

RULES SPECIAL INVESTIGATIVE COMMITTEE
MINUTES
WEDNESDAY, AUGUST 25, 2021
3:30 P.M.

PRESENT: Thomas J. Faggione, Chairman
Katie Bonelli, Barry J. Cheney, Kevin W. Hines, John S. Vero

ALSO

PRESENT: Paul Ruskiewicz, Legislator
Laurie R. Tautel, Legislator
Betsy N. Abraham, Legislative Counsel
Langdon Chapman, County Attorney

Mr. Faggione opened the meeting at 4:02 p.m. and requested everyone stand for the Pledge of Allegiance to the Flag. All members were present with the exception of Legislators Paduch and Amo who were excused and Legislator Kulisek who was absent.

Mr. Faggione quoted President Theodore Roosevelt "...No man is above the law and no man is below it: nor do we ask any man's permission when we ask him to obey it, obedience to the law is demanded as a right; not asked as a favor...". The purpose of this meeting is to discuss the investigation of the Orange County Industrial Development Agency (IDA) and the Orange County Funding Corporation (OCFC). More particularly, whether certain contracts signed by the entities are void under General Municipal Law. This responsibility was placed with this committee at the July 21, 2021, Special Legislative Session by unanimous consent of the full legislature. The goal today is to discuss these matters and joining them is interim counsel for the Orange County Industrial Development Agency (IDA) Langdon Chapman and Legislative Counsel Betsy Abraham.

Mr. Chapman addressed the committee stating that earlier this year they replaced the Orange County Industrial Development Agency (IDA) and a new board was put in place which included Legislator Paul Ruskiewicz. As acting counsel to the Orange County Industrial Development Agency (IDA) a review by the Legislature could be helpful to the Orange County Industrial Development Agency (IDA) and having a second branch of government issue a report as to the facts could **help ascertain solid conclusions of law**. District Attorney Hoovler had secured \$1.265 million for the Orange County Industrial Development Agency (IDA) as part of his case against the three **defendants**. In addition, Strategic Economic Consortium (TSEC) had originally been unresponsive to the Orange County Industrial Development Agency's (IDA) request for information or to vacate the space and while he was not directly drawing any conclusions, shortly after the legislative investigation was announced Strategic Economic Consortium (TSEC) became more helpful in providing information and has vacated the space at the Orange County Industrial Development Agency (IDA) office that they had been staying in rent free. Whether they like the "Accelerator" concept or not they have existing businesses in it and Strategic Economic Consortium (TSEC) has been a part of helping in one degree or another.

Mr. Faggione stated that one of the goals today was to formulate a plan and timeline that includes research, review, legal and community input and the issuance of their own findings in a report as to whether any of those signed contracts are void.

Legislative Counsel Abraham presented a proposed timeline for the Rules, Enactments and Intergovernmental Relations Investigative Committee:

- It is important they be guided by the resolution that was passed and the reason they are here today. The investigation is focused on whether contracts signed by the Orange County Industrial Development Agency (OCIDA) and the Orange County Funding Corporation (OCFC) with certain entities are void as a matter of law.
- At the outset, it is imperative to know and understand the applicable law that will be applied to the facts as they embark on the investigation. So, that will be their first endeavor – addressing and understanding General Municipal Law Sections 800 – 804. It would be helpful to not only understand the letter of the law, but the legislative intent, how Courts have applied these laws, and the principles behind the law. She would suggest the date of September 16, 2021, for the next meeting to address that specific topic.
- Addressing the facts: Once a foundational basis of a general understanding of the law is established, then they can apply it to the facts as they exist. As applied here, they understand the concept that in certain instances, the validity of a contract is not just determined by the four corners of the document itself but rather the circumstances, conduct, and the behavior of the individuals tasked with executing them may have a bearing on whether a contract is deemed void. She proposed the date of September 29, 2021, to address that specific topic.
- After the law is applied to the facts, it would be prudent to then create a draft report outlining the findings of the investigation. She proposed the date of October 13, 2021, to address that specific topic.
- Witnesses involved in the creation, execution, or whose conduct may have had bearing on the contracts could then be invited to come forward and address the findings of the report. She proposed the date of October 28, 2021, to address that specific topic.
- Expert testimony may also be sought out in addressing the law and its application as outlined in the draft report. She proposed the date of November 10, 2021, to address that specific topic.
- Following these steps, a final report outlining the endeavors of the investigation and the ultimate findings can be issued. She proposed the date of December 1, 2021, to address the final report.

Mr. Faggione commented that it was a solid road map and is clear and focused. As they are all aware October is budget season and Legislative Counsel Abraham has put forth six calendar days. He would be seeking a motion at the end of the meeting to accept the September 16, 2021, as the next meeting date for this special committee. He asked that between now and

the next meeting committee members look at the other dates for any conflicts and to let him know before September 16, 2021, if there are no conflicts they can vote on those dates and conclude this investigation in December.

Ms. Bonelli pointed out that September 16, 2021, is Yom Kippur.

Mr. Faggione suggested they look for a date that would be more conducive.

Ms. Bonelli asked if they were looking to remain with Wednesdays. Legislative Counsel Abraham replied no.

Mr. Cheney asked when they expect to receive the report from the District Attorney's office and the New York State Comptroller. Legislative Counsel Abraham replied that she has spoken to the District Attorney's office and the report is being issued in conjunction with the New York State Comptroller's office with a possible release date at the end of August; however, that was not certain.

