

MINUTES
REGULAR MEETING OF THE
BUFFALO AND ERIE COUNTY PUBLIC LIBRARY BOARD OF TRUSTEES
AUGUST 24, 2006

The regular monthly meeting of the Board of Trustees of the Buffalo and Erie County Public Library was held on Thursday, August 24, 2006, in the Central Library pursuant to due notice to trustees. The following members were present:

Rebecca L. Pordum, Chair
W. Lawrence Buck, Vice Chair
Frank Gist, Secretary
Richard L. Berger, Treasurer
Sheldon M. Berlow
Jack Connors
Phyllis A. Horton
Susan Maggiore
Hormoz Mansouri
Elaine M. Panty
Judith K. Summer
Sharon A. Thomas
Wayne D. Wisbaum (via telephone)

George M. Zimmermann, Trustee Emeritus

Excused: Annette A. Juncewicz, conflict
 John B. Long

Chair Rebecca L. Pordum called the meeting to order at 4:02 p.m. in the Joseph B. Rounds Conference Room. Trustee Wisbaum was in attendance via conference call.

Agenda Item B – Agenda/Changes to the Agenda. There were no changes to the agenda.

Agenda Item C – Minutes of the Meeting of July 20, 2006. Ms. Horton moved to adopt the Minutes. There was a second by Mr. Buck, and approval was unanimous.

Agenda Item D – Report of the Chair. Ms. Pordum thanked the administrators and volunteers who participated in the Battle of the Books. It was well attended and is a very worthwhile program that helps promote learning with young teens. An increased

effort will be made next year to promote this program to the media so it receives more exposure.

Ms. Summer recognized fellow Trustees Horton and Panty for their work with the Riverside Library's book sale, which netted \$3,600. Proceeds will be used to purchase a "Little Tykes" computer workstation and install WiFi service at Riverside.

Chair Pordum introduced attorney Michael de Freitas, who represents the B&ECPL in negotiations with the Library Foundation in regard to the proposed transfer of assets to the Community Foundation of Greater Buffalo (CFGB). Mr. de Freitas was asked to give trustees a status report.

Mr. de Freitas stated his role as Library counsel is to advise on the matter of the Library Foundation's proposal to transfer its assets to the CFGB while continuing its operations going forward. Under New York law, a not-for-profit requires court approval before making a transfer of substantially all of its assets. The Library Foundation must make a petition to the New York State Supreme Court, and this involves the New York State Attorney General. Therefore, legal advice is appropriate in a transaction such as this because in these cases the Attorney General works with the involved parties on any issues that may arise.

From the beginning of his involvement, Mr. de Freitas applied what he believes is the appropriate legal standard, but in non-legal language, by looking at this proposal and assessing how it furthers the purposes of both entities, which are inextricably linked to one another. The sole purpose of the Library Foundation is to support the B&ECPL, but the Foundation is not controlled by the Library so it has a degree of independence. In reviewing the proposal, Mr. de Freitas focused on two main areas. First was the soundness of the proposal itself and how it would benefit both organizations. This involved an analysis of the proposed budgets and the utility of proposed procedures, i.e., the relationship with the CFGB, the nature of the grant procedures and funding formulas that will be in effect following the transfer.

Mr. Berger pointed out the petition only deals with the transfer of funds and said the structure of the 501(c)(3) and how the two organizations work together is not an issue before this Board.

Mr. de Freitas replied it is a legal issue because the degree to which the transfer furthers the purposes of the Foundation is the standard governing the approval of the transfer. Since the purpose of the Foundation is to support the Library, the logical question is how will the transfer further the purposes of the Foundation in supporting the Library?

Mr. Berger agreed with that interpretation, but said it is also correct that as long as the monies are used for the primary purpose of the Foundation, which is to support the

Library, then that is the gist of the petition. Proposed grant procedures are not before this Board, nor is it part of the petition.

Mr. de Freitas agreed it was not part of the petition, but disagreed that it was irrelevant.

Mr. Berger said he never implied the matter was irrelevant, merely that those issues are not part of the petition regarding the transfer of funds. He stated the Library Board does not have a say as to how the organization is structured or grants are handled, and he asked Mr. de Freitas if that was legally correct.

Mr. de Freitas replied he did not believe that interpretation to be correct.

Mr. Berger disagreed with this answer and stated he had been advised otherwise by Assistant Attorney General William Maldovan. He went on to say this interpretation is also at variance from the Library Foundation's counsel and disagreed that the Library has some jurisdiction over the structure of the Library Foundation.

Mr. de Freitas stated he did not imply the B&ECPL had any legal jurisdiction over the Foundation. He only implied that these issues are relevant to the consideration of the terms of transfer by the Court. Mr. Berger inquired under what articles that applies. Mr. de Freitas replied that it is straight out of the statute.

