

**BROOME COUNTY LEGISLATURE  
SPECIAL SESSION  
JULY 6, 1995**

The Legislature convened at 6:00 P.M. with a call to order by the Chair, Arthur J. Shafer. The Clerk, Richard R. Blythe, read the fire exit announcement and called the Attendance Roll: Present - 18, Absent - 1 (Mr. Burger) (Mr. Pasquale, while not present during the roll call arrived prior to the discussion of Resolution # 315)

The Chair, Mr. Shafer led the members of the Legislature in the Pledge of Allegiance to the Flag, followed by a moment of silent meditation.

The following petitions, communications, notices and reports were presented to the County Legislature:

PRESENTATION OF PETITIONS, COMMUNICATIONS, NOTICES & REPORTS:

PETITIONS: Passengers of B. C. Transit Bus #47 (Objection to altering the Vestal/Endicott Bus Route)

Taxpayers Organizations in Broome County suggesting that future unnecessary Capital Improvement Projects be delayed

COMMUNICATIONS:

1. Minutes from:

- a. Community Services Board
- b. Public Library
- c. Cornell Cooperative Extension
- d. Emergency Medical Services Advisory Board
- e. Willow Point Nursing Facility
- f. Environmental Management Council: Solid Waste Committee and Advisory Committee on Composting; Ad Hoc Committee on Alternative Transportation
- g. Industrial Development Agency: Minutes and various copies of correspondence

2. 1995 Adopted Budget for the City of Binghamton.

3. 1995-96 Recommended Broome Community College Budget.

4. 1995 Broome County Salary Schedule.

REPORTS:

1. Monthly Reports:

- a. Department of Social Services (February 1995)
  - b. Broome Community College: Budget Transfers and Above the Minimum Hires, May 1995; Quarterly Income Statements and Balance Sheets
2. 1994 Annual Report from The Center for Adolescent Services.
  3. 1994 Treasurer's Report from Four County Library System.

WRITTEN OR ORAL PRESENTATIONS OF THE COUNTY LEGISLATURE

Letters from the Chair, Arthur J. Shafer:

1. Appointing Patrick F. O'Day as voting representative for Louis P. Augostini, Finance Committee, June 16, 1995.

Mr. Cahill moved, seconded by Mrs. Coffey to receive and file the above referenced reports and to authorize the Clerk to publish pertinent portions in the Journal of Proceedings. **Carried.** Ayes-17, Nays-0, Absent-2 (Burger & Pasquale)

RESOLUTIONS INTRODUCED AT THIS SESSION

**RESOLUTION NO. 314**

by FINANCE, PERSONNEL and PUBLIC SAFETY & EMERGENCY SERVICES COMMITTEES

Seconded by Mr. Hull

**RESOLUTION AUTHORIZING PERSONNEL CHANGE REQUEST AND TRANSFER OF FUNDS FOR THE SHERIFF'S DEPARTMENT**

RESOLVED, that in accordance with a request from the Office of the Sheriff, as contained in PCR# 95-209, this County Legislature hereby authorizes the **creation** of one (1) full-time Correctional Facility Administrator position at budget line A450023.1000, minimum salary \$49,061, Grade K, Union Code 02 (Admin), effective July 1, 1995, and be it

FURTHER RESOLVED, that in order to provide funding for the full time position, this County Legislature hereby authorizes the Commissioner of Finance to make a transfer of funds from Contingency in amount not to exceed \$25,000.

**Carried.** Ayes-14, Nays-3 (Hudak, Whalen & Wike), Absent-2 (Burger & Pasquale)

**RESOLUTION NO. 315**

SPECIAL SESSION OF JULY 6, 1995

by COUNTY ADMINISTRATION, ECONOMIC DEVELOPMENT & PLANNING  
and PUBLIC SAFETY and EMERGENCY SERVICES COMMITTEES

Seconded by Mrs. Coffey

**RESOLUTION ADOPTING LOCAL LAW INTRO. NO. 9, 1995, ENTITLED:  
"A LOCAL LAW TO CREATE THE POSITION OF CORRECTIONAL  
FACILITY ADMINISTRATOR AND A CORRECTIONAL FACILITY  
COMMISSION."**

RESOLVED, that Local Law Intro. No. 9, 1995, entitled: "A Local Law to create the position of Correctional Facility Administrator and a Correctional Facility Commission," be and the same hereby is adopted and approved in accordance with the Broome County Charter and all applicable statutes and laws pertaining thereto.

LOCAL LAW INTRO. NO. 9, 1995

RESOLUTION ADOPTING LOCAL LAW INTRO. NO. 9, 1995, ENTITLED:  
"A LOCAL LAW TO CREATE THE POSITION OF CORRECTIONAL  
FACILITY ADMINISTRATOR AND A CORRECTIONAL  
FACILITY COMMISSION."

