



PUTNAM COUNTY EXECUTIVE
KEVIN M. BYRNE

MEMORANDUM

TO: Diane Schonfeld, Clerk
Putnam County Legislature

CC: The Putnam County Legislature

FROM: Kevin M. Byrne
Putnam County Executive

A handwritten signature in black ink, appearing to be "KB", is written over the name "Kevin M. Byrne" in the "FROM" field. The signature is enclosed in a hand-drawn oval.

DATE: October 11, 2024

RE: Veto of Resolution #216 of 2024 which proports to Approve the Appointment of Outside Counsel for the Legislature.

Pursuant to § 3.04-A of the Putnam Charter, "every resolution adopted by the County Legislature, except resolutions establishing the rules and regulations of the Legislature and other matters pertaining solely to the conduct of its own procedures, shall be submitted to the County Executive for his or her action within five (5) days after passage. Within (10) days after receipt of the original enactment as passed by the County Legislature, he or she shall take action approving or vetoing the same."

Resolution #216 was received on October 4, 2024 and is hereby **VETOED**. Please find attached the corresponding VETO message in addition to the vetoed resolution itself.

Message from County Executive Kevin M. Byrne

Resolution #216 of 2024

VETO/ Resolution Proports to Approve the Appointment of ~~Outside Counsel~~ for the Legislature

Please be advised that I am vetoing Resolution number 216 of 2024 ("Resolution") which directly relates to the representation of the County Legislature by the County Attorney, and the County Attorney's obligation to select and/or approve outside counsel for the Legislature.

The Resolution presented is unlawful and is based upon the purported need to appoint outside counsel due to "actual or potential conflicts involving the Law Department and Legislative Council." The Putnam County Code section 140-3.5 authorizes the County Legislature to approve procurement for a contract for the services of legal counsel, which shall be approved by the Chairperson of the Legislature and the County Attorney. This Resolution attempts to circumvent the statutory requirement that the County Attorney is required to approve such an appointment before that appointment becomes effective. Here, no such approval was given.

The Resolution is fatally flawed as the reason stated for engaging outside counsel due to "potential conflicts with the County Attorney" does not comport with the allowable reasons as set forth in the Putnam County Charter. There are no identifiable provisions in the Putnam County Charter that allow the Legislature to ignore the statutes that mandate the County Attorney's appointment of counsel for the Legislature nor are there provisions that allow the Legislature to appoint counsel based upon speculative, possible future conflicts.

Putnam County Charter section 8.05 deals with actual conflicts between the Legislature and the County Executive. Pursuant to that section, the County Attorney is duty bound to represent the Legislature. Here, where the Legislature believes that a conflict actually exists between the County Attorney and the Legislature, it is incumbent upon the County Attorney to appoint outside counsel to represent the Legislature. That has already been done.

The Resolution further attempts to circumvent the law and allow the Legislature to appoint any firm it chooses absent a specific rationale and absent approval by the County Attorney as required under the Charter and Code. The Charter section cited in the Resolution, section 2.04(q) states that the Legislature has the authority "to appoint, as deemed necessary and proper, by resolution duly adopted, outside counsel on a per case basis." The Resolution presupposes, erroneously, and contrary to law, that the Legislature can appoint, at will, counsel of its own choosing without stating a reason, without stating that a case or controversy exists, and without the required imprimatur of the County Attorney.

Lastly, the resolution identifies no matter in controversy currently pending for which outside counsel for the Legislature has not already been appointed. Therefore, my office will send a copy of this veto message to the law firm of Keane & Beane, so that the members of that firm are on notice that the Resolution purportedly appointing the firm was unlawful and thereby unenforceable.

For all of the reasons stated above, I hereby **VETO** Resolution number 216 of 2024.

PUTNAM COUNTY LEGISLATURE

Resolution #216

Introduced by Legislator: Toni Addonizio on behalf of the Rules, Enactments & Intergovernmental Relations Committee at a Regular Meeting held on October 1, 2024.

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APPROVAL/ APPOINTMENT OF OUTSIDE COUNSEL FOR THE LEGISLATURE

WHEREAS, by memorandum dated September 11, 2024, the Chair of the Legislature informed the County Attorney that, due to actual or potential conflicts involving the Law Department and Legislative Counsel, the Legislature finds itself in the position of being without counsel on several different matters; and

WHEREAS, in said memorandum, the Chair of the Legislature requested that, pursuant to Putnam County Code Section 140-3.5 ("Contracting for legal services"), the County Attorney appoint Keane & Beane, P.C., Attorneys at Law, as counsel to the Legislature; and

WHEREAS, Putnam County Code Section 140-3.5 authorizes the County Legislature to approve its own procurement for a contract for the services of legal counsel, which shall be approved by the Chairperson of the Legislature and the County Attorney; and

WHEREAS, pursuant to Putnam County Charter Section 8.02(f), the County Attorney shall have all the powers and perform all the duties conferred or imposed by law on a County Attorney, and perform such other and related nonconflicting duties required by the County Executive or the County Legislature; and

WHEREAS, it is a conflicting duty for the County Attorney to approve or deny approval of the Legislature's choice of counsel to deal with matters where the County Attorney has a conflict; and

WHEREAS, pursuant to Putnam County Charter 2.04(q), the County Legislature shall have the power to appoint, as deemed necessary and proper, by resolution duly adopted, outside counsel on a per case basis; now therefore be it

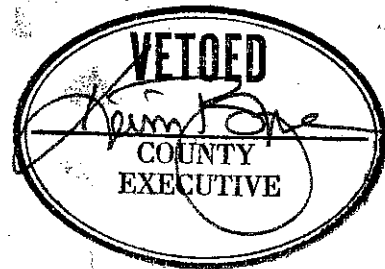
RESOLVED, that, pursuant to Putnam County Code Section 140-3.5, the Putnam County Legislature approves the procurement for a contract for the services of legal counsel with Keane & Beane, P.C., Attorneys at Law, as counsel to the Legislature, as previously approved by the Chair of the Legislature; and be it further

RESOLVED, that in the event that there is any impediment to the procurement of such a contract pursuant to Putnam County Code Section 140-3.5, the Legislature invokes its authority pursuant to Putnam County Charter 2.04(q) to directly appoint outside counsel for the purpose of dealing with matters where there is a conflict involving the County Attorney or the Department of Law; and be it further

RESOLVED, that in the event the firm of Keane & Beane is unable or unwilling to accept the appointment for any reason, or to continue as counsel to the Legislature after being engaged, the Chair of the Legislature shall approve and be authorized to appoint alternate counsel for the Legislature.

BY ROLL CALL VOTE: SIX AYES. THREE NAYS – LEGISLATORS CROWLEY, GOULDMAN & MONTGOMERY. MOTION CARRIES.

State of New York
ss:
County of Putnam



I hereby certify that the above is a true and exact copy of a resolution passed by the Putnam County Legislature while in session on October 1, 2024.

Dated: October 4, 2024

Signed: *Diane Schonfeld*

Diane Schonfeld
Clerk of the Legislature of Putnam County