

**SPECIAL MEETING
OF THE
PUTNAM COUNTY LEGISLATURE
CALLED BY THE CLERK AT THE REQUEST OF THE CHAIRMAN
HELD IN ROOM 318
OF THE
COUNTY OFFICE BUILDING
CARMEL, NEW YORK 10512**

Monday

December 30, 2024

6:30 P.M.

The meeting was called to order at 6:30 P.M. by Chairman Jonke who requested that Legislator Castellano lead in the Pledge of Allegiance and Legislator Sayegh lead in the Legislative Prayer. Upon roll call, Legislators Addonizio, Nacerino, Ellner, Castellano, Sayegh and Chairman Jonke were present. Legislators Montgomery, Gouldman & Crowley were absent.

Chairman Jonke stated that Legislator Crowley was not feeling well and was unable to attend. He also read a statement from Legislator Gouldman stating that he was unable to attend based on a pre-planned vacation.

Chairman Jonke explained that there was no public comment on the agenda, however, he would be allowing the public to speak as part of the discussion.

Item #4 – Approval – Resolution – Appointment of Outside Counsel for the Legislature – Legislative Counsel was next.

**APPROVAL - RESOLUTION – APPOINTMENT OF OUTSIDE COUNSEL FOR THE
LEGISLATURE - LEGISLATIVE COUNSEL**

WHEREAS, on December 3, 2024, the Putnam County Legislature enacted Resolution # 340 of 2024, resolving to extend the contract with Firriolo Law Office, P.L.L.C. for Legislative Counsel services from January 1, 2025, through December 31, 2025; and

WHEREAS, without notice to or consultation with the Legislature, the County Executive and/or County Attorney have unilaterally acted to not renew said contract, leaving the Legislature without the specific Legislative Counsel services it desires and deemed necessary; and

WHEREAS, the Legislature and its members require the services of Legislative Counsel for its conduct and procedure, and to provide to the Legislature the services specified in said contract; and

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

WHEREAS, while the term “on a per case basis” is not defined in the Charter, the primary definition of “case” in dictionaries is a set of circumstances or conditions or a particular situation, and

WHEREAS, in contrast, the Legislature has enacted legislation codified in various sections of the Putnam County Code using the terms “action,” “suit,” and/or “proceeding” to specify a litigation matter; and

WHEREAS, Putnam County Charter Section 2.04 (d) empowers the Legislature to adopt an Administrative Code which shall set forth the details of the administration of the County government, which Code provisions must be consistent with the provisions of the Charter; and

WHEREAS, pursuant to Putnam County Charter Section 15.02, the Legislature has the sole power to interpret any provision of the Charter that is not clear or requires elaboration in its application to the County unless such interpretation would be inconsistent with the provisions of the Municipal Home Rule Law; and

WHEREAS, pursuant to Putnam County Charter Section 15.08, the Charter is to be liberally construed to achieve its objectives and purposes; and

WHEREAS, pursuant to Putnam County Charter Section 15.05, all contracts entered into by the County shall be executed in the manner provided in the Charter or as directed by the County Legislature; and

WHEREAS, Putnam County Code Section 140-3.5 states that the Legislature may approve its own procurements of contracts for legal services, which shall be approved by the Chairperson of the Legislature and the County Attorney; now therefore be it

RESOLVED, that pursuant to Putnam County Charter Sections 15.02 and 15.08, it is the finding and determination of the Legislature that the power given to the Legislature in Charter Section 2.04 (q) to appoint its outside counsel necessarily and inherently includes the power to appoint the specific counsel of its choosing; and be it further

RESOLVED, that pursuant to Putnam County Charter Sections 15.02 and 15.08, it is the finding and determination of the Legislature that: 1) the undefined term “on a per case basis” in Charter Section 2.04 (q) means a set of circumstances or conditions or a particular situation; and 2) defining the term as only a litigation matter is unduly narrow, would produce unexpected and absurd results in certain situations where the Legislature needs outside counsel, and is inconsistent with liberal construction; and be it further

RESOLVED, that pursuant to Putnam County Charter Sections 15.02 and 15.08, it is the finding and determination of the Legislature that, to the extent that the provision in Putnam County Code Section 140-3.5 cited herein could be invoked to prevent the Legislature from appointing its own counsel pursuant to Charter Section 2.04 (q), Putnam County Code Section 140-3.5 is not consistent with the provisions of Charter Sections 2.04 (q) and 15.05, and would therefore be in violation of those sections and Charter Section 2.04 (d); and be it further