SECTION 1. Section 2303 of Article XXIII of the Broome County Charter is hereby amended to read as follows:

§2303. Correctional Facility Administrator; Deputies.

(A) The Sheriff shall appoint a Correctional Facility Administrator, subject to confirmation by the County Legislature, who shall serve at the pleasure of the Sheriff. The Correctional Facility Administrator shall have full authority and responsibility, subject to supervision by the Sheriff, for the administration, management, and operation of the Correctional Facility and the County Jail maintained therein or wherever maintained, and shall be the administrative head of the Corrections Division of the Sheriff's Department. The Correctional Facility Administrator shall be in the exempt class of the civil service.

The minimum qualifications of the Correctional Facility Administrator shall be: Graduation from a regionally accredited or New York State registered college or university with a bachelor's degree in criminal justice, public justice, sociology, psychology, police science, law, public or business administration or closely related field and four years administrative or supervisory experience in planning, organizing and/or directing major phases of the operations and programs of a correctional facility. Required will be at least two years of experience in a Direct Supervision position at which shall have been at a Direct Supervision facility.

A master's degree in the above mentioned fields may be substituted for up to two (2) years of acceptable experience.

(B) The Sheriff shall have the power to appoint such deputies as may be authorized by the County Legislature, subject to the provisions of this section. All deputies above the rank of Sergeant shall serve at the pleasure of the Sheriff, subject to the provisions of this section. All promotions to the rank of Major shall be made from and with personnel holding the grade or rank of Captain, Lieutenant or Sergeant at the time of such appointment. All promotions to the rank of Captain shall be made from and with the personnel holding the grade or rank of Lieutenant or Sergeant at the time of such appointment, and all promotions to the rank of Lieutenant shall be made from and with the personnel holding the grade or rank of Sergeant at the time of such appointment.

[(B)](C) All deputies of the Sheriff of the rank or grade of Sergeant, excluding civil deputies of such ranks or grades, commencing one (1) year prior to the first competitive examination for Deputy Sheriffs of the rank and grade of Sergeant and below the rank and grade of Sergeant, excluding civil deputies of such ranks or grades, are hereby placed in the competitive classified service of the civil service and shall be hired by competitive examinations under the provisions of the Civil Service Law of the State of New York, and such deputies of the ranks or grades of Sergeant and below shall be subject to and governed and controlled by the rules and regulations of the New York State Department of Civil Service and the Broome County Department of Personnel.

[(C)](D) Notwithstanding the provisions of the foregoing, however, and excluding the Undersheriff and the deputy or employee designated as the Sheriff's confidential secretary, all present deputies of the Sheriff of the rank or grade of Captain, Lieutenant or Sergeant, excluding civil deputies of such ranks or grades, who have served permanently in such grade for one (1) year prior to the first competitive examination for such position shall have the permanent rank or grade of Sergeant and shall be covered by and shall continue to hold such positions without examination and shall be covered by and have all rights and privileges of the civil service class to which such position of Sergeant may be allocated, and it is further provided that all other deputies below the rank or grade of Sergeant, excluding civil deputies of such rank or grade, who have served permanently in grade for one (1) year prior to the first competitive examination for such positions shall be covered by and shall continue to hold such positions without examination and shall be covered by and have all the rights and privileges of the civil

service class to which such positions may be allocated; provided, however, that after a civil service list has been established, all new positions or vacancies in the rank or grade of Sergeant and below shall be filled in accordance with the provisions of the Civil Service Law.

[(D)](E) Notwithstanding the foregoing, all deputies and corrections officers of the Sheriff having the rank or grade of Major, Captain or lieutenant as of August 1, 1988, or as thereafter appointed, shall continue to hold, for purposes of the Civil Service Law, the rank or grade of Sergeant and shall enjoy the rights and privileges of the Civil Service Law as bestowed upon a Sergeant; provided that said Majors, Captains or Lieutenants had held, prior to appointment to said rank or grade, the permanent rank of Sergeant, either by virtue of appointment pursuant to competitive examination in accordance with the Civil Service Law or by operation of the foregoing provisions.

SECTION 2. Article XXIII of the Broome County Charter is hereby amended by adding the following Section 2304:

§2304. Correctional Facility Commission

There shall be a Correctional Facility Commission to advise the Sheriff, The County Executive, and the County Legislature as to the effectiveness of the management of the Division of Corrections of the Sheriff's Department, including operation of the Correctional Facility, to assure adherence to the mission statement of the Correctional Facility and its commitment to the Direct Supervision philosophy of operation, and to make such recommendations for improvement as it deems appropriate.

