we can only guess as to the cases which he refers) in the Law Department’s Letter. The County Attorney, who is appointed by the County Executive and confirmed by the Legislature, would have us believe when the Comptroller has a good-faith disagreement with what constitutes a “lawful claim or charge” he or she must submit to the County Attorney’s opinion, even in

such instances where the County Executive and the Legislature have personal pecuniary interests at stake. Further, in neither Slominski v. Rutkowski, 62 N.Y.2d 781 (1984) or Caputo v Halpin, 78 N.Y.2d 117 (1991), referenced by the County Attorney, can one locate the proposition that an administrative head, much less the comptroller of a county, is without power to seek redress of good-faith questions of law. The Comptroller's Office does not challenge the proposition the County Attorney is the "sole legal advisor for the county", but does dispute the proposition that elected officials have no ability to redress good-faith disagreements in the court system.

CONCLUSION:

The Resolutions were an illegal attempt to increase the salaries of certain elected officials. Charter §204 and County §200 prevent a salary increase for the Legislators which was not previously authorized in the notice of public hearing on the tentative County budget. County Law §201 only authorizes a salary increase for incumbent elected officials pursuant to a local law subject to permissive referendum. Alternatively, basic statutory construction does not allow an inferior form of legislation to alter or abolish a superior form of legislation. The Resolutions are not legal thereby making any payment to the Executive or Legislators in excess of their stated salary prior to the Resolutions an unlawful claim against the County.

Section IV
Law Department Letter of January 11, 2016

COUNTY OF ONONDAGA



DEPARTMENT OF LAW

John H. Mulroy Civic Center, 10th Floor
421 Montgomery Street • Syracuse, New York 13202
Telephone (315) 435-2170

JOANNE M. MAHONEY
COUNTY EXECUTIVE

ROBERT A. DURR
COUNTY ATTORNEY

Fax (315) 435-5729 Municipal/Litigation Unit • Fax (315) 435-2180 Family Court Unit
www.ongov.net

January 11, 2016

Robert E. Antonacci, II, Comptroller
Onondaga County Civic Center
14th Floor
421 Montgomery Street
Syracuse, New York 13202

Dear Bob:

We are in Receipt of your Draft Report regarding Resolution Nos. 230-15 and 231-15.

The Department has nothing further to note in response to the Report, as all issues were addressed in the Letter to you dated December 23, 2015.

Our office is advised that you have made public statements regarding your intent to withhold the salary increases fixed by Resolutions Nos. 230 and 231.

To reiterate, this is a clear overstepping of your charter defined duties. If you are to choose that path, any amenable resolution between the parties will be impossible.

As noted, you and your staff should be aware that taking certain actions that may carry risk of personal liability.

You should advise your staff of the possible consequences of altering an authorized and certified payroll, and request your staff to contact this office to discuss this matter and to receive the benefit of counsel prior to taking any such action.

Finally, as noted in the Letter, you may recall that the Comptroller's salary was increased by resolution concurrent with the start of your last term. If withholding such increases becomes policy, the County will be looking for reimbursement from those county officials who previously received raises by resolution.

Very truly yours,

COUNTY OF ONONDAGA

By:

A handwritten signature in cursive script that reads "Lori H. Tarolli".

Lori H. Tarolli
First Chief Deputy County Attorney

LHT/nlm

Section V
Exhibits



OFFICE OF THE COMPTROLLER

EXHIBIT "A"

Replacement

17.

December 15, 2015

Motion Made By Mr. Knapp, Ms. Williams

RESOLUTION NO. 230

AMENDING THE ONONDAGA COUNTY SALARY PLAN WITH RESPECT TO THE COUNTY EXECUTIVE

RESOLVED, that the Onondaga County Salary Plan is hereby amended to reflect the following amounts of annual compensation for the elected official listed below, effective January 1, 2016:

County Executive \$155,871

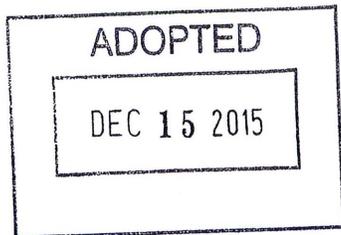
and, be it further

RESOLVED, that on and after January 1, 2016, the person holding the office named herein shall be paid the amount of annual compensation as stated in the Onondaga County Salary Plan for each year served, as amended herein; and, be it further

RESOLVED, that, annually, on and after January 1, 2017, and each successive January 1, the amount of annual compensation for the official listed herein shall be adjusted by the percentage change on the most recently published consumer price index (Consumer Price Index - Urban [CPI - U] (base year 1982 - 1984 = 0, not seasonally adjusted)) existing at the time of the annual budget presentation; provided, however, that in the event of an adjustment that would result in a decrease, no such adjustment shall occur for that year; and, be it further

RESOLVED, that any prior legislation setting the annual compensation for such elected official shall be read in a manner consistent with this instant legislation.

Personnel - amend salary plan - CEx
KMB
meb



I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF LEGISLATION DULY ADOPTED BY THE COUNTY LEGISLATURE OF ONONDAGA COUNTY ON THE

15th DAY OF December, 2015.

Deborah A. Matuso

CLERK, COUNTY LEGISLATURE
ONONDAGA COUNTY, NEW YORK

15 DEC 15 PM 1:51

RECEIVED
ONONDAGA COUNTY
LEGISLATURE

17a.

December 15, 2015

231

Motion Made By Mr. Knapp, Ms. Williams

RESOLUTION NO. _____

AMENDING THE ONONDAGA COUNTY SALARY PLAN FOR ELECTED OFFICIALS

RESOLVED, that the Onondaga County Salary Plan is hereby amended to reflect the following amounts of annual compensation for the several elected officials listed below, effective January 1, 2016:

County Legislator	\$29,430
Floor Leader – County Legislature	\$36,349
Chairperson – County Legislature	\$53,607

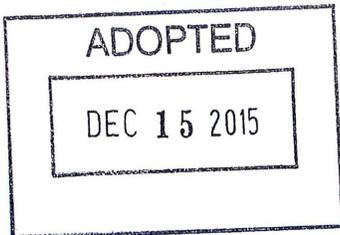
and, be it further

RESOLVED, that on and after January 1, 2016, the several persons holding the offices named herein shall be paid the amounts of annual compensation as stated in the Onondaga County Salary Plan for each year served, as amended herein; and, be it further

RESOLVED, that, annually, on and after January 1, 2017, and each successive January 1, the amounts of annual compensation for those officials listed hereinafter shall be adjusted by the percentage change on the most recently published consumer price index (Consumer Price Index – Urban [CPI – U] (base year 1982 – 1984 = 0, not seasonally adjusted)) existing at the time of the annual budget presentation (Chairperson – County Legislator, Comptroller, County Clerk, County Executive, County Legislator, Floor Leader – County Legislature, and Sheriff); provided, however, that in the event of an adjustment that would result in a decrease, no such adjustment shall occur for that year; and, be it further

RESOLVED, that any prior legislation setting the annual compensation for such elected officials shall be read in a manner consistent with this instant legislation.

Personnel - amend salary plan - Other Electeds
KMB
meb



I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF LEGISLATION DULY ADOPTED BY THE COUNTY LEGISLATURE OF ONONDAGA COUNTY ON THE

15th DAY OF December, 20 15.

Deborah A. Matuso

CLERK, COUNTY LEGISLATURE
ONONDAGA COUNTY, NEW YORK

15 DEC 15 PM 1:51

RECEIVED
ONONDAGA COUNTY
LEGISLATURE



OFFICE OF THE COMPTROLLER

EXHIBIT "B"



COUNTY OF ONONDAGA

Office of the
County Comptroller

John H. Mulroy Civic Center, 14th Floor
421 Montgomery Street
Syracuse, New York 13202-2998
(315) 435-2130 • Fax (315) 435-2250
www.ongov.net

James V. Maturo
Deputy Comptroller/Accounting

Thomas R. Schepp II
Deputy Comptroller/Audit

Robert E. Antonacci II, CPA
Comptroller

December 16, 2015

County Attorney Robert Durr
Onondaga County Law Department

Re: Resolutions 17 & 17a of December 15, 2015

Dear County Attorney Durr,

In reviewing the County Charter subsequent to yesterday's session of the Onondaga County Legislature, certain provisions of the Charter have me questioning my authority under yesterday's Resolutions 17 & 17a (the "Resolutions"). Section 204 states in pertinent part:

"The salary of each county legislator fixed and paid during a fiscal year shall not exceed the salary as specified in the notice of the public hearing on the tentative budget prepared for such fiscal year."

