

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.

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 12<sup>th</sup>. 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