While that is correct, Mr. Berger said the only matter in the petition is how the funds are transferred, if the funds are protected and will funding be available to accomplish the original purpose. Grant procedures and how the Foundation is run may be a concern of the Library, but those issues do not pertain to the petition. What needs to be approved is whether or not the Library agrees to endorse the transfer of the funds, and the focus must be on that issue alone.

Mr. de Freitas reiterated that his legal advice remains unchanged; the issues identified are relevant in the upcoming proceedings before the court, and they are relevant in the views that this body may express or not express whether or not to participate in those proceedings. He believes the issues identified are legally relevant regardless of the focus of the petition. Mr. Berger directed the record to reflect that he disagreed with that legal advice based upon other counsel's opinion.

Mr. de Freitas continued, saying there are two fundamental concerns. One being the soundness of the proposal itself as to the efficiencies that purport to be obtained and the likelihood that the proposed structure will adequately further the purposes of the Foundation, which is to support the Library.

Mr. Berger asked Mr. de Freitas what his position was relative to the transfer of the funds to the CFGB. He replied that several questions have been posed that have not

been adequately answered, and due to that void of information, he cannot give a position either in support of or in opposition to the transfer. Mr. Berger asked whether sufficient information had been provided regarding just the transfer of funds. Mr. de Freitas stated the issues are far more complex than simply a transfer of funds. Mr. Berger asked Mr. de Freitas if he had any objections to the transfer of funds because Mr. Berger felt that all questions relative to the transfer had been addressed. Mr. de Freitas stressed that in his opinion the transfer of funds cannot be evaluated in isolation from the other issues. The other issues identified are central to the question. The transfer by itself is the most minor part of the whole procedurals.

Dr. Mansouri said he believes one of the functions of the Foundation is to secure and advance the fund's assets. The Foundation is trying to secure the money for investment to be able to provide funding in the future. He asked if there were any other relevant issues involved in this particular transaction. Mr. de Freitas said he believed his response to Mr. Berger's questions also answered this question.

Trustee Thomas inquired about the process required to access money. At the informational meeting she attended, a two-step process was discussed. The Library Board will apply to the Library Foundation for funding. If the request is approved by the Foundation Board, it will then be submitted to the CFGB for its approval.

Dr. Mansouri said the availability of funds is not the issue. The Foundation is simply trying to insure that the money will be there when a need presents itself. The CFGB reviews a request to determine whether it can be funded based on established guidelines. The Foundation is responsible for preserving the principal of the fund.

Another issue Ms. Thomas was concerned about is System-wide planning and control. The B&ECPL is all one System. For the past several years, much effort has been invested to centralize and streamline operations to help control costs and continue operations with diminished staff. The process being proposed will allow contracting libraries to apply directly to the Foundation for money. Ms. Thomas questioned the logic of this process because typically, in an organization with many outlets or branches, a central body consolidates and prioritizes requests based on System-wide goals and objectives.

Mr. Berger replied that the grant process has not been finalized or approved by the Foundation Board. Personally, he believes it would be best to centralize all requests. He inquired whether contract libraries had been able to apply directly to the Foundation in the past and asked if there are any provisions that would prevent that from happening now since the Foundation was set up to benefit the B&ECPL System.

Director Michael Mahaney said he believes the Articles of Incorporation do not refer to the Buffalo and Erie County Public Library *System*, but to the Buffalo and Erie County

Public Library. Based on his interpretation, he assumes all requests should come through the B&ECPL Board in order to go to the Foundation because the B&ECPL is the sole beneficiary.

Mr. Connors said based on that, the Library Board essentially could force the contract libraries to go through the Library's Development Office for grant requests now. Mr. Connors said that would be an issue to be handled by the Library Board and is something that could be imposed on contracting libraries regardless of what the Foundation Board decided. Mr. Berger concurred that if the Library Board determines it wants a centralized request process, it can so rule.

Mrs. Maggiore asked for clarification on how much of the Foundation money is already restricted for certain libraries and asked if that would remain unchanged. It was stated that the bulk of the funds held by the Foundation are not currently restricted.

The Chair summarized the situation, saying the Board hired Mr. de Freitas to represent the Library. Trustees now understand it is not under the Library's purview to vote for or against the transfer of funds from the Library Foundation to the CFGB. That is something the Library Foundation Board voted to approve on May 31st. The attorney is here merely to present his findings and legal opinion, to share what he feels is in the best interests of the Library. In the meeting with the Attorney General, everyone came out with the understanding that the funds can be transferred and that the AG has to make a recommendation to the court as to whether or not he feels the transfer should take place. The AG stated he believes the Library Foundation has an obligation to present information to the Library Board and to work towards the benefit of the Library System. It is incumbent upon everyone to work together and find a solution that everyone can live with to help the Foundation grow so it can support this System. Some Board members have not had an opportunity to hear this information previously. It is the trustees' responsibility to listen to all aspects of this transaction because it should be a package. The transfer of funds is only one aspect. There are many unanswered questions that should be resolved prior to the conclusion of this matter.

