

1 **Transcript of Olean Public Library Board Meeting, May 6, 2020**

2
3 Lanna Waterman

4 Okay, so call the meeting to order at 5:30. Thank you for joining us, Mr. Schofield. And
5 Michelle, do you want to kind of take the lead on this?
6

7 Michelle La Voie

8 I just wanted to say, these meetings have to be recorded, posted, and we have to have a
9 transcript on the website. Is there any reason that we would have to go into executive
10 session for this?
11

12 Robert Schofield

13 I do not think so.
14

15 Michelle La Voie

16 All right. So, I don't know, do you want to let people know what the situation is as far as
17 this information coming from the state about the voting dates and what we have to do?
18

19 Robert Schofield

20 Sure. It makes sense. It may be the most efficient way to go. So, hello everybody. Nice to
21 meet you. I would have thought we would have had a little more relaxing opportunity to
22 get to know each other at some point, but hey, why not start a new relationship with an
23 emergency.
24

25 {Laughter}
26

27 So, my name is Robert Schofield. I am a partner with Whiteman, Osterman, and Hanna
28 in Albany and as Michelle and Ed have learned, I am an attorney who, among other
29 things, does a lot of work with libraries across the state. I have been doing it for the
30 better part of 18 years. My colleague, Ellen Bach and I are certainly on the short list of
31 the most library-connected lawyers in New York, based on our experiences working
32 from all the way out where you are to the Massachusetts border, from the North
33 Country down to Westchester County. So, this is something that we spend a lot of time
34 doing. I am also a school attorney for a number of school districts and so I have been on
35 both sides of this issue.
36

37 The things that aren't new: As a school district public library, you are authorized by
38 statute to hold your own election. And I understand that Olean has been doing that for
39 many years. That's great. It is very good for sustainability, it is good for the library to
40 take on that responsibility, and I would never suggest that once you've gotten used to
41 doing it, that you stop. However, you are also entitled, under that same statute, to
42 direct the school districts to hold that election for you and indeed, the default is when
43 you don't hold your election, that they are to hold it for you.
44

1 Why is that important? Well, ordinarily it is not, and if this had been a normal year, you
2 guys were under process to go ahead and hold your own election this year. But we are
3 all dealing with this pandemic, and last Friday, finally frankly, the governors gave us all
4 the information and direction on how school elections will be held in 2020. Everybody
5 probably knows that the schools typically go out on the third Tuesday in May to both
6 vote on the school budgets and elect any board of education members that there are
7 vacancies for. That didn't happen or isn't going to happen because it was put on Pause
8 by the governor when we all went and hunkered down in our homes, the theory being
9 that going and showing up at a polling place is not a good idea, and running around
10 getting petition signatures to run for an elected office isn't a good idea either.

11
12 So, he did that very early in the process, it was, I want to say, early April that that was
13 done. And it left everybody in the school community and the library community
14 scratching our heads as to what was going to happen. Well last Friday, he issued a
15 lengthy executive order, Executive Order 202.26, that finally clarified that the school
16 election this year was going to be held on June 9, and it was going to be held by
17 absentee ballot.

18
19 That requires a whole bunch of changes to school procedures. And it shortened the
20 period that was required to give notice of that election. It also, for the first time in
21 history I believe, said that a person who wanted to run for the board of education could
22 do so by simply self-nominating and letting the district know that they wanted to be on
23 the ballot, and that their names would appear on the ballot in alphabetical order.

24
25 So that has happened. The governor actually, to his credit, was very, very thorough in a
26 lot of aspects of the executive order. When I say thorough, he specifically went and
27 basically made arrangements for all of the other entities that rely on the school district
28 ballot to get votes. And of course, in our case, the ones that we care about are libraries.
29 So, if you read the executive order point by point, you'll see that he goes through each
30 of the different types of libraries and makes a provision for how their elections would be
31 held. And in your case, he specifically said that school district public libraries who vote
32 pursuant to 260 either, on their own or with school districts, can continue to do that,
33 that they would be able to go out with school districts if they needed to, or if they
34 wanted to they could hold their own elections, but they had to hold them in the exact
35 same manner that the school district was being required to.

