

Buffalo Niagara Coalition for Open Government
Thursday October 3, 2019, 6:30 PM

Public Comments Are Welcome At Any Time During Our Meetings. Don't Be Shy To Ask A Question Or To Make A Point!

AGENDA

- 1) Open Meeting
 - 2) Meeting Minutes from September 5, 2019
 - 3) Treasurer's Report
 - 4) Niagara County Financial Disclosure Forms
 - 5) FOIL Project Regarding Emails/Texts
 - 6) Review September Speaker Event
 - 7) Public Identification Of Companies That Are Delinquent In Paying Their Industrial Development Agency (IDA) Loans
 - 8) Off Track Betting (OTB) Transparency
 - 9) New Business
 - 10) Next Meeting November 7, 6:30 p.m.
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Minutes for Buffalo Niagara Coalition for Open Government September 5, 2019

Meeting called to order at 6:33 p.m. by Paul Wolf. Present: Paul Wolf, Janet Vito, Joe Kissel, Richard Bertrand, Ed McKee, Mike Kless, Sonia Dusza.

Meeting Minutes: The meeting minutes from July 11, 2019, were approved on a motion made by Ed McKee, seconded by Mike Kless.

Treasurer's Report: Janet Vito reported our account balance as \$1,131.55. Twenty-two paid memberships have been received as of 8/31/19. \$32.62 was spent on obtaining a magnetic sign with our logo for our press conference podium. Mike Kless made a motion to approve the Treasurer's Report which was seconded by Ed McKee. Motion was unanimously approved.

Niagara County Financial Disclosure Forms & Speaking at Their Meetings: Richard Bertrand as Vice President of our organization filed a FOIL request seeking copies of the disclosure forms filed by legislators the past five years. If our request is denied we will appeal the denial and file a lawsuit.

Legislator Virtuoso has filed a resolution seeking to change when citizens get to speak to Niagara County legislators at their meetings. If you want to speak on an item that is not on the meeting agenda you have to wait until the meeting is adjourned to speak. People speaking on an agenda item get to speak at the beginning of the meeting. Virtuoso is seeking to have all citizens who sign up to speak to be heard at the beginning of the meeting instead of making some wait hours until the end of the meeting.

Paul Wolf spoke to the Administration Committee of the legislature on August 6th in support of Virtuoso's resolution. Majority Leader Bradt proposed an amendment that speakers on non-agenda items can speak earlier in the meeting if there is time left over from the thirty minutes that are allotted for the public. Paul said that he would support such an amendment as an improvement to the current process.

Unfortunately the Legislature did not pass Virtuoso's resolution or Bradt's amendment so the process of having non-agenda speakers wait until the meeting is over continues.

Paul will also contact the Erie County Legislature regarding the fact that they don't allow the public to speak at their meetings.

Lockport Housing Authority: A letter written by Coalition Vice President Richard Bertrand published in the Lockport Sun Journal was discussed. In his letter Richard who serves on the Lockport Housing Authority Board pointed out that at a recent meeting four resolutions were voted on that did not appear on the Housing Authority's published meeting agenda. According to Richard in 2018, less than 50% of all resolutions appeared on a Lockport Housing Authority meeting agenda prior to the meeting. A motion was made at our June meeting that we should send a letter expressing our concern as to how Lockport Housing Authority meeting agendas are being handled. On July 8th, a letter was sent to the Lockport Housing Authority.

A copy of the response received from the Housing Authority attorney was provided. The Housing Authority does not have a policy in place as far as dealing with late filed items. Many government entities have a policy which prevents a late filed item from being considered if one member objects. This issue could be the basis for a report next year.

Lockport School Board Committee Meetings: An article that appeared in the Lockport Union Sun paper was discussed. School Board member Kyle Lambalzer proposed that all Lockport School Board committee meetings be open to the public. Some school board members expressed concern about having all committee meetings being open to the public and based on that the resolution seeking open meetings was tabled. Joe Kissel made a motion that we send a letter expressing support for open committee meetings to the Lockport School Board. The motion was seconded by Ed McKee and unanimously approved.

A copy of the letter being sent to the Lockport City School Board was provided.