Mr. Berger said he agreed with much of that statement, but the issue before the Board today deals strictly with the transfer of funds. This Board has an opportunity to decide whether or not to approve the transfer, and based on that decision, the Foundation will decide how it wants to move forward. From past experience, it does not seem likely that all issues involving the transfer can be resolved in a short period of time. Delays are costing the Foundation a good deal of money. There will essentially be no grant money for two years, and he felt that holding up the transfer process with litigation was irresponsible. This Board should be concentrating on Development Office matters now. Ms. Pordum stated the next step should be to develop a written agreement, and she believes it can be done fairly quickly. She began to discuss a proposed resolution. Mr. Berlow asked Mr. de Freitas if he had anything further to add. The attorney suggested

that a written agreement be developed with the Library Foundation that addresses points that can be agreed upon so the transaction can proceed. However, it is important to consider the Library Foundation in terms of its future value and worth to the Library rather than concentrating on how much money is currently held by the organization, which understates the significance of the situation.

Ms. Panty asked whether or not the transfer was already a done deal. Mr. Berger said a vote to proceed by the Library Board is needed to allow the transfer to go through. If the Library Board does not agree to the transfer at this time, then the Foundation must make a decision to either move it forward or withdraw it.

Dr. Mansouri stated the Library Foundation could decide to not transfer the money or the two parties could proceed with litigation. As he understands it, a recommendation has been made to allow the Foundation to go ahead with the transfer with the caveat that future funding requests from the Library Board be met by the Foundation. Mr. de Freitas said he is recommending, as a pre-condition to any Library Board statement of approval for the transfer, that a written agreement be in place addressing the concerns that have been identified.

Ms. Panty was concerned about undue haste. Most Library Board members were not made aware of the proposed transfer until late May, when the transfer was being proposed to occur in June. Despite repeated requests, detailed information has not been provided. Problems have occurred because of the way the Foundation was originally set up, specifics were never put in writing. To forestall future problems, she would prefer to have things worked out between both parties first, and she believes matters could be settled in an expedient fashion. There should be no more "gray areas." An agreement needs to be in place to ensure the arrangement is beneficial to both the Foundation and Library.

Although Mr. Berger expressed skepticism, Ms. Pordum was hopeful that if the lawyers met soon, a report could be brought back to the Board next month so concessions and compromises could be reviewed in written form. Mr. Berlow asked who would write the attorneys' agenda. Ms. Pordum said the Board would need to develop those points. The Director stated an agenda could be prepared based on feedback received from trustees and staff and Mr. de Freitas' August 2nd memo. The issues significant to each group have been identified. Middle ground must be established so the process can move forward.

Mr. Berlow stated his belief that throughout this process the Attorney General can review what progress is being made and express his endorsement or concern. Mr. Berger agreed with this and believes the AG has multiple concerns, but basically he wants both groups to work cooperatively. However, he stated the transfer of funds really is the essence of his decision, and he feels the AG is very supportive of that idea.

Mr. Berlow felt very strongly that before any attorneys meet to memorialize a written agreement, the Library Board Chair and Foundation President need to sit down face-to-face to discuss how both groups want things to be handled in the future as far as processes, rights and responsibilities. Differences of opinion need to be negotiated in a rational manner addressing how the parties will interact going forward.

Ms. Summer said consensus is a cumbersome and time-consuming business, but for the sake of the future of the Library System, she believed Mr. Berlow's suggestion had merit. Hopefully something will result that will be "good enough" for everyone to agree on.

Mr. Buck asked how this could be accomplished if the Foundation insists on having closed door meetings. Rather than having a large group meeting, Mr. Berlow would prefer to have one representative from each group meet and bring forth each group's needs, etc. This would not come under the purview of the open meetings law as it would only involve one member from each group. Dr. Mansouri suggested that Ms. Pordum as Chair should represent the Library Board in talking to the Foundation Chair. Mr. Berlow was agreeable with that arrangement, but also suggested that if those two individuals felt it would be beneficial to appoint another representative from each Board, that would be equally acceptable. Mr. Berlow offered to make a motion to advance his one-on-one meeting suggestion to try to resolve issues.

Mr. Gist left the meeting at approximately 4:55 p.m.

Ms. Pordum then brought to the Board's attention the fact that the funding limit of Mr. de Freitas contract had nearly been reached. Mr. Berlow objected to discussing legal fees until his motion had been acted upon. The Chair suggested both matters could be included in the same resolution, but said she was willing to entertain separate motions.

Mr. Wisbaum stated discussions have been going on for months with no progress, and he believed delaying the transfer of funds waiting for a written agreement would be a travesty. There currently is no growth with the Foundation. The Board needs to determine one simple issue only at this meeting: is the Board going to actively oppose the transfer and secure separate counsel and prepare to litigate in an adversarial forum to block the transfer of funds? Demanding a written agreement as a pre-condition will extend this process many months, and a resolution may never be reached. Mr. Wisbaum was strongly opposed to more discussion and delay. He suggested making a motion for an immediate vote to either declare that the Library Board wishes to oppose the transfer, secure counsel to defeat it and have litigation against it, or let it go through and have confidence the directors from the Library Foundation will work cooperatively and collegially to work issues out, but not to require a written agreement as a pre-condition to the transfer.

