

MINUTES

NEW HIGHMARK STADIUM COMMUNITY BENEFITS OVERSIGHT COMMITTEE

September 9, 2024

Alumni & Visitor Center, Costello Hall at SUNY Buffalo State University

1300 Elmwood Ave, Buffalo, NY 14222

<https://erie.webex.com/erie/j.php?MTID=m78e39255216ae4e67e18b5ac511f52ba>

Monday, September 9, 2024

The CBOC convened for its fifth meeting on Monday, September 9, 2024, at SUNY Buffalo State University. The meeting was conducted in person and via videoconference and public notice was posted in accordance with NY Open Meetings Laws.

AGENDA ITEM NO. 1 Call to Order, Roll Call and Establish Quorum

The meeting was called to order by Chairman Blue at 11:05 AM ET. Chairman Blue designated Member Cannady to conduct the roll call. Member Cannady conducted the roll call and established that a quorum was present.

MEMBERS PRESENT: Mo Sumbundu, Rhonda Frederick, Franchelle Parker, Chairman Mark Blue, Penny Semaia, Todd Starowitz, Maria Whyte*, Sean Mulligan and Toni Cannady – 8

MEMBERS ABSENT: None – 0

*Member Whyte was present via videoconference, which per NY OML and the CBOC's video conferencing procedures (available here: <https://www3.erie.gov/eo/sites/www3.erie.gov/eo/files/2024-08/cboc-written-procedures-regarding-videoconferencing-due-to-exigent-circumstances.pdf>) shall not count toward a quorum of the CBOC (although Member Whyte was able to participate and vote, given that a quorum of members were present at a physical location open to the public.

Chairman Blue closed Agenda Item No. 1.

AGENDA ITEM NO. 2 Approval of Meeting Minutes from August 12, 2024, CBOC Meeting

Chairman Blue requested a motion to accept the meeting minutes from the committee's prior meeting on Monday, August 12, 2024. Prior to the committee bringing forth a motion, Member Whyte asked two clarifying questions (set forth below):

- **Member Whye (Q):** Under Agenda Item No. 1, the minutes state that there was opposition to the approval of meeting minutes on from the committee's prior meeting on Monday, July 8, 2024. *Was this a typo?*
 - **Member Cannady (A):** Yes, there was no opposition to the motion. The meeting minutes will be updated to reflect that the minutes were passed without opposition.

- **Member Whyte (Q):** Under Agenda Item No. 3, in the Q&A section, there is mention that Member Frederick inquired how the Bills decide which organizations to support and the areas of support. *Was an answer provided to this question?*
 - **Member Cannady (A):** Member Semaia noted that he would be back to the committee in response to this request. The meeting minutes will be updated to reflect Member Semaia's response.

Upon a motion by Member Sumbundu, seconded by Member Parker and without opposition, the CBOC approved the meeting minutes from the committee's prior meeting, inclusive of the updates discussed above.

Chairman Blue closed Agenda Item No. 2.

AGENDA ITEM NO. 3 Old Business

Chairman Blue opened the floor for committee members to discuss old business discussion.

1. Discussion Regarding Community Benefits Report:

a. Key Points By Member Semaia.

- i. During this time, Member Semaia, in his capacity as Community Benefits Director for Developer, (i) emphasized that Developer's community investment highlights Developer's commitment to specific areas as outlined in the Community Benefits Agreement (available here: https://www3.erie.gov/law/sites/www3.erie.gov.law/files/2023-03/bills_community_benefits_agreement_execution_version.pdf) and (ii) noted that the Bills organization have various internal groups that help establish outreach programs in the community. Member Semaia also noted that the Bills have curated an online donation request portal (available here: <https://www.buffalobills.com/community/donation-requests>), where organizations may submit requests for donations and/or in-kind support.
- ii. Member Semaia also emphasized the Bills' longstanding history of community involvement, in the Region, over the past 50 years as well as new initiatives aimed at boosting economic impact in the Region. A key priority of the Bills, according to Member Semaia, is ensuring that certified firms (e.g., MWBEs and SDVOBs) are included in the Bills' business opportunities to foster regional growth.

b. Question by Member Frederick.