September Speaker Event: Mark Scheer from the Niagara Gazette & Lockport Sun, Deidre Williams, Buffalo News and Steven Brown, WGRZ Channel 2 News are confirmed to participate in our forum on September 25th, titled "Your Right to Know: The News Media and the Freedom of Information Law. The event will be held at the Theodore Roosevelt Inaugural Site, 641 Delaware Ave. Buffalo from 6:00 to 8:00 pm.

Deidre Williams from the Buffalo News will not be able to attend the forum. Paul will work on finding a replacement. Bringing food and drinks was discussed.

FOIL Project Regarding Emails & Texts: Paul Wolf will be sent a FOIL request to local government officials seeking copies of email and text messages exchanged between elected officials. We are tracking whether FOIL is being complied with as far as properly acknowledging our request and providing the requested information. Plan is to release our report in October.

New Business: Paul Wolf was invited by Jonathan Manes to speak at a New York State Bar Association committee meeting in Syracuse on October 16th. The Bar Association has formed a committee to look into issues regarding news reporting and access to government information. This will be good exposure for our organization. Paul plans to focus his remarks on the need to amend the Open Meetings Law.

Paul has reached out to some state legislators to obtain support for focusing on the Open Meetings Law without any success. Janet Vito suggested trying to meet with legislators or their staff in person.

Paul mentioned that he is having trouble uploading our meeting agendas and minutes to our website and he will reach out to our website designer to see if we can fix these issues, which may involve paying the designer for his work.

The filling of Robert Freeman's job as the Executive Director of the New York State Committee for Open Government was discussed.

Joe Kissell brought up the issue of addressing NY State's adoption laws which prevent adopted children from finding out information regarding their birth parents as a transparency issues that perhaps we should get involved with. Paul and others expressed concern about becoming involved with this issue as being outside the scope of open government.

Adjourn: Motion to adjourn made by Janet Vito and seconded by Richard Bertrand. Meeting adjourned at 7:45 pm. Next meeting will be October 3, 6:30 pm at the Williamsville Library.

Poloncarz pushes to ID businesses behind on a public loan payments



Erie County Executive Mark Poloncarz wants to identify businesses that fall behind on loans from an Erie County Industrial Development Agency lending arm. (News file photo)

By David Robinson (https://buffalonews.com/author/david_robinson/) Published 5:00 a.m. September 26, 2019

f (http://www.buffalonews.com/story/news/economy/2019/09/26/poloncarz-wants-to-identify-businesses-behind-on-loans/1170000001)

It's a sensitive question for any agency that uses public money to fund private businesses: What to do when those businesses don't live up to their end of the bargain.

That's an issue that an affiliate of the Erie County Industrial Development Agency is grappling with after one of its biggest borrowers fell behind on loan payments to the Regional Development Corp.

Erie County Executive Mark Poloncarz, who pushed the ECIDA to adopt policies to claw back tax breaks from businesses that don't meet their employment promises, wants the RDC to publicly identify the businesses that fall behind. The lending arm currently keeps their name secret unless the business defaults on the loan.

"We deserve — and the public deserves — to know," said Poloncarz, who serves on the development agency's board of directors.

But Dottie Gallagher, a board member and the Buffalo Niagara Partnership president, has long cautioned against publicly calling out businesses that fall on hard times. She thinks the development agency should use more discretion.

"I would not be in favor of public shaming if it's possible that this company could pay this back," she said. "There should be some sensitivity around the company's specific issue."

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The issue stems from a steep jump in the RDC's loan delinquency rate, which spiked to 14% in September from 5.2% in August, said Gerald Manhard, the RDC's chief lending officer. One large loan that fell more than 30 days delinquent was responsible for the nearly \$1.7 million increase in past-due balances over the past month, Manhard said, without naming the borrower or disclosing how much it owed.

The RDC now has four delinquent loans, with a total balance of \$1.76 million. The agency has \$12.8 million in loans outstanding, Manhard said.

Poloncarz wants the agency to list which loans are delinquent and identify the companies that borrowed the money.

Manhard was hesitant to do so. "It could cause some harm to the company," he said, especially if competitors use their financial struggles as a selling point against doing business with them.