The Commission shall consist of eleven (11) members as follows: the Sheriff, the County Executive or designee, the Chair of the County Legislature or designee, the Chair of the Public Safety Committee of the County Legislature, the District Attorney, the Public Defender, the Director of Probation, the President of the Council of Governments, the Chair of the Criminal Justice Committee of the Broome County Bar Association, a representative of the local collective bargaining organization representing the largest number of employees of the Corrections Division of the Sheriff's Department, to be designated by such local organization, and a chief of police of a municipality from within Broome County to be appointed by the County Executive, subject to confirmation by the County Legislature. Such chief of police shall serve a term of three (3) years, the initial term to end on June 30, 1998. Such police chief shall not serve more than two terms. Upon the occurrence of a vacancy, a successor chief of police shall be appointed to fill the unexpired term.

The Commission shall elect each year a Chair, Vice Chair and Secretary. No officer shall serve more than two (2) consecutive terms in the same office. The Commission shall adopt a schedule of at least four (4) regular meetings per year and

shall establish rules for the conduct of its meetings. The Commission shall also hold special meetings upon the call of the Chair, the Sheriff, or the County Executive or upon written request of three (3) members. The Correctional Facility Administrator and the Clerk of the County Legislature shall be notified of all meetings.

The Board shall make recommendations to the Sheriff, the County Executive, or the County Legislature at any time relating to operation of the Correctional Facility and the County Jail, including, without limitation, such matters as facility operation, staffing, community relations, facility conditions, construction plans, and correctional policies or procedures, and may investigate any charge against the administration of the Correctional Facility or the County Jail.

The Commission shall perform the above responsibilities consistent with the advice and direction, where applicable, of the Department of Law, Department of Personnel and Department of Audit and Control and in accordance with the provisions of any resolution now or hereafter adopted by the County Legislature.

Members of the Commission, either individually or jointly, while acting in their official capacity, are agents of the County of Broome, and, in consideration of said services, the county shall indemnify and save harmless such members from any and all claims, suits, damages, costs, losses and expenses arising out of any act or omission while such members were acting within the scope of their official duties.

The member shall deliver, within ten (10) days of the time he or she is served with any summons, complaint, process, notice, demand or pleading, the original copy thereof to the County Attorney and request the County Attorney to assume control of his or her representation. Upon determining that the member was acting within the scope of his or her duties as a member, said determination being final unless arbitrary and capricious, the County Attorney shall assume control of the representation of the member. When the County Attorney assumes such control, the member shall cooperate fully with the County Attorney.

SECTION 3. This local law shall be subject to mandatory referendum in accordance with the provisions of the Municipal Home Rule Law.

SECTION 4. This local law shall become effective upon its filing with the Secretary of State.

[Bracketed] material deleted                      Underlined material added

**Carried.** Ayes-18, Nays-0, Absent-1 (Burger)

**RESOLUTION NO. 316**

by TRANSPORTATION COMMITTEE

Seconded by Mr. Hull

**RESOLUTION AUTHORIZING DEPARTMENT OF PUBLIC  
TRANSPORTATION TO PROVIDE FREE TRANSPORTATION FOR  
MEMBERS ATTENDING CONVENTION OF ANCIENT ORDER OF  
HIBERNIANS.**

WHEREAS, the Ancient Order of Hibernians is holding its State Convention in Binghamton from July 12 through 15, 1995, and

WHEREAS, the Commissioner of Public Transportation has requested authority to provide free transportation on BC Transit fixed routes during off-peak hours to members of the Ancient Order of Hibernians and the Ladies Ancient Order of Hibernians attending said convention, and

WHEREAS, providing such transportation would enable members attending the State Convention to patronize restaurants, shops and other commercial vendors within Broome County at no additional cost other than the normal costs of operating such routes, now, therefore, be it

RESOLVED, that this County Legislature hereby authorizes the Department of Public Transportation to provide free transportation on BC Transit fixed routes during off-peak hours to members attending the State Convention of the Ancient Order of Hibernians and the Ladies Ancient Order of Hibernians from July 12 through July 15, 1995.

Mr. Cahill moved, seconded by Mr. Hull to **call the question** on the resolution.