Mr. Cheney added that it could contain a great deal of information that would be helpful to their efforts, so they do not have to recreate the wheel. They need to be cognitive of that and if they have that document by the end of August the proposed schedule would be fine.

Mr. Cheney asked if they would have access to interviews conducted by either the District Attorney's office or New York State Comptroller's office as they could provide background information to the conclusions that were reached. Ms. Abraham replied that at this time she was not certain, and she would have to look at what is issued in the report. They may have to assume moving forward that it would be confined to what is in the report which she understands is more than 90 pages, and she would anticipate that there would be some information pertaining to the interviews that were conducted.

Mr. Faggione noted that the first topic to be addressed in their tentative scope and outline is addressing and understanding General Municipal Law Sections 800 – 804. Their research and gathering of information and having the report from the District Attorney would be fantastic but their research and study of the General Municipal Law and the knowing the legislative intent can be done whether the report is done or not.

Mr. Vero commented that he was informed by District Attorney Hoovler that the New York State Comptroller's Report should be ready in about two weeks.

Mr. Hines asked if General Municipal Law Sections 800 – 804 was the only thing they would be given between now and September 16, 2021. In his opinion, that would not be enough, and he would like to see all the contracts before the next meeting. Mr. Chapman replied that his understanding was that all contracts had been turned over to the Legislature as part of a previous request. His understanding was that Legislative Counsel Abraham would provide the committee with an overview of General Municipal Law Sections 800 – 804 and how those sections of law apply. One of the things, they may want to do when issuing a report is to start with the current status of the law, apply the facts to that law, and then build on those determinations. The idea was to have Legislative Counsel Abraham detail General Municipal Law Sections 800 – 804 at the next meeting and go over case laws in the court system relative to those laws and the reason behind the timing. In his opinion, it made sense to have an informed knowledge of the background of the law as a body.

Mr. Hines commented that they could read the contracts ahead of time unless the District Attorney provides the report within the next two weeks. He would prefer the meeting also include a question-and-answer session whether in executive session or public session. They cannot apply General Municipal Law Sections 800 – 804 if they do not know the facts; however, if they can see the contracts in question then when the law is explained they can apply it. He would also like to see a more aggressive schedule due to the possibility of losing the options of cooperation and subpoenas as part of the plea deals.

Mr. Hines asked for the date of sentencing for the defendants. Mr. Chapman replied September 10, 2021, and both Mr. Hoovler and Mr. Rosenwasser have indicated that they must comply. The premise of the report should be helpful, and they may not need to have witnesses if the report is as expansive as he suspects it will be. The plea deals signed by the defendants announces the acts they have admitted to.

Mr. Hines asked if Mr. Chapman was suggesting that the three defendants must comply with subpoenas issued by the Orange County Legislature. Mr. Chapman replied that he was suggesting any person in the jurisdiction of New York State must comply with a subpoena issued relative to the Orange County Legislature's duties. In his view, the Orange County Industrial Development Agency's (IDA) oversight rests with them; however, there are some that would disagree and say they have no oversight over the Orange County Industrial Development Agency (IDA) but he does not believe that is the case.

Mr. Hines asked if a subpoena could be issued to an individual that no longer resides in Orange County. Mr. Chapman replied that general subpoenas are valid in the State of New York.

Mr. Hines asked if the subpoenas would be signed by the court or just issued by the Orange County Legislature. Mr. Chapman replied that it would ultimately be up to them, and they have the right to issue a subpoena without a court order and requires them to appear without a court order. They have a huge advantage as District Attorney Hoovler has acquired the pleas, knows the facts, and they have admitted to their acts. They know what the defendants have done so because they have signed their name acknowledging some of their illegal activities.

Mr. Hines asked if once these individuals take the plea and are sentenced could they Freedom of Information Law (FOIL) for those statements. Mr. Chapman replied that they are he was unsure of what statements they would need beyond the pleas. As the Orange County Freedom of Information Law (FOIL) officer he does not currently have an opinion; however, he would suggest they wait for the report as they may not need anything more than the report based on the plea deals, he has seen the District Attorney's office has done a good job in weeding out all the bad acts.

Mr. Hines asked if Mr. Chapman has seen the report. Mr. Chapman replied that he has seen the guilty pleas and with all due respect to have an investigation start from now to December 1, 2021, is a good timeline.

Mr. Hines clarified that he was not suggesting they would need to issue subpoenas but wanted to know if they had the right to issue them.

Mr. Chapman reiterated that they have the right subpoena people with respect to the Orange County Industrial Development Agency (IDA).

Mr. Faggione reminded the committee that they were tasked with a specific role and whether certain contracts signed by the entities are void under General Municipal Law. This timeline was drafted so they could address questions and have discussions in order to present their conclusions within that timeline.

Ms. Bonelli asked for clarification on what would be provided to them prior to the next meeting for them to review. Legislative Counsel Abraham replied that she would certainly provide committee members with the contracts and General Municipal Law Sections 800 – 804 prior to the next meeting. At that meeting they could begin going over General Municipal Law and discuss the letter of the law and an outline to the intent and how to apply those sections of the law.

Ms. Bonelli added that some legislators may have conflicts between today and the 16th of September. She suggested that Legislative Counsel Abraham discuss this with the Legislative Clerk and decide on a date prior to September 29th and/or the meeting could be coupled with an existing meeting date at possibly 1:30 p.m.

Mr. Faggione addressed the question of the next meeting and asked that the committee review their calendar and suggest a date for the next meeting by the Legislative Session on Thursday, September 2, 2021.

The meeting adjourned at 4:31 p.m.