In accordance with this Charter provision, I am limited to paying the Onondaga County Legislators the salaries as detailed in the 2016 budget proposal.

Further, as the Resolutions seek to amend the salaries as established by previous local law, the Resolutions amount to an illegal attempt to amend a local law by resolution. On this basis, I cannot pay any of the salaries as amended by the Resolutions.

Please advise if you think otherwise and please provide your research which would indicate a different conclusion.

Thank you for your prompt attention to this matter. Should you have any questions or concerns, please do not hesitate in contacting me directly.

Sincerely,


Robert E. Antonacci II, CPA

cc: Onondaga County Legislators
Onondaga County Executive Joanne M. Mahoney



OFFICE OF THE COMPTROLLER

EXHIBIT "C"



County of Onondaga
Department of Law

John H. Mulroy Civic Center, 10th Floor
421 Montgomery Street, Syracuse, New York 13202

Phone: 315.435.2170

Fax: 315.435.5729 Municipal/Litigation Unit • Fax: 315.435.2180 Family Court Unit

www.ongov.net

Joanne M. Mahoney
County Executive

Robert A. Durr
County Attorney

HAND-DELIVERY

Hon. Robert E. Antonacci II, CPA
Comptroller
Department of Audit & Control
John H. Mulroy Civic Center, 14th Floor
421 Montgomery Street

December 23, 2015

RE: Payment of Salaries - Elected Officials

Dear Mr. Antonacci:

In your letter to this office, dated December 16, 2015, you sought a legal determination of your authority and responsibilities in connection with the Onondaga County Charter and payment of salaries as fixed by the Onondaga County Legislature on December 15, 2015 (Resolution Nos. 230 and 231).

These resolutions were validly enacted, consistent with the terms of the Charter and within the context of the Municipal Home Rule Law. As such, the amounts of compensation to be paid to the elected officials under the Onondaga County Salary Plan, as amended by such legislation, shall become effective on January 1, 2016.

Onondaga County adopted and approved its Charter and Administrative Code in 1961, where such documents have been amended from time to time by the County Legislature. Under New York State law, local governments, including counties, are empowered to adopt legislation and establish forms of government suited to address local concerns and to provide methods of administering local property and affairs (See New York State Constitution, Art. IX; Municipal Home Rule Law). At the heart of such local administration is the way in which the annual budget is adopted and amended throughout the year, including processes for fixing compensation to be paid to officials and employees.

Experienced practitioners recognize that each county has a unique form and structure of governance, requiring a close study of local legislation and practice within the context of Municipal Home Rule Law. Such form will not remain static. Rather, the form evolves over time, reflecting use, custom, and changes in thinking. Inconsistencies will exist in how a county's charter is interpreted and applied by the county's governing body in its transaction of business. A legislature's acts are presumptively valid.

Hon. Robert E. Antonacci, II, CPA
RE: Payment of Salaries - Elected Officials

December 23, 2015

Page 2 of 5

Determinations about allocations of resources, where such would have to include compensation of officers and employees, are wholly within the scope of proper legislative activity. A court will defer to such determinations, finding the issue to be nonjusticiable and addressable through political means.

Within Onondaga County's form of government, the Charter and Administrative Code provide for a system of checks and balances. Powers and responsibilities are distributed among and vested with specific officials. In your letter, you questioned language within Section 204 related to the tentative budget and notice of public hearing. Such language cannot be read in a vacuum. Rather, it must be reconciled against and given meaning within the context of remaining provisions of the Charter and Administrative Code, where evidence of the County's prior interpretations and actual use of such language is housed within the legislative journals.

Only the County Legislature has the power to fix the compensation of County officers and employees (Charter, Section 208(f)), including those of its members (Charter, Section 204). However, the County Executive is the chief budget officer, "responsible for preparation of the operating and capital budgets of the county" (Charter 302(c); Administrative Code 3.02(h)). Article VI of the Charter and Code states the respective powers of the County Executive and the County Legislature as such powers relate to the County's financial procedures, including the budget process. The County Executive creates and submits a tentative budget for review by the County Legislature (acting through its Ways & Means Committee). She is empowered to propose financial policies to the Legislature and provide estimates of revenue and items of appropriation, including amounts needed for payment of salaries. The balancing revenue is the levy of tax to be raised from real property within the County.

Section 204 cannot be read in a way that diminishes powers of elected officials. The County Executive has the power to propose increased salaries for the County Legislature. The County Legislature acts as a body to set the date for the public hearing, and it acts by resolution. Due to the timing of the budget review and adoption process, the date must be selected at a meeting held before the County Executive presents her tentative budget. If Section 204 were to be construed as suggested in your letter, with the County Legislature setting a maximum ceiling in the public notice resolution, the County Executive's powers would be impermissibly diminished.

Tracing the logic out one step further, each individual legislator's powers would be impermissibly diminished if any individual legislator did not have an opportunity to vote on this item of appropriation set within the budget and offer amendments to the salaries proposed by the County Executive. The public hearing is required to be noticed and held before the Legislature has an opportunity to act as a body by resolution on the budget. (Note: the budget is adopted by a resolution, not a local law.) A portion of the County Legislature would be deprived of a meaningful opportunity to review and consider the salaries of the County Legislators if the public hearing notice were required to reflect proposed amendments to legislators' salaries in a report of the Ways & Means Committee. This construction cannot be supported and is not supported by the history.

Looking through the legislative journals, the longstanding practice has been to not include salary information within the public hearing notice. An exception to this practice should be noted in 1985 and 1986. In those years, the language in the resolution calling the notice likely reflects some knowledge or anticipation that the salaries reflected in the resolution would be included within the County Executive's tentative budget. Reading between the lines of this legislative history, an inference could be made that

Hon. Robert E. Antonacci, II, CPA
RE: Payment of Salaries - Elected Officials

December 23, 2015

Page 3 of 5

the language shows the result of some political negotiations between the executive and legislative branches.

In 1966, the County changed its government structure, moving from a Board populated with town supervisors to an elected County Legislature. Before the Charter was adopted, the County transacted business pursuant to a statutory chapter known as "County Law". Such chapter did not provide for an annual budget process with an elected executive empowered to act as chief budget officer, serving as a check against the legislature's power to fix its own compensation. Section 204 is a vestige of the prior, discontinued method of administration by the town supervisors in Onondaga County. From that point forward, with the lone exception being the example cited above, salary information was not included in the resolution calling for the public hearing. Raises were had.

Further, in 1966, the public did not have reliable means of learning about proposed raises. The Freedom of Information Law was not added to Public Officers Law until 1977. Here, with the adoption of Resolution Nos. 230 and 231 of 2015, the public had actual notice of the proposed raises, as demonstrated by the press coverage, editorial letters, and commentary throughout various media. The public had an opportunity to be heard on this matter. Speakers attended and participated in the public comment period held before the County Legislature on December 15, 2015. The raises were first discussed publicly at the County Legislature's Ways & Means Committee meeting in December 2014 and then thereafter throughout 2015 by the public, elected officials, and candidates for office. Technology has also greatly changed since 1966, facilitating public knowledge and awareness of the potential raises.

Returning to your question about your authority to pay the amended salaries and wages, such payments occur within this system of checks and balances. The responsibilities are spread throughout various actors. First, the payroll is certified by the Commissioner of Personnel, indicating that "during the period specified, the persons named therein were employed [by the County] in their respective positions in accordance with the law, rules and regulations made pursuant thereto" (Administrative Code, Section 13.05). Second, the Department of Audit and Control, headed by you, as the Comptroller, is empowered to "[a]udit and certify for payment all lawful claims or charges against the county or against funds for which the county is responsible" (Charter, Section 502(d)), "whether for payroll or otherwise" (Administrative Code, Section 5.02(d)). It should be noted that the procedure for auditing claims for fixed salaries or compensation is set outside the typical procedure for payment and audit of claims (Administrative Code, Section 5.03(a)). Finally, the Chief Fiscal Officer, having the duties of the county treasurer, is custodian of the County's funds, empowered, among other things, to disburse such funds (Charter, Section 402).