The call of the question **carried**. Ayes-18, Nays-0, Absent-1 (Burger)

The resolution **carried**. Ayes-16, Nays-2 (Augostini & Kavulich), Absent-1 (Burger)

Mr. Howard moved, seconded by Mr. Hull to **suspend the rules** for the purpose of bringing forth a resolution relating to pending litigation. The suspension of the rules **carried**. Ayes-18, Nays-0, Absent-1 (Burger)

**RESOLUTION NO. 317**

by COUNTY ADMINISTRATION COMMITTEE

Seconded by Mrs. Sweet

**RESOLUTION AUTHORIZING PAYMENT OF LEGAL FEES AND  
EXPENSES OF SHERIFF'S DEPARTMENT PERSONNEL NAMED AS  
INDIVIDUAL DEFENDANTS IN PENDING CIVIL ACTION.**

WHEREAS, in November, 1988, an action was commenced in the United States District Court for the Northern District of New York under Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000(e), et seq., and 42 U.S.C. §1983, by Rita Doolittle, et al., plaintiffs, against Anthony Ruffo, individually and in his official capacity as Sheriff of Broome County, and certain supervisory officers of the Broome County Sheriff's Department, individually and in their official capacities, including Undersheriff Robert T. Natale, Captain Gerald D. Miller, Lieutenant George Van Winkle, Lieutenant William Hanafin, Sergeant Kenneth Gregory, Sergeant Kenneth Felterman, Sergeant Robert Strolka, Deputy Robert Truesdell and the County of Broome; and

WHEREAS, the United States District Court for the Northern District of New York (Hon. Neal P. McCurn, Senior District Court Judge) has determined that a conflict of interest exists in the representation of the individually named Sheriff's Department personnel by the Broome County Attorney pursuant to the decision of the Second Circuit Court of Appeals in Dunton v. County of Suffolk, 729 F.2d 903 (2d Cir. 1984); and

WHEREAS, Section 18(3)(b) of the Public Officers Law of the State of New York provides, in pertinent part, that any employee of a public entity named as a defendant in a civil action or proceeding shall be entitled to be represented by private counsel of his choice whenever a court determines that a conflict of interest exists and that the employee is entitled to be represented by counsel of his choice; and that "reasonable attorneys' fees and litigation expenses shall be paid by the public entity to such private counsel from time to time during the pendency of the civil action or proceeding with the approval of the governing body of the public entity"; and

WHEREAS, the individually named Sheriff's Department personnel have each selected private counsel pursuant to the determination of the Court and Section 18 of the Public Officers Law as follows:

Anthony Ruffo	Hinman, Howard & Kattell 700 Security Mutual Building - Binghamton, NY 13901 James S. Gleason, Esq.
Robert T. Natale	Chernin & Gold Bache Building - PO Box 1563 - Binghamton, NY 13902 Sanford P. Tanenhaus, Esq.
Gerald D. Miller	Aswad & Ingraham 46 Front Street - Binghamton, NY 13905 Thomas P. Saitta, Esq.

- William Hanafin      Coughlin & Gerhart  
One Marine Midland Plaza - Binghamton, NY 13901  
Frank W. Miller, Esq.
- Kenneth Gregory      Office of John W. Young, Esq.  
22 Riverside Drive - Binghamton, NY 13905  
Alfred Paniccia, Esq.
- Kenneth Felterman      Hogan & Sarzynski  
One Marine Midland Plaza - Binghamton, NY 13901  
Edward J. Sarzynski, Esq.
- Robert Strolka      Coughlin & Gerhart  
Frank W. Miller, Esq.
- Robert Truesdell      Rowley, Forrest & O'Donnell  
90 State Street - Albany, NY 12207  
Brian J. O'Donnell, Esq.;

now, therefore, be it

RESOLVED, that this County Legislature hereby authorizes agreements with the law firms hereinabove specified to provide legal services and representation for the individually named Sheriff's Department personnel hereinabove specified in the matter of Rita Doolittle, et al. v. Anthony Ruffo, et al. (88-CV-1175) now pending in the United States District Court for the Northern District of New York; and be it

FURTHER RESOLVED, that in consideration of such legal services and representation the County shall pay to the law firms hereinabove specified the following hourly rates:

Partner	\$135.00/Hour
Associate	\$115.00/Hour
Paralegal	\$ 70.00/Hour

together with all reasonable and necessary expenses including, but not limited to, photocopy expense, long distance telephone expense, postage, filing fees, investigation, and expenses for travel and accommodations subject to the prior approval of the County Attorney; and be it

FURTHER RESOLVED, that the payments hereinabove authorized shall be made

from budget line 390005.4736.101000 (Legal Charges and Fees); and be it

FURTHER RESOLVED, that the Broome County Executive or his duly authorized representative is hereby authorized and empowered to make, execute and deliver any such agreements, documents or papers, approved as to form by the Department of Law, as may be necessary to implement the intent and purpose of this Resolution.

Mr. Schofield moved, seconded by Mr. Mather to **call the question** on the resolution.

The call of the question **carried**. Ayes-18, Nays-0, Absent-1 (Burger)

The resolution **carried**. Ayes-18, Nays-0, Absent-1 (Burger)

Mr. Howard moved, seconded by Mr. Pasquale to **adjourn** at 6:18 P.M.

The adjournment **carried**. Ayes-18, Nays-0, Absent-1 (Burger)