36
37 So, the problem there is that to hold those elections on the timeframes that we've got
38 and with the restrictions that he has put in place, it is going to be very, very difficult at
39 best for school districts to do it. It would be almost impossible for you to do it. One of
40 the requirements is that you mail an absentee ballot to every qualified voter in the
41 district. There is no such thing as a list of qualified voters. There is a list of registered
42 voters in some districts. There is a list of people who have voted in some districts. But
43 there is no list of qualified voters, because a qualified voter is any person who is 18, a US
44 citizen, who has lived in the district for at least 30 days, and who isn't debarred because

1 they have a felony, is allowed to vote. And so, as you can imagine, there are a lot of
2 people in that category who have never set foot into a school or board of elections to
3 register, and so there is no way at all that we would know who they even are.
4

5 Not to mention the number of people that that is in any given school district is much,
6 much, much higher than the amount that would ever register, and indeed much, much,
7 much, much higher than anybody who would ever show up to vote. So, we'd have to
8 chase those people down, we'd have to pay for an absentee ballot, we'd have to pay to
9 mail that absentee ballot, we'd have to pay to mail it back to every person, even though
10 they may have absolutely no interest whatsoever in showing up to vote in your library
11 election.
12

13 So, for that reason, I've told all of my library clients except those who, for very, very
14 specific reasons, have some need to go out on their own, I've told them this is the year
15 that you go with the school. It won't cost you anything, they will do the process, they
16 will do the legal publication, and this difficult process to comply with under the
17 executive order will be deemed done by then and you don't have to worry about it.
18

19 Now, the only problem with that is, we're on an extraordinarily accelerated time
20 schedule. And as Michelle learned from the district today, they've already got most of
21 their stuff done. They understand that they have to start publishing their legal notice
22 next Tuesday at the latest and indeed they suggested that they have started that
23 already. Maybe they have. I find that hard to believe but it is possible, and the
24 candidates have to turn in their petitions no later than 5 o'clock on Monday afternoon,
25 Monday, May 11.
26

27 So, you know, we've got to do this tonight. I hate to rush anybody through something
28 like this, but I think if you read the resolution that I sent over, it is relatively
29 straightforward. It is basically just saying that you are asking for the library to put its
30 election on the school district ballot this year, and you'll see that the nominating
31 petition looks very similar to what you might do in a normal year when you are
32 collecting signatures, except there's no signature lines. So, if a person wants to run,
33 they're going to put their name, they're going to put their address, they're going to sign
34 it, and that's all that they have to turn in to the district clerk.
35

36 So, there's a lot of words, but I hope that it summarized what you got before you
37 tonight.
38

39 Lanna Waterman

40 Yeah, I appreciate you spelling it out like that.
41

42 Ed Wagner

43 Well, I think that we've read the proposed resolution, and unless we wanted to discuss
44 it, I'm going to make a motion that we act on the resolution.

1
2 Michelle La Voie
3 Can I just ask for, I just want to ask a question about the petitions. We are going to post
4 a copy of the petition, if anyone is wanting to run, on the website. Are they turning
5 them into the school, or are they turning them into the library?
6
7 Robert Schofield
8 They will turn them in to the school district clerk.
9
10 Michelle La Voie
11 Okay. And are we able to be notified of?
12
13 Robert Schofield
14 What I would suggest that you do, Michelle, is on Tuesday morning, you call over to the
15 district clerk and say, "can you give me the list of people who turned them in?" It is
16 possible for you to set instructions up for people that say when you turn them in, could
17 you give us a copy too. But it is just more stuff to do, and we can accomplish the same
18 thing by just asking the question on Tuesday morning.
19
20 Michelle La Voie
21 Okay. And I am assuming that the school district, I think, has posted something similar,
22 using similar language, as far as, I mean, some people may look at that and wonder
23 about the short notice, but we can just blame the state.
24
25 Robert Schofield
26 It is not a blame. I mean, the governor has come up with this plan of how to do this, and
27 we just don't have a whole lot of time. He doesn't have a whole lot of time. The problem
28 is, if you pushed it beyond June 9, you get into June 23, and that is the primary. We
29 can't have that, you know, so this is just a very compressed time. Nobody could have
30 possibly figured this out.
31
32 Lanna Waterman
33 Okay. Well, Ed made the motion.
34
35 Linda Edstrom
36 I second it.
37
38 Lanna Waterman
39 And there was a second by Linda. Any more questions?
40
41 All in favor?
42
43 {Several people saying "aye"}
44

