

The Seneca Falls Town Board held a Special Meeting on Friday, November 9, 2018 in the Town Hall Meeting Room, 130 Ovid Street.

Present were Supervisor Gregory Lazzaro; Councilmen Vittorio Porretta, David DeLelys and Louis Ferrara. Also present was David Foster, Town Attorney.

Supervisor Lazzaro called the Special Meeting to order at 3:30 P.M. A roll call of Board Members was taken and Councilman Avery was absent from the Meeting; the Pledge of Allegiance followed.

Provide Legal Representation for HPC: Mr. Foster stated he sent the Board a copy of the Transcript of Proceedings before Judge Doyle, and a copy of the proposed Order resulting from those Proceedings which has been signed by Judge Doyle. He read the Order directed by Judge Doyle which is as follows:

- There was a request made by Emil Bove to have the Town Attorney disqualified from representing the HPC; that application was denied.
- On the other hand, Judge Doyle said there may be the appearance of different roles between the goals of the HPC and the goals of the Town Board which may lend itself to the appearance of an impropriety or the appearance of a conflict in interest. To avoid that, he is according the HPC outside Counsel payable by the Town. In that Transcript, Judge Doyle requested that Counsel advise the Court of their plan, scope of services and the cost, and requested that the cost (because it's for a municipality) be tempered.

Mr. Foster proceeded to read the Resolution which is as follows:

WHEREAS, By order of the Honorable Daniel J. Doyle, Seneca County Supreme Court, dated November 8, 2018, the Seneca Falls Town Board has been directed to provide counsel for the Heritage Preservation Commission; and

WHEREAS, the Seneca Falls Town Board previously received an engagement letter from Hancock, Estabrook, LLP, Wendy A. Marsh, of counsel, setting forth a billing rate; and

WHEREAS, the aforementioned Order sets forth additional parameters on the scope, rate and details of the engagement of counsel which are incorporated herein by reference thereto; and

WHEREAS, pursuant to said Order the Town Attorney has not been disqualified from this within matter but rather, counsel is appointed to avoid the appearance of any impropriety.

NOW, THEREFORE, BE IT RESOLVED, that Hancock, Estabrook, LLC, Wendy Marsh, Esq., is duly appointed as counsel for the Heritage Preservation Commission in connection solely with the matter of the Peter Koch application presently pending before the Board and further, pursuant to the further restrictions of the Court's oversight of fees, scope and billing.

Mr. Foster stated Ms. Marsh has sent an Engagement letter indicating that she would be billing at the rate of \$250.00 per hour. He said this Resolution is to confirm that this Board has hired Ms. Marsh in accordance with the Judge's Order, and upon it being approved, he will have the Town Clerk provide a certified copy so that it is on the Court's record as an efiled document. Mr. Foster noted that on November 30th, a Hearing is expected in Waterloo with regard to the issues before the Court.

Mr. Ferrara stated the Board is directed by the Court to spend more money to litigate on behalf of the Town against the Town. Mr. Foster responded he won't say against the Town – he will say that he is appointing counsel for the HPC to carry out its duties as an organization. Lengthy discussion followed.

A motion was made to adopt the above Resolution confirming retention of outside counsel for HPC pursuant to Court Order by Lou Ferrara and seconded by Dave DeLelys.

Mr. Ferrara said where does that leave the Board that a Judge has the authority to tell the Board how to act on behalf of its constituents that he doesn't believe is the right way to do it. Mr. Foster stated he and Attorney Walsh have somewhat made that argument; in a timely fashion, he prepared an answer and tried to file it, and his hands are tied if a person who is a member of the Board refuses to sign. He added what he is left with is making sure that the Town is not in default.

Mr. DeLelys asked if there could be a conflict of interest; Mr. & Mrs. Bove own property across the street from the Koch building. Mr. Foster said he feels there are multiple conflicts – he feels there are conflicts on that Board and there are conflicts on this Board. He added Mrs. Bove and Chris Lytle (HPC Members) are both involved with Preserve Seneca Falls, an LLC of which one of the Directors of that corporation is one of our Board Members here (Doug Avery). He won't discuss this issue any further in anybody's absence because he wants to accord him the opportunity to speak on his own behalf.