RESOLVED, that it is the finding and determination of the Legislature that the ongoing need for Legislative Counsel services, as set forth in the currently expiring contract, is a set of circumstances or conditions or a particular situation, and therefore a per case basis, requiring the appointment of outside counsel to the Legislature; and be it further

RESOLVED, that it is the finding and determination of the Legislature that it is necessary and proper to appoint Firriolo Law Office, P.L.L.C. as outside counsel to the Legislature for Legislative Counsel services; and be it further

RESOLVED, that pursuant to Putnam County Charter Section 2.04 (q), the County Legislature invokes its power to appoint outside counsel by appointing the firm of Firriolo Law Office, P.L.L.C. as Legislative Counsel from January 1, 2025, through December 31, 2025, pursuant to the same terms and conditions as the currently expiring contract with that firm; and be it further

RESOLVED, that pursuant to Putnam County Charter Section 15.05, the Legislature directs the County of Putnam to execute a contract with the firm of Firriolo Law Office, P.L.L.C. for Legislative Counsel services from January 1, 2025, through December 31, 2025, under the same terms and conditions as the extension authorized in Resolution # 340 of 2024; and be it further

RESOLVED, that pursuant to Putnam County Charter Sections 15.02 and 15.08, it is the finding and determination of the Legislature that the appointment of outside counsel to the Legislature pursuant to its specifically enumerated power in Putnam County Charter § 2.04 (q), which counsel is necessary for the Legislature's conduct and procedure, is a matter pertaining solely to the conduct of the Legislature's own procedures as contemplated by Putnam County Charter § 3.04-A; and be it further **RESOLVED**, that this resolution shall take effect immediately.

Chairman Jonke made a motion to accept the amended resolution; seconded by Legislator Sayegh. All in favor.

Chairman Jonke read the attached letter from Rob Firriolo.

Chairman Jonke stated that in 2017 the Legislature determined that they wanted outside counsel rather than the full-time attorney staff member. By contracting with Robert Firriolo in 2017 we saved the taxpayers thousands of dollars every year in salary and benefits without compromising the level of service to the Legislature. He understands that the Law Department is currently understaffed with vacant positions. He stated that the Legislature needs and is entitled to their own counsel to work with on a daily basis, throughout the workday, and at all of their Full meetings and Committee meetings, just as Robert Firriolo has done since 2017. He stated that the Legislature has been approving supplemental expenditures for outside counsel to handle the Law Department's workload, and yet we are expected to believe that they can handle all the work that our Legislative Counsel does every day and to attend all of our night meetings. He stated that if there was a procedural problem with the way the Legislature acted to extend Legislative Counsel's contract, it was not his fault and should not be used against him. He stated that he was directed by our office to request an extension with the Clerk of the Legislature which he did. He stated that a resolution was prepared just like the ones approving his contract in the past. He stated that the Administration never informed the Legislature that they believed the process was improper, which they could have. He stated that they are using this procedural excuse as part of their power grab against the Legislature to take away our choice of Legislative Counsel. He explained that this large binder document was created by outside counsel at the direction of the County Attorney's Department. He stated that it is their rationale of why we should not be allowed to keep Robert Firriolo on and to terminate his contract. He stated that this is an expensive document which costs thousands of dollars for this witch hunt. He stated that the Legislature was never consulted. He stated that later on he will get into the Charter versus the Code and the arguments that have been made why Robert Firriolo's contract should be terminated without any discussion from the Legislature. He stated that the Legislature voted seven (7) to two (2) to extend the contract.

Legislator Sayegh explained that the Legislature approved the extension of Legislative Counsel's contract at a vote of seven (7) to two (2). She stated that we received notification almost two (2) weeks later that there was a Request for Proposal (RFP) issued for Legislative Counsel much to our surprise. She stated that Section 140-3.5 of the Putnam County Code entitled Contracting for Legal Services states, "No contract for the services of legal counsel may be awarded without the approval of the County Executive and the County Attorney, other than the County Legislature which may approve its own such procurements, which shall be approved by the Chairperson of the Legislature and the County Attorney." She explained that at the December 3, 2024 Full