The Chair informed Mr. Wisbaum that Mr. Berlow's motion was already on the floor and had to be voted on first. Ms. Pordum then put **Resolution 2006-45** to the Board.

BE IT RESOLVED, that an agreement between the Buffalo and Erie County Public Library and the Library Foundation of Buffalo and Erie County be drafted as promptly as possible to articulate the specific terms under which the two organizations shall interact in the future, and the execution of the agreement will be a pre-condition to the Library Board's endorsement of any proposed transfer of assets.

Mr. Berlow suggested a second resolved as follows:

RESOLVED, that the Buffalo and Erie County Public Library and the Library Foundation of Buffalo and Erie County agree to immediately appoint a representative to prepare an agenda for a formal agreement.

Ms. Summer seconded the motion. Dr. Mansouri objected to having an instantaneous resolution presented for Board approval and stated he was of the opinion that based on previous discussions regarding resolutions, anything proposed without advance notice to trustees was to be tabled until trustees had sufficient time to review and consider the resolution. Accordingly, he moved to table this matter based on pre-established guidelines. Ms. Pordum stated the proposed resolution involved only one central issue and asked whether Board members could agree to the idea of having one member from each Board hold discussions.

Mr. Berger said discussion is always helpful to try to bring about a resolution of issues. He stated he would like to see a draft of agenda items and proposed that this matter be discussed within 30 days. Ms. Pordum agreed with his suggestion and said the sooner the meeting is held the better, issues need to be discussed immediately. Mr. Berger felt the vast majority of issues could be discussed and compromised within 30 days.

Ms. Pordum said Dr. Mansouri had moved to table Mr. Berlow's resolution. There was no second. Resolution 2006-45, as recited by the Chair and seconded by Ms. Summer, was called for a vote. Approval was unanimous.

Mr. Berlow added that within the next 48 hours the Board should be notified by the Chair who the two representatives would be and when they would meet. Ms. Pordum replied that she would call Victor Rice that evening to initiate the process.

The Chair entertained a motion to adopt **Resolution 2006-46** increasing attorney fees as follows:

BE IT RESOLVED, that the Buffalo & Erie County Public Library Board of Trustees extends its current professional services agreement with attorney Michael A. de Freitas by an amount not to exceed \$5,000.

Ms. Panty moved for approval and was seconded by Ms. Summer. Dr. Mansouri again remarked that it was his understanding that no resolution can be put instantaneously on the table to be voted on. Based on this, he proposed tabling this motion to allow trustees time to review the matter. Mr. Buck stated he did not agree with Dr. Mansouri's interpretation of the issue of instant resolutions. Mr. Berger said at a previous meeting an objection was made that unless the Board had time to review a resolution in advance it should not go forward with a vote. Ms. Pordum agreed with Mr. Berger, but stated that the intent of that ruling was due to the length of the previous resolution and stated this matter was a simple housekeeping issue that is necessary to move forward with the idea of a written agreement, which was just endorsed by the Board. The Chair did not believe a formal resolution and vote was ever taken in regard to the presentation of instantaneous motions and said it had merely been part of a discussion. Dr. Mansouri asked what urgency existed that required immediate approval to extend Mr. de Freitas' personal services contract?

Mr. Mahaney replied that if the Board had any hope of executing an agreement between the organizations within 30 days, there was no other choice because the previous limit of this personal services contract had been reached. Dr. Mansouri said there is no longer any urgency to transfer the funds from the Foundation due to the requirement of a written agreement being in place prior to approval, and he did not feel the 30-day time limit was sufficiently urgent to expend more money on attorney fees. Ms. Pordum pointed out that the Library Foundation is represented by counsel, and there appears to be no cap to that organization's spending on legal fees. She felt it was only fair that the Library Board be represented by legal counsel as well.

Ms. Summer suggested the Bylaws could be amended to include a rule that any resolution must be presented prior to a meeting, whether it's before the meeting starts, a few days before, a week before, whatever is decided. In the future, it would then be a matter of policy that this is the way the Board proceeds. Dr. Mansouri said he looks at things of this nature from an emergency point of view. If there is an emergency that needs to be taken care of, he sees no reason why an immediate vote could not be taken on a motion. Mr. Berlow declared this matter to be an emergency that must be resolved immediately. Ms. Horton called the question. The Chair stated Resolution 2006-46 was moved and seconded and recited the resolution. The vote was eight to three, with Trustees Buck, Berlow, Horton, Maggiore, Panty, Pordum, Summer and Thomas voting in the affirmative and Trustees Berger, Connors and Mansouri voting in the negative. Mr. Wisbaum abstained after stating he was in favor of having an attorney available, but would have preferred to approve only \$2,500 and then have a second request for an additional \$2,500 made later if it was deemed necessary.

