

#4

Committee Mtg _____ Resolution # _____
Introduced By _____ Regular Mtg _____
Seconded By _____ Special Mtg _____

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

Legislator Addonizio _____
Legislator Castellano _____
Legislator Crowley _____
Legislator Ellner _____
Legislator Gouldman _____
Legislator Montgomery _____
Legislator Nacerino _____
Legislator Sayegh _____
Chairman Jonke _____

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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

Legislator Addonizio _____
Legislator Castellano _____
Legislator Crowley _____
Legislator Ellner _____
Legislator Gouldman _____
Legislator Montgomery _____
Legislator Nacerino _____
Legislator Sayegh _____
Chairman Jonke _____

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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.

Legislator Addonizio _____
Legislator Castellano _____
Legislator Crowley _____
Legislator Ellner _____
Legislator Gouldman _____
Legislator Montgomery _____
Legislator Nacerino _____
Legislator Sayegh _____
Chairman Jonke _____

#5

Committee Mtg _____ Resolution # _____
Introduced By _____ Regular Mtg _____
Seconded By _____ Special Mtg _____

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

Legislator Addonizio _____
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Legislator Ellner _____
Legislator Gouldman _____
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Legislator Sayegh _____
Chairman Jonke _____

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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.

Legislator Addonizio _____
Legislator Castellano _____
Legislator Crowley _____
Legislator Ellner _____
Legislator Gouldman _____
Legislator Montgomery _____
Legislator Nacerino _____
Legislator Sayegh _____
Chairman Jonke _____