Robert Murray, the agency's attorney, said the delinquencies could be discussed in executive session since state law allows public boards to hold private talks about the financial history of a company.

Poloncarz, an attorney himself, disagreed, saying the issue that would be discussed wasn't the company's financial history, but the loan delinquencies at the RDC.

Poloncarz said he believes a company that falls behind on a loan to a public entity like the RDC, which uses federal funds for the loans it makes, is usually experiencing significant financial trouble.

Those troubled businesses usually make sure to pay their taxes and other public forms of debt before other borrowings, Poloncarz said. When they miss a payment to a public entity, it's usually a bad sign, he said.

Manhard said about half of the RDC loans that become delinquent wind up in default. Some of the others are restructured to ensure at least partial repayment.

Businesses often come to the RDC for loans on projects and funding needs that conventional banks either aren't willing or only partly willing to fund because of the added risk. The RDC loans also have much lower interest rates than conventional bank loans, so the terms also are financially attractive to the borrowers.

Brenda McDuffie, the RDC's chairwoman, said there is a difference between a "bad actor" and a company that may have temporarily run short of cash and fallen 30 days behind in their payments. She recommended that the loans be reviewed by the agency's loan committee – a move that struck Poloncarz as a half-measure.

"I don't think it satisfies my concern," he said.



(https://buffalonews.com/author/david_robinson/)David Robinson - David Robinson is the deputy business editor for The News, where has worked since graduating from Syracuse University in 1985. A New Hampshire native, he started out in the News' Tonawanda bureau and moved into the business news department in October 1987, exactly a week after the stock market crash.

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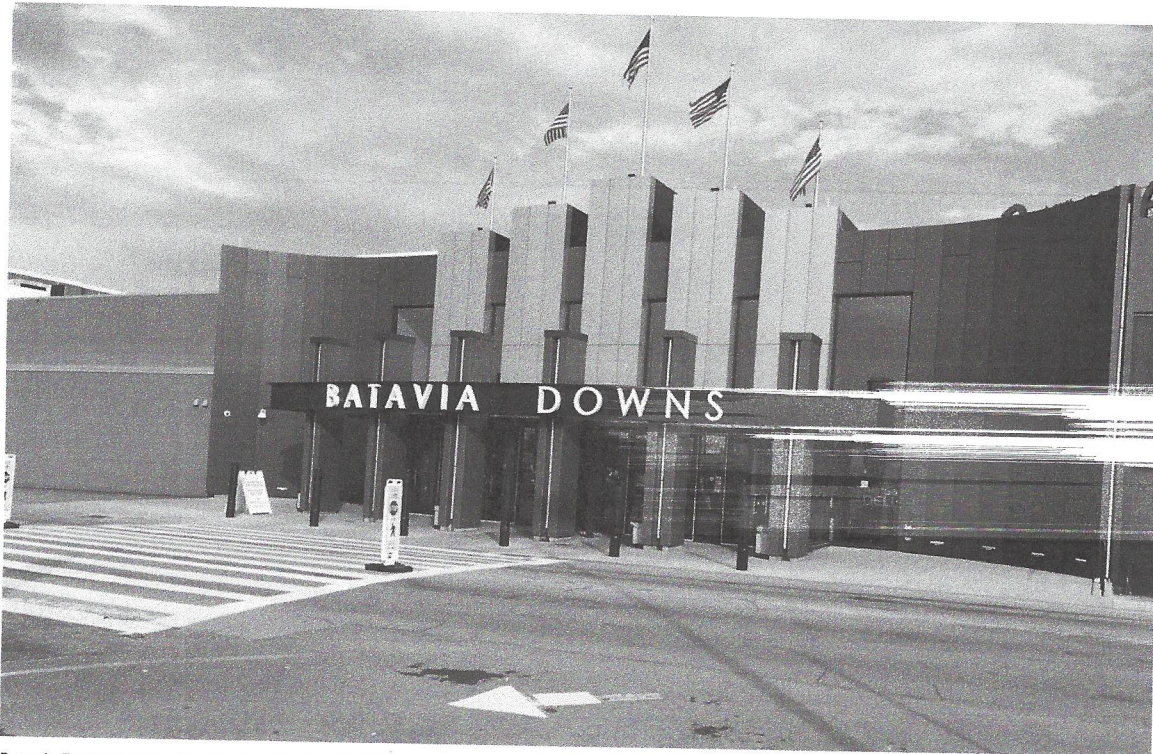
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THE BUFFALO NEWS

