



## OFFICE OF CORPORATION COUNSEL

*Client-Driven. Community-Focused.*

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DATE: April 10, 2024

TO: The Milwaukee County Board of Supervisors  
Mr. David Crowley, Milwaukee County Executive

FROM: Scott F. Brown, Acting Corporation Counsel

SUBJECT: April 2024 Special Meeting Guidance

### INTRODUCTION

On March 4, 2024, Milwaukee County's (the "County") Chief Human Resources Officer, Margo Franklin, presented File No. 24-342 (Exhibit 1), a resolution "Requesting to Adjust Constitutional Officer Salaries of the Register of Deeds, County Treasurer and County Clerk in Accordance with Milwaukee County Ordinance Section 17.98 for the Next Eligible Terms" to the County's Personnel Committee for their consideration. When the file was taken up, Supervisor Staskunas introduced an amendment that would increase the salaries beyond what was proposed in the initial resolution (Exhibit 2). The Personnel Committee unanimously approved File No. 24-342 as amended and recommend it for adoption.

The Milwaukee County Board of Supervisors (the "County Board") convened on March 21, 2024, and File No. 24-342 was on the agenda for their consideration. The County Board voted to adopt the amended resolution<sup>1</sup> and the file was sent to Milwaukee County Executive David Crowley (the "County Executive") for signature. On March 28, 2024, the County Executive vetoed File No. 24-342 as amended, and issued the attached veto message (Exhibit 3).

### DISCUSSION

The below questions were asked of the Office of Corporation Counsel ("OCC") and Mr. Steve Cady, Director of Research and Policy by various parties. The following is OCC's analysis of these issues in consultation with Mr. Cady.

- Time parameters set forth in state and local law relevant to the County Board prospectively taking action on File No. 24-342.

<sup>1</sup> 16 Ayes, 1 No, and 1 Excused.

The County Board sets salary levels for- constitutional officers (e.g., County Treasurer, Register of Deeds, and County Clerk). *See* MCGO § 17.98 and Wis. Stat. § 59.22(1)(a). However, the salaries must be established prior to the earliest time for filing nomination papers for the office. In this case, the earliest time for filing nomination papers for County Treasurer, Register of Deeds, and the County Clerk is April 15, 2024. Therefore, the last date upon which that the County Board could set/modify salaries for constitutional officers for the next term would be April 14, 2024. The last business day that the County Board could do so is Friday, April 12, 2024.<sup>2</sup> The County Board meeting scheduled for April 15, 2024, would be too late for the adoption of any resolution setting/modifying constitutional officers' salaries.

- Procedures under state and local law for calling a Special Meeting of the County Board.

County Board meetings falling outside of the established calendar are deemed a “Special Meeting” and the process for convening such a meeting is set forth in MCGO § 1.01(c) as follows:

A special meeting shall be held only when requested by a majority of the members of the county board, such request to be in writing, addressed and delivered to the county clerk, who shall note the time of such delivery to him/her on such request. Such request shall specify the time and place of such meeting, which shall not be less than forty-eight (48) hours after the delivery of such notice to the county clerk. The request shall identify the purpose of such meeting and shall include reference to such other items as may be required by law, ordinance or board action. Upon receiving such request, the county clerk shall forthwith give notice of the time and place of such meeting by mail to each member of the county board. If the request is delivered to the county clerk less than seventy-two (72) hours before the time of such meeting, the county clerk, in addition to the mailing hereinbefore referred to, shall telephone each supervisor; if any supervisor is not contacted by telephone, the county clerk shall furnish to the sheriff of the county a copy of such notice of time and place of meeting for delivery to unnoticed members of the county board. The sheriff shall thereafter furnish to the county clerk an affidavit of delivery of such notice. The inability of the sheriff to deliver such notice to a supervisor shall not be deemed a defect to the notice requirement under this subsection. Any special meeting may be adjourned from time to time by a vote of a majority of all members of the county board.