With respect to the payment of "lawful claims", the County Attorney investigates the claim and makes determinations of whether such claim is, in fact, lawful (Charter, Section 702 ("the county attorney shall be the sole legal advisor for the county and [...] advise all county officers and employees", where such would include officers and employees within the Department of Audit and Control)).

Caution should be had in making determinations about legality. County officials and employees act within enumerated powers established by law, including the powers distributed within the Charter and Code. The County is obligated to defend, indemnify and hold harmless officials and employees acting in good faith and within the scope of employment and official duties. It is not within the duties of the Comptroller or other employees of the Department of Audit and Control to provide legal advice or to otherwise practice law. To do so carries some risk of personal liability for ultra vires acts. Further,

Hon. Robert E. Antonacci, II, CPA
RE: Payment of Salaries - Elected Officials

December 23, 2015

Page 4 of 5

exposure to personal liability is created when an officer or employee refuses to perform ministerial acts. Most apropos to this situation are the string of cases involving the Suffolk County Comptroller, the Hon. Joseph R. Caputo, and a case decided by the Fourth Department, involving the Erie County Comptroller, Hon. Alfreda W. Slominski.

Please contact this office to discuss this matter in greater detail and to receive the benefit of counsel in this area.

Although a county's form of governance requires a close study of local legislation and practice under Municipal Home Rule Law, other provisions of law impacting public officials are clear and need no further exploration beyond the strict text and its plain meaning. Within the Charter, for example, the terms of several elected officials are defined, where "term" means "a fixed period of time" and "term of office" means "[t]he period during which an elected officer or appointee may hold office, perform its functions, and enjoy its privileges and emoluments" (See Black's Law Dictionary, 10th ed. 2014).

Public Officers Law also uses "term" and "term of office" in such manner. (See Public Officers Law, Section 4 – "Commencement of term of office" (Elective officers); Section 5 – "Holding over after expiration of term"; Section 30 – "Creation of vacancies" (Office is deemed vacant before the expiration of the term where such officer fails to file an oath of office within thirty days after the commencement of such term. Note that each elective officer must file a new oath at the start of a new term, even if such officer is an incumbent to such office from the term immediately preceding)). By its legal definition and usage, the word "term" is not the total duration of time in which a person actually holds a specific office across multiple terms (fixed periods), where such duration is more appropriately labeled as "tenure".

The County Legislature routinely makes changes to compensation for officers and employees by resolution. A local law, subject to permissive referendum, is only required to effectuate an increase for an elected officer during such officer's term (Municipal Home Rule Law, Section 24).

Specifically, the County Executive's "term of office [...] shall be for four (4) years" and "shall be elected at the general election in 1967 and every fourth year thereafter at the general election, and [s]he shall take office on January first, immediately succeeding [her] election" (Charter, Section 301). The County Executive is about to end one term on December 31, 2015, and to start a new term on January 1, 2016. The amendment to the Onondaga County Salary Plan, contained in Resolution No. 230 – 2015, does not become effective until January 1, 2016. The action was taken during one term and is effective within the next term. Such resolution was duly adopted and is valid.

The term of the current County Legislature will end on December 31, 2015, and a new term will start on January 1, 2016. (Charter, Section 202 ("the term of office of the members of the county legislature shall be two years, and shall begin on the first day of January next following their election")). As a body, the County Legislature reorganizes itself at the start of each new term, electing a new chair from among the incoming members and appointing new officers and employees to assist the County Legislature with its functions (Charter, Section 203). This organizational session is currently scheduled for January 4, 2016, as the first business day following the start of the new term. As with the County Executive's raise, a resolution is the appropriate method to make a change to compensation. Resolution No. 231-2015, increasing the salaries of the legislators in 2016 and providing a mechanism for increasing the salaries of other elected officials thereafter, was duly adopted and is valid.

Hon. Robert E. Antonacci, II, CPA
RE: Payment of Salaries - Elected Officials

December 23, 2015

Page 5 of 5

Historically, this logic has been followed by the County Legislature in exercising its power to change the salaries of all elected officers. There are many examples to be found within the legislative journals. The varied approaches are in and of themselves some evidence of the political nature of this action.

The initial salaries of the Onondaga County Legislature were set by Resolution No. 132-1967. In June 2003 – again, outside of the budget adoption process – the respective salaries of the Comptroller and the Executive were raised by resolution (Resolution No. 134-2003), with such increased amount to take effect upon the start of each such official's new term. Similarly, looking back four more years, a resolution was adopted to on July 6, 1999, increasing the salaries of Comptroller, County Executive and County Legislators, with such increased amount to take effect, again, upon the start of the new term (Resolution 176-1999). There were a number of mid-term increases, each adopted by local law, consistent with Municipal Home Rule Law Section 24. In some years, some elected officials enjoyed the benefit of salary escalations, including those as set by Resolution No. 225 - 2006, until such resolution was rescinded by Resolution No. 224 - 2010.

More recently, you may recall that the Comptroller's salary was increased by resolution, where such increased salary took effect on January 1, 2012 (Resolution No. 497 – 2011). It should be noted that before the adoption of that resolution, a proposed raise was included within the 2011 tentative budget, at your request, and deleted by recommendation of the Ways & Means Committee. Notwithstanding the fact that the budget adopted in October 2010 did not contain this raise, a local law was introduced and passed by the County Legislature on December 21, 2010 – only two months later. To be fully effectuated, this proposed raise would have required a local law because the increase would have taken effect on January 1, 2011, during the middle of the then current term. However, that raise was vetoed. Thereafter, within the 2012 budget adoption process, another proposed raise was included within the tentative budget. As indicated above, this salary increase passed by resolution, concurrent with the start of a new term.

Please advise if this office may be of further assistance to you in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Durr', is written over a long horizontal line that spans across the page.

Robert A. Durr
County Attorney

Copies transmitted electronically to:

Onondaga County Legislature and its Honorable Members
Onondaga County Executive



OFFICE OF THE COMPTROLLER

EXHIBIT "D"

[Vol. 51]

Attorney-General

Informally and unofficially, in my opinion it is apparent by the use of the word "may" in said section that provision for the payment of compensation to deputy sheriffs injured while in the performance of their duties is discretionary with the board of supervisors.

This is not to be considered an opinion of the Attorney-General, but is written with the desire to be of assistance to you in response to your request.

Dated December 31, 1934.

To Walter S. McNab,
County Attorney,
Schenectady, N. Y.

County Law, section 12; subdivision 5.

Salary or compensation of officer or employee elected or appointed for definite term cannot be increased or diminished during term. Words "such term" refer to the particular incumbent's term rather than the term of the office. Object of statute is to protect incumbent against reduction of compensation during his occupancy of office and to take away all inducement to use official influence and efforts to procure increase during his incumbency.

Where county attorney was removed from office during term, board of supervisors may fix compensation to be paid new appointee at a smaller rate than the amount fixed for the removed attorney, so long as the new salary is fixed prior to the appointment of new county attorney.

I acknowledge your letter of July 23.

It appears therefrom that the county attorney of Oneida county was removed from office by a vote of the board of supervisors after charges had been preferred against him and heard pursuant to section 210 of the County Law.

You further advise that, by order of the chairman of the board, you were directed to act as county attorney *pro tem*, inasmuch as the board intends to appoint a county attorney at its meeting this month.

Mr. Harrington, the former county attorney, was appointed for a two year term in January of this year and continued in office until he was removed recently.

You request advice as to whether or not the salary of the new county attorney to be appointed this month

can be fixed at a lesser sum than that which has been paid Mr. Harrington since January first this year, the beginning of his term.