At approximately 5:10 p.m., Trustee Wayne Wisbaum excused himself and disconnected from the conference call.

Agenda Item E – Committee Reports.

Agenda Item E.1 – Executive Committee. Mr. Buck reported the Committee met on August 17th. All members were present. Proposed agenda items were discussed. A joint meeting with members of the Budget & Finance Committee followed, and the 2007 budget request was discussed. Deputy Director Kenneth Stone was asked to prepare additional budget scenarios for the Board.

Agenda Item E.2 – Budget & Finance Committee. Mr. Berger asked Mr. Stone to introduce budget and finance matters.

Agenda Item E.2.a – Contract Library Transfers. Mr. Stone stated resolution 2006-40 concerns routine budget transfers within the Amherst Public Library. Mr. Buck moved, Mr. Berger seconded and approval was unanimous.

RESOLUTION 2006-40

WHEREAS, a request for budget transfers has been received from the Amherst Public Library, now therefore be it

RESOLVED, that the Board of Trustees of the Buffalo and Erie County Public Library approve transfers totaling \$4,194 within the budget of the Amherst Public Library.

Agenda Item E.2.b – Amend 2006 Budget: State Member Aid. This involved the acceptance of \$35,500 from Senator Dale Volker, which was awarded to the Collins and Concord Public and Marilla Free libraries. Ms. Horton moved for approval. Mr. Buck seconded her, and approval was unanimous. The Chair remarked that Senator Volker has been a generous benefactor to libraries.

RESOLUTION 2006-41

WHEREAS, on July 26th the Library received notification from the State Department of Education that “A grant-in-aid in the amount of \$35,500 has been apportioned to your library system,” and

WHEREAS, this member aid item was sponsored by New York State Senator Dale M. Volker to assist libraries in his district in light of B&ECPL’s difficult fiscal situation, and

WHEREAS, these proceeds are designated for the benefit of the Collins Public, Concord Public and Marilla Free libraries in the amounts of \$10,500, \$15,000 and 10,000 respectively, and

WHEREAS, supplemental private and public grants are regularly sought to augment library equipment, materials and other needs, and

WHEREAS, given the uncertain status of the Erie County and New York State budgets (hence local and state library aid), authorizing the contract libraries to retain these funds until such time as they are needed to offset future aid reductions is advisable (and strongly encouraged), now therefore be it

RESOLVED, that the Board of Trustees of the Buffalo and Erie County Public Library gratefully accepts the \$35,500 in State Aid, and be it further

RESOLVED that the Board of Trustees of the Buffalo and Erie County Public Library approves a budget amendment to the 2006 Budget increasing:

SAP revenue commitment Item #408160:
State Aid Special \$35,500 and

SAP expenditure commitment item #516010:
Collins Public Library \$10,500,
Concord Public Library \$15,000,
Marilla Free Library \$10,000,
Total: \$35,500, and be it further

RESOLVED, that the Board of Trustees of the Buffalo and Erie County Public Library authorizes the above contracting libraries to retain these funds until such time as they are needed to offset future state or local aid reductions, and be it further

RESOLVED, that a copy of this resolution and a revised Exhibit A be transmitted to the above libraries to implement the change.

Agenda Item E.2.c – Reallocate Grant Proceeds for Spanish Language Materials. Mr. Stone reminded trustees that in 2005 former Legislator Al DeBenedetti facilitated a grant from the Northwest Buffalo Community Center to assist three libraries in his district. One of those libraries, the Northwest Branch, was closed. This resolution will reallocate those designated funds to the Niagara Branch, which was also one of the grant recipients. That \$5,000 in combination with the \$5,000 already in the Niagara account will be used to purchase Spanish language materials. This item was moved by Ms. Panty and seconded by Ms. Maggiore. Approval was unanimous.

RESOLUTION 2006-42

WHEREAS, in July 2005, the Library Board adopted Resolution 2005-28 accepting and depositing in the Library's trust account the proceeds of a grant from the Northwest Buffalo Community Center, through the sponsorship of former Erie County Legislator Al DeBenedetti, to provide \$30,000 in funding to support three Buffalo branch libraries as follows:

Niagara Library	\$ 5,000
Northwest Library	\$ 5,000

Riverside Library	<u>\$20,000</u>
Total	\$30,000, and

WHEREAS, projects and activities were to be customized to meet the needs of each library's service area, in consultation with the librarians working at each library and interested volunteers, to include some or all of the following:

- Purchase of library materials;
- Support for programs and events; and
- Purchase of equipment and/or library furnishings, and

WHEREAS, shortly after receiving these funds, the Northwest Branch Library became a casualty of Erie County's financial crisis, closing in late 2005, and

WHEREAS, the Niagara Branch Library serves a growing Hispanic community and the recent lean library materials budget has hindered staff's effort to address this need, and a reallocation of the \$5,000 Northwest Branch allocation, combined with the \$5,000 Niagara Branch allocation, for the purchase of Spanish language materials is warranted, now therefore be it

RESOLVED, that the Board of Trustees of the Buffalo & Erie County Public Library approves reallocating \$5,000 from the Northwest Branch Library to the Niagara Branch Library allocation, and be it further

RESOLVED, that the Board authorizes the use of the combined \$10,000 allocation for the purchase of Spanish language library materials for the Niagara Branch Library.