Legislative meeting the Legislature voted to continue Legislative Counsel's contract by a majority vote of the Legislature. She stated that according to the Putnam County Code as just stated, the County Legislature may approve its own such procurements, which we did at the December 3rd meeting. She stated that the decision of the Legislature "shall" be approved by the Chairperson of the Legislature and the County Attorney. She stated that the Chairperson cannot go against that nor can the County Attorney. She stated that in the Putnam County Charter Section 2.04 (q) Powers and duties states, "to appoint, as deemed necessary and proper, by resolution duly adopted, outside counsel on a per case basis." She stated that the Charter further states in Section 15.05 Execution of contracts, "All contracts entered into by the County shall be executed in the manner provided in this Charter or as directed by the County Legislature." She stated that finally if there is any doubt of the authority of the Legislature to execute our contract for legal representation the Putnam County Charter states in Section 5.02 (a) Director of Purchasing: powers and duties, the Director of Purchasing shall have the power to, "Make all purchases of equipment, materials and supplies required for any County purpose and contract for the rental and servicing of equipment for all County departments in accordance with the requirements established by law or by the County Legislature." She stated that the Legislature received word approximately one (1) week ago, 20 days after we already voted to renew our Legislative Counsel's contract for another year that a new RFP was issued and the Law Department was assigned as our interim Legislative Counsel on January 1, 2025, until a new contract was awarded. She explained that after speaking with the Purchasing Department today, one (1) hour before this meeting, to date the RFP has not been issued. She questioned how the Purchasing Department could issue a new RFP without input or approval of the Legislature. She stated that the Purchasing Department has no authority to issue an RFP as they are bound to act in accordance with the requirements established by law. She stated that the County Attorney, an appointed department head, has no authority to override the authority of the Legislature, a dually elected and co-equal branch of government. It is clear that the County Legislature has the authority, "to appoint, as deemed necessary and proper, by resolution duly adopted, outside counsel on a per case basis " in accordance with the Charter. She stated that she will be supporting this resolution to execute a contract with Firriolo Law Office through December 31, 2025. She stated that Robert Firriolo is a man of character, he is fair and is a talented attorney. She stated that it was her honor to execute a contract with his firm.

Legislator Addonizio explained that it has been past practice that the Legislature has chosen their own counsel. She explained that Rob Firriolo was hired in 2017 by a Request for Proposal (RFP). When his contract was up for renewal an RFP was issued. She stated that we received one (1) response from Rob Firriolo. She questioned why the County Executive chose to cancel our Legislative Counsel's contract. She stated that the County Executive decided to put out an RFP for our Legislative Counsel position. She stated that it seems like he would like to choose, when historically the Legislature has always chosen their own attorney. She stated that Rob Firriolo is incredibly knowledgeable, fair, honest and dedicated in providing the Legislature with well-reasoned advice.

Legislator Nacerino stated that she was fortunate enough to be Chairwoman of the Legislature when we conducted interviews for Legislative Counsel. She stated that Robert Firriolo was head and shoulders above the candidates we interviewed. She stated the Legislators who were not on the Legislature during that time have no realm of reference to compare. She stated that Rob Firriolo is a brilliant attorney. She stated that

the office staff shares her sentiment, as does the majority of this Legislature. His character speaks for itself. He is a man of integrity. She stated that there is no Legislator that could say he treated them unfairly or showed partiality. He is diligent and works hard for each of the Legislators individually without hesitation and collectively. She stated that this was her last official meeting and was taken aback by this Administration. She stated that we are separate but equal branches of government. She stated that the key word is "equal." She stated that many of her colleagues have often heard her say that the lines between the two (2) branches of government were getting blurred with this Administration. She stated that on the matters here before us tonight, the Legislature should be able to obtain their own counsel, as evidenced by past practice and the Charter. She stated that we should also be able to select our own outside counsel without spending thousands of dollars on a lawsuit initiated by the County Executive to prohibit us from doing so by using the rationale that is under the County Attorney's purview to make the selection. She stated that this may be the case if the County Attorney was working on the Legislature's behalf. She explained the County Attorney could not select a firm or person in good faith since she believed he was the crux of the problem. She stated that it would be her honor to support Rob Firriolo this evening.

Legislator Castellano stated that when he and Legislator Nacerino came onto the Legislature there was a different Legislative Counsel. He explained that the Legislature took a different approach and interviewed approximately a dozen attorneys. He stated that the Legislature interviewed approximately five (5) or six (6) attorneys, who were all excellent candidates, but Robert Firriolo by far stood out as the top candidate. He explained that the previous Legislative Counsel was a full-time employee of the Legislature, and he would have been more than happy to offer Robert Firriolo the same opportunity, but he approached the Legislature with hiring his Law Firm instead. He stated that he recently heard that maybe the County Executive wanted to go a different way to save money, but Robert Firriolo saved us about \$60,000 per year eight (8) years ago. He stated that it was approximately over \$400,000 savings to the taxpayers. He stated that he is so easy to talk to and is clear and concise when providing an opinion. He stated that he does not tell us what to do, but provides good, quality legal advice which is what we ask for. He is available to the Legislature 24 hours per day, seven (7) days per week. He explained that earlier this month when we voted on to extend his contract, nobody presented an argument not to hire him. He stated that he was stunned to hear the Friday before Christmas that he was fired. He stated that he was glad to come back again and support Robert Firriolo who has done a fantastic job. He provided the Legislators who voted in favor of the extension of the contract; Legislators Addonizio, Castellano, Ellner, Gouldman, Jonke, Nacerino and Sayegh. He stated that there were two (2) no votes, Legislators Crowley and Montgomery.