- i. **Q:** Is there a distinction between the Bills Foundation and the Buffalo Bills organization.
- ii. **A (by Member Semaia):** Yes. The Bills Foundation is a 501(c)(3) organization, while the Buffalo Bills is the organization enterprise. Each entity makes grants within the Region that apply to the CBA (which are recorded in the annual report).
- iii. **Q:** Beyond soliciting community feedback, is it the CBOC's responsibility to provide recommendations to the Bills regarding specific organizations or areas to support?
- iv. **A (by Member Cannady):** The Bills have continually expressed that they are open to, and will strongly take under advisement, recommendations that the committee

provides regarding the annual investment. Member Frederick appreciated the clarification, noting CBOC members are deeply involved and knowledgeable about community needs. Member Whyte directed the committee to Section 3(b) of the CBA (a provision that sets forth certain obligations of the Developer and the Bills) to reiterate that the “Bills and Developer will collaborate with the Community Benefits Oversight Committee to identify community vulnerabilities and priorities where the Bills and Developer can best direct their extensive resource commitment. Member Sumbundu added that the committee wants to collaborate with the Bills and be a great partner to ensure the intention of the CBA is being seen in the community.

c. **Questions/Comments by Member Whyte.**

i. Questions:

1. **Q:** Is the online portal specific to the Bills Foundation or to the CBA?
2. **A (by Member Semaia):** The portal covers the entire organization and permits organizations to request donations in areas that relate to the CBA.
3. **Q:** Are there eligibility criteria outlined on the website?
4. **A (by Member Semaia and Member Cannady):** The donation form encourages and requires requesters to provide as much detail as possible. Member Cannady added that the online portal is set up to allow members of the community to request donations beyond the requirements of the CBA (e.g., organizations in other regions and donations in areas that are not CBA-related). Member Cannady also clarified that donations made to organizations outside of the Region are not counted by Developer toward the CBA.

ii. Comments:

1. **C:** Member Whyte suggested that the organization consider adding criteria specific to the CBA to distinguish between general applications and CBA-related applications. Member Mulligan echoed Member Whyte’s comments about creating a process specific to the areas outlined in the CBA, to ensure there is a targeted approach for entities seeking CBA-related funding.
2. **C:** Member Whyte summarized that, in her opinion, the questions the CBOC is grappling with include: (1) how investments are decided, (2) who benefits from the annual investment, and (3) the impact of the investment. Member Whyte invited Member Semaia to share the methods the Bills use to make decisions beyond the applications they receive. Member Semaia explained that the Bills have established programs that are aimed toward satisfying the CBA, such as Play 60 and the focus on social justice, and noted that the Bills are focused on intentionally ensuring regional certified firms have opportunities for engagement in the team’s business practices, all with the goal of fostering regional growth and economic development.
3. **C:** Member Whyte requested that, as a supplement to the Annual Report, the Bills provide examples of programs that were already established to better understand what portion of the report represents new and different investments. Member Cannady emphasized that Section 3(b) of the CBA charges the Bills with continuing and furthering their past practices, underscoring the importance of the Bills maintaining these efforts as it is

explicitly mandated in the CBA. Member Semaia confirmed the Bills will work to highlight new programs, some of which Member Semaia mentioned will be featured in upcoming updates. Member Whyte concluded by suggesting that the Bills provide greater detail in future reports on who benefits from the investments and the overall impact of the investments.

d. **Comments from Member Sumbundu.**

- i. **C:** Member Sumbundu highlighted the importance of the annual public hearing to gather input from the community and also raised a point regarding workforce training and apprenticeship programs. He suggested it would be helpful to understand how the Bills decide, for example, which schools to partner with for these initiatives. In response, Member Semaia stated that the Bills are in the process of setting up meetings with Erie County workforce development groups and have already met with Empire State Development, the University at Buffalo, and the Build Buffalo group to learn about their workforce development initiatives. Member Semaia stated the goal is to ensure the Bills are actively engaged with upcoming regional opportunities and also mentioned the hiring of Developments by JEM as their community engagement coordinator to participate in community programs and events. According to Member Semaia, Developments by JEM is currently working on surveys to help identify career interests specific in workforce development. Member Semaia also emphasized that the Bills aim to direct Community Investment funds to areas of need, noting that, while the stadium will open in 2026, the CBA spans 33 years and involves over \$140 million in investment.

