



Legislator Jonke stated that today was a sad day for the taxpayers of Putnam County. The admissions in Sheriff Smith's letter to Mr. Levy were disappointing to him. He stated that he would be voting to approve the settlement with Mr. Levy because it is the prudent financial decision that minimizes the Putnam County taxpayer's current and future fiscal exposure to litigation matters.

Legislator Albano stated that this upsets all of us deeply, but the bottom line is that we have to do what is most cost effective. He stated that he would vote in favor of the settlement too.

Legislator Addonizio stated that with the advice of counsel, this settlement makes sense for the taxpayers and we are here to protect the taxpayers.

Legislator Scuccimarra concurred. She stated that this is disappointing. She explained that she had a lot of faith in the Sheriff and this matter has shaken her faith. She believed, like the rest of the Legislature, that this was the way to proceed with this matter.

Chairwoman Nacerino called for a Roll Call Vote.

#### RESOLUTION #131

#### APPROVAL/LITIGATION SETTLEMENT/ LEVY V. SMITH

WHEREAS, a Summons and Complaint was served upon the County of Putnam in a certain matter captioned, Adam B. Levy v. Donald B. Smith, et al. in which the Plaintiff commenced a claim in the Putnam County Supreme Court for defamation in connection with a Sheriff's Department March 2013 rape investigation; and

WHEREAS, any liability therefor was denied and defended by counsel assigned by NYMIR, the County's insurer in this case; and

WHEREAS, Plaintiff sought both compensatory and punitive damages for said alleged defamation; and

WHEREAS, Plaintiff agreed to a settlement with the County, subject to the Legislature's approval, in which the County agreed to pay Plaintiff the sum of one hundred and twenty-five thousand (\$125,000.00) dollars and the Defendant, Donald B. Smith, agreed to personally pay the Plaintiff twenty-five thousand (\$25,000) dollars and also contained certain non-monetary concessions from Donald B. Smith personally; and

WHEREAS, the County Attorney, trial counsel assigned by NYMIR and NYMIR's claims counsel all recommended the settlement so as to avoid the possibility of an adverse verdict, avoid the need to expend further legal fees, costs and expenses for the trial and any subsequent appeals, and in order to protect and preserve the interests of the taxpayers in separate pending litigation; and

WHEREAS, NYMIR, through its claims representative, has in fact settled the matter with the Plaintiff for the sum of one hundred and fifty thousand (\$150,000.00) dollars, of which one hundred and twenty-five thousand (\$125,000.00) dollars will be paid by the County and twenty-five thousand (\$25,000) dollars will be paid by Donald B. Smith personally; and

WHEREAS, the terms of the settlement of this matter were placed on the record in open court on June 13, 2017 and the jury was dismissed; and

WHEREAS, a Stipulation of Discontinuance will be filed with the Court by Plaintiff's counsel which will fully and finally dispose of this matter with prejudice; and

WHEREAS, the Legislature has considered the facts and circumstances of this case, as well as the advice of counsel, and has determined that settlement is in the public interest and has avoided potentially greater exposure to liability; now therefore be it

RESOLVED, that the settlement of this matter for the sum of one hundred and fifty thousand (\$150,000.00) dollars, of which the County will be required to pay one hundred and twenty-five thousand (\$125,000.00) dollars, is hereby approved.

BY ROLL CALL VOTE: EIGHT AYES. LEGISLATOR GOULDMAN WAS ABSENT.  
MOTION CARRIES.

Item #5 – Approval/Budgetary Transfer (17T114)/ County Attorney/Settlement of Levy v. Smith was next. Legislator Castellano made a motion to move the following; seconded by Legislator Sullivan.

**RESOLUTION #132**

**APPROVAL/BUDGETARY TRANSFER / COUNTY ATTORNEY/SETTLEMENT OF LEVY V. SMITH**

WHEREAS, the County Attorney has requested a budgetary transfer (17T114) to provide funding for the settlement of the Levy v. Smith litigation; and

WHEREAS, the Rules, Enactments & Intergovernmental Relations Committee has reviewed and approved said budgetary transfer; now therefore be it

RESOLVED, that the following budgetary transfer be made:

**Increase Estimated Appropriations:**

10193000 54933	Judgement & Claims	125,000
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**Decrease:**

10199000 54980	Contingency	125,000
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2017 Fiscal Impact \$125,000

2018 Fiscal Impact – 0 –

BY ROLL CALL VOTE: EIGHT AYES. LEGISLATOR GOULDMAN WAS ABSENT.  
MOTION CARRIES.

Recognition of Legislators.

There were no further Legislators that commented.

Recognition of Public.

Ms. Liz Armstrong from the Highlands Current questioned why Sheriff Smith was not paying the \$125,000 instead of the taxpayers. She questioned if the Sheriff has threatened to counter-sue the County if the County does not cover the \$125,000. She

**questioned what the reason was that the taxpayers have to ante up the funds as opposed to the Sheriff and his private bank account.**

**Chairwoman Nacerino stated that the Sheriff has not threatened to sue the County to her knowledge; however that does not mean there is not a possibility. She stated that the consideration before the Legislature this evening is not centered around that, but the fact that we do not want to incur any more costs in pursuing the matter. She stated that if we did, it would cost the taxpayers even more money.**

**Ms. Armstrong requested an explanation on why it would cost the taxpayers more money.**

**Chairwoman Nacerino explained that if he did counter-sue the County there would be additional legal fees and expenses associated to that. She also explained if the trial had went on longer, it would have cost the taxpayers more money. She explained that the settlement although disappointing and troublesome, the Legislature as a whole believes would be best for the taxpayers in the long run.**

**There being no further business, at 7:18 P.M., Legislator Castellano made a motion to adjourn; seconded by Legislator LoBue. All in favor.**

**Respectfully submitted by Diane Schonfeld, Clerk.**