Legislator Ellner stated that he was supporting this resolution. He stated that one of the things that keeps coming up in his mind, which Legislator Sayegh read, is the word "shall" in the sentence; the County Attorney and the Chairman of the Legislature "shall" appoint. He stated that word to him does not mean a choice, it is a must. He stated that we are separate but equal branches of government. He stated that he has a problem with appointed individuals trying to usurp the power of elected officials. He stated that the way we have described Robert Firriolo's ability, conduct and character, he believed he was beyond reproach.

Chairman Jonke allowed anyone present from the public to make a comment. He asked them to state their name and the town in which they reside. He asked that they fill in the same on the sign in sheet.

Town of Putnam Valley Supervisor Jacqueline Annabi stated that if an RFP was done in 2016 and again in 2021, she questioned why another RFP was not done this time. She stated that Robert Firriolo was a great person. She was just wondering why the Legislature did not go out for another RFP.

Chairman Jonke stated that the contract had not expired. There were three (3) one (1) year renewal options. It was all part of the original contract.

Legislator Castellano stated that it was a six (6) year contract. It was for three (3) years starting in 2021, followed by three (3) one (1) year extensions. He questioned why Robert Firriolo would want that kind of contract and he explained three (3) years from now there might be a brand-new Legislature who might not want him as Legislative Counsel, so he wanted to give them the opportunity to vote. He thought that was brilliant on his part that he would be willing to take that into consideration opposed to having a six (6) year contract.

First Deputy County Attorney John B. Cherico stated that the County Attorney could not be present tonight. He is away during the holidays with his family. He stated that assertions that the County Executive terminated a legal vendors contract are false. He stated that the Harris Beach memo, which has been referenced, was produced in response to inquiries made by several Legislators and was provided to all Legislators on December 20th. He stated that after an exhaustive three (3) and a half month review of the County Charter and all relevant case law, it was made clear that there were no grounds for implied authority. He stated that the County Attorney, unanimously confirmed by the Legislature, is counsel to the Legislature pursuant to the Putnam County Charter. By confirming the County Attorney, the Legislature selected the County's legal counsel, and they cannot lawfully interfere in the operations of the Law Department. The current vendor providing outside counsel, whose three (3) year contract will terminate as stated on December 31, 2024, has served in this role for seven (7) years without any competing bids. He stated that in light of the widespread confusion over the role of Legislative Counsel, it was clear that material changes needed to be made to the existing RFP. As such, consistent with the County Procurement Procedure, the Purchasing Division on recommendation from the Law Department issued a new Request for Proposal to ensure the role is clear to all vendors and that taxpayers receive the best value while maintaining sound legal support for the Legislature. It is also worth noting that certain Legislators, as recently as last month, raised the question of whether a new RFP should be issued. Regardless, the sole responsibility and the authority to decide how to delegate the County Attorney's duties, including whether to retain outside counsel, rest exclusively with the County Attorney. All Legislators and members of the public are encouraged to review the Harris Beach memo for a clear and comprehensive understanding of this matter. He stated that we would like to direct your attention to the specific portions of this memorandum's conclusion which states the following, "based upon our review of Putnam County local laws and New York State law, the Putnam County Attorney must approve all contracts related to the hiring of outside legal counsel." "the County Attorney has the authority to terminate the existing contract with the current Legislative Counsel through his discretionary authority, or to allow the contract to expire without renewal. We note that as of this writing there is no mutual

agreement to extend the term of the contract. Concomitantly, the County Attorney has the authority to retain/approve alternative outside counsel subject (potentially) to the preparation of an RFP to be issued by the County's Purchasing Department." "any attempt by the Legislature to "by-pass" County Attorney approval of outside counsel is an effort to shift the balance of power and authority to approve outside counsel in violation of the clear provisions established by the Code and the Charter."

Chairman Jonke questioned how much this witch hunt cost. He believed this document was a witch hunt and questioned how much it cost the taxpayers of this County.

First Deputy County Attorney Cherico called it a legal document and stated that he did not have an answer to that question.

