



OFFICE OF CORPORATION COUNSEL

*Milwaukee County*

KIMBERLY R. WALKER  
Corporation Counsel

MARK A. GRADY  
Deputy Corporation Counsel

JOHN F. JORGENSEN  
JOHN E. SCHAPEKAHM  
TIMOTHY R. KARASKIEWICZ  
JEANEEN J. DEHRING  
ROY L. WILLIAMS  
COLLEEN A. FOLEY  
LEE R. JONES  
MOLLY J. ZILLIG  
ALAN M. POLAN  
Principal Assistant  
Corporation Counsel

INTER-OFFICE COMMUNICATION

**DATE:** September 26, 2011

**TO:** Honorable Committee on Personnel

**FROM:** John Jorgensen, Principal Assistant Corporation Counsel

**SUBJECT:** **Advisory Legal Memorandum;** Salary adjustment for Executive Director  
3 – Director of Parks

The above referenced salary adjustment was included with the regular monthly informational reports provided to your honorable committee by the Interim Director of Human Resources for your September 23, 2011. It has been reported to us that, at that meeting, a member of your committee interposed an objection that that salary adjustment, whereupon the committee treated the matter as a separate item and laid it over “to the call of the chair”.

The apparent intent of the committee in taking the action described in the foregoing paragraph was to hold the salary adjustment “in abeyance” indefinitely. In our opinion, the committee’s action did not have that effect, and there is no impediment to implementing the salary adjustment.

The committee’s understanding of the effect of its action is premised on the belief that a salary adjustment for a department head in the Executive Director group is governed by the procedure in s. 17.10, M.C.G.O., “Advancement within a pay range” (All further section references are to the Milwaukee County General Ordinances). Under that procedure, a request by a department head to advance an employee one or more additional steps in his or her pay range may be held “in abeyance”, pending resolution by the county board, if a member of the county board makes a timely objection to the decision of the human resources director to approve the advancement.<sup>1</sup>

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<sup>1</sup> Even if s. 17.10 did apply, it is not clear that there was a timely objection to the salary adjustment. The informational report of the Interim Director of Human Resources was issued August 29, 2011. Under s. 17.10, a supervisor who objects to an advancement must state that objection within 7 working days of receiving the report. Also, it is unclear whether a motion to lay over to the call of the chair would be in order. County Board rules do not provide for such a motion, s. 1.07(b)11. To the extent that the motion would be treated as one to postpone indefinitely, and thus prevent action by the county board, it would be inconsistent with a reasonable interpretation of s. 17.10, which contemplates county board action on the recommendation of the committee.

However, s. 17.10, does not apply to a salary adjustment for an individual in the Executive Director group. By its terms, s. 17.10 applies only to an employee whose position has a pay range that advances through step increases. Compensation for Executive Directors is governed by s. 17.27, “Appointed Executive Salary Group”. The resolution that created s. 17.27 shows clearly that the county board purposefully eliminated pay ranges with step increases for high-ranking administrators in the Executive Director group and replaced that concept with a “broadband compensation system” that is intended to increase pay flexibility for recruitment and retention purposes. The resolution adopted by the county board on June 24, 2004 (and again on September 30, 2004, overriding the veto of the county executive) expressly incorporates policy recommendations of the Division of Resources, including the following:

- A broadband compensation system would be established to ensure the retention of the basic concept of a “pay for performance,” to simplify the classification and compensation structure, to increase pay flexibility for recruitment and retention purposes, and to enable management to compensate employees for significant changes in job duties, increased competencies and employee meritorious performance. **The broadband structure would eliminate the steps, salary step increases and automatic raises.**

Sec. 17.27 does not include a procedure whereby a supervisor or committee can “hold in abeyance” a salary adjustment for a department head in the Executive Director group. On the contrary, the resolution that created the ordinance requires only that salary adjustments within the broadband salary ranges be reported to Committee on Personnel for informational purposes:

BE IT FURTHER RESOLVED, that these positions [which included and still includes Executive Director 3 – Director of Parks] will be maintained at their current annual salary and **that future salary adjustments shall be provided in an informational report to the Committee on Personnel in a timely manner; . . .**

*See*, County Board File No. 04-240.

In this case, the county executive has adjusted the salary of an Executive Director 3 within the authorized broadband salary range and for purposes consistent with the resolution that created s. 17.27. That action was reported to your honorable committee, as required by the resolution. No action by the committee or the county board is required. The county board does not have authority to delay or override salary adjustments for department heads and administrators in the Executive Director group if those adjustments are within the appropriate broadband salary range.

Respectfully submitted,



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JOHN JØRGENSEN  
Principal Assistant  
Corporation Counsel

APPROVED:



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KIMBERLY R. WALKER  
Corporation Counsel