1 Opposed?
2
3 {Silence}
4
5 I read that as unanimous. It passes.
6
7 Michelle La Voie
8 So, now the process is the school district sets this up because they were not, when I
9 called, she didn't have a clue what I was talking about. So, I mean...
10
11 Robert Schofield
12 And I sent a follow-up to your email to give her some more information and gave her my
13 contact information as well. What I am going to do real quick is fill out this resolution
14 more completely and send it back to Michelle and Michelle you can get Ann to sign it
15 and then we can get them a signed resolution, ideally first thing in the morning.
16
17 Mike Kasperski
18 Can they turn this down?
19
20 Robert Schofield
21 Can they turn it down? Not legally. That doesn't mean that they won't do it, but I think if
22 their lawyer is involved, their lawyer will tell them that they have to do this. And by the
23 way, that's not unique to this year. You can always do this. You just have created a
24 practice where you don't, and that's great, but that is why this is so surprising to them is
25 because they just don't have to deal with you guys in this way, and so you just caught
26 them off guard. So, I think the answer is theoretically no, there is no legal basis for them
27 to turn you down other than timeliness, which is critical for us to get this in. But again,
28 you know, have I seen public entities do stupid things? I have.
29
30 So, who is our second? Ed moved?
31
32 Linda Edstrom
33 Linda
34
35 Robert Schofield
36 Linda, and Linda, I'm sorry, I don't know your last name.
37
38 Linda Edstrom
39 Edstrom
40
41 Robert Schofield
42 E-d-s-t-r-o-m?
43
44 Linda Edstrom

1 Correct
2
3 Robert Schofield
4 Okay, great. And that was 7, 0, 0, correct?
5
6 Linda Edstrom
7 Six
8
9 Robert Schofield
10 Are we missing one?
11
12 Michelle La Voie
13 Yeah
14
15 Lanna Waterman
16 Yes
17
18 Robert Schofield
19 Okay.
20
21 Linda Edstrom
22 Michelle if you'd like me to take the resolution up to school tomorrow, I'll be going up.
23
24 Michelle La Voie
25 Okay. Well, or Ann, can you just email it?
26
27 Ann Tenglund
28 Yes, I can
29
30 Michelle La Voie
31 I guess we could just email it
32
33 Robert Schofield
34 As long as we get a PDF, it can be emailed for sure
35
36 Michelle La Voie
37 The only other thing that we will...
38
39 Robert Schofield
40 I'm going to send it to you right now, Michelle. Should I send this to somebody else as
41 well?
42
43 Michelle La Voie
44 Ann

1
2 Robert Schofield
3 Alright, and that email address is?
4
5 Michelle La Voie
6 A-t-e- -- it's your last name, right, Ann?
7
8 Ann Tenglund
9 It's a-t-e-n-g-@-s-b-u-.-e-d-u. I'll put it in the chat too.
10
11 Robert Schofield
12 a-t-e-n-g-@-s-b-u-.-e-d-u.
13
14 Ann Tenglund
15 Right
16
17 Robert Schofield
18 Okay
19
20 Michelle La Voie
21 When does the nominating petition, I don't know Lanna, if you had a chance to talk to
22 Earl, but the suggestion, Bob's suggestion, was that we don't even try to run somebody
23 else right now. It just complicates everything. So...
24
25 Lanna Waterman
26 And then, Earl, if you need to resign in, you know, when we get back on track, that's
27 fine.
28
29 Earl McElfresh
30 Okay
31
32 Lanna Waterman
33 You know, can you hang on for a while, just to keep your name as...
34
35 Robert Schofield
36 What would happen then, of course, is that it would become the board's seat to fill until
37 the next election, which is a pretty good situation.
38
39 Lanna Waterman
40 Right
41
42 Earl McElfresh
43 It's fine with me
44

1 Lanna Waterman
2 Okay, I'm going to come to your house tonight and have you sign that.
3
4 Earl McElfresh
5 Okay
6
7 Lanna Waterman
8 Are you home?
9
10 Earl McElfresh
11 Yes, I am.
12
13 Lanna Waterman
14 Okay, I'll wear my mask
15
16 Earl McElfresh
17 Okay
18
19 Michelle La Voie
20 What are we supposed to do with that? Do we send that to the school district then?
21
22 Robert Schofield
23 Yeah, we take an original signed petition and drop it off at the school district clerk, the
24 same place you're going to drop off the resolution.
25
26 Michelle La Voie
27 Maybe then, Lanna, maybe you could get that to Linda
28
29 Lanna Waterman
30 Okay, so after I go to Earl's house, I'll come to your house Linda.
31
32 Linda Edstrom
33 You can put it in my mail slot.
34
35 Lanna Waterman
36 Okay.
37
38 Robert Schofield
39 That needs to be in by Monday at 5
40
41 Linda Edstrom
42 I'll have it there before noon tomorrow.
43
44 Robert Schofield