e. **Questions from Chairman Blue.**

- i. Questions:
- ii. **Q:** Chairman Blue inquired whether the Bills have established a method for tracking the outcomes of the Community Investment.
- iii. **A (by Member Semaia):** The Bills recently launched an internal process to measure the community impact of these investments.
- iv. **Q:** In the past, was there a way to show impact?
- v. **A (by Member Semaia):** Member Semaia stated that Developer launched an internal process to track grants and donations. According to Member Semaia, moving forward the annual report will address the community impact of the community investment.
- vi. **Q:** For events (e.g., Huddle for Hunger) where there are community contributions (in addition to Developer contributions), does Developer count community contributions towards the annual investment?
- vii. **A (by Member Semaia):** Member Semaia confirmed that the Community Investment includes both hard and in-kind contributions that Developer donates toward initiatives, but clarified that Developer did not include items contributed by the community in the Community Investment calculation. Member Cannady further explained the distinction between hard and in-kind investments can be found on page 8 of the Annual Report under Community Civic Programs, with Donated Tickets, Football Experiences and Donated Items, and under Youth and Education, with Donated Tickets, Items, and Experiences being examples of the in-kind contributions made by Developer in FY 2023.

- viii. **C:** Chairman Blue reiterated that the CBOC has valuable expertise regarding areas in the community that could be improved upon or enhanced. He expressed interest in furthering the role that the CBOC can play in these efforts.

2. **Discussion Regarding Committee Bylaws:** Chairman Blue noted that the draft CBOC bylaws (available at: <https://www3.erie.gov/eo/sites/www3.erie.gov/eo/files/2024-08/draft-of-cboc-bylaws-8.12.24.pdf>) were prepared by Member Cannady, and opened the floor for discussion amongst committee members. Member Cannady noted that she received comments from the Erie County Attorney regarding the bylaws, and that the committee would likely need to discuss the bylaws at the October CBOC meeting. Member Sumbundu also commented that there were a number of points that required discussion by the committee and that a vote should be tabled until the next meeting (which was agreed by the committee).

As agreed at the CBOC's September meeting, committee members provided comments on the bylaws. In particular, Member Whyte shared the following by feedback:

- **Section 1 of Article I (Purpose and Duties of the Community Benefits Oversight Committee):** Member Whyte directed committee members to Section 3(b) of the Community Benefits Agreement, which charges the Bills and Developer with the following:
 - “Consistent with past practices, the Bills and Developer will further and continue the Community Investment and collaborate with the Community Benefits Oversight Committee to identify community vulnerabilities and priorities where the Bills and Developer can best direct their extensive resource commitment.”

Member Whyte recommended that the committee consider including “collaboration with the Bills and Developer” in Section 1 of Article I of the Bylaws.

- **Section 4 of Article II (Expectations of the Members):** Member Whyte recommended the removal of the second sentence of Section 4, which states: “To ensure meaningful participation by all members of the CBOC, a CBOC member may not speak more than twice on a particular topic, except with permission of the Chair, and assuming there are no other CBOC members waiting to speak”. Member Whyte noted that such a provision is typically enforced for large community boards, which is not the case for the CBOC (which was echoed by Member Sumbundu).
- **Section 1 of Article IV (Meeting Requirements; Location):** Member Whyte recommended the removal of the meeting duration, particularly given that the committee has not established subcommittees.
- **Section 7 of Article IV (Notice):** Member Whyte recommended that the bylaws reflect that meeting notices and agendas will be distributed to the County papers of record, in accordance with the CBOC's vote (at its February 26, 2024 meeting).
- **Section 1 of Article V (Subcommittees):** Member Whyte recommended an edit to clarify that the CBOC will not have subcommittees unless (i) the committee determines otherwise by a majority vote of the membership or (ii) the Chairperson determines otherwise.

