

**MINUTES OF THE
58th MEMBERS MEETING OF THE
TOBACCO SETTLEMENT FINANCING CORPORATION
HELD ON SEPTEMBER 12, 2013 AT 8:30 a.m.
AT ITS OFFICES AT 641 LEXINGTON AVENUE
NEW YORK, NEW YORK 10022**

MEMBERS AND DESIGNEES

PRESENT:

William J. Mulrow	Chairman
Kenneth M. Bialo	Vice Chairman
Naomi Bayer	Member
Linda Baldwin	Secretary of State, representing Cesar A. Perales, Member
Renee Nowicki	Division of the Budget, representing Robert Megan, Member via video Conference)

ABSENT:

Andrew A. SanFilippo	Member
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Chairman William J. Mulrow presided over the meeting.

Alejandro J. Valella, Vice President and Deputy Counsel of the Agencies, acted as Secretary. He noted that Renee Nowicki from New York State Division of the and Aida Brewer from New York State Department of Taxation were participating in the meeting via video conference from the NYS Division of Budget conference center at the Capitol Building Room 131 in Albany. A public notice was given of the time and location of this venue in accordance with the New York State Open Meetings Law.

Mr. Nestor M. Davidson, Commissioner Thomas H. Mattox and Ms. Joyce L. Miller, Darryl C. Towns, HFA Members; Ms. Marge Rogatz, Mr. Anthony Bergamo and Mr. Don Lebowitz, SONYMA Director attended this meeting as guests.

Mr. Valella asked for motions and seconds to call to order the Members and Directors meetings of the HFA, AHC, SONYMA, MBBA and TSFC respectively. Mr. Davidson moved to call the HFA and AHC meetings to order; Ms. Miller seconded the motion. Ms. Rogatz moved to call the SONYMA meeting to order, Ms. Bayer seconded the motion. Ms. Baldwin moved to call the MBBA meeting to order; Ms. Miller seconded the motion. Ms. Baldwin moved to call the TSFC meeting to order; Mr. Bialo seconded the motion.

Mr. Valella stated that as items were presented to each Board throughout the meetings, these

motions and seconds would be used, unless specific items called for a different vote, or unless any Board member wished to record his or her vote differently.

The meetings of the affiliated Agencies were opened in joint session for the President's report, the recital of the Committee reports, the adoption of the minutes of previous meetings and consideration of various matters of shared importance. These minutes reflect only those items being considered by the Tobacco Settlement Financing Corporation. A record of items considered by the other Agencies is contained in the minutes of each Agencies.

The first item on the agenda was the President's Report. Chairman Mulrow requested that Darryl C. Towns, President/CEO of the Agencies, present his report. Commissioner Towns greeted everyone. He reported that as the summer concludes, the agencies continue to complete transactions at a rapid pace noting that a record number of deals are expected to close. Commissioner Towns greeted everyone. He mentioned what he referred to as "an important victory for New York State and reported that an arbitration panel found that New York State had enforced a New York State law that requires nonparticipating tobacco manufacturers to make certain escrow deposits on tobacco sales. He credited the New York State Attorney General's office for doing "a great job in leading this fight" and should result in new activity for TSFC.

Commissioner Towns also asked the Board to consider various administrative items including the Agency's budget and financial plan for Fiscal Year 2014 along with revisions to the agency's procurement contract guidelines.

He announced that an update on the financial status of one of the Agency's important business partners, The Community Preservation Corporation, is expected. Also, he announced that the Board can expect to get an update from Mr. Matthew L. Nelson, President of Housing & Community Renewal's Office of Community Renewal, on the agency's activities as it relates to the storms for the last few years.

Commissioner Towns then announced the proposed appointment of two new Executives. He reported that Mr. Jason C. Kim will become Senior Vice President and Counsel to the Agencies and Ms. Sharon D. Devine will become the Agencies' President of the Office of Professional Services and Senior Vice President. He stated that both individuals are tremendous professionals.

He welcomed Linda M. Baldwin. Who will be representing Cesar A. Perales, Secretary of State on the MBBA/TSFC Boards.

