

At a Special Meeting of the Malone Village Board, held on July 21, 2020 at 11:05 AM at 343 West Main Street the following were present:

Andrea Dumas	Mayor
Norm Bonner	Trustee
Archie McKee	Trustee
Matthew Boyea	Trustee
Brian Langdon (11:14am)	Trustee

Also in attendance:

Kristine Lashway, Treasurer
Rebahka Scaccia, Village Clerk
Kevin Nichols, Village Attorney

Upon the motion of Trustee McKee with a second by Trustee Boyea and unanimously passed to go into Executive Session at 11:05am.

Upon the motion of Trustee Boyea with a second by Trustee McKee and unanimously carried to come out of Executive Session.

Upon the motion of Trustee Boyea with a second by Trustee Bonner and unanimously carried to go into Regular Session.

Mayor Dumas made note that the Village Attorney, Kevin Nichols, was present representing the Village of Malone to discuss the Stipulation Order, Index #E2019-354 and the current proposal to release the current Flanagan owners to transfer the title of the property to Hotel Flanagan Inc. (HFI).

Attorney Nichols explained that there was a proposal for the sale of this property, including the transfer of the title of the property, to Hotel Flanagan Inc. on the table; the closing to be held by July 31, 2020. In that proposal, he noted that HFI was planning to demolish the LaShomb Building, erecting a parking garage in its place and repair and restore the Flanagan property by October 2021.

Attorney Nichols also mentioned that the purchasers were looking to secure the initial \$10,000,000 in funding to begin the project.

Trustee McKee inquired if the proposal was requiring the Village to sign off first, essentially dropping the current litigation against the current property owner, in order for the proposed sale and project to take place.

Attorney Nichols said yes and mentioned that Frank Cositore Jr. (the prospective purchaser) and Justin Meyers (Attorney for Stone Mountain Prime, LLC) are both willing to sign.

Trustee Bonner voiced his desire to see some insurances that there are some reserve funds available if, for whatever reason, the new owner fails to complete the project as presented. He expressed that the Village of Malone does not want to see any further expense come out of taxpayer funds.

Attorney Nichols asked that his email from July 15, 2020, be entered into the record. (See Attachment A)

Mayor Dumas then, with the stated assurances from the Village Attorney called for a Resolution authorizing the Village Attorney, Kevin Nichols, to sign the stipulation as presented.

Upon the motion of Trustee Bonner with a second by Trustee Boyea to adopt a resolution to authorize Village Attorney, Kevin Nichols, to sign the proposed settlement of Stipulation Index # E2019-354, and discussion.

Trustee McKee expressed his unwillingness to move forward without the requested documentation verifying the existence of the available funds claimed by Hotel Flanagan Inc. or Frank Cositore, Jr., as well as the lack of a signed commitment by the prospective buyer to address the code deficiencies that exist.

Attorney Nichols asked if the Village has such assurances from Citizen's Advocate on the Harrison Place Project.

Mayor Dumas reminded Attorney Nichols that the Village does not have a current litigation against Citizen's Advocate to warrant such signed assurances.

Attorney Nichols stated that if there is no closing in this current proposal the Village will have lost nothing.

Trustee Bonner asked how much money had been invested by the current owners of the Hotel Flanagan prior to their walking away from the renovation project. Attorney Nichols said they had roughly \$5 Million invested.

Trustee Bonner made the point that this is the very concern the Village is voicing. That a new owner will invest some millions, realize that the project is more than can be handled and walk away, again leaving the Village of Malone with two derelict buildings, no means with which to pay to bring the structures down, and having cost the Village their current litigation with the only individual with the known resources to take down both the LaShomb Building and the Flanagan Building.

Trustee McKee stated that the Village is placing too much on a single individual's opinion without any firm documentation. Attorney Nichols asked who the individual was that Trustee was referring to. Trustee McKee stated he was referring to Attorney Kevin Nichols.

With no further discussion, Mayor Dumas called the vote.

**VILLAGE OF MALONE
RESOLUTION NO. 78-2020**

**AUTHORIZATION FOR VILLAGE ATTORNEY TO SIGN THE PROPOSED
SETTLEMENT OF STIPULATION INDEX # E2019-354**

WHEREAS, the Village of Malone is currently engaged in litigation (Stipulation, Index # E2019-354) against Stone Mountain Prime, LLC, Barry Steinberg, Jon (Jack Brown), Stone Mountain Capital, Inc., Stone Mountain Funding, LLC, John Doe Corporation, #1-50, John Doe LLC #1-50, said John Doe Corporations and LLCs being owned, operated, or controlled by Barry Steinberg, the owner of the properties located at 112.25-13-12, The Flanagan Hotel, and 411-415 East Main Street, calling for the demolition, securing or repairing of those properties; and

WHEREAS, Village Attorney, Kevin Nichols, has presented the Village Board of Trustees with a proposal calling for the settlement of Stipulation, Index # E2019-354, which would release the owner of record to sell the subject properties to Hotel Flanagan Inc., thus fostering the forward motion of the demolition or rehabilitation of the afore mentioned properties and resolving the serious Code violations currently pending against the subject properties; and

WHEREAS, the Village Attorney has advised the Village of Malone that this is an agreeable outcome toward the resolution of the serious Code Violations included in the current litigation, Stipulation, Index # E2019-354;

NOW THEREFORE BE IT RESOLVED: The Village Board of Trustees authorizes the Village Attorney, Kevin Nichols, to sign the necessary documents to settle Stipulation, Index # E2019-354.

BE IT FURTHER RESOLVED, this Resolution shall take effect immediately.

The question of the adoption of the foregoing resolution was duly put to a vote and the vote was as follows:

Upon the motion of Trustee Bonner with a second by Trustee Boyea and the vote was taken as follows:

AYE

NAY

Trustee Boyea
Trustee Bonner
Trustee Langdon
Mayor Dumas

Trustee McKee

Resolution passed.

Dated: July 21, 2020

Attorney Nichols will provide the Village of Malone with a copy of the agreement once all parties have signed.

ADJOURNMENT:

Upon the motion of Trustee McKee to adjourn the meeting at 11:36 AM.

Respectfully submitted,

A handwritten signature in cursive script, reading "Rebahka Scaccia". The signature is written in black ink and is positioned above the printed name.

Rebahka Scaccia, Village Clerk