

Legislator Montgomery believed that we had a stay in place, so to take any action, whether it is to amend the resolution or to adopt the original resolution, we are not allowed to vote on it.

Chairman Jonke stated that the stay refers to Resolution #216. He stated that this is a new resolution.

Legislator Montgomery believed that the new resolution was in relation to the issue before us where we have a stay in place. She stated that it appears to be in direct violation of Judge Spofford's order.

Chairman Jonke did not believe that was the case. He explained that he spoke with Legislative Counsel and Mr. Hollis who is from the firm he is requesting in the amendment to the resolution.

Legislator Montgomery stated that we have been assigned outside counsel, Roemer Wallens, Gold & Mineaux, LLP. She believed it was Chairman Jonke's opinion that this was not a violation. She explained that she emailed Roemer, Wallens, Gold & Mineaux last night because she was concerned about taking action on this when a stay has been issue. She believed that taking action on it would be a direct violation of that court order.

Chairman Jonke stated that we now have a lawsuit that we want to hire outside counsel for, which we should have every right to. We are not violating any order by the court.

Legislator Ellner stated that he sees two (2) separate issues. One (1) issue in general there is a dispute whether the Legislature can appoint outside counsel. He explained that what we are talking about now is specific to the Charter which says when there is a specific instance then the Legislature has the right to appoint counsel of our own. He stated that he is in favor of this resolution.

Legislator Nacerino stated that it is a travesty for the County Attorney to assign us counsel when it is the County Attorney who we cannot consult or confer with.

Chairman Jonke stated that he asked to appoint Keane & Beane, P.C. awhile back. He stated that he did not even get a response to his memo. He stated that we were served with this current Order to Show Cause and we sent it down on November 26, 2024; approximately three (3) weeks ago. He explained that he has not received a confirmation, response or phone call from the County Attorney's office. He stated that is why it is imperative that we are able to hire this outside counsel.

Legislator Nacerino questioned if they were derelict in their duties if they do not represent or communicate with us. She believed that they certainly do not advocate for us. She believed that was a problem in and of itself.

Legislator Montgomery believed that Chairman Jonke has not heard back from them because there is a court ordered stay in place issued on October 1, 2023. She stated that the stay was issued before you requested Keane & Beane, P.C.

Chairman Jonke believed that it was a day or two (2) before Thanksgiving. He questioned if Legislative Counsel had those dates.

Legislative Counsel Firriolo stated that the initial request for Keane & Beane, P.C. was made on September 11, 2024, by your memorandum to the County Attorney. He believed that Resolution #216 was passed on November 25th and on November 26th we were served with the Order to Show Cause.

Legislator Montgomery questioned where it is stated that we can appoint outside counsel. She believed that the documents state that we are appointed outside counsel by the County Attorney. She stated that we were appointed outside counsel. She questioned why they were not here tonight. We should be talking to them. She believed this was an unlawful vote.

Legislator Crowley stated that her other concern was that paperwork needed to be in by the 16th if she was not mistaken. She asked Legislative Counsel Firriolo if the response needed to be by the 16th?

Legislative Counsel Firriolo believed that Legislator Crowley was correct that the response papers is December 16th, but as soon as counsel is retained, they can contact the court and request extra time if they need it.

Chairman Jonke called for a Roll Call Vote on the motion to amend the name of the firm.

By Roll Call Vote: Six Ayes. Three Abstentions – Legislators Crowley, Gouldman and Montgomery. Motion Carries.

Chairman Jonke called for a discussion on the amended resolution.

Legislator Gouldman questioned who the attorneys were.

Chairman Jonke stated that they are municipal litigators.

Legislator Castellano stated that he has been working in the courts for 29 years. He stated that this is an outstanding law firm, and Dan Hollis is a fantastic attorney.

Chairman Jonke stated that the stay applied to Resolution #216. He stated that we now have a litigation matter in front of us which allows us under the Charter Section 2.04 to choose our own attorney.

Legislator Montgomery believed that by continuing to take this action you would be going against a court order and will probably all be in contempt of court. She stated that she would not be party to this and would abstain.

Legislator Ellner explained that now that the County Executive has sued us, he would like to be represented by an attorney. He believed it was imperative that we get an attorney.

Legislator Sayegh believed that was the whole purpose of passing this brand-new resolution that was brought on by a lawsuit/action that was sent to us from the County Executive's office. She stated that this resolution gives the Legislature the opportunity to assign outside counsel for a specific purpose to defend us in the action which was brought by the County Executive against the Legislature. She stated that we have the

right to assign an attorney to represent our interests. She explained that we were invoking our power to appoint outside counsel on a case-by-case basis per the Charter. She stated that the bottom line on all these resolutions is that the Legislature would like to appoint our own outside counsel to be fairly represented. She stated that we have not spoken, been contacted or met with the County Attorney since last May. She failed to understand why the County Executive, or the County Attorney, would block our ability to pick outside counsel when we do not have any fair representation in the County. She stated that we should have the opportunity to pick outside counsel based on this particular action which is in accordance with the County Charter. She stated that she would be supporting this resolution.

Legislator Crowley questioned who wrote the resolution and what the resolution number was.

Legislative Clerk Schonfeld explained that resolutions receive numbers after they are approved.

Chairman Jonke stated that he asked counsel to draft the resolution and then he reviewed it.

Legislator Nacerino expressed concerns on several matters.

Legislator Montgomery questioned Legislator Nacerino's concern.