I agree with your conclusion that had Mr. Harrington continued in office for the balance of his term, that the board of supervisors would have had no power to either increase or reduce the salary or compensation paid him. See County Law, section 12, subdivision 5, which provides:

“* * * The salary or compensation of an officer or employee elected or appointed for a definite term shall not be increased or diminished during such term.”

It has been held that a county attorney is not a public officer but an employee acting as counsel and legal adviser to the board of supervisors. *Matter of Dawson v. Knox*, 231 App. Div. 490.

There is considerable question as to whether the words “such term”, as above quoted, refer to the term of office or appointment, or to the term or appointment of the particular incumbent; although I am inclined to believe that the provision refers to the particular incumbent’s term rather than the term of the office.

The term of the person to be appointed to take the place of Mr. Harrington is for the remainder of Mr. Harrington’s term. Yet, insofar as the appointee is concerned, his appointment constitutes, in a sense, a new term. Under the circumstances, I can see no reason why the board of supervisors cannot fix the salary of the new county attorney, an employee of such board, prior to the commencement of his employment, at such a sum as the board may desire, even though such sum may be less than the salary heretofore received by the appointee’s predecessor. If the appointee thereupon accepts such employment at the compensation as fixed at a sum less than his predecessor, I can see no reason why anyone else should complain or question the action of the board which would be a matter of economy and saving to the taxpayers of the county.

In support of the foregoing, I desire to call your attention to the decision in the matter of *Castree v. Slingerland*, 139 Misc. 632. At page 634, referring to subdivision 5 of section 12 of the County Law, the court said:

“The provision of law forbidding a change in the compensation of an official during *his term of office* is inexorable. It admits of no exceptions and it affords no opportunity for evasion by those charged with the responsibility of fixing such compensation. The purpose of this law is not only to protect the public against the evil of permitting a public official to use his official power and prestige to augment his own salary but also to protect him against the equally unjust action of a reduction in his compensation by an unfriendly board having authority to fix the salary. This beneficent legislation removes from the lawmakers the temptation to control the other branches of government by promises of reward in the form of increased compensation or threat of punishment by way of reduced salaries.”

Again, at page 635, the court, in referring to the California case of *Rice v. National City*, 132 Cal. 354, stated in such case, one Smith elected as city marshal for a term of two years commencing on April 20, 1898, refused to qualify. Thereafter, on June 21, 1898, the board of trustees of the city increased the compensation of the marshal. On July 13, 1898, the board filled the vacancy in this position created by Smith's refusal to qualify and Smith was appointed to fill such vacancy. It was held that the salary of the marshal was not increased during the incumbent's term of office.

Judge Heffernan, at page 635 in the *Castree* case, quoting from the opinion of the court in the California case above cited, stated:

“If Doe had been appointed instead of Smith, it would hardly be contended that the ordinance passed in June, prior to his appointment, increased or in any manner changed his compensation ‘during his term of office,’ which could not begin until he was appointed and qualified. If the statute

had provided that the compensation attached to the office of city marshal should not be increased or diminished during the statutory term of two years for which the marshal shall be elected, respondent's contention would be sound. The difference, however, is apparent. The object of the statute is to protect the incumbent against a reduction of compensation during his occupancy of the office, and also to take away all inducement to use his official influence and efforts to procure an increase of it during his incumbency; and in accepting the appointment Smith had a right to rely upon the compensation as then fixed, but which could not take effect until he entered upon a new term under his appointment."

You will note that throughout the above quotation reference is continually made to the "incumbent's" term of office and the purpose of the law being to protect such incumbent from a decrease in compensation by an unfriendly board, and to prevent such public official to use his official power and prestige to augment his own salary through whatever influence he might be able to exercise upon a friendly board.

In conclusion, I can see no reason why the board should not have the power to fix the compensation to be paid the new appointee in the same way the board is authorized to fix the salary of the original appointee, prior to or at the beginning of his employment.

This is not, however, to be considered an opinion of the Attorney-General, as the Attorney-General is unauthorized to render advice or give opinions to others than the various officials, departments and bureaus of the State government, but is rendered informally and unofficially with the desire to be of assistance to you in response to your inquiry.

Dated August 3, 1934.

To Thomas Brown Rudd,
District Attorney,
Utica, N. Y.



OFFICE OF THE COMPTROLLER

EXHIBIT "E"

County Legislature Chairperson

Year	Salary	Raise \$	Raise %	Authorization Type	Document	Date Passed	Date Effective
2016	\$53,607	\$6,992.00	15.00%	Resolution	231-2015	12/15/2015	1/1/2016
2015	\$46,615.00	\$0.00	0.00%	N/A			
2014	\$46,615.00	\$0.00	0.00%	N/A			
2013	\$46,615.00	\$0.00	0.00%	N/A			
2012	\$46,615.00	\$0.00	0.00%	N/A			
2011	\$46,615.00	\$0.00	0.00%	N/A			
2010	\$46,615.00	\$0.00	0.00%	N/A			
2009	\$46,615.00	\$0.00	0.00%	N/A			
2008	\$46,615.00	\$914.00	2.00%	Budget			1/1/2009
2007	\$45,701.00	\$5,078.00	12.5%	Local Law	16-2006	11/8/2006	1/1/2007
2006	\$40,623.00	\$0.00	0.00%	N/A			
2005	\$40,623.00	\$0.00	0.00%	N/A			
2004	\$40,623.00	\$0.00	0.00%	N/A			
2003	\$40,623.00	\$0.00	0.00%	N/A			
2002	\$40,623.00	\$8,000.00	24.52%	Resolution	67-2001	4/2/2001	1/1/2002
2001	\$32,623.00	\$950.00	3.00%	Resolution	176-1999	7/6/1999	1/1/2001
2000	\$31,673.00	\$923.00	3.00%	Resolution	176-1999	7/6/1999	1/1/2001
1999	\$30,750.00	\$0.00	0.00%	N/A			
1998	\$30,750.00	\$0.00	0.00%	N/A			
1997	\$30,750.00	\$700.00	2.33%	Budget			1/1/1997
1996	\$30,050.00	\$1,400.00	4.89%	Budget Reso	211-1995		7/1/1996
1995	\$28,650.00	\$0.00	0.00%	N/A			
1994	\$28,650.00	\$0.00	0.00%	N/A			
1993	\$28,650.00	\$0.00	0.00%	N/A			
1992	\$28,650.00	\$0.00	0.00%	N/A			
1991	\$28,650.00	\$0.00	0.00%	N/A			
1990	\$25,975.00	\$2,300.00	9.71%	Budget			1/1/1990
1989	\$23,675.00	\$0.00	0.00%	N/A			
1988	\$23,675.00*	\$125.00	.53%	Budget			1/1/1988
1987	\$23,550.00*	\$0.00	0.00%	Budget			1/1/187
1986	\$23,550.00*	\$1,028.00	4.56%	Resolution	285-1985	8/5/1985	1/1/1986
1985	\$22,522.00	\$500.00	2.27%	Local Law	4-1983	6/6/1983	1/1/1985
1984	\$22,022.00	\$500.00	2.32%	Local Law	4-1983	6/6/1983	1/1/ 1984
1983	\$21,522.00**	\$1,500.00	7.49%	Local Law	4-1983	6/6/1983	8/1/1983
1982	\$20,022.00	\$0.00	0.00%	Local Law	9-1979	12/28/1979	1/1/1981

*Adopted Budget 1987 over rides Resolution 285-1985 increase to \$24,300.00, also 1988 Budget book lists 1986 actual as \$23,675 and 1987 modified as \$23,675