Agenda Item E.2.d – Year 2007 Operating Budget Request. The Budget & Finance Committee met and reviewed the draft recommendation of the Library's proposed budget. The base budget adhered to the current \$21.7 million funding level. Additional funds required to provide public library service above and beyond the basic budget were detailed. Those proposals were reviewed and modified, and other alternatives were suggested to Mr. Stone. The resulting final budget proposal was distributed to trustees at the beginning of this meeting. Mr. Stone called attention to the chart that showed B&ECPL's 10-year funding levels, emphasizing the trend of County support. In 1997, the Library received approximately \$23 million. The proposed 2007 budget, including restoration packages in the amount of \$2.3 million, would be \$24 million. That is similar to the funding the Library received in 1999.

While many communities have come forward to help support local libraries, that support cannot be assured on a continuing basis. Therefore, the "Urgent" restoration package is important to ensure all System libraries are open the minimum hours per week required by New York State to avoid loss of State Aid and charters. "Essential" restorations will restore hours at selected libraries. "Basic" restorations will add services to existing libraries in areas where nearby branches have closed. "Targeted"

restorations address specific problem areas or add System-wide programming and service opportunities that would accomplish three major initiatives: restore vehicle-based outreach using the Lookie Bookie, restore System-wide technology training and restore System-wide children's programming services. The restoration packages total \$2,316,860 and will result in a library property tax levy of \$23,988,693.

Ms. Panty asked if the restorations would increase staffing levels at City branches. Mr. Stone stated restorations, in order of importance, are people, books and utilities. She expressed her approval of System-wide programming for children.

Ms. Summer inquired about the status of Mr. Wisbaum's offer to identify private funding to possibly provide some mobile library services. Mr. Mahaney reported that Development Director Ruth Collins spoke with Mr. Wisbaum about crafting a proposal that would respond to the interests and intents of the donor.

Mr. Connors referred to the Summary of Personnel Services and asked why only one support position was allocated to the Development Office. There is no line for development director. Mr. Stone said a \$75,000 appropriation is in the professional services line. This allows the option to either hire an employee or contract for those services. Other costs for development operations are included within System-wide accounts for fringe benefits, supplies, postage, etc. He explained where monies for this office were derived through reallocation. Dr. Mansouri questioned the amount allocated for Development Office operations. He repeated his question from the previous Board meeting and again asked if it was necessary to close 15 branches if an excess \$1 million budgeted for Workers Compensation is now available to be transferred to the library materials budget. Mr. Stone explained again that this budget concept was included in the 2006 budget proposal approved one year ago. The money allocated to Workers Compensation was taken from the library materials line because it was a one-time charge due to terminations. Any excess funds remaining in that line were to be transferred back to the materials budget line to rebuild it if and when it was determined not to be needed for that purpose. Had the money been used to retain additional branches, Mr. Stone said the Board would now be faced with two choices: either to close more libraries and use those funds to purchase material for the remaining branches or have an insufficient quantity of new materials at all the libraries. He agreed that the decisions made last year to close libraries were unpleasant, but stated the Library is trying to manage its limited resources in the best way possible. He stressed that as long as the County provides at least \$21.7 million for 2007, the B&ECPL would not experience additional layoffs or closures because of the way the 2006 budget was structured.

In regard to "Urgent" and "Essential" requests, Ms. Pordum stated one of the frequent comments B&ECPL trustees hear when meeting with contracting library boards is that libraries that are not meeting State standards are inadequate and are not serving their constituents. Library trustees need to advocate strenuously for additional funding. She

asked Trustee Susan Maggiore to schedule an Advocacy Committee meeting to begin work with fellow trustees to see that additional funds are put in place for 2007. The Chair implored all trustees to advocate to legislators and other elected officials and to work hard to get this budget approved with some additional dollars. It is important to develop advocacy by the public as well. Ms. Pordum thanked Mr. Stone for his yeoman effort to produce a strong budget proposal. Mr. Buck moved, and Ms. Summer made a second to approve the budget proposal. Resolution 2006-44 was approved by a vote of ten to one, with Dr. Mansouri voting in the negative.

