

**RESOLUTION R-2021-75  
LUZERNE COUNTY COUNCIL**

*A Resolution of the Luzerne County Council to authorize the formation of ad hoc committee appointed by the Chairman to select outside counsel to represent Luzerne County Council to present the issue to the courts to allow the court to make an unbiased decision regarding the decision made by the Luzerne County Election Board on April 21, 2021 to hold a special election for the office of District Attorney in November of 2021.*

WHEREAS, on March 19, 2021 the Luzerne County District Attorney, Stefanie Salavantis, submitted a letter to County Council stating there would be a vacancy in the District Attorney's office due to her resignation on May 25, 2021; and

WHEREAS, the Luzerne County Council, on March 23, 2021, adopted Resolution R-2021-62 that declared the vacancy of the District Attorney and designated the First Assistant Sanguedolce as Acting District Attorney commencing March 25, 2021; and

WHEREAS, The Luzerne County Home Rule Charter states in Section 3:03 (b) B. The District Attorney shall be elected at the municipal general election in **2011 and every four years thereafter**. And all terms shall be four years; and

WHEREAS, Section 11:05 (c) of the Charter states: The terms of office of those elected or **appointed to fill a vacancy in an elective office shall begin upon taking the oath or affirmation of fidelity**; and

WHEREAS, Section 11:05 (h) further states: H. If a vacancy in the office of District Attorney is declared during the first 18 months of a term, the appointee shall serve **until the voters of the County fill the unexpired term** at the next scheduled municipal primary or municipal general election occurring no sooner than the 13th Tuesday after the vacancy was declared. If the vacancy on County Council is declared on or after the first day of the 19th month of a term, the appointee shall serve the full unexpired term of his/her predecessor; and

WHEREAS, the PA Legislature on March 22, 2021 passed SB 85 which states in relevant part the following regarding the vacancy of a County District Attorney in Class 3 to 6 Counties in PA: Section 1404. Filling of Vacancies. - If any vacancy shall occur in the office of district attorney, either by death, resignation, removal from office or from the county, or otherwise the first assistant district attorney shall become district attorney and discharge the duties of the district attorney until the first Monday in January following the next municipal election occurring not less than ninety days after the occurrence of the vacancy; and

WHEREAS, The PA Constitution states the following: § 3. Municipal election day; offices to be filled on election days. All judges elected by the electors of the State at large may be elected at either a general or municipal election, as circumstances may require. **All elections for judges of the courts for the several judicial districts, and for county, officers, for regular terms of service, shall be held on the municipal election day; namely, the Tuesday next following the first Monday of November in each odd numbered year,** but the General Assembly may by law fix a different day, two thirds of all the members of each House consenting thereto: Provided, That such elections shall be held in an odd-numbered year: Provided further, That all judges for the courts of the several judicial districts holding office at the present time, whose terms of office may end in an odd-numbered year, shall continue to hold their offices until the first Monday of January in the next succeeding even-numbered year; and

WHEREAS, The Luzerne County Board of Elections Solicitor rendered an opinion of law to County Council on April 14, 2021 that states: **Regardless of whether one applies the prior District Attorney succession law, the election for the seat of District Attorney would not occur until 2023 for the officeholder to assume the position in January of 2024;** and

WHEREAS, The PA Election Code 25 P.S. § 2752. similarly states: § 2752. Municipal election; officers to be elected The municipal election shall be held biennially on the Tuesday next following the first Monday of November in each odd-numbered year. All judges of courts of record of the various judicial districts and counties, and all counties, city, borough, township, ward, school district, poor district and election officers shall be elected at the municipal election. Judges may be elected at the municipal election; and

WHEREAS, The PA Election Code 25 P.S. § 2754 states that PA State law requires a Primary Election for those offices on the ballot in Municipal Election years stating: § 2754. Municipal primary; officers to be nominated. **There shall be a Municipal primary preceding each municipal election** which shall be held on the third Tuesday of May in all odd-numbered years Candidates for all offices to be filled at the ensuing municipal election shall be nominated at the Municipal primary.

NOW THEREFORE, BE IT RESOLVED, that Luzerne County Council will authorize the formation of ad hoc committee appointed by the Chairman to select outside counsel to represent Luzerne County Council to present the issue to the courts to allow the court to make an unbiased decision regarding the decision made by the Luzerne County Election Board on April 21, 2021 to hold a special election for the office of District Attorney in November of 2021.

IN WITNESS WHEREOF, the present Resolution has been duly adopted this 11<sup>th</sup> day of May, 2021, in duly advertised and convened public session.

This Resolution will become effective in 6 days from adoption.

Adopted by Luzerne County Council on May 11, 2021.

ROLL CALL VOTE (6-5)

YES: Griffith, Haas, McDermott, Perry, Radle and SJ Urban

NO: Houck, McGinley, Saidman, Schnee and Vough

LUZERNE COUNTY COUNCIL

By: Tim McGinley  
Tim McGinley, Chair

Attest: Sharon Lawrence  
Sharon Lawrence, Clerk of Council

LUZERNE COUNTY MANAGER

By: C. David Pedri  
C. David Pedri, Esq., County Manager