**includes additional \$1,500.00 effective 8/1/1983

County Legislature Floor Leader

Year	Salary	Raise \$	Raise %	Authorization Type	Document	Date Passed	Date Effective
2016	\$36,349.00	\$4,741.00	15.00%	Resolution	231-2015	12/15/2015	1/1/2016
2015	\$31,608.00	\$0.00	0.00%	N/A			
2014	\$31,608.00	\$0.00	0.00%	N/A			
2013	\$31,608.00	\$0.00	0.00%	N/A			
2012	\$31,608.00	\$0.00	0.00%	N/A			
2011	\$31,608.00	\$0.00	0.00%	N/A			
2010	\$31,608.00	\$0.00	0.00%	N/A			
2009	\$31,608.00	\$0.00	0.00%	N/A			
2008	\$31,608.00	\$620.00	2.00%	Budget			1/1/2008
2007	\$30,988.00	\$3443.00	12.5%	Local Law	16-2006	11/8/2006	1/1/2007
2006	\$27,545.00	\$0.00	0.00%	N/A			
2005	\$27,545.00	\$0.00	0.00%	N/A			
2004	\$27,545.00	\$0.00	0.00%	N/A			
2003	\$27,545.00	\$0.00	0.00%	N/A			
2002	\$27,545.00	\$5,000.00	22.18%	Resolution	67-2001	4/2/2001	1/1/2002
2001	\$22,545.00	\$657.00	3.00%	Resolution	176-1999	7/6/1999	1/1/2001
2000	\$21,888.00	\$638.00	3.00%	Resolution	176-1999	7/6/1999	1/1/2001
1999	\$21,250.00	\$0.00	0.00%	N/A			
1998	\$21,250.00	\$0.00	0.00%	N/A			
1997	\$21,250.00	\$400.00	1.92%	Budget			1/1/1997
1996	\$20,850.00	\$800.00	3.99%	Budget Reso	211-1995		7/1/1996
1995	\$20,050.00	\$0.00	0.00%	N/A			
1994	\$20,050.00	\$0.00	0.00%	N/A			
1993	\$20,050.00	\$0.00	0.00%	N/A			
1992	\$20,050.00	\$0.00	0.00%	N/A			
1991	\$20,050.00	\$0.00	0.00%	N/A			
1990	\$19,050.00	\$1,000.00	5.54%	Budget			1/1/1990
1989	\$18,050.00	\$0.00	0.00%	N/A			
1988	\$18,050.00	\$0.00	0.00%	N/A			
1987	\$18,050.00*	\$0.00	0.00%	Budget			1/1/1987
1986	\$18,050.00	\$1,048.00	6.16%	Resolution	285	8/5/1985	1/1/1986
1985	\$17,002.00	\$480.00	2.91%	Local Law	4-1983	6/6/1983	1/1/1985
1984	\$16,522.00	\$500.00	3.12%	Local Law	4-1983	6/6/1983	1/1/1984
1983	\$16,022.00**	\$1,000.00	6.66%	Local Law	4-1983	6/6/1983	8/1/1983
1982	\$15,022.00	\$0.00	0.00%	Local Law	9-1979	12/28/1979	1/1/1981

*Adopted Budget 1987 over rides Resolution 285-1985 increase to \$24,300.00

**includes additional \$1,000.00 effective 8/1/1983

County Legislator

Year	Salary	Raise \$	Raise %	Authorization Type	Document	Date Passed	Date Effective
2016	\$29,430.00	\$3,839.00	15.00%	Resolution	231-2015	12/5/2015	1/1/2016
2015	\$25,591.00	\$0.00	0.00%	N/A			
2014	\$25,591.00	\$0.00	0.00%	N/A			
2013	\$25,591.00	\$0.00	0.00%	N/A			
2012	\$25,591.00	\$0.00	0.00%	N/A			
2011	\$25,591.00	\$0.00	0.00%	N/A			
2010	\$25,591.00	\$0.00	0.00%	N/A			
2009	\$25,591.00	\$0.00	0.00%	N/A			
2008	\$25,591.00	\$502.00	2.00%	Budget			1/1/2008
2007	\$25,089.00	\$2,788.00	12.50%	Local Law	16-2006	11/8/2006	1/1/2007
2006	\$22,301.00	\$0.00	0.00%	N/A			
2005	\$22,301.00	\$0.00	0.00%	N/A			
2004	\$22,301.00	\$0.00	0.00%	N/A			
2003	\$22,301.00	\$0.00	0.00%	N/A			
2002	\$22,301.00	\$4,000.00	21.86%	Resolution	67-2001	4/2/2001	1/1/2002
2001	\$18,301.00	\$533.00	3.00%	Resolution	176-1999	7/6/1999	1/1/2001
2000	\$17,768.00	\$518.00	3.00%	Resolution	176-1999	7/6/1999	1/1/2000
1999	\$17,250.00	\$0.00	0.00%	N/A			
1998	\$17,250.00	\$0.00	0.00%	N/A			
1997	\$17,250.00	\$400.00	2.37%	Budget			1/1/1997
1996	\$16,850.00	\$800.00	4.98%	Budget Reso	211-1995		7/1/1996
1995	\$16,050.00	\$0.00	0.00%	N/A			
1994	\$16,050.00	\$0.00	0.00%	N/A			
1993	\$16,050.00	\$0.00	0.00%	N/A			
1992	\$16,050.00	\$0.00	0.00%	N/A			
1991	\$16,050.00	\$750.00	4.90%	Budget			1/1/1991
1990	\$15,300.00	\$750.00	5.15%	Budget			1/1/1990
1989	\$14,550.00	\$0.00	0.00%	N/A			
1988	\$14,550.00	\$0.00	0.00%	N/A			
1987	\$14,550.00*	\$0.00	0.00%	Budget			1/1/1987
1986	\$14,550.00	\$998.00	7.36%	Resolution	285-1985	8/5/1985	1/1/1986
1985	\$13,552.00	\$500.00	3.83%	Local Law	4-1983	6/6/1983	1/1/1985
1984	\$13,052.00	\$530.00	4.23%	Local Law	4-1983	6/6/1983	1/1/1984
1983	\$12,552.00**	\$1,000.00	8.68%	Local Law	4-1983	6/6/1983	8/1/1983
1982	\$11,522.00	\$0.00	0.00%	Local Law	9-1979	12/28/1979	1/1/1981

*Adopted Budget 1987 over rides Resolution 285-1985 increase to \$15,300.00

**includes additional \$1,000.00 effective 8/1/1983



OFFICE OF THE COMPTROLLER

EXHIBIT "F"

County Executive

Year	Salary	Raise \$	Raise %	Authorization Type	Document	Date Passed	Date Effective
2016	\$155,871.00	\$33,458.00	27.33%	Resolution	230-2015	12/15/2015	1/1/2016
2015	\$122,413.00	\$0.00	0.00%	N/A			
2014	\$122,413.00	\$0.00	0.00%	N/A			
2013	\$122,413.00	\$0.00	0.00%	N/A			
2012	\$122,413.00	\$0.00	0.00%	N/A			
2011	\$122,413.00	\$0.00	0.00%	N/A			
2010	\$122,413.00	\$0.00	0.00%	N/A			
2009	\$122,413.00	\$0.00	0.00%	N/A			
2008	\$122,413.00	\$2,400.00	2.00%	Budget			1/1/2008
2007	\$120,013.00	\$3,496.00	3.00%	Resolution	134-2003	6/2/2003	1/1/2007
2006	\$116,517.00	\$3,394.00	3.00%	Resolution	134-2003	6/2/2003	1/1/2006
2005	\$113,123.00	\$3,295.00	3.00%	Resolution	134-2003	6/2/2003	1/1/2005
2004	\$109,828.00	\$3,199.00	3.00%	Resolution	134-2003	6/2/2003	1/1/2004
2003	\$106,629.00	\$1,576.00	1.50%	Resolution	176-1999	7/6/1999	1/1/2003
2002	\$105,053.00	\$1,553.00	1.50%	Resolution	176-1999	7/6/1999	1/1/2002
2001	\$103,500.00	\$1,530.00	1.50%	Resolution	176-1999	7/6/1999	1/1/2001
2000	\$101,970.00	\$2,970.00	3.00%	Resolution	176-1999	7/6/1999	1/1/2000
1999	\$99,000.00	\$0.00	0.00%	N/A			
1998	\$99,000.00	\$0.00	0.00%	N/A			
1997	\$99,000.00	\$0.00	0.00%	N/A			
1996	\$99,000.00	\$0.00	0.00%	N/A			
1995	\$99,000.00	\$0.00	0.00%	N/A			
1994	\$90,500.00	\$8,500.00	9.39%	Resolution	695-1979	12/28/1979	1/1/1980
1993	\$82,000.00	N/A					
1992	\$82,000.00	N/A					
1991	\$82,000.00	N/A					
1990	\$82,000.00	N/A					
1989	\$82,000.00	N/A					
1988	\$82,000.00	\$14,000.00	20.59%	Resolution	695-1979	12/28/1979	1/1/1980
1987	\$68,000.00	N/A					
1986	\$68,000.00	\$14,072.00	26.09%	Resolution	695-1979	12/28/1979	1/1/1980
1985	\$53,928.00	N/A					
1984	\$53,928.00	N/A					
1983	\$53,928.00	N/A					
1982	\$53,928.00	N/A					



OFFICE OF THE COMPTROLLER

EXHIBIT "G"

Mr. Stanczyk requested a waiver to present the following resolution and Mr. Kraft objected.