Chairman Jonke stated that Harris Beach has been paid, up through last month, \$387,841.00.

First Deputy County Attorney Cherico stated that you are referring to the Arben litigation that Harris Beach has been litigating for the benefit of the Putnam County citizens since the time they were retained.

Chairman Jonke stated that now you have asked them to answer a question. He stated that he is not a lawyer but does not agree with anything that they determined. He explained that the Law Department came to the Legislature looking for fund transfers and effectively we were funding this document. He questioned why the Legislature was not consulted in the termination of the contract. He stated that there were three (3) Legislators working against the authority of the Legislature. He stated that each Legislator represents approximately 11,000 people in their districts. He stated that they are giving up those 11,000 people in each of their districts by giving up the authority to hire our own attorney. He stated that we paid for our own attorney's assassination, and nobody told us about that.

First Deputy County Attorney Cherico stated that he did not agree with that at all. He believed that was Chairman Jonke's assumption and conclusion, respectfully.

Chairman Jonke did not expect him to. He stated that First Deputy County Attorney Cherico came to us for all those fund transfers.

First Deputy County Attorney Cherico said that was correct. As they stated when they appeared and made those requests for fund transfers, they were to fund the litigation that was defending the County.

Chairman Jonke did not expect Harris Beach to come up with another opinion given the fact that they made almost \$400,000 from the County in almost two (2) years.

Legislator Nacerino believed it was obvious that this law firm cannot be objective, and neither can the Administration or the Law Department. She believed that was the problem. She believed that there was more to come to dispel what was said.

Carl Albano stated that as a former Legislator for 12 years and Chairman of the Legislature he had the opportunity to work with Robert Firriolo. He explained that he was very professional with no politics involved. He stated that the Legislature should be

proud that they were doing the right thing. He stated there are two (2) different branches of government and you need to keep that control.

Chairman Jonke stated that this Legislature has the absolute right, granted in the Charter Section 2.04(q), to appoint our counsel. He stated that nothing in the Putnam County Code can take that away. He explained that the County Attorney has powers under the Charter, but they are limited, except as may otherwise be provided in Charter Section 8.02. He stated that since the Legislature has the specific power under the Charter Section 2.04(q) to appoint outside counsel, the County Attorney's powers do not allow him to block such an appointment. The exclusive power is with the Legislature.

Chairman Jonke called for a Roll Call Vote on the resolution.

RESOLUTION #377

APPROVAL - RESOLUTION – APPOINTMENT OF OUTSIDE COUNSEL FOR THE LEGISLATURE - LEGISLATIVE COUNSEL

WHEREAS, on December 3, 2024, the Putnam County Legislature enacted Resolution # 340 of 2024, resolving to extend the contract with Firriolo Law Office, P.L.L.C. for Legislative Counsel services from January 1, 2025, through December 31, 2025; and

WHEREAS, without notice to or consultation with the Legislature, the County Executive and/or County Attorney have unilaterally acted to not renew said contract, leaving the Legislature without the specific Legislative Counsel services it desires and deemed necessary; and

WHEREAS, the Legislature and its members require the services of Legislative Counsel for its conduct and procedure, and to provide to the Legislature the services specified in said contract; and

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

WHEREAS, while the term “on a per case basis” is not defined in the Charter, the primary definition of “case” in dictionaries is a set of circumstances or conditions or a particular situation, and

WHEREAS, in contrast, the Legislature has enacted legislation codified in various sections of the Putnam County Code using the terms “action,” “suit,” and/or “proceeding” to specify a litigation matter; and

WHEREAS, Putnam County Charter Section 2.04 (d) empowers the Legislature to adopt an Administrative Code which shall set forth the details of the administration of the County government, which Code provisions must be consistent with the provisions of the Charter; and

WHEREAS, pursuant to Putnam County Charter Section 15.08, the Charter is to be liberally construed to achieve its objectives and purposes; and

WHEREAS, pursuant to Putnam County Charter Section 15.05, all contracts entered into by the County shall be executed in the manner provided in the Charter or as directed by the County Legislature; and

WHEREAS, Putnam County Code Section 140-3.5 states that the Legislature may approve its own procurements of contracts for legal services, which shall be approved by the Chairperson of the Legislature and the County Attorney; now therefore be it

RESOLVED, that in accord with Putnam County Charter Section 15.08, it is the finding and determination of the Legislature that the power given to the Legislature in Charter Section 2.04 (q) to appoint its outside counsel necessarily and inherently includes the power to appoint the specific counsel of its choosing; and be it further

