

CITY OF TANEYTOWN
RESOLUTION NO. 2024-03
Resolution Concerning the City Attorney

WHEREAS, the Charter of the City of Taneytown in Section C-304.B authorizes the Mayor, with the approval of Council, to appoint all committees and the heads of all departments and agencies of the city government, as established by said Charter or by ordinance, and said subsection further states that all department and agency heads shall serve at the pleasure of the Mayor, unless otherwise provided in said Charter; and

WHEREAS, the City Council finds that the City Attorney is not a department or agency head and that certain department and agency heads are expressly enumerated in the City Charter, but said charter does not create or reference the Office of City Attorney unlike the Model Municipal Charter that was once codified in Article 23B of the Annotated Code of Maryland; and

WHEREAS, the City Council further finds that the Office of City Attorney was created by ordinance as codified in Section 34-3 of the City Code and is otherwise silent on the removal power for that office but nonetheless infers if not expressly states that the City Attorney is to be retained and compensated through “an hourly fee schedule” which is defined to accompany an instrument such as a contract that specifies a fee fixed by law to be paid for services rendered by a public officer; and

WHEREAS, the City Council concludes that the City Attorney serves the City according to the terms of a contract and can only be removed from office according to the terms of said contract; and

WHEREAS, the City Council further finds that Section 46-5 of the City Code provides that all contracts for professional services, such as accounting, architectural, auditing, engineering, land surveying, planning, legal and insurance services, in excess of \$10,000 shall not be subject to the competitive bids provided in said chapter but shall be approved on an individual basis by the Mayor and Council; and

WHEREAS, the City Council further finds that City Attorney Jack A. Gullo, Jr. was appointed when his offer or Proposal for Legal Services dated February 24, 2004, was approved by the Mayor and City Council on or about March 8, 2004, as memorialized in an acceptance letter from City Manager Gary W. Hardman to Mr. Gullo on or about March 16, 2004; and

WHEREAS, the City Council further finds that the decision of the Mayor on or about November 12, 2023, to remove the City Attorney as memorialized in a letter from the City Manager to Mr. Gullo dated November, 21, 2023 was an *ultra vires* act, exceeded the Mayor’s powers and was a nullity and that Mr. Gullo shall continue to serve as the City Attorney at the pleasure of the Mayor and Council pursuant to the terms of his contractual relationship.

NOW THEREFORE, BE IT ENACTED AND RESOLVED BY THE CITY COUNCIL

OF THE CITY OF TANEYTOWN that:

1. The alleged removal of the City Attorney last November shall be considered to have been an unauthorized act that is deemed to be null and void.
2. Mr. Gullo's status and indefinite term of Office as City Attorney previously retained as an independent contractor shall be considered to have remained effective continuously since he was retained in 2004 and shall be further deemed to continue indefinitely at the pleasure of the Mayor and Council according to the terms of said contract.
3. Copies of this Resolution shall be posted in a conspicuous place in city hall and made available for distribution to the public upon request.

INTRODUCED AND PASSED BY A VOTE OF 4-0 THIS
12th DAY OF FEBRUARY 2024


CLARA KALMAN, CITY CLERK

APPROVED THIS 12th DAY OF February 2024


JAMES L. MCCARRON, MAYOR PRO TEM

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
THIS 12th DAY OF February, 2024.

BY: 
KEVIN J. BEST, SPECIAL COUNSEL