RESOLUTION 2006-44

WHEREAS, the Library and its patrons have suffered through 2005-2006 budget reductions resulting from the loss of \$7 million (24%) in County support for operations and library materials versus the amount provided in 2004, and

WHEREAS, this reduction forced painful actions that resulted in the closure of 15 libraries and reduced hours of service and staffing throughout the rest of the System, and

WHEREAS, under the County's present four-year fiscal plan, that support would remain unchanged in 2007, with the County tax for library purposes fixed at \$21,671,833 for a third straight year, and

WHEREAS, on July 13th, the Library received budget instructions for preparing a formal 2007 budget request conforming to the County Executive's guidelines, and at an August 3, 2006 meeting with County Budget Office staff, these guidelines were again confirmed and a budget request due date of the last week of August was assigned, and

WHEREAS, the attached *2007 Budget Request* satisfies these requirements, and

WHEREAS, the continued reduced level of County funding (LESS than the Library received in 1997) is insufficient to successfully sustain even the present downsized library operation into the future, and

WHEREAS, despite looking for every opportunity to streamline, innovate, and fundraise, at least three libraries are presently not open enough hours per week to meet New York State minimum standards, and

WHEREAS, the County funding reduction caused the Library System itself to fail New York State local funding maintenance of effort requirements for the year ending 2005, and

WHEREAS, while Library staff is working with State officials on the process of requesting a temporary waiver to avoid a 25% reduction in New York State

Library System Aid, such a waiver may only be granted once every five years, and any further County funding reductions could have dire consequences, and

WHEREAS, to proactively address the situation, this budget request contains groupings of service restoration proposals, starting with the most urgently needed to prevent future library closures, and progressing through a series of service restorations that will allow the downsized Buffalo & Erie County Public Library System to successfully meet continued high public demand for service at a cost that would still be LESS THAN THE TAXPAYERS PROVIDED IN THE YEAR 2000 (APPROXIMATELY THE LEVEL PROVIDED IN 1999), now therefore be it

RESOLVED, that the Board of Trustees of the Buffalo & Erie County Public Library adopts the attached *2007 Budget Request*, and be it further

RESOLVED, that the Board of Trustees urgently requests the Erie County Executive and Erie County Legislature to provide the following restorations of County funding for the Buffalo & Erie County Public Library:

URGENT:	Restorations to Meet New York State Minimum Standards	\$252,947
ESSENTIAL:	Restorations to Allow Libraries Remaining Open to Provide More Effective Service	\$696,779
BASIC:	Restorations to Further Strengthen Existing Libraries in Higher Population Centers, Particularly those Serving Patrons from Closed Libraries	\$817,819
TARGETED:	Restorations to address specific problem areas or System-wide programming/service opportunities	\$549,315

and be it further

RESOLVED, that the Board of Trustees requests the Erie County Executive and Erie County Legislature to approve a County Property Tax for Library Purposes in the amount of \$23,988,693 to fund 2007 Library operations, including these restorations, and be it further

RESOLVED, that the Director transmit the resulting request to the County of Erie's Division of Budget, Management and Finance as close to the deadline as schedules and preparation time will allow.

Agenda Item E.2.e – Monthly Financial Report. No report was provided this month due to time constraints relative to the 2007 budget proposal preparation.

Agenda Item E.3 – Planning Committee. Ms. Pordum reminded Board members the Planning Committee is scheduled to meet on August 29th at 4 p.m. Meetings with

contract library boards are being scheduled now. Those dates will be shared with trustees once they are finalized.

Agenda Item E.4 – Policy Committee. Ms. Summer said this Committee met earlier in the day. Policies regarding Disaster Planning, Use of Library Facilities and Meeting Rooms, Rules of Conduct and the Internet Safety and Acceptable Use policy are currently under review. New or revised policies will be brought to the full Board.

Agenda Item E.5 – Buffalo Library Services Committee. Ms. Thomas reported this Committee met on August 1st at the Dudley Library. She thanked Ms. Panty, Ms. Horton and B&ECPL staff for attending. There was a good turnout and participation by residents. Mobile services, budget planning, strategic planning, funding sources and resources were discussed. A question and answer session followed. Mr. Mahaney assured the crowd the Board does not want to close any more libraries and is working diligently to prevent that from happening.

Agenda Item E.6 – Bylaws Committee. Ms. Horton reported this group met on August 2nd to review draft sections of bylaws, which were then sent to the Library’s counsel for review. A second meeting preceded this Board meeting, and suggested changes were reviewed. Another meeting is required to complete the review. All revisions and recommendations will be presented to the full Board for approval.

Agenda Item F – Report of the Director. Mr. Mahaney said his August report to the Board will be combined with the September report. Staff has been busy working on the five-year plan that must be forwarded to New York State in October. An outline will be presented to the Planning Committee on August 29th. Subsequent to that meeting, the draft plan will be posted to the website, copies will be distributed to all libraries and there will be three public meetings to discuss the proposed plan with the community. It is important that everyone in the County be given an opportunity to provide feedback. The September Board meeting will be held one week later than usual to allow sufficient time for information exchange and feedback.

The Director reminded trustees that Staff Development Day is set for October 18th. He encouraged all trustees to attend at least a portion of the day’s activities to learn about the future of libraries. Some programs and activities have been planned specifically for trustees. Detailed information will be forthcoming.