- What are the County Board’s options and/or required timelines to act relative to File No. 24-342 under state and local law?

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<sup>2</sup> This time frame includes any action needed to be taken by the County Executive. For example, if on April 12, 2024, the County adopted a resolution setting salaries for constitutional officers’ next term, the County Executive would have to sign the file by April 14, 2024.

The County Board could take up File No. 24-342 and either override or sustain the veto. Alternatively, it could take no action at all. If the County Board were to sustain the veto and take no other action relative to the current salaries of the Register of Deeds, County Treasurer, and County Clerk, those salaries would remain the same for the next term. If the County Board overrides the veto<sup>3</sup>, the salary increases set forth in File No. 24-342, as amended, would be effective the next term. Please note that if the County Board decided to take up File No. 24-342, they may only consider it as vetoed and **may not** adopt its original and unamended version.

- May the County Board call a special meeting to consider the proposed salary increase set forth in the original and unamended version of File No. 24-342?

There are no restrictions in state law or local ordinances that would prohibit the County Board from calling a special meeting to consider the proposed salary increases set forth in the original and unamended version of File Number 24-342. However, if the County Board wants to adopt the initially proposed increases (or any other salary proposal for these elected officials) a NEW file would have to be created under suspension of rules. *See* MCGO §§ 1.08(c) and 1.09(b)(2)<sup>4</sup>. File No. 24-342 cannot be amended to a different modification in salary levels. If the County Board decided to adopt a salary adjustment set forth in a new file, it would have to take place prior to April 14, 2024 (the last business day is April 12, 2024). *See* FN 2, *supra*.

- Is the County Board required by law to set certain salaries for the Register of Deeds, County Treasurer, and County Clerk?

The short answer is no. MCGO § 17.98 states “[i]t is recognized that the incumbents of these positions serve as the department head and manager of their respective functional area and thus should be compensated accordingly.” OCC review has found no authority in statute, ordinance, or caselaw that requires that the County adopt a specific salary for the positions of the Register of Deeds, County Treasurer, and County Clerk. When determining the meaning of an ordinance, one must look to the plain meaning words therein. *See State ex rel. Kalal v. Cir. Ct. for Dane Cnty.*, 2004 WI 58, ¶ 45, 271 Wis. 2d 633, 663, 681 N.W.2d 110, 124 (“statutory interpretation ‘begins with the language of the statute. If the meaning of the statute is plain, we ordinarily stop the inquiry.’”)

Presumably, the question here is what obligation(s), if any, do the words “should<sup>5</sup> be compensated accordingly” create for the County Board. It is OCC’s opinion that MCGO § 17.98 does not

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<sup>3</sup> A vote of two-thirds or more of the members-elect of the board is required to override the County Executive’s veto. *See* Wis. Stat § 59.17(6) and MCGO § 1.04(d)(4)

<sup>4</sup> Under MCGO § 1.08(c), “the rules of the county board may be suspended by unanimous consent of the members present or, if there is objection to the suspension of the rules, by the affirmative vote of two-thirds ( $\frac{2}{3}$ ) of the members present.”

<sup>5</sup> The use of the word “should” instead of “shall” suggests that this language is advisory or suggestive rather than mandatory. Wisconsin’s courts have developed jurisprudence as to whether language in a statute is mandatory or directory as matter of law. *State v. Olson*, 2019 WI App 61, ¶ 10, 389 Wis. 2d 257, 263, 936 N.W.2d 178, 181. For example, “the word “shall” is presumed mandatory when it appears in a statute.” *Id.*

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establish an objective legal standard for setting compensation nor does it compel the County Board to take any particular action in regard to the same. Given that the phrase “should be compensated accordingly” is extremely subjective language, the plain language interpretation is that appropriate compensation is determined by the County Executive in consultation with the Human Resources department and with the approval of the County Board. In this case, the County Executive through his Chief Human Resources Officer made a determination, the County Board disagreed with that determination and further increased the salaries via amendment of the file. Subsequently, the County Executive disagreed with the County Board’s determination and vetoed the file. The question of what it means for county officers to be “compensated accordingly” is answered by the political process. There is no objective legal standard to point to for this issue. If a court were asked to determine what “compensated accordingly” means in the context of MCGO § 17.98, it is highly likely that courts would defer to the result of the political process between the executive and the legislature.