RESOLVED, that in accord with Putnam County Charter Section 15.08, it is the finding and determination of the Legislature that: 1) the undefined term “on a per case basis” in Charter Section 2.04 (q) means a set of circumstances or conditions or a particular situation; and 2) defining the term as only a litigation matter is unduly narrow, would produce unexpected and absurd results in certain situations where the Legislature needs outside counsel, and is inconsistent with liberal construction; and be it further

RESOLVED, that in accord with Putnam County Charter Section 15.08, it is the finding and determination of the Legislature that, to the extent that the provision in Putnam County Code Section 140-3.5 cited herein could be invoked to prevent the Legislature from appointing its own counsel pursuant to Charter Section 2.04 (q), Putnam County Code Section 140-3.5 is not consistent with the provisions of Charter Sections 2.04 (q) and 15.05, and would therefore be in violation of those sections and Charter Section 2.04 (d) and unenforceable; and be it further

RESOLVED, that it is the finding and determination of the Legislature that the ongoing need for Legislative Counsel services, as set forth in the currently expiring contract, is a set of circumstances or conditions or a particular situation, and therefore a per case basis, requiring the appointment of outside counsel to the Legislature; and be it further

RESOLVED, that it is the finding and determination of the Legislature that it is necessary and proper to appoint Firriolo Law Office, P.L.L.C. as outside counsel to the Legislature for Legislative Counsel services; and be it further

RESOLVED, that pursuant to Putnam County Charter Section 2.04 (q), the County Legislature invokes its power to appoint outside counsel by appointing the firm of Firriolo Law Office, P.L.L.C. as Legislative Counsel from January 1, 2025, through December 31, 2025, pursuant to the same terms and conditions as the currently expiring contract with that firm; and be it further

RESOLVED, that pursuant to Putnam County Charter Section 15.05, the Legislature authorizes the Chair of the Legislature to execute a contract with the firm of Firriolo Law Office, P.L.L.C. for Legislative Counsel services from January 1, 2025, through December 31, 2025, under the same terms and conditions as the extension authorized in Resolution # 340 of 2024; and be it further

RESOLVED, that in accord with Putnam County Charter Section 15.08, it is the finding and determination of the Legislature that the appointment of outside counsel to the Legislature pursuant to its specifically enumerated power in Putnam County Charter § 2.04 (q), which counsel is necessary for the Legislature’s conduct and procedure, is a matter pertaining solely to the conduct of the Legislature’s own procedures as contemplated by Putnam County Charter § 3.04-A; and be it further

RESOLVED, that this resolution shall take effect immediately.

BY ROLL CALL VOTE: SIX AYES. LEGISLATORS CROWLEY, GOULDMAN & MONTGOMERY WERE ABSENT. MOTION CARRIES.

Item #5 – Approval – Resolution – Appointment of Outside Counsel for the Legislature – Prospective Litigation Matter was next.

APPROVAL - RESOLUTION – APPOINTMENT OF OUTSIDE COUNSEL FOR THE LEGISLATURE - PROSPECTIVE LITIGATION MATTER

WHEREAS, on December 30, 2024, the Putnam County Legislature enacted Resolution # ____ of 2024 appointing the firm of Firriolo Law Office, P.L.L.C. as outside counsel for Legislative Counsel services to the Legislature from January 1, 2025, through December 31, 2025; and

WHEREAS, the Putnam County Executive recently filed, and later withdrew, an action in New York State Supreme Court seeking, among other things, to nullify Resolution # 216 of 2024 and enjoin enforcement of Resolution # 353 of 2024, in which Resolutions the Legislature appointed outside counsel to itself and its members; and

WHEREAS, in said action, the County Executive obtained orders temporarily restraining and seeking to permanently block the Legislature’s appointment of outside counsel pursuant to Putnam County Charter § 2.04 (q); and

WHEREAS, in anticipation of a similar challenge, in the event that the Putnam County Executive files an action or proceeding challenging Resolution # ____ of 2024, the Legislature and its members will require and are entitled to the services of outside counsel to defend against such litigation; and

WHEREAS, pursuant to Putnam County Charter 2.04 (q), the County Legislature has 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 Charter Sections 15.02 and 15.08, it is the finding and determination of the Legislature that the power given to the Legislature in Charter Section 2.04 (q) to appoint its outside counsel necessarily and inherently includes the power to appoint the specific counsel of its choosing; and be it further

RESOLVED, that it is the finding and determination of the Legislature that it is necessary and proper to appoint outside counsel to the Legislature and its members to defend against any action or proceeding that may be brought to challenge Resolution # ____ of 2024; and be it further