Additional Comments by Member Whyte: Additionally, Member Whyte recommended that the committee consider including (i) the ability for members of the public to submit correspondence to

the committee in advance of meetings (which was echoed by Member Parker); (ii) a severability section that clarifies that in the event of a conflict of interest between the Bylaws and the Community Benefits Agreement, the terms of the Community Benefits Agreement shall take precedent; and (iii) a requirement that the committee post all meeting materials in advance of meetings. Member Cannady noted that the committee currently follows the practice of providing to the County all meeting materials in advance for publication on the CBOC website, and she will updates the Bylaws to reflect the addition.

Member Whyte also inquired about whether there is a legal standard for voting abstention. Member Cannady noted that she would be back to the group with a response. Additionally, Member Whyte indicated that she submitted comments to the County Attorney and suggested the County Attorney could redline the draft Bylaws to reflect the foregoing comments.

Additional Comments by Member Frederick: Member Frederick noted that the draft Bylaws specify that an annual hearing be held each September and suggested revising this to allow the CBOC to host the hearing at any time. Member Cannady noted that September was included as a placeholder, subject to comments by the committee.

Additional Comments by Member Sumbundu: Member Sumbundu mentioned that the CBOC had discussed holding this year's hearing during the October meeting. Chairman Blue then proposed the annual hearing be held in the evening, at a time more convenient for community members to attend. He emphasized that the scheduling of the annual hearing should not be rushed to ensure the CBOC has adequate information to address any community questions. Chairman Blue also clarified that while the CBOC may not be able to respond to public comments at the time they are made, any questions raised could be addressed at the following meeting. He then asked Member Semaia to address a comment from the previous meeting.

3. **Discussion Regarding Timeline for Maintenance and Operations Opportunities:** Member Semaia responded to a question from the last CBOC meeting regarding the timeline for maintenance and operations opportunities at the new stadium. He shared that he met with internal organizational staff and partners to discuss CBA expectations and highlighted Legends Hospitality, which recently hosted a Level Up expo featuring regional MWBE and SDVOB vendors. Member Semaia noted that he would provide more information on this topic in the future as it becomes available.

Chairman Blue closed Agenda Item No. 3.

AGENDA ITEM NO. 4 Community Benefits Updates

As part of the Community Benefits Update, Member Semaia, in his capacity as Community Benefits Director on behalf of BSEC, provided a community benefits update on MWBE/SDVOB business participation and workforce hours objectives. ***Member Semaia reported as follows:***

BUSINESS PARTICIPATION AND WORKFORCE HOUR OBJECTIVE UPDATES

As a part of the Community Benefits Update, Member Semaia provided an interim update outlining Developer's progress regarding the MWBE/SDVOB business participation and workforce hour objectives relating to the New Highmark Stadium. ***Member Semaia reported as follows:***

- **Workforce Update:**

- As of June 31, 2024, Developer has exceeded its minority and apprentice workforce hours, reporting (i) 20.56% for minority work hours (which exceeds the 15% goal) and (ii) 13.65% for apprentice work hours (which exceeds the 10% goal). Developer also reported the following percentages with respect to non-minority women work hours: (i) 4.28% for non-minority women work hours (which falls just below the 5% target).

| Category | Goal | Through 6/31/24 |
|-------------------------------|------|-----------------|
| Minority Work Hours | 15% | 20.56% |
| Non-Minority Women Work Hours | 5% | 4.28% |
| Apprentice Work Hours | 10% | 13.65% |

- **Business Participation Update:**

- As of Q2 2024, Developer has awarded a total of 274 MWBE/SDVOB contracts or OCSD-4 commitments. Additionally, a total of 146 individual MWBEs/SDVOBs have been awarded contracts or OCSD-4 commitments, with 75 individual regional MWBEs/SDVOBs being awarded contracts or OCSD-4 commitments.
- Solely with respect to proposal releases #1-3, Developer has exceeded its business participation commitment goals with respect to MBEs at 19.5% (which exceeds the 15% goal). Developer also reported the following percentages with respect to the WBE and SDVOB business participation goals: (i) 13.4% for WBE participation (which falls below the 15% target) and (ii) 4.8% SDVOB participation (which falls below the 6% target).