Lastly, he reported that staff continues to work on issues with the Governor's Regional Economic Development's office on TFC reform. He also reported that the agency continues to plan for the upcoming legislative session in Albany as it continues to close out what is going to be a "banner" year.

Chairman Mulrow welcomed Ms. Baldwin as well.

The next agenda item was the report of the Audit Committees (HFA/AHC/SONYMA/MBBA/TSFC):

Mr. Valella reported that the Audit Committees held meetings on Tuesday, September 10, 2013 and took the following actions:

- All five Committees adopted Minutes
- All five Agencies adopted a resolution approving revisions to Internal Audit Work Plan for Fiscal Year 2014.
- All five Agencies adopted a resolution recommending the approval of Administrative Budget Request & Financial Plans for FY2014.
- MBBA adopted a resolution approving Municipal Bond Bank Agency Audit Report.
- All five agencies received a presentation/discussion by Ernst & Young (Independent Auditors).
- All five agencies reviewed Financial Statement Update 3rd Quarter Fiscal 2013 (HFA/SONYMA/MBBA/TSFC) and 1st Quarter Fiscal 2014 (AHC).
- All five Agencies reviewed reports of administrative budget expenditures for the nine months ending July 31, 2013 and updated financial plans.

The next item on the agenda item was the report of the Governance Committees (HFA/AHC/SONYMA/MBBA/TSFC).

Mr. Valella reported that the Governance Committees also held meetings on Tuesday, September 10, 2013 and took the following actions:

- All five Committees adopted Minutes
- All five agencies adopted a resolution recommending approval to revise the Agencies' Procurement and Contract Guidelines.
- All five agencies approved the entering into a contract with law firms to provide legal services to HFA in its role as lender to the recently acquired loan portfolio and authorization to enter into contracts with law firms recently added to the non-bond counsel pane.
- All five agencies reviewed report to Governance Committee of the selection of the Agencies by ESD for an MWBE Document Audit Review.
- MBBA and TSFC reviewed annual contracts with the Agencies' Independent Auditor, Ernst & Young LLP.

The next item on the Agenda was the adoption of the minutes of the TSFC Members' meetings held on April 11 and June 12, 2013 respectively. Absent comments or corrections from the Members, Mr. Valella reported that the minutes were deemed approved.

The next item on the Agenda was a resolution authorizing the approval to appoint C. Jason Kim as Senior Vice President and Counsel of the Agencies. Commissioner Towns announced that Mr. C. Jason Kim comes to the agency most recently from Skadden, Arps, Slate, Meagher & Flom LLP and has a "growing legal portfolio" including dealings with international affairs. He reported that Mr. Kim will be taking the helm as "our leader" during a critical time for the agencies and expressed excitement in having him. Chairman Mulrow echoed Commissioner Towns' comments. Mr. Kim was acknowledged.

Mr. Valella then asked the Directors to adopt the resolution authorizing the approval appointing Mr. Kim as Senior Vice President and Counsel to the agencies.

Considering the first and second motions previously entered, the motions were carried, and the following resolution was unanimously adopted:

A RESOLUTION OF THE NEW YORK STATE HOUSING FINANCE AGENCY, STATE OF NEW YORK MUNICIPAL BOND BANK AGENCY, AFFORDABLE HOUSING CORPORATION, TOBACCO SETTLEMENT FINANCING CORPORATION AND STATE OF NEW YORK MORTGAGE AGENCY APPOINTING C. JASON KIM AS SENIOR VICE PRESIDENT AND COUNSEL

The next item on the Agenda was a resolution authorizing the approval to appoint Sharon D. Devine as the Agencies' President of the Office of Professional Services and Senior Vice President.

Commissioner Towns reported on the excitement of growing "one of our own from within" the organization. He reported that Ms. Sharon Devine has a growing portfolio in her expertise, especially in the area of budget. Additionally, she is a tremendous administrator. Ms. Devine was acknowledged.

Mr. Valella then asked the Members to adopt the resolution appointing Ms. Devine as Senior Vice President, with the title of President, Office of Professional Services.