Several Erie County Legislators and their staffs will meet at the Central Library on September 8th to learn about the tremendous resources the Library has to offer that will enable them to serve themselves and their constituents better.

Mr. Connors reported the Foundation held two informational sessions regarding the transfer of funds the previous week. Sessions were well attended, and many questions

were asked and answered. Foundation Board members came away with a good feeling about the ability to work going forward despite earlier concerns. Ms. Pordum thanked Mr. Connors and Mr. Berger for handling the presentations.

Agenda Item G - Report of the Foundation Director. No information provided.

Agenda Item H - Public Comment. John Foss, Supervisor of the Town of Marilla, thanked trustees for volunteering their time and effort on behalf of the B&ECPL. He was particularly interested in the budget presentation and stated he plans to speak to legislators and ask them to support the Library System. Mr. Foss thanked the Board for working cooperatively with Marilla to keep that library open. He said the Marilla Library now has more volunteers than ever and believes the potential loss of the library made residents step up to serve their community. These volunteers have helped to maintain library services. Ms. Pordum thanked Mr. Foss for his advocacy efforts.

Valerie Niederhoffer of Buffalo noted the Library is trying to do more with less. She believes the cost of waging war in Iraq is one of the reasons there is a shortage of funding available for things like library services.

ElizaBeth Berry of Save Our Libraries was happy the B&ECPL plans to ask for additional funding to increase library services. However, she believes it would be better to increase basic library services to underserved areas rather than augment materials at remaining libraries. The initiative for vehicle-based outreach should have a higher priority. She also feels that handicapped parking at the Central Library is inadequate.

John Klukowski of South Buffalo said there is an urgent need to provide library services in city neighborhoods and is dismayed at the few hours per week some facilities are open. Weekday evening hours are extremely important for students. He noted that unlike Senator Volker, none of his elected representatives seem to show any interest whatsoever in helping libraries.

Agenda Item I - Unfinished Business. No unfinished business.

Agenda Item J - New Business.

Agenda Item J.1 - OverDrive Downloadable Audio Books. Mr. Mahaney stated that audio books have become very popular with patrons. More recently, downloadable audio books have become a popular format, and most large library systems across the country now provide downloadable audio books. There are many advantages to this format. Titles can be delivered instantly, and there are no associated processing or transportation costs. Titles are available 24 hours per day seven days per week and can never be overdue, lost or damaged. The proposed resolution authorizes the Library to enter into an agreement with OverDrive, a reputable vendor whose product works in

concert with the Library's Sirsi automation system. This was moved by Ms. Summer, seconded by Ms. Horton and approved unanimously.

RESOLUTION 2006-43

WHEREAS, the Mission of the Buffalo and Erie County Public Library is to "Connect our diverse community with library resources that enrich, enlighten and entertain," and

WHEREAS, patrons have demonstrated that borrowing non-printed materials is very important, and

WHEREAS, in recent years, to a new format, downloadable audio books, has become available, and been placed in service and

WHEREAS, major library systems across the country, including the Queens Borough Public Library, New York Public Library, King County Library System (WA) Las Vegas-Clark County Public Library, and the State of Hawaii libraries, and

WHEREAS, in researching options for providing this service, staff discovered that a product named Overdrive provided extremely fast downloads and can be done in CD quality, using a dial-up Internet connection, which cannot be done using any other vendor's public library product, and

WHEREAS, OverDrive is the only vendor to integrate with the Library's Sirsi system to authenticate patron records, and

WHEREAS, the monthly fee of \$1,600 for the infrastructure necessary for download services includes an initial \$9,000 credit with which to purchase the "Opening Day" collection of audio books, and

WHEREAS, the \$19,200 first year cost is available within the funds set aside within the 2006 Library Operating budget SAP account 530000 for asset disposition and/or other downsizing/transition costs, and

RESOLVED, that the Board of Trustees of the Buffalo & Erie County Public Library declares the downloadable library material service offered by Digital Library Reserve, Inc. to be sole source because of its integration with the Sirsi patron record for authentication and OverDrive's proprietary media console software, and be it further

RESOLVED, that the Board of Trustees of the Buffalo and Erie County Public Library authorizes the Library Director to enter into an agreement with Digital Library Reserve, Inc. to establish service offering downloadable library material with an initial four-year term at \$1,600 per month, renewable for successive terms of 24 months at \$1,000 per month, and be it further

RESOLVED, that the Board of Trustees approves the purchase of downloadable library material titles from Overdrive, Inc., subject to the availability of funds within the library materials budget, and be it further

RESOLVED, that the Board of Trustees approves a budget transfer within the following 2006 Library Operating Budget accounts to fund the first year service costs:

FROM:	SAP 530000 Other Expenses	\$19,200
TO:	SAP 516080 Professional Services	\$19,200

There being no further business, on motion by Mr. Berlow and a second by Ms. Horton, the meeting was adjourned at 6:02 p.m.

Respectfully submitted,

Frank Gist
Secretary