Chairman Jonke stated that there have been claims by the County Executive that Charter changes by this Legislature have been retaliation against the County Attorney. He explained that we never changed the authority of the County Executive. He explained that the Legislature was sued which will cost the taxpayers thousands of dollars for nothing. He stated that there was no need for a permissive referendum for the Charter changes we adopted. He stated that it became necessary for the Legislature to contemplate outside counsel due to a conflict with the County Attorney. He explained that the County Attorney filed a lawsuit in response to a notice of claim that was filed against the County in early 2023. He stated that there was a 50-h hearing in the Spring of 2023 where the County Attorney learned that the prospective buyer for 34 Gleneida Avenue was the son-in-law of one (1) of our Legislators. He learned this in May of 2023. He stated that in December of 2023 the Law Department filed a lawsuit against this person. He stated that he never came to the Legislature for this authorization which was required. He explained that we received a notice of determination from the Supreme Court in May 2024. He stated that the lawsuit was never on any of our monthly litigation reports. He stated that the County Attorney was invited to a Rules Committee meeting held on May 16, 2024, to explain the action. He stated that the County Attorney felt that he was summoned to the meeting. He explained that the Chair of the Rules Committee happened to be the Legislator whose son-in-law was the prospective buyer for 34 Geneida Avenue, and shortly thereafter, they filed an Ethics Complaint. He stated that the information was in his hands for over one (1) year, in May or June of this year he filed the Ethics Complaint. Chairman Jonke believed that was retaliation. He explained that he requested an appointment of outside counsel, which is supposed to be a joint decision by the County Attorney and the Chair of the Legislature. He stated that the County Attorney appointed a firm without consulting the Chair. He always believed that this Legislature should be able to choose their own counsel, especially in light of the circumstances with the County Attorney, who nobody has seen at a public meeting since

May 16th of this year. He explained the Ethics Board's ability to pick counsel. He believed that the County Executive was trying to handcuff this Legislature. He believed it was offensive to the people who elected certain members of this Legislature that are apparently working against the best interest of this Legislature.

Chairman Jonke called for a Roll Call Vote.

RESOLUTION #353

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

WHEREAS, on November 26, 2024, the Putnam County Legislature received service of papers for a lawsuit filed by the Putnam County Executive against the Legislature and its members, venued in Putnam County Supreme Court, Index No. 02066/2024 (hereinafter the “Action”); and

WHEREAS, the Action seeks to nullify Resolution #215 of 2024 and Resolution #216 of 2024, and the Legislature has been temporarily restrained from taking any action under said resolutions by an Order to Show cause entered in the Action; and

WHEREAS, Resolution #215 enacts a local law to amend the Putnam County Charter with respect to the procedure by which the Legislature may remove a County Attorney other than the currently serving County Attorney, and restricts the outside employment of a County Attorney other than the currently serving County Attorney; and

WHEREAS, Resolution #216 approved the procurement of a contract with outside counsel to the Legislature, and separately appointed outside counsel to the Legislature pursuant to Putnam County Charter § 2.04 (q), to advise the Legislature because of a conflict and/or a potential appearance of impropriety identified by, and involving, the County Attorney; and

WHEREAS, Resolution #216 was enacted after the County Attorney failed to respond to the memorandum dated September 11, 2024, from the Chair of the Legislature, requesting the procurement of a contract with Keane & Beane, P.C., Attorneys at Law, to serve as counsel to the Legislature, pursuant to Putnam County Code § 140-3.5, by which the power to procure such contract rests jointly with the County Attorney and the Chair of the Legislature; and

WHEREAS, Resolutions #215 and #216 were vetoed by the County Executive and said vetoes were subsequently overridden by the Legislature; and

WHEREAS, the Legislature and its members require and are entitled to the services of counsel to defend against the Action; and

WHEREAS, on August 27, 2024, the County Attorney notified the County Executive and the Legislature that, because the County Executive raised the issue of a conflict in his position from that of the Legislature, and because the Rules Committee of the Legislature had considered potential legislation at its August 26, 2024, meeting that the County Attorney believed directly impacted the office of County Attorney, he had appointed outside counsel for the County Executive and separate outside counsel for the Legislature to avoid any appearance of impropriety; and

WHEREAS, the potential legislation referenced by the County Attorney as a reason for appointing outside counsel to the Legislature was enacted, in substantially modified form, as Resolution #215, which is at issue in the Action; and

WHEREAS, counsel for the County Executive in the Action is the same outside counsel appointed for him by the County Attorney on August 27, 2024; and

WHEREAS, in light of the County Attorney's prior determination that outside counsel was necessary to advise the County Executive and the Legislature because of the subject matter of Resolution #215, which is at issue in the Action, and in light of the County Executive's allegations in the Action that the passage of Resolutions #215 and #216 was due to a dispute between the Legislature on one hand, and the County Attorney and the County Executive on the other hand, the Legislature desires and requires the services of outside counsel to defend the Action; 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 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 the Action; and be it further

RESOLVED, that it is the finding and determination of the Legislature that the power given to the Legislature in the Charter to appoint its outside counsel necessarily and inherently includes the power to appoint specific counsel; 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 them in the Action; and be it further

RESOLVED, that 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) 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 this resolution shall take effect immediately.

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

There being no further business, at 6:41 P.M., Chairman Jonke made a motion to adjourn; seconded by Legislator Sayegh. All in favor.

Respectfully submitted by Diane Schonfeld, Clerk.