



## ONEIDA COUNTY BOARD OF LEGISLATORS

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ONEIDA COUNTY OFFICE BUILDING ♦ 800 PARK AVENUE ♦ UTICA, N.Y. 13501-2977

Gerald J. Fiorini  
Chairman  
(315) 798-5900

Mikale Billard  
Clerk  
(315) 798-5404

George Joseph  
Majority Leader

Frank D. Tallarino  
Minority Leader

**ATTACHED FOR YOUR INFORMATION ARE RESOLUTION  
NUMBER 291 THAT WAS ACTED UPON BY THE BOARD  
OF COUNTY LEGISLATORS AT THEIR SPECIAL SESSION  
HELD ON OCTOBER 15 2014.**



## **ONEIDA COUNTY BOARD OF LEGISLATORS**

### ***RESOLUTION NO. 291***

***INTRODUCED BY: Mr. Porter***

***2ND BY: Mr. Miller***

**RE: RETENTION OF HERBERT J. CULLY, ESQ. AS COUNSEL FOR THE ONEIDA COUNTY BOARD OF LEGISLATORS IN THE APPEAL OF THE MATTER OF FRANK TALLARINO VS. THE ONEIDA COUNTY BOARD OF LEGISLATORS AND THE COUNTY OF ONEIDA**

- WHEREAS,** On April 9, 2014 Frank Tallarino, Oneida County Legislator, Legislative District 12, did commence a legal proceeding against the Oneida County Board of Legislators and the County of Oneida by service of a Summons and Complaint and Notice of Petition and Petition, and
- WHEREAS,** The Charter for the County of Oneida and the Administrative Code for the County of Oneida both provide that the County Attorney shall defend the Board of Legislators in all civil actions and proceedings, and
- WHEREAS,** On April 16, 2014, the County Attorney provided the Board of Legislators with an opinion that the proceeding commenced by Legislator Tallarino presented a conflict of interest for the County Attorney and therefore constituted an exception to the provisions of the County Charter and Administrative Code pertaining to the defense of the Board of Legislators in civil actions and proceedings by the County Attorney, and
- WHEREAS,** On April 23, 2014, the Oneida County Board of Legislators, in accordance with Section 202 of the Oneida County Charter, retained Herbert J. Cully, Esq. as defense counsel at a rate of Two Hundred and 00/100ths Dollars per hour (\$200.00/hr.) with a total amount fees and disbursements not to exceed Ten Thousand and 00/100ths Dollars (\$10,000.00) and,
- WHEREAS,** On July 9, 2014, the matter of “Frank Tallarino Individually and as Minority Leader Of the Oneida County Board of Legislators, Plaintiff, vs. The Oneida County Board of Legislators and the County of Oneida, Defendants” was heard before Justice Clark at a term of the Supreme Court of the State of New York held in and for the County of Oneida and,
- WHEREAS,** On September 19, 2014, Justice Clark did render a Decision, Order and Judgment in the matter finding in favor of the Oneida County Board of Legislators and against Legislator Tallarino and,
- WHEREAS,** Attorney Cully did render an interim statement of services to the County for legal services provided through July 10, 2014 in the amount of \$8,550.00 and
- WHEREAS,** On October 1, 2014, Legislator Tallarino did file a Notice of Appeal in the matter, and
- WHEREAS,** The defense of the Appeal will require the expenditure of further time and disbursements by Attorney Cully, now, therefore, be it hereby

**RESOLVED,** That an additional amount of Ten Thousand and 00/100ths Dollars (\$10,000.00) is hereby authorized for the defense of the matter “Frank Tallarino Individually and as Minority Leader Of the Oneida County Board of Legislators, Plaintiff, vs. The Oneida County Board of Legislators and the County of Oneida, Defendants” and Herbert J. Cully, Esq., is retained as counsel to Oneida County in the appeal of the matter, to be compensated at a rate of Two Hundred and 00/100ths Dollars per hour (\$200.00/hr.) with a total amount fees and disbursements for the appeal not to exceed Ten Thousand and 00/100ths Dollars (\$10,000.00) without further authorization of this Board.

APPROVED:                Ways & Means Committee (October 15, 2014)

DATED:                    October 15, 2014

Adopted by the following roll call vote:

AYES 21 NAYS 0 ABSTAIN 1 (Mr. Tallarino) ABSENT 1 (Mr. Hendricks)