| Category | Goal | Through Proposal Release #1-3 |
|---|------|-------------------------------|
| Minority-owned Business Enterprise | 15% | 19.5% |
| Women-owned Business Enterprise | 15% | 13.4% |
| Service-Disabled Veteran-Owned Business | 6% | 4.8% |

- **Additional Community Benefits Updates:**

- **BestSelf Behavioral Health.** Member Semaia highlighted Developer's new partnership with BestSelf Behavioral Health, the first ever Official Mental Health partner, which will focus on providing proactive and preventative mental health education and resources to support communities with the highest need.
- **HEART Safe Community Initiative.** Member Semaia also discussed the HEART Safe Community Initiative in partnership with Erie County, UBMD, and the American Heart Association. According to Member Semaia, the initiative is aimed at promoting heart health

awareness and increasing community access to cardiovascular health resources, emphasizing both heart-healthy lifestyles and emergency preparedness.

- **New Mentorship Program.** Additionally, Member Semaia noted the Bills are working with SUNY Erie on a new mentorship pilot program for students in collaboration with the Bills. Member Sumbundu suggested inviting some of these partner organizations to future meetings to share more about the work they are doing would be helpful.

Committee members made the following statements and asked the following questions (see the corresponding response below each question) regarding the Community Benefits Update:

1. Chairman Blue:

- a. **Q:** Chairman Blue inquired whether there was a timeline for reporting on MWBE and SDVOB participation from the agencies monitoring this area, as the CBOC will request monthly updates.
- b. **A (by Member Semaia):** Member Semaia explained that information on MWBE and SDVOB utilization must first be vetted and reviewed by all project stakeholders, including the State, to ensure the best information is submitted to the CBOC. Member Semaia also mentioned that the reporting follows specific timeframes, with some updates being provided quarterly, and that due to the monthly meeting schedule of the CBOC, there may not always be new information available at each CBOC meeting.
- c. **Q:** Chairman Blue asked whether Developments by JEM is seeing any barriers and, if so, if they could provide updates on such barriers and present on the impact of community outreach at a future meeting.
- d. **A (by Member Semaia):** Member Semaia indicated he would bring that back to the group.

2. Member Whyte:

- a. **C:** Member Whyte commented that, in addition to the CBOC ensuring resources are wisely invested in the community, the CBOC should be monitoring the impact of the investments. Member Whyte noted that inviting organizations to present allows the CBOC to showcase the impact of the investment received. As the Chief Community Impact Officer for the Community Foundation, Member Whyte noted there are many ways to demonstrate impact and that hearing directly from grantees is an effective approach.

Chairman Blue closed Agenda Item No. 4.

AGENDA ITEM NO. 5 New Business

Chairman Blue opened the floor for committee members to raise new business items (which are set forth in greater detail, below).

During this time, Member Mulligan introduced two new resolutions for submission (outlined below), noting that they were provided to committee members for the first time that morning. Member Mulligan apologized for bringing the resolutions to the board without sufficient time for review.

1. **Resolution Regarding “Right-Sized Contracting”:**

Member Mulligan emphasized that, in his opinion, one of the primary goals of the CBA is to maximize participation from local disadvantaged and small businesses, including MWBEs and SDVOBs. Member Mulligan noted that while there are clear goals for MWBE and SDVOB and

workforce participation regulated by the State and Erie County EEO office, there is no law requiring a specific number of contracts that match the capacity of the local market.

Member Mulligan suggested that the solution is that the CBOC must create a way for small businesses to participate through creating contract sizes that match what they are able to provide. Member Mulligan noted there is no set goal for maximizing participation in the CBA, and that the CBA only sets out an effort to try and incorporate local businesses to work on the project.

Member Mulligan expressed his appreciation for the commitment shown by the Bills and construction manager Gilbane |Turner to not only get people working on the stadium project, but to position them for future work throughout the Region. Member Mulligan noted there is no authority to dictate who contractors must contract with, and noted that one of the resolutions calls for a report on “right-size” contracting and he hopes for a report by next meeting.