(ITEM NO. ) From the Chief Human Resources Officer, Department of Human Resources, requesting to increase Constitutional Officer salaries of Register of Deeds, County Treasurer, and County Clerk, in accordance with Milwaukee County Ordinance Section 17.98 for next eligible terms, by recommending adoption of the following:

**RESOLUTION**

WHEREAS, Section 17.98 of the Milwaukee County Code of General Ordinances (MCGO) outlines the process by which Milwaukee County can adjust the salary of certain elected officials, in accordance with state statutes; and

WHEREAS, Milwaukee County’s Department of Human Resources reviewed the salary for the positions of Register of Deeds, County Treasurer and County Clerk and, since current salaries for these positions are lower than some comparable counties outside of Wisconsin, is recommending the salary for these elected positions to increase by 11.5 percent, effective the first day of the new term after the general election in 2024; now, therefore,

BE IT RESOLVED, that the Milwaukee County Board of Supervisors hereby adopts the recommended salary amounts for the positions of Register of Deeds, County Treasurer and County Clerk effective the first day of each applicable new term after the applicable general elections held in 2024 as shown in the table below:

	<b>Current Annual Salary</b>	<b>Resulting New Annual Salary</b>
<b>Register of Deeds</b>	\$91,483.34	\$102,004.00
<b>County Treasurer</b>	\$91,483.34	\$102,004.00
<b>County Clerk</b>	\$91,483.34	\$102,004.00

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From the Chief Human Resources Officer, Department of Human Resources, Requesting to Adjust Constitutional Officer Salaries of the Register of Deeds, County Treasurer and County Clerk in Accordance with Milwaukee County Ordinance Section 17.98 for the Next Eligible Terms, by recommending adoption of the following:

**AN AMENDED RESOLUTION**

WHEREAS, Section 17.98, Milwaukee County Code of General Ordinances, outlines the process by which Milwaukee County (the County) can adjust the salary of certain elected officials, in accordance with Wisconsin State Statutes; and

WHEREAS, the Department of Human Resources reviewed the salary for the positions of Register of Deeds, County Treasurer, and County Clerk, and since current salaries for these positions are lower than some comparable counties outside of Wisconsin, is recommending the salary for these elected positions to increase by 11.5 percent, effective the first day of the new term after the general election in 2024; and

**WHEREAS, at its meeting on March 5, 2024, the Committee on Personnel reviewed the proposed salary increase and determined it is much less than the rate of inflation since the last time the salaries for these positions were adjusted and will undoubtedly result in the compensation for these department heads falling even further behind peer counties over the course of the upcoming four-year term; and**

WHEREAS, the Committee on Personnel, at its meeting of March 5, 2024, recommended adoption of File No. 24-342 as amended (vote 5-0); now, therefore,

BE IT RESOLVED, the Milwaukee County Board of Supervisors hereby authorizes the **recommended** salary amounts for the positions of Register of Deeds, County Treasurer, and County Clerk, effective the first day of each applicable new term after the applicable general elections held in **November** 2024, as shown in the table below:

Constitutional Officer Title	Current Annual Salary	Resulting New Annual Salary
Register of Deeds	\$91,483.34	<del>\$102,004.00</del> <b>\$117,332.00</b>
County Treasurer	\$91,483.34	<del>\$102,004.00</del> <b>\$117,332.00</b>
County Clerk	\$91,483.34	<del>\$102,004.00</del> <b>\$117,332.00</b>

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**BE IT FURTHER RESOLVED, the aforementioned annual salary for the Register of Deeds, County Treasurer, and County Clerk shall be increased 2% (two percent) effective the first day of the first full pay period in each of the years as follows:**