Motion Made By Mr. Ryan, Mr. Stanczyk, Mr. Laguzza, Mr. Kinne, Mrs. Winslow, Mrs. Chaplin

INCREASING COMPENSATION OF THE ONONDAGA COUNTY EXECUTIVE AND THE ONONDAGA COUNTY COMPTROLLER TO PROVIDE A COST OF LIVING ADJUSTMENT, AND AMENDING RESOLUTION NO. 176-99

WHEREAS, by Resolution 165-95 and 267-98, this Legislature established a procedure for determining the salaries of elected county officials; and

WHEREAS, the procedure states that the Onondaga County Legislature will review compensation of elected officials, with the exception of members of the Judiciary and the District Attorney, during the final year of such official's terms of office; now, therefore be it

RESOLVED, that effective January 1, 2004, the salary of the Onondaga County Executive will remain at \$106,629 for 2004, and be increased by an additional \$2,133 per year commencing January 1, 2005, and by an additional \$2,175 per year commencing January 1, 2006, and by an additional \$2,219 per year commencing January 1, 2007; and be it further

RESOLVED, that effective January 1, 2004, the salary of the Onondaga County Comptroller will remain at \$68,850 for 2004, and be increased by an additional \$1,377 per year commencing January 1, 2005, and by an additional \$1,405 per year commencing January 1, 2006, and by an additional \$1,433 per year commencing January 1, 2007; and be it further

RESOLVED, that Resolution No. 176-99 hereby is amended to increase the foregoing salaries.

A vote was taken to consider the waiver.

Waiver DENIED. Ayes: 6 (Stanczyk, Kinne, Laguzza, Ryan, Chaplin, Winslow) Noes: 13 (Baker, Kraft, Meyer, Farrell, Rapp, Murphy, DiBlasi, Corbett, Pickard, Mulroy, Warner, Whelan, Mr. Chairman)

* * *

Motion Made By Ms. Mulroy

RESOLUTION NO. 134

INCREASING COMPENSATION OF THE ONONDAGA COUNTY EXECUTIVE AND THE ONONDAGA COUNTY COMPTROLLER TO PROVIDE A COST OF LIVING ADJUSTMENT, AND AMENDING RESOLUTION NO. 176-99

WHEREAS, by Resolution 165-95 and 267-98, this Legislature established a procedure for determining the salaries of elected county officials; and

WHEREAS, the procedure states that the Onondaga County Legislature will review compensation of elected officials, with the exception of members of the Judiciary and the District Attorney, during the final year of such official's terms of office; now, therefore be it

RESOLVED, that effective January 1, 2004, the salary of the Onondaga County Executive be increased to \$109,828 for 2004, by an additional \$3,295 per year commencing January 1, 2005, and by an additional \$3,394 per year commencing January 1, 2006, and by an additional \$3,496 per year commencing January 1, 2007; and, be it further

RESOLVED, that effective January 1, 2004, the salary of the Onondaga County Comptroller be increased to \$71,604 for 2004, by an additional \$2,864 per year commencing January 1, 2005, and by an additional \$2,979 per year commencing January 1, 2006, and by an additional \$3,098 per year commencing January 1, 2007; and, be it further

RESOLVED, that Resolution No. 176-99 hereby is amended to increase the foregoing salaries.

Mr. Stanczyk made a motion to table the above resolution and Mr. Kraft objected. A vote was taken on the motion to table.

Motion DEFEATED. Ayes: 6 (Stanczyk, Kinne, Laguzza, Ryan, Chaplin, Winslow) Noes: 13 (Baker, Kraft, Meyer, Farrell, Rapp, Murphy, DiBlasi, Corbett, Pickard, Mulroy, Warner, Whelan, Mr.Chairman)

ADOPTED. Ayes: 13 ((Baker, Kraft, Meyer, Farrell, Rapp, Murphy, DiBlasi, Corbett, Pickard, Mulroy, Warner, Whelan, Mr.Chairman) Noes: 6 ((Stanczyk, Kinne, Laguzza, Ryan, Chaplin, Winslow)

* * *

Motion Made By Mr. Warner

RESOLUTION NO. 135

AMENDING THE 2003 COUNTY BUDGET AND AUTHORIZING THE ONONDAGA COUNTY SHERIFF'S OFFICE TO RECEIVE PROCEEDS FROM THE FEDERAL AND STATE GOVERNMENTS RESULTING FROM SEIZURES OF ASSETS FOLLOWING INVESTIGATIONS OF ILLEGAL DRUG POSSESSIONS AND OR SALE

WHEREAS, the Comprehensive Crime Control Act of 1984, the Anti-Drug Abuse Act of 1986, and Article 13A of the Civil Procedures Law and Rules of New York State provide the authority to local law enforcement agencies to seize, upon probable cause, certain property or cash which was derived from the illegal sale or use of narcotics or other illegal drugs; and

WHEREAS, pursuant to the provisions of the above statutes, a portion of the cash or property that is seized may be returned to the investigating law enforcement agency; and

WHEREAS, the Onondaga County Sheriff's Office actively participates in the investigation of illegal drug sale, possession and usage; and

WHEREAS, this Legislature is supportive of the drug enforcement efforts of the Sheriff; and

WHEREAS, pursuant to the provisions of the above statutes, the Sheriff's Office, when authorized by statute, participates in the assets forfeiture program; and

WHEREAS, the Federal government has deemed that the Sheriff's Office is eligible to receive the proceeds of such asset forfeitures; and

WHEREAS, the funds received by participating law enforcement agencies cannot be used to supplant other funds; now, therefore be it

RESOLVED, that the County Executive hereby is authorized to enter into agreements to implement this resolution; and, be it further



OFFICE OF THE COMPTROLLER

EXHIBIT "H"

CONFIRMING APPOINTMENT TO THE ONONDAGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

WHEREAS, pursuant to Section 895 of the General Municipal Law, this Legislature is authorized to appoint the members of the Onondaga County Industrial Development Agency; and

WHEREAS, it is the desire of this Legislature to confirm the appointment of the following individual as a member of the Onondaga County Industrial Development Agency; now, therefore be it

RESOLVED, that the following individual be confirmed as a member of the Onondaga County Industrial Development Agency for the term specified:

APPOINTMENT
Russell Andrews
311 Montgomery Street, Suite 4
Syracuse, New York 13202

TERM EXPIRES:
6/01/08

ADOPTED. Ayes: 17 Absent: 1 (Chaplin)

* * *

Mr. Meyer requested a waiver on behalf of the Chairman to present the following resolution. There was no objection and the waiver was allowed.

Motion Made By Mr. Sweetland, Mr. Kraft, Mr. Ryan

RESOLUTION NO. 225

ESTABLISHING A POLICY FOR REVIEWING THE SALARIES OF ELECTED COUNTY OFFICIALS AND REPEALING RESOLUTION NO. 165-1995

WHEREAS, in 1995 this Onondaga County Legislature established a policy for reviewing the salaries of elected County officials; and

WHEREAS, it is now the desire of this Legislature to change that policy; and

WHEREAS, it is the further desire of this Legislature that a more consistent process for consideration of these salaries be put into effect; now, therefore be it

RESOLVED, that it is hereby declared the policy of this Legislature that it will review the salary of all elected officials, except the District Attorney, each year and consider increasing these salaries by 2 percent to account for increases in the cost of living; and, be it further

RESOLVED, that the County Executive is hereby requested to include a 2% increase in the salaries of elected officials, except the District Attorney, each year in the proposed County Budget; and, be it further

RESOLVED, that said salaries shall be set by resolution or local law, consistent with the appropriate provisions of the Onondaga County Charter and Code; and, be it further

RESOLVED, that Resolution No. 165-1995 is hereby repealed.