1 Okay
2
3 Michelle La Voie
4 The other question I guess is she asked me, the school district clerk asked me about vote
5 counting and the expense related to that and I said we always hire board of elections
6 people at the library to do the vote counting. That we could help offset that cost, the
7 additional cost that may be related to counting library votes and reporting them. Any
8 other thoughts about that?
9
10 Robert Schofield
11 Let me suggestion to you, let's see what happens with the number of people who get
12 on, because you may not be counting anything, you know, if Earl is the only nominee,
13 then the only thing you are going to be counting is how many votes Earl got, and that
14 then possibly some write-ins. So, I don't think you're asking them for anything very
15 complicated. If you were doing a ballot resolution or a contested election, I get their
16 point, but this isn't a heavy lift. You know they've got to count multiple propositions
17 anyway.
18
19 Linda Edstrom
20 So how are we going to vote?
21
22 Robert Schofield
23 You'll vote in the school district election via absentee ballot on June 9.
24
25 Linda Edstrom
26 Right, but how do we get it?
27
28 Robert Schofield
29 Right so that will be interesting, Linda. They should be mailing it to you if you are a
30 registered voter. I think it is highly likely that they will just mail it to you. If you are not a
31 registered voter, it may be that they know of you because you voted before and they'll
32 send it to you. One of the things that they have to do is publish their legal notice, and
33 their legal notice is going to answer that question.
34
35 Linda Edstrom
36 Okay
37
38 Robert Schofield
39 But theoretically, what I'm hearing most school districts plan to do is mail at minimum
40 to anybody they know is a qualified voter and that would be the registered voters' lists.
41
42 Linda Edstrom
43 Now, our church is a polling place for the county, and we got a call today that they are
44 planning on having voting at the church on June 23.

1
2 Robert Schofield
3 Yeah.
4
5 Linda Edstrom
6 And that...
7
8 Robert Schofield
9 Yesterday, I don't know if everybody heard, but yesterday, a federal judge down in New
10 York rescheduled the presidential primary in New York, so the June 23 primary was just
11 going to be for some local races. The governor, not the governor, excuse me, the board
12 of election had cancelled the presidential primary. But a federal judge put it back on, so
13 there will be an actual election on June 23.
14
15 Lanna Waterman
16 Okay
17
18 Michelle La Voie
19 The school said that they already published their legal notice, so we have to publish our
20 own now?
21
22 Robert Schofield
23 Nope, they have to publish it again.
24
25 Michelle La Voie
26 Oh
27
28 Robert Schofield
29 They have to publish it twice anyway
30
31 Michelle La Voie
32 Okay
33
34 Robert Schofield
35 If it is true that they already published it, which again, I don't know, I just find that hard
36 to believe, but if they indeed have actually published it, it is already been in the paper,
37 then...
38
39 Lanna Waterman
40 I haven't seen it
41
42 Robert Schofield
43 I think it's unlikely. I don't know how they would have moved that quickly. It has to be
44 published for the first time by next Tuesday, the 12th. And so, I suspect what she means

1 is she sent it to the paper already. But we could get, you know, they can get a
2 correction, and if not, they can publish it again. If they decide that they need to publish
3 it another time because of us, we could certainly offer to pay for the legal notice.
4

5 Michelle La Voie
6 Okay

7
8 Michelle La Voie
9 They're having to provide a return, stamped return envelopes and she told me, the
10 district clerk told me that it is costing the school about 37,000 dollars.
11

12 Robert Schofield
13 I'm not surprised. Think about it. It's a letter out, and letter back, you know, plus all the
14 printing, everything else.
15

16 Michelle La Voie
17 Which is why if it was the library doing this, it would have been insane.
18

19 Robert Schofield
20 Yes, it would have cost you 37,000 dollars.
21

22 Michelle La Voie
23 Yeah
24

25 Lanna Waterman
26 Unbelievable
27

28 Robert Schofield
29 Okay, so, I'm going to go. Nice to meet you all
30

31 Michelle La Voie
32 Thank you
33

34 Lanna Waterman
35 Thank you so much
36

37 Robert Schofield
38 Take care. Bye-bye now.
39

40 Michelle La Voie
41 Bye
42

43 {Several others saying goodbye}
44

1 Lanna Waterman
2 Okay. Is there anything else that we need to?
3
4 Earl McElfresh
5 It helps to be in a free country
6
7 Michelle La Voie
8 So, I did talk to him about your question if the school district did not get our, you know,
9 election thing on their ballot, what would happen. His answer was it won't happen, it
10 will be on their ballot.
11
12 {Laughter}
13
14 Lanna Waterman
15 Okay. I guess we don't worry about that then.
16
17 Earl McElfresh
18 It seems like that, Michelle.
19
20 Lanna Waterman
21 Okay, alright. So, everybody else good?
22
23 {Several voices said "yes."}
24
25 Lanna Waterman
26 Okay. So, should we call the motion to adjourn?
27
28 Mike Kasperski
29 Motion to adjourn
30
31 Lanna Waterman
32 Second?
33
34 Earl McElfresh
35 I'll second that.
36
37 Lanna Waterman
38 Okay, all in favor?
39
40 {Several voices saying, "Aye."}
41
42