RESOLVED, that pursuant to Putnam County Charter § 2.04 (q), the County Legislature invokes its power to appoint outside counsel on a per case basis by appointing the firm of Gettinger, Waldinger, Monteleone, Gushue & Hollis, LLP as counsel to the Legislature and its members, for the specific purpose of defending any action or proceeding challenging Resolution # ____ of 2024; and be it further

RESOLVED, that pursuant to Putnam County Charter Sections 15.02 and 15.08, it is the finding and determination of the Legislature that the appointment of outside counsel to the Legislature pursuant to its specifically enumerated power in Putnam County Charter § 2.04 (q), and for the purpose of defending an action against the Legislature, is a matter pertaining solely to the conduct of the Legislature’s own procedures, as contemplated by Putnam County Charter § 3.04-A; and be it further

RESOLVED, that in the event the firm of Gettinger, Waldinger, Monteleone, Gushue & Hollis, LLP 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; and be it further

RESOLVED, that pursuant to Putnam County Charter Sections 15.02 and 15.08, it is the finding and determination of the Legislature that, to the extent that the procurement provisions of Putnam County Code Section 140-3.5 could be invoked to prevent the Legislature from appointing its own counsel pursuant to Charter Section 2.04 (q), Putnam County Code Section 140-3.5 is not consistent with the provisions of Charter

Sections 2.04 (q) and 15.05, and would therefore be in violation of those sections and Charter Section 2.04 (d); and be it further

RESOLVED, that this resolution shall take effect immediately.

Chairman Jonke made a motion to accept the amended resolution; seconded by Legislator Sayegh. All in favor.

Legislator Sayegh explained that Section 2.04 of the Charter pertains to the Powers and duties of the Legislature which reads, "The County Legislature shall be the legislative, appropriating and policy-determining body of the County. Except as may be otherwise provided in this Charter, it shall have and exercise all the legislative powers and duties now or hereafter conferred or imposed upon it by this Charter or upon a board of supervisors or the legislative body of a county by state law, together with all the powers and duties necessarily implied or incidental thereto. The County Legislature shall have, but not by limitation, the following powers and duties:" She stated that Section 2.04(q) clearly states: "to appoint, as deemed necessary and proper, by resolution duly adopted, outside counsel on a per case basis." She believed that any restriction of this is the County Executive trying to restrict the powers and duties of a co-equal duly elected branch of government. She stated that Section 15.02 of the Charter states, "If any provision of this Charter is not clear or requires elaboration in its application to the County, the County Legislature may interpret such provision in a local law not inconsistent with the provision of the Municipal Home Rule Law." She stated that if there is any ambiguity, the Legislature has the final say, not the County Attorney, an unelected department head. She believed it was clear that the Legislature has the authority to appoint outside counsel for a prospective litigation matter. She stated that she would be supporting this resolution. She was curious about why the County Executive and the County Attorney would try to circumvent the Legislature or the Charter, which they are bound to uphold, by limiting our ability to appoint proper counsel for the Legislature.

Chairman Jonke explained that this resolution is similar to a resolution the Legislature passed a few weeks ago. He stated that we approved a resolution authorizing the Legislature to hire outside counsel. He stated that the County Executive vetoed that resolution which the Legislature then overrode. He stated that then the Legislature received an Order to Show Cause filed by the County Executive which led to more expenditure of outside counsel funding. He stated that at the last minute, the case was withdrawn. He stated that we believe that we should be able to choose our own counsel. He stated that there is a conflict with the County Attorney and the Legislature. We should be able to choose our counsel, not the County Attorney who is choosing a firm that has been doing business with the County making thousands of dollars. He stated that we want someone who is independent. He stated that the Legislature should have that right.

Legislator Castellano explained that in speaking about the lawsuit, the Order to Show Cause asked us not to move forward with the votes that took place. He explained that Judge Victor Grossman called us all into court last week, which was scheduled to take place on Thursday. He stated that we all have daytime responsibilities, and he made changes to his calendar to attend. He stated that it is a lawsuit, and you would figure one (1) side would talk to the other side to come to some kind of agreement or stipulation of settlement. He explained that he was planning to attend to hear what everyone had to say, including the Judge, and without any discussion with the Legislature or Legislative

Counsel the case was dropped. He stated that he wished we had our day in court. He appreciated the plaintiff deciding not to move forward with it, but he thinks it was an indication of what we were discussing earlier.