As part of this resolution, Member Mulligan suggests that the CBOC request a report on right-sized contracting and the New Highmark Stadium that identifies the following:

- a. How many right-sized contracts have been created;
- b. What is the minimum threshold or dollar amount that a contract can be created for;
- c. How many local, small businesses, including disadvantaged businesses, have been contracted or are in the process of being contracted with on this project;
- d. Recommendations for how to maximize participation of local, small and disadvantaged businesses on the remainder of the project, particularly on the phases and industries of work for which the contractors, including subcontractors, have not been finalized.

2. **Resolution Regarding “Public Accessibility to Community Benefits”:**

As part of this resolution, Member Mulligan suggests that the CBOC (i) call for a public application process to be created to provide access to the Community Investment, as defined in the Community Benefits Agreement; and (ii) set its first public hearing within the next sixty (60) days.

Member Mulligan noted that with the fiscal year having started on April 1, five months have already passed, and that a public hearing would provide an opportunity for the community to hear about the FY 2023 report and for the CBOC to gather input on how this year’s funding should be allocated. Member Mulligan suggested that delaying the hearing beyond this fall would leave the CBOC with limited time before the fiscal year ends in March.

Comments by the CBOC Regarding the Proposed Resolutions:

- **Comments by Member Cannady.** Member Cannady thanked Member Mulligan for introducing the resolutions, but expressed the need for more time to review as they had just been received 20 minutes prior to the meeting. Member Cannady requested that, moving forward, materials be provided by the Friday before the meeting to allow sufficient time for review and collaboration, noting that this practice has been followed for other documents proposed to the committee (e.g., Bylaws, Written Procedures Regarding Videoconferencing, etc.). Member Cannady suggested tabling the resolutions for discussion at the next meeting.
- **Comments by Member Sumbundu.** Member Sumbundu thanked Member Mulligan and noted that the resolutions addressed points of discussion. He stressed the importance of collaboration and of the public hearing and agreed the committee needed more time to digest the information of the

resolutions before voting. Member Sumbundu added that the Bills should work on providing answers to some the questions raised in the resolutions.

- **Comments by Member Parker.** Member Parker expressed support for the resolutions, which she described as critically important. She emphasized the need for community education on these topics as many individuals may not understand how they can participate on the project. Member Parker further suggested that the committee consider community teaching sessions to help the community understand the process. Chairman Blue followed up by asking Member Parker to submit her suggestion in writing.
- **Comments by Member Whyte.** Member Whyte (who participated via videoconference) mentioned she received only a copy of one resolution but spoke in favor of both, acknowledging the urgency of the matters. She suggested that, if the resolutions were tabled, the Developer should begin preparing the requested information in anticipation of the resolutions being approved at the next meeting. Member Cannady noted that Developer could prepare a response to the requested information, which is a standard practice by Penny Semaia (in his capacity as Community Benefits Director). At Member Whyte's request, Member Mulligan read the contents of the second resolution aloud.
- **Questions/Comments by Member Whyte.** Chairman Blue inquired whether bid proposals for contracts in proposal release 4 were still open and if there were further opportunities for organizations to get involved as well as an organization chart of prime and subcontractors. Member Semaia noted that awards through proposal release 4 have been awarded to prime contractors, but that there remain opportunities for subcontractors to be a part of the project. Regarding an organization chart, Member Semaia indicated that the Developer is reviewing with project stakeholders.

Chairman Blue closed Agenda Item No. 5.

AGENDA ITEM NO. 6 Public Comment

Chairman Blue opened the meeting for public comment, which is limited to three (3) minutes per commenter. There were no comments by the public.

Chairman Blue closed Agenda Item No. 6.

AGENDA ITEM NO. 7 Adjournment

Chairman Blue adjourned the meeting at 12:22 PM ET, upon a motion by Member Sumbundu.

The next CBOC meeting is scheduled for **Tuesday, October 15, 2024, at 11:00AM.**