

Minutes
Public Hearing
September 25, 2019
@ 4:30pm

The Public hearing was called to order at 4:01 in Room 318 by Terry Oliver.
Terry Oliver, led the Pledge of Allegiance.

Jennifer Bumgarner, County Attorney read the public notice for the following proposed Local Laws:

Approval/Local law to amend and revise the Putnam County code entitled ethics, code of, and financial disclosure to prohibit the disclosure of confidential material R#192

A Local Law to amend article 5 of the Putnam County charter entitled "Executive Department" by adding a new section 5.04 entitled "Department f Tourism" R#194

Public Comments from the 4:34 hearing.

(Summary of comments for R #192)

Dwight Arthur: Typed comments attached.

Ann Fanizzi: Thanks the County Executive and the Executive departments for making this meeting possible. She believes the Law is promulgated to hinder the free flow of information from Legislature to constituents and it is disguised as a protection of confidentiality. The NYS foil carries with it the presumption of timely access to records. The

county's proposed amendments to the law is contrary to the express purpose of the FOIL and penalizes those who seek to distribute information to the public. The public has the right to know and to inspect the records which their elected representative are relying upon in making public policy and enacting laws which affect the lives of the citizens the amendments therefore frustrate the public and the legislature and other in fully adhering to the FOIL and the public's right to know. Further to include the unrealistic decision of all legislators prior to disclosure is a further barrier to the burdensome impediment by this amendment. Thank you very much.

Nancy Montgomery representing district 1 in Putnam County. Thank you for holding this public hearing. The amendment were forward to the County Executive by the Legislature I think early August. This was not available on line until maybe 4 days ago. She hopes we can get better at making things better to the public that's her goal in government. She believes these amendments are an improvement over the original draft, it is important to point out that the original amendment was deeply flawed if not outright unlawful. She is here to revisit the more troubling aspects of this amendment first under A1. It is automatically an Ethics violation to disclose any document that is not subject to disclosure under FOIL. But the problem with this is it is not always easy to determine whether or not a particular document is exempt under FOIL so unless me and every county employee is familiar with every State and Federal statute we meaning every County official will have to check with the County Attorney before we releasing any document for fear of committing an ethical violation by unintentionally releasing a document that is exempt from FOIL. It's not so simply even for attorneys it can be difficult to tell whether a document is actually exempt from FOIL or not. Under the code as it is written now if the County attorney is wrong about the applicability of FOIL to a particular document and we disclose the document we still committed an Ethical violation. The second troubling aspect of this amendment, I did ask this question during committee and 8 Legislatures irresponsibly ignored this question and again passed a resolution for this unlawful document to be signed into Law the question is this how exactly does provision A2 work it says that it is unethical to disclose any information contained in and I say quote any information contained in a document that is exempt from discloser under FOIL there is a lot of information in those types of documents for example a letter a memo that contain information such as names of County and local officials may contain project names address dates etc. a lot of the information that appears in documents that are not subject to discloser under FOIL also will appear in documtns that are readily available to the public. Did the county Legislature and the County Executive really make it unethical to disclose our names and the County Executive names because that information appears in some privilege document not subject to disclosure under FOIL. Prior to the last public hearing Nancy saw a press release that it was unfortunate that the Putnam County Fire Arms Association was given information that prompted this Press Release. That was filled with misinformation. The Putnam County Fire Arms Association claims that this ethics code this amendment that we are going to approve here allows certain documents to not be subject to FOIL. This is simply untrue. FOIL is a State Statute and the County can not alter its terms all the ethics code does is make it an ethics violations for County officers and employees to release documents that are already exempt from FOIL