ADOPTED. Ayes: 16 Noes: 1 (Rhinehart) Absent: 1 (Chaplin)



OFFICE OF THE COMPTROLLER

EXHIBIT "I"

ADOPTED. Ayes: 13 (Colon, Kraft, Meyer, Boehlert, Mitchell, Corbett, Pickard, Mulroy, Sweetland, Warner, Rhea, Andrews, Mr. Chairman) Noes: 11 (Ohl, Baker, Goike, Laguzza, Ryan, Oglesby, Roberts, O'Hara, Stanczyk, Kinne, Harlow)

Motion Made By Ms. Mulroy

RESOLUTION NO. 164

CONFIRMING APPOINTMENTS TO COUNCIL ON THE DISABLED

WHEREAS, by Resolution No. 481, adopted October 6, 1980, this Legislature created the Onondaga County Council on the Disabled in conformance with Chapter 648 of the Laws of 1980; and

WHEREAS, the terms of Robert Sprafkin, Gwen Hubbard, and Richard Warrender have expired; and

WHEREAS, Christine Thompson, Elizabeth Wallbridge, and William Woods are seeking appointment to the Council on the Disabled; and

WHEREAS, it is the desire of this Legislature to appoint the following individuals as members of the Council on the Disabled; now, therefore be it

RESOLVED, that the Onondaga County Legislature does hereby appoint the following individuals as members of the Council on the Disabled for the terms stated, unless sooner terminated by this Legislature for cause:

APPOINTMENTS:

Christine M. Thompson
1101 Westcott Street
Syracuse, New York 13210

Elizabeth Wallbridge
3700 Bussey Road
Syracuse, New York 13215

William Woods
110 Roby Avenue
East Syracuse, New York 13057

TERM EXPIRES:

July 1, 1996

July 1, 1997

July 1, 1997

ADOPTED. Ayes: 24

Motion Made By Mr. Sweetland

RESOLUTION NO. 165

RESCINDING RESOLUTION NO. 695 OF 1979 "INCREASING THE SALARY OF THE COUNTY EXECUTIVE TO BRING IT IN LINE WITH THE ONONDAGA COUNTY DISTRICT ATTORNEY AND ONONDAGA COUNTY COURT JUDGES" AND ESTABLISHING A PROCEDURE FOR DETERMINING SALARIES OF ELECTED OFFICIALS

WHEREAS, legislative bodies across New York State are responsible for determining the compensation for elected officials in their respective jurisdictions; and

WHEREAS, the process used to determine the compensation for elected officials often includes public input through the legislative body; and

WHEREAS, the Onondaga County Legislature abdicated the responsibility for determining the increases in compensation for the office of County Executive by adopting Resolution No. 695 on December 28, 1979 by a vote of 22-2; and

WHEREAS, Resolution No. 695 of 1979 established that the compensation paid the Onondaga County Executive should correspond to that of the Onondaga County District Attorney and Onondaga County Court Judges effective January 1, 1981; and

WHEREAS, this County Legislature wishes to rescind such resolution effective January 1, 1996; and

WHEREAS, pursuant to New York State law and the Onondaga County Charter and Code, this Legislature is required to fix the salary of all elected officers paid from County funds, except members of the Judiciary and the District Attorney; and

WHEREAS, this Legislature deems it necessary to review the salary of each such elected official during said official's term of office and prior to a new term commencing; now, therefore be it

RESOLVED, that we the members of the Onondaga County Legislature do hereby rescind Resolution No. 695 of 1979, effective January 1, 1996 thereby returning the full control for determining the compensation of the County Executive to this Legislative body and the people of Onondaga County; and, be it further

RESOLVED, that this Onondaga County Legislature will review the salaries of all such elected officials, except for members of the Judiciary and the District Attorney, during the final year of such official's term of office; and, be it further

RESOLVED, that it is hereby declared the policy of this Legislature that the salary of each such elected official shall not be increased during the official's term of office and that said salaries shall be set by resolution consistent with the appropriate provisions of the Onondaga County Charter and Code.

ADOPTED. Ayes: 19 Noes: 4 (Meyer, Boehlert, Pickard, Mr. Chairman) Absent: 1 (Colon)

Motion Made By Mr. Warner

RESOLUTION NO. 166

RESOLUTION TO SUPPORT THE COOPERATION OF NEW YORK STATE AND ONONDAGA COUNTY TO IMPROVE THE ONONDAGA COUNTY COURT FACILITIES

WHEREAS, the Governor of New York signed into law Chapter 825 of the Laws of 1987, known as the Court Facilities Act, on August 7, 1987; and



OFFICE OF THE COMPTROLLER

EXHIBIT "J"

ADOPTED. Ayes: 19

* * *

Motion Made By Mr. Rhinehart

RESOLUTION NO. 288

AUTHORIZING THE SETTLEMENT OF THE FEDERAL COURT ACTION OF ROBERT F. PANINSKI V. ONONDAGA COUNTY DEPARTMENT OF CORRECTIONS, TIMOTHY H. COWIN, COMMISSIONER

WHEREAS, on or about October 30, 2003 by Summons and Complaint, Plaintiff, Robert F. Paninski, commenced this action against the Onondaga County Department of Corrections and Timothy H. Cowin, Commissioner, seeking damages, inter alia, for disability discrimination; and

WHEREAS, Plaintiff is willing to settle against the County upon the payment of \$25,000, including attorney fees and other costs; now, therefore be it

RESOLVED, that the County Executive and Chief Fiscal Officer be and hereby are authorized to enter into documents to settle this action in the amount of \$25,000, including attorney fees, and the Comptroller be and hereby is authorized to draw his warrant charging it against the proper funds; and, be it further

RESOLVED, that this warrant shall be released by the County Attorney upon receipt of the proper release and the Stipulation of Discontinuance.

ADOPTED. Ayes: 19

* * *

Motion Made By Mr. Buckel

CREATING A PUBLIC OFFICIALS COMPENSATION COMMISSION TO ADVISE THE ONONDAGA COUNTY LEGISLATURE AND REPEALING RESOLUTION NO. 225-2006

WHEREAS, this Onondaga County Legislature had previously established a policy of annually reviewing the salaries of elective officials serving in Onondaga County with the goal of obtaining a consistent process of review; and

WHEREAS, it is the desire of this Legislature to now create a separate commission to review and make recommendations as to the amount of the annual salary to be paid to each elective officer serving in Onondaga County; and

WHEREAS, to that end, this Legislature creates in this resolution the Public Officials Compensation Commission; now, therefore be it

RESOLVED, that there is hereby established a Public Officials Compensation Commission consisting of 5 members appointed or selected as follows:

- (a) Two members who have a background in compensation management, appointed by the County Executive, subject to confirmation by the County Legislature;

(b) One member with a background in compensation management appointed by the Chairman of the County Legislature;

(c) Two members, one selected by the majority leader of the County Legislature and one selected by the minority leader of the County Legislature; and, be it further

RESOLVED, that the term of office of each member shall be four years. Any member shall be eligible for reappointment or reselection. If there should be a vacancy for any cause, the authority having made the appointment or selection of the member representing the vacancy shall make an appointment or selection to become immediately effective for the remainder of the unexpired term; and, be it further

RESOLVED, that none of the following is eligible to serve on the commission:

(a) An individual whose salary is established pursuant to federal, state, county, or city legislation.

(b) A member of the household of any county, state or federally elected official or a relative of such official; and, be it further

RESOLVED, that the terms used in the immediately preceding Resolved clause are defined as follows:

(a) "Member of the household" means any person who resides with an individual who holds an office or position in which the salary is established pursuant to federal, state, county, or city legislation.