Mr. Ferrara said he is speaking on behalf of a few hundred people that approached him with the fear that we are going to have three condemned buildings on Fall Street – Nice n Easy 1, Nice n Easy 2 and Peter Koch's building. Mr. Foster said he can't disagree with that because he read Architect Long's report. He requested, at one point, that Mr. Zettlemoyer weigh in, and appropriately, Mr. Zettlemoyer said that this is way beyond his pay grade – he will make a decision after he sees the facts, but he wants to see the facts first. Mr. Foster stated

the Town's Engineers were willing to have a structural Engineer go out and the County was going to send a structural Engineer to go out, but Mr. Bove made an application that would have prevented any further review of it pending appearance before the Judge. Mr. Foster said the Judge has changed his orders and said he won't disallow it if the Town wants to take whatever Police measures it needs to take to review the situation. He is asking the Board to direct Mr. Zettlemoyer to carry that out with regard to our Engineers - we can send someone out and he believes Mr. Walsh will cooperate by giving them access.

After discussion, Mr. Ferrara stated he will go along with Counsel's suggestion, and asked if he can vote under duress and state his opinion under duress. He doesn't feel that a Judge on any level has the right to step in when the Town Attorney is doing everything in the best interest of the Town and the Board to represent the Board.

Mr. Lazzaro stated generally, courts can overrule legislative action, but they cannot order a legislature to vote one way or another. He will vote no on this. He added if the full Board votes not to proceed with hiring an outside attorney, then someone can appeal the Board's legislative action, and then it will be proper for the Judge to rule. Further discussion followed.

Mr. DeLelys asked if it is feasible to get three engineers in there to look at the building before we go to Court. Mr. Foster replied no – originally, there was a stay; Mr. Koch effectively argued to have that portion of the stay dropped, and he joined them in that. He added we are allowed under Police power to go in and examine it, and by Wednesday, he is hoping to have three men with hard hats go through the building.

Mr. Porretta asked if the Board can be held in contempt of Court since it's a directive of the Judge. Mr. Foster responded that it is a drastic remedy knowing the particular Judge involved. He said the Judge would ask him to explain to the Board that he would hope that there would be compliance with his directions. Mr. Lazzaro said he thinks it goes against the separation of powers doctrine and he will be voting no on this because he feels Mr. Foster is adequate representation.

The above motion made by Lou Ferrara and seconded by Dave DeLelys to adopt the above Resolution confirming the retention of outside counsel for HPC pursuant to Court order was carried 3 ayes, 1 nay; Supervisor Lazzaro with the dissenting vote, and Mr. Ferrara voted yes under duress.

Being there was no further business, a motion was made to adjourn the Meeting by Greg Lazzaro and seconded by Lou Ferrara. No questions. Motion carried 4 ayes, 0 naves.

Meeting adjourned at 4:20 P.M.

Respectfully submitted,

NICALETTA J. GREER
Town Clerk

The Seneca Falls Town Board held a Special Meeting on Wednesday, November 14, 2018 in the Town Hall Meeting Room, 130 Ovid Street.

Present were Supervisor Greg Lazzaro; Councilmen Louis Ferrara, David DeLelys, Douglas Avery and Vittorio Porretta. Also present David Foster, Town Attorney; Dean Zettlemoyer, Zoning Officer; Stephanie Holtz, Assessor; James Peterson, Highway Superintendent; Stuart Peenstra, Police Chief; Joseph Tullo, Water/Sewer Superintendent; Peter Baker, Town Engineer and a Member of the local media.

Supervisor Lazzaro called the Special Meeting to order at 3:30 P.M. A roll call of Board Members was taken and all were present; the Pledge of Allegiance followed.

Presentation – SF Development Corporation: Gerry Graziano provided an overview of the Seneca Falls Development Corporation draft Spending Plan. The SFDC was established with the sole purpose of strengthening the Community with economic development. Mr. Graziano noted the Town adopted the strategic plan for economic development earlier this year, and the SFDC's role is to implement that plan. He noted the handouts outline the investment needed for the next three years during which they plan to actively market Seneca Falls. Mr. Graziano said the second thing they want to do is seek out grants.

Mr. Graziano stated their spending plan includes expenditures related to the 2020 19th Amendment 100 years