Legislator Nacerino stated that the case was initiated by the County Executive. She stated that we expended thousands of dollars on the Legislative side and are waiting for the bills to come in on the Administration's side to see what this has cost, only to have the County Executive terminate the lawsuit. She believed that he knew he would be defeated that day. She encouraged everyone to pay close attention to what was going on. She stated that we are a small family community and everything that is done here resonates back to the taxpayers, homeowners, constituents and the people that live here. She believed this was a serious matter and a power grab. She believed that we had a County Attorney that is not working with us; he is working against us and feels that it is his right and prerogative to pick who should represent us. She questioned if that sounded like someone who is capable of being objective and fair.

Legislator Ellner stated that if every cylinder of the engine was firing in sequence, when you go to another department, and are entitled to outside counsel, wouldn't it stand to reason that the County Attorney would say sure, choose your own. He stated that outside counsel would represent the Legislature. He stated that just for the fact there is push back for who we want gives him pause. He questioned why shouldn't we be allowed to choose who will represent us and the people in Putnam County.

Chairman Jonke called for a Roll Call Vote on the resolution.

RESOLUTION #378

APPROVAL - RESOLUTION – APPOINTMENT OF OUTSIDE COUNSEL FOR THE LEGISLATURE - PROSPECTIVE LITIGATION MATTER

WHEREAS, on December 30, 2024, the Putnam County Legislature enacted Resolution # 377 of 2024 appointing the firm of Firriolo Law Office, P.L.L.C. as outside counsel for Legislative Counsel services to the Legislature from January 1, 2025, through December 31, 2025; and

WHEREAS, the Putnam County Executive recently filed, and later withdrew, an action in New York State Supreme Court seeking, among other things, to nullify Resolution # 216 of 2024 and enjoin enforcement of Resolution # 353 of 2024, in which Resolutions the Legislature appointed outside counsel to itself and its members; and

WHEREAS, in said action, the County Executive obtained orders temporarily restraining and seeking to permanently block the Legislature's appointment of outside counsel pursuant to Putnam County Charter § 2.04 (q); and

WHEREAS, in anticipation of a similar challenge, in the event that the Putnam County Executive files an action or proceeding challenging Resolution # 377 of 2024, the Legislature and its members will require and are entitled to the services of outside counsel to defend against such litigation; and

WHEREAS, pursuant to Putnam County Charter 2.04 (q), the County Legislature has 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 in accord with Putnam County Charter Section 15.08, it is the finding and determination of the Legislature that the power given to the Legislature in

Charter Section 2.04 (q) to appoint its outside counsel necessarily and inherently includes the power to appoint the specific counsel of its choosing; and be it further

RESOLVED, that it is the finding and determination of the Legislature that it is necessary and proper to appoint outside counsel to the Legislature and its members to defend against any action or proceeding that may be brought to challenge Resolution # 377 of 2024 or any contract executed pursuant to said resolution; and be it further

RESOLVED, that pursuant to Putnam County Charter § 2.04 (q), the County Legislature invokes its power to appoint outside counsel on a per case basis by appointing the firm of Gettinger, Waldinger, Monteleone, Gushue & Hollis, LLP as counsel to the Legislature and its members, for the specific purpose of defending any action or proceeding challenging Resolution # 377 of 2024 or any contract executed pursuant to said resolution; and be it further

RESOLVED, that in accord with Putnam County Charter Section 15.08, it is the finding and determination of the Legislature that the appointment of outside counsel to the Legislature pursuant to its specifically enumerated power in Putnam County Charter § 2.04 (q), and for the purpose of defending an action against the Legislature or a contract executed by the Legislature, is a matter pertaining solely to the conduct of the Legislature's own procedures, as contemplated by Putnam County Charter § 3.04-A; and be it further

RESOLVED, that in the event the firm of Gettinger, Waldinger, Monteleone, Gushue & Hollis, LLP 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; and be it further

RESOLVED, that in accord with Putnam County Charter Section 15.08, it is the finding and determination of the Legislature that, to the extent that the procurement provisions of Putnam County Code Section 140-3.5 could be invoked to prevent the Legislature from appointing and contracting for its own counsel pursuant to Charter Sections 2.04 (q) and 15.05, Putnam County Code Section 140-3.5 is not consistent with the provisions of Charter Sections 2.04 (q) and 15.05, and would therefore be in violation of those sections and Charter Section 2.04 (d) and unenforceable; and be it further

RESOLVED, that this resolution shall take effect immediately.

BY ROLL CALL VOTE: SIX AYES. LEGISLATORS CROWLEY, GOULDMAN & MONTGOMERY WERE ABSENT. MOTION CARRIES.

There being no further business, at 7:16 P.M., Chairman Jonke made a motion to adjourn; seconded by Legislator Addonizio. All in favor.

Respectfully submitted by Diane Schonfeld, Clerk.