(b) "Relative" means the spouse or domestic partner of an individual who holds an office or position in which the salary is established pursuant to federal, state, county, or city legislation, any children of the individual or of the individual's spouse or domestic partner, and brothers, sisters, half brothers, half sisters, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, mothers-in-law, fathers-in-law, aunts, uncles, nieces, nephews, stepparents, stepchildren or parents of the individual or of the individual's spouse or domestic partner; and, be it further

RESOLVED, that to be eligible to serve on the commission, an individual must have voted in the two general elections in Onondaga County immediately preceding the individual's appointment, reappointment, selection or reselection; and, be it further

RESOLVED, that the Public Officials Compensation Commission shall review and make recommendations as to the amount of the annual salary to be paid to each elective officer, subject to the appropriate law, and to the members of the County Legislature for the succeeding biennium; and, be it further

RESOLVED, that the commission shall establish the salary recommendations based upon the following criteria:

- (a) Comparable positions in neighboring municipalities;
- (b) The qualifications and skills necessary for each office;
- (c) The level of responsibility implicit in each office;
- (d) The cost of living;

(e) The total compensation of the positions, including benefits other than salary;

(f) Budget limitations;

(g) Any other factors the commission may consider to be reasonable, appropriate and in the public interest; and, be it further

RESOLVED, that the commission shall meet on or before June 1 of each even-numbered year to review and establish the salary recommendations. The commission may meet at other times as the commission determines necessary to carry out its duties. On or before August 10 of each even-numbered year, the commission shall complete a report that lists the salaries recommended by the commission and send the report to the Chairman of the County Legislature, the majority and minority leaders of the County Legislature, and to the chair of the Ways and Means committee of the County Legislature; and, be it further

RESOLVED, that the County Executive is requested to include the recommended salaries in the tentative budget report prepared as required by the County Charter and Code for the County Legislature to consider such salary recommendations in preparing a budget for the county. The salary shall be implemented by the passage of a resolution or local law by the County Legislature, as required by appropriate law; and, be it further

RESOLVED, that the Public Officials Compensation Commission shall select one of its members as chairperson and another as vice chairperson, for such terms and with such duties and powers necessary for the performance of the functions of the offices as the commission determines; and, be it further

RESOLVED, that the majority of the whole number of the commission shall constitute a quorum for the transaction of business; and, be it further

RESOLVED, that if a quorum is present when a vote is taken, the affirmative vote of a majority of the members present and voting is required for the commission to establish salary recommendations; and, be it further

RESOLVED, that all members of the commission shall be eligible for compensation and expenses as may be appropriated by the County Legislature; and, be it further

RESOLVED, that the Onondaga County Chief Fiscal Officer shall assist the commission in carrying out its functions; and, be it further

RESOLVED, that, having available for consideration the recommendations of the Public Officials Compensation Commission, the County Legislature shall set the salary for each elected officer and all compensation for members of the County Legislature, each biennium for the succeeding biennium. Notwithstanding the foregoing, the County Legislature may lower the salaries of its members and county elected officials, other than judges, to take effect at any time, subject to the requirements of any appropriate law or provisions in the County's Charter and Code; and, be it further

RESOLVED, that the following terms used above are defined as follows:

(a) "Comparability of the value of work" means the value of the work measured by the needs of the employer and the knowledge, composite skill, effort, responsibility and working conditions required in the performance of the work;

(b) "Compensation" means wages or salary;

(c) "Compensation plan" means the ranges of compensation for all classifications within a branch of state government, as approved by the appropriate authority;

(d) "Point factor job evaluation system" means a method of assigning points to classifications based upon the degree that the factors are required in the performance of the work.

(e) "Point value" means a numerical score representing total points resulting from application of a point factor job evaluation system; and, be it further

RESOLVED, that Resolution No. 225-2006 is hereby repealed.

Mr. Buckel requested the resolution be moved to committee. Chairman Meyer referred the resolution to the Ways and Means Committee.

* * *

Motion Made By Mr. Corbett

RESOLUTION NO. 289

CONFIRMING AN AMENDMENT TO THE CURRENTLY EFFECTIVE SCHEDULE OF RATES TO BE CHARGED FOR WATER AND WATER SERVICE PROVIDED BY THE ONONDAGA COUNTY WATER DISTRICT

WHEREAS, by Resolution No. 215 adopted June 6, 1966, the Board of Supervisors confirmed, ratified and approved, pursuant to the provisions of Section 266 of the County Law, a Schedule of Rates to be Charged for Water and Water Service to be Provided by Onondaga County Water District, as recommended by the Metropolitan Water Board, the administrative head for said District, which Schedule of Rates was thereafter amended by Resolutions No. 158, 163, 614, 625, 172, 187, 105, 230, 261, 245 and 288 adopted by this County Legislature on May 5, 1969; June 1, 1970; December 16, 1974; December 15, 1980; June 4, 1984, August 2, 1993, May 6, 2002, November 3, 2003, December 7, 2004, December 6, 2005 and December 5, 2006 respectively, and as thus amended, is currently in full force and effect; and

WHEREAS, said Metropolitan Water Board has advised by letter dated October 17, 2008 that it has adopted an amendment to said Schedule of Rates and Charges as hereinafter more fully set forth, and requests confirmation of the proposed amendment in the manner required by law; and

WHEREAS, pursuant to Resolution No. 250 adopted November 5, 2008, a public hearing has been conducted this day in compliance with the rules for conducting such a hearing as set forth in the Order of the Board of Supervisors contained in Resolution No. 174 adopted May 2, 1966, to consider the amended Schedule of Rates, at which public hearing said Metropolitan Water Board appeared through its authorized representatives and offered testimony in support of the amended Schedule of Rates and all persons desiring to be heard on the subject were, in fact, heard; and

WHEREAS, the County Legislature has given due consideration to the amended Schedule of Rates and the evidence and testimony submitted during the 2009 County Budget process, legislative program committees and at the public hearing and now desires to confirm the action of the Metropolitan Water Board; now, therefore be it

RESOLVED, that the County Legislature of the County of Onondaga does hereby confirm, ratify and approve pursuant to the provisions of Section 266 of the County Law, the amendment of the currently effective Schedule of Rates to be Charged for Water and Water Service Provided by



OFFICE OF THE COMPTROLLER

EXHIBIT "K"

B.

LOCAL LAW NO. 16 2006

A LOCAL LAW INCREASING THE COMPENSATION OF THE ONONDAGA COUNTY LEGISLATORS

BE IT ENACTED BY THE COUNTY LEGISLATURE OF ONONDAGA COUNTY AS FOLLOWS:

Section 1. The salaries for Onondaga County Legislators were last amended effective January 1, 2002 and it is the desire of this Legislature to amend the salaries for Onondaga County Legislators, effective January 1, 2007.

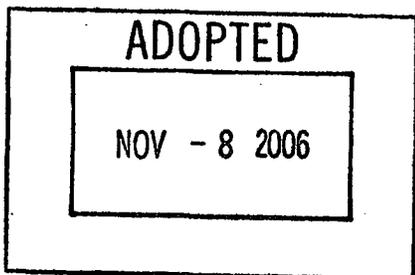
Section 2. Effective January 1, 2007, the annual compensation to be paid to the Onondaga County Legislature shall be as follows:

<u>POSITION</u>	<u>ANNUAL COMPENSATION</u>
Chairman	\$45,701
Floor Leader	\$30,988
Legislator	\$25,089

Section 3. This Local Law shall supercede any prior inconsistent local law, resolution, or charter provision, including section 204 of the Onondaga County Charter.

Section 4. This local law shall take effect in accordance with sections 20, 21 and 24 of the Municipal Home Rule Law, subject to permissive referendum.

legpayraise.doc
kms



I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF LEGISLATION DULY ADOPTED BY THE COUNTY LEGISLATURE OF ONONDAGA COUNTY ON THE

8th DAY OF November, 2006.

Deborah A. Matuso

CLERK, COUNTY LEGISLATURE
ONONDAGA COUNTY, NEW YORK

06 OCT 27 AM 11:51

RECEIVED
ONONDAGA COUNTY
LEGISLATURE