- **2026: \$119,678.64**
- **2027: \$122,072.21**
- **2028: \$124,513.66**

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OFFICE OF THE COUNTY EXECUTIVE

**DAVID CROWLEY**

MILWAUKEE COUNTY EXECUTIVE

Thursday, March 28, 2024

Honorable Members of the Milwaukee County Board of Supervisors:

Pursuant to Wis. Stat. § 59.17(6), I have vetoed *File Number 24-342*, a resolution “Requesting to Adjust Constitutional Officer Salaries of the Register of Deeds, County Treasurer and County Clerk in Accordance with Milwaukee County Ordinance Section 17.98 for the Next Eligible Terms.”

I do not object to increasing the annual salaries for Milwaukee County employees in an effort to align with current market trends. In fact, the County Board, including members of the Personnel Committee, have worked closely with the Milwaukee County Department of Human Resources on the largest compensation transformation in recent years. This represents a true collaborative effort that is resulting in fairer wages and benefits for all Milwaukee County employees.

In continuing this work, my administration is examining salary adjustments at every level throughout County government. That’s why at my direction, the Milwaukee County Department of Human Resources recommended an 11.5% base salary increase beginning in the next term for three Constitutional Officers: the Register of Deeds, the Treasurer, and the County Clerk. As with other salary recommendations within County government, the Department of Human Resources used its standard process of reviewing market data for similar positions, accounting for regional comparisons and job function considerations. Following this review, our proposal represented one of the largest percentage increases for these three salaries in many years.

**My objection to *File Number 24-342* stems from the amendment adopted by the County Board that increases these salaries by an even larger, unprecedented, and irresponsible dollar amount.**

The County Board’s adopted amendment would provide a 28% pay increase to these elected officials at the start of the upcoming term, followed by a 2% pay increase year over year through 2028. After the annual pay increases are accounted for, this would represent a more than 36% salary increase for the Register of Deeds, Treasurer, and County Clerk. By comparison, this percentage salary increase is nine times more than the percentage salary increase the County Board approved for the Comptroller just a few months ago. In total, the County Board’s amended resolution would increase salary costs (excluding social





OFFICE OF THE COUNTY EXECUTIVE

**DAVID CROWLEY**

MILWAUKEE COUNTY EXECUTIVE

security expenses) by more than \$226,000 over the four year term, when compared to the original proposal.

We must be fiscally responsible stewards for Milwaukee County taxpayers. That's why percentage increases of this size are reserved only for positions within County government that are challenging to recruit suitable candidates for, including the Milwaukee County Chief Medical Examiner and the Milwaukee County Zoo Director. In addition, there are zero employee groups and/or positions within Milwaukee County that have set annual percentage increases, with the exception of employees covered under the County's public safety collective bargaining agreements. All other annual increases for eligible employee groups and/or positions are discretionary and not guaranteed. Approving these annual percentage salary increases would create an inequitable, unfair environment between Milwaukee County's elected officials, department leaders, and general employees. Furthermore, providing annual salary increases for elected officials, who are not subject to performance reviews and additional credential requirements, would establish a concerning precedent, given that pay raises for all other department leaders and general employees are determined by those metrics.

At a time when our financial challenges are not resolved and budget deficits are looming in the near future, we need to promote fiscal responsibility and thoughtful spending at every turn. We also must maintain our commitment to equity at all levels of County government. Based on the reasons I've outlined, I don't believe this level of increased salary spending represents an effective, equitable use of our extremely limited resources. I urge the County Board to revisit this file and approve our original proposal that includes reasonable salary increases for these elected positions. I look forward to continuing this dialogue and our partnership, as we work to seek common ground on providing fair pay and benefits to our workforce, while balancing Milwaukee County's long- and short-term fiscal sustainability.

Respectfully,

David C. Crowley  
Milwaukee County Executive