or to release information in those exempt documents in fact this new amendment, the amendment under consideration here just rolls back some of the more clearly over broad language of the prior version of the ethics code amendment that the County Executive and my colleagues of the Legislature recently adopted. The Putnam County Fire Arms Association concerned about the County releasing addresses of pistol permit applicants is baseless, under the New York Safe act current Licenses and new applicants have the right to direct the County Clerk not to make their personal information available by simply submitting a form approved by the superintendent of the NYS Police. This form is available with the Licensing paperwork and on the NYS Police Website. I don't know who advised the Putnam County Fire Arms Assoc. but if it was a County Official trying to promote this Law they knowingly incited fear among all Putnam County Gun owners via the communication mechanism of the Putnam County Fire Arms Association. It is my assessment they have misled the public and themselves have participated in an ethical breach. To review this again, to put it simply, this ethics amendment is overly broad, under this code amendment it is an ethics violations for County officials and employees to disclose even unknowingly any information that is in a document that is exempt from FOIL, documents that are exempt from FOIL contain all sorts of information much of which is in no way privileged or confidential and in fact is plainly common knowledge. Confidential letters memo generally include names and address of public Officials issuing or receiving documents these names and address are information in the exempt documents so if a County Official employee tells someone the Executive Office is located at 40 Gleneida Avenue, Carmel NY here you have committed an Ethics violation under this code amendment if that information appears in a confidential document or if it contains information on a project undertaking by the County any official or employee how knows nothing about the confidential or exempt document or even that the document exists but hears about the project through other sources and mentions it to the public would be guilty of an ethics violation despite the fact that he or she did not know about the confidential document existed. The bottom line is that the ethics code as written puts County Officials and employees in the obscured position for being at risk of committing an ethics code violations any time they literally say anything to the public because that information might appear in a confidential or exempt document which they are unaware, whats more this code amendment simply by putting any information even information that would otherwise not be confidential or exempt from FOIL into confidential or exempt documents County employees can prevent the public from learning of information making it an ethics violation for any other County official or employee to disclose it. We evolved as a society so much so that the State declared in 1997 when we came up with these laws freedom of information that people rights to know the process of governmental decision making and to review that documents and statics' leading to its determination basic to our society, we regress and give the ability to serve transparency in government and the public's access to information this code amendment gives to County officials is irresponsible and unacceptable. Thank you. Also I would like to go on record that I don't like this law, I don't want to see it, but if we are going to pass it I have some notes to solutions. If we can fix one to read or fix the word selection of code 55-3J be changed and read no County Official or employee should knowingly and intentionally disclose this would resolve the problem and allow for honest

mistake and A2 could be fixed to read any information contained in the records described in paragraph one that does not that do not appear in records for public review. I offer that with the statement that I still think this law just hinders the public ability to have a transparent and open government and my ability to govern. I would like to hear some examples I know there was one with some legal deliberations where there was some kind of settlement disclosure. Yes we do want to protect the public but there are mechanisms in place where the public can protect themselves for example and some get hurt and the public wants to know what the settlement was. The public is entitled to know what that settlement was and it is the public money but you can also sue the entity and make sure that is sealed. So there are mechanisms in place for this information that we are talking about hear that everyone is afraid will get disclosed. There are procedures in place to prevent that from happening without this law.

Ann Fanizzi: Found it unrealistic to have unanimous approval of all Legislatures before the disclosure was made. I cannot imagine such a thing happening. It is another road block to the public gaining information and for the Legislature to properly do their duty. I take great issue with that particular section of the code.

Jennifer Bumgarner, County Attorney, reads Local Law #194

(Summary of comments for R #194)

Anne Fanizzi: Points out that the unintentional and she believes it was unintentional focus on three or four sites. She said in the meeting that she would like that taken out and replaced with a broader statement to include all of Putnam County.

Legislature Nancy Montgomery District 1: She doesn't appreciate identifying only a few sites that seem to weigh on the County Amenities which we have beautiful County Amenities. Which I believe they are always at an advantage. When you call the County and get put on hold you hear about the County amenities. We get promotions from the County Executive almost daily for Tilly Foster and the Golf Course. These are things that the other tourist attractions don't have the advantage of having and I think naming a few in this resolution and I understand it is only a resolution and it doesn't mean anything and I understand what was said in the meeting when this was created I still think it is insulting we are a family in Putnam County Tourism I know from Tracey Walsh coming out of the gate embracing everyone in Putnam County. Nancy gives the example, she is from a big family and if a couple were identified and she was left out it just feels bad. That's all she is saying that to name a few feels bad. I would hope that before this gets signed that they would be taken out.

Anne Fanizzi: Wants to point out that the people on the other side are at a financial disadvantage because the County finances Tilly Foster and the Golf Course to an extent that

others are not financed, they may be privately financed but the amount of money that is injected into these sites make them more prominent in the eyes of the public and maybe even the tourism director. Unintended but it happens. We want a level playing field. How could they possibly compete with Tilly Foster with 2 million dollars and the Golf Course with millions against thoughts that are let's say startups? In addition there are signs and the highway signs when you go on the highway. The other sites are not given the advantage

Terry Oliver closed the Meeting @ 5:04