

ORDINANCE 94-02

AN ORDINANCE ESTABLISHING AND DEFINING THE RIGHT TO LEGAL REPRESENTATION OF ELECTED AND APPOINTED OFFICIALS OF THE COUNTY OF YORK

BE IT ENACTED AND ORDAINED, and it is hereby enacted and ordained by the Board of Commissioners of the County of York, Pennsylvania, as follows:

ARTICLE I

Representation of Elected Officials

Section 1. Solicitor's Responsibility, Civil Lawsuits and Additional Compensation

Whenever the law provides for the appointment of a solicitor by an elected official, if a lawsuit is brought against that elected official in his official capacity, the primary responsibility to provide a defense shall be that of the appointed solicitor. It is recognized and acknowledged that the solicitor's compensation does not contemplate compensation for protracted legal defense of the elected official who appoints him. Should such a lawsuit be filed, the solicitor and the official shall appear before the commissioners and, if necessary, the salary board, for appropriate increase of compensation to acknowledge the additional effort required to defend the elected official.

Section 2. Criminal Charges

A. Should an elected official be charged with a criminal offense, neither the appointed solicitor nor any County solicitor nor any other official of the County shall provide a cost-free defense. Criminal matters shall be considered personal responsibility of the officer so charged.

B. If a person accused of criminal wrongdoing is vindicated by an official refusing to process charges, or by judgment or acquittal, the County may, and in the case of an acquittal, shall, if the acquittal was on the merits where no evidence was suppressed and all relevant facts were presented to the jury, contribute part or all of the costs incurred by the public official, whether he is in office or not at the time a request is made for reimbursement. The County shall not be required to pay an official's attorney's fees at a rate greater than the hourly rate provided for Court appointed counsel unless extraordinary circumstances are shown to be present. Any request for payment of said counsel fees must be made within thirty (30) days of acquittal.

Section 3. Representation When Solicitor Declines

Should the solicitor not feel competent or for any reason not able to represent the elected official, the office holder shall make a request to the County to provide the

services of either a County solicitor or an independent counsel at compensation determined by the commissioners to be appropriate and lawful.

Section 4. Other Officials and Employees Charged in Civil Proceedings

All elected and appointed officials and any County employees who are named as defendants in civil lawsuits (any non-criminal proceeding) filed in state, federal court or any administrative board or agency when the civil action arises out of the manner in which the elected or appointed official or officer or employee shall have conducted the duties of his office, then and in that event, the County shall provide a solicitor or attorney to represent said individual who has been named in the civil proceeding.

Section 5. Insurance

The County shall endeavor to obtain and maintain adequate insurance to provide the County with adequate protection and all of the County's officers and employees. However, the failure to obtain such insurance does not, hereby, create any obligation on the part of the County to do so.

ARTICLE II

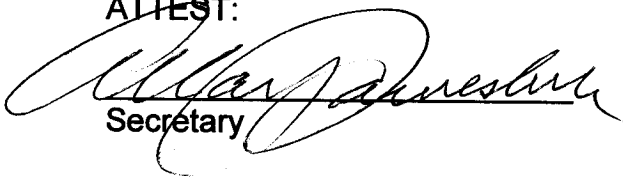
Nothing in this Ordinance is intended, or shall be interpreted, to waive or modify any immunity provided to the County by law.

ARTICLE III

This Ordinance shall become effective immediately.

DULY ENACTED AND ORDAINED this 25 day of May, 1994, by the Board of Commissioners of York County, Pennsylvania, in lawful session duly assembled.

ATTEST:


Secretary

COUNTY OF YORK

BY: 
President, Board of Commissioners

The above Ordinance was ordained, enacted and adopted this 25th day of May, 1994, at a regular meeting of the Board of Commissioners of the Township of York, Pennsylvania, upon motion of Robert Minnich, seconded by Newton Brown, and passed with a vote of 3 Yes, No.