County Legislature pushes for more transparency from OTB over Bills tickets



Batavia Downs is owned by Western Regional Off-Track Betting. (Barbara O'Brien/Buffalo News)

By **Sandra Tan** (https://buffalonews.com/author/sandra_tan/)
Published 9:20 a.m. September 24, 2019 | Updated 6 hours ago

[f \(https://twitter.com/buffalonews\)](https://twitter.com/buffalonews)

Erie County legislators want a written legal opinion that could justify Western Regional Off Track Betting Corp.'s refusal to release the names of people given suite tickets to Buffalo Bills games and other events.

Batavia Downs Gaming, owned by Western OTB, has refused to release the information to The Buffalo News and other media organizations that have requested the list. OTB officials have cited the loss of privacy for "high rollers" and fear a competitive disadvantage if forced to disclose the list.

"They're not going to give up the list," said Beverly Mazur, the County Legislature's appointee to the Western Region OTB board. "We wouldn't reveal those names."

Legislators, at a meeting last week with Mazur, pressed for more transparency from the organization. They also demanded a list of all OTB officials who received Bills tickets.

"I'm a bit skeptical of keeping the names secret," said Legislator Kevin Hardwick, chairman of the Government Affairs Committee. "It is public information under the Freedom of Information Law."

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Former State Sen. George D. Maziarz has accused Western Region Off-Track Betting and Batavia Downs Gaming of buying Buffalo Bills and Sabres tickets at public expense and distributing them to OTB officials and their political supporters. Maziarz specifically targeted former Niagara County GOP chairman Scott P. Kiedrowski, vice president of operations for the Western Regional OTB.



Federal grand jury subpoenas documents from Western Region OTB

By THOMAS J. PROHASKA

Mazur and Marketing Director Ryan Hasenauer said tickets are given to OTB gamblers first, then to staff as an incentive for good work. They defended the organization's resistance to providing a list of all the people who received free Bills tickets. Competing casinos and OTBs could try to poach business from the big gamblers who were offered Bills tickets, OTB officials said.

"But aren't they benefiting from taxpayer dollars in some way?" asked Minority Leader Joseph Lorigo. "You're a public benefit corporation, so shouldn't those names be public?"

He expressed surprise that the Western Region OTB's lawyer has not been asked for, or provided, a legal opinion on whether the organization is bound under state transparency laws to release those names.

"I, for one, think that that information should be public," Lorigo said. "I think we should strive in government, whether quasi-government organizations such as public benefit corporations, should be as transparent as possible when dealing with the public trust."

Hardwick pointed out that many public organizations have what they consider sound reasons for not divulging information that, nevertheless, they are legally bound to release upon request.

He questioned why Western Region OTB refuses to release the names of OTB employees who receive these tickets.

"Public employees, as part of their job, are hosting these gatherings at the Bills game. Why would we not want to know who they are? Why not share that information?"

Hasenauer said his organization has not yet received such a request.

"I would ask that that information be collected and returned to the County Legislature in a timely fashion," Hardwick responded.

He added that, as part of that request, the list of names should include not not only employees, but employee family members who also received tickets. He also reiterated the Legislature's request for a legal opinion regarding whether the organization could keep the names of private citizens secret under the state's Freedom of Information Law.

Western Region OTB is a public benefit corporation owned by 15 county governments and the cities of Buffalo and Rochester. Its profits are spread among the 17 entities that each name one member to the board.



Western Region OTB: Profits at highest levels in 20 years

By THOMAS J. PROHASKA



(https://buffalonews.com/author/sandra_tan/) **Sandra Tan** – Sandra Tan primarily covers stories related to Erie County government. A Buffalo News staff reporter since 2000, she previously covered Buffalo Public Schools, Amherst and other communities. She is particularly interested in shedding light on issues and people that tell us something important about how we live. email: stan@buffnews.com