Considering the first and second motions previously enter, the motions were carried, and the following resolution was unanimously adopted:

A RESOLUTION OF THE NEW YORK STATE HOUSING FINANCE AGENCY, STATE OF NEW YORK MUNICIPAL BOND BANK AGENCY, AFFORDABLE HOUSING CORPORATION, TOBACCO SETTLEMENT FINANCING CORPORATION AND STATE OF NEW YORK MORTGAGE AGENCY APPOINTING SHARON D. DEVINE AS SENIOR VICE PRESIDENT, WITH THE TITLE OF PRESIDENT, OFFICE OF PROFESSIONAL SERVICES

Chairman Mulrow then directed the Members' attention to the shared consent items 4, 5, and 7 on the Agenda and stated that information regarding these items were contained in the meeting materials provided which are incorporated herein by reference. There were no discussions on these items.

Considering the first and second motions previously enter, the motions were carried, and the following resolutions were adopted:

Resolution approving Administrative Budget Request & Financial Plans for FY2014:

A RESOLUTION OF THE NEW YORK STATE HOUSING FINANCE AGENCY STATE OF NEW YORK MORTGAGE AGENCY NEWYORK STATE AFFORDABLE HOUSING CORPORATION STATE OF NEW YORK MUNICIPAL BOND BANK AGENCY AND TOBACCO SETTLEMENT FINANCING CORPORATION ADOPTED AN ADMINISTRATIVE BUDGET FOR FISCAL YEAR NOVEMBER 1, 2013 TO OCTOBER 31, 2014 AND FINANCIAL PLANS FOR FISCAL YEARS 2014, 2015, 2016 AND 2017 WITH RESPECT TO THE NEW YORK STATE HOUSING FINANCE AGENCY STATE OF NEW YORK MORTGAGE AGENCY STATE OF NEW YORK MUNICIPAL BOND BANK AGENCY AND TOBACCO SETTLEMETN FINANCING CORPORATION AND THE NEW YORK STATE AFFORDABLE HOUSING CORPORATION'S FINANCIAL PLAN FOR FISCAL YEARS 2015, 2016, 2017 AND 2018, AND PRELIMINARY CASH BUDGETS FOR THE NEW YORK STATE HOUSING FINANCE AGENCY AND THE STATE OF NEW YORK MUNICIPAL BOND BANK AGENCY FOR FISCAL YEAR 2014

Resolution approving Investment Reports:

A RESOLUTION OF THE NEW YORK STATE HOUSING FINANCE AGENCY THE STATE OF NEW YORK MORTGAGE AGENCY THE NEW YORK STATE AFFORDABLE HOUSING CORPORATION THE STATE OF NEW YORK MUNICIPAL BOND BANK AGENCY AND THE TOBACCO SETTLEMENT FINANCING CORPORATION APPROVING QUARTERLY REPORTS OF INVESTMENTS

Resolution approving revisions to the Agencies' Procurement and Contract Guidelines.

A RESOLUTION OF THE NEW YORK STATE HOUSING FINANCE AGENCY, STATE OF NEW YORK MORTGAGE AGENCY, NEW YORK STATE AFFORDABLE HOUSING CORPORATION, STATE OF NEW YORK MUNICIPAL BOND BANK AGENCY, AND TOBACCO SETTLEMENT FINANCING CORPORATION APPROVING AND ADOPTING UPDATED PROCUREMENT AND CONTRACT GUIDELINES

There was one vote against the second proposed change to the procurement and contract guidelines (Item # 7 on the Agenda) made by MBBA/TSFC Vice-Chairman, Mr. Kenneth M. Bialo.

HFA/AHC Member, Mr. Davidson raised a question about the deficit and whether it signifies something the Board should be concerned about. Ms. Robinson explained that some of the deficits are based on the fact that the conduit debt is not included in the financial plan and other deficits are due to timing issues. Mr. Davidson also questioned the projected amount for the current year totaling \$19.2 Million Dollars and only \$25 Million Dollars for the next four years. Mr. Gary Weinstock, Vice President/Comptroller explained that the money that's accumulated in

prior years is included in the subsidy loan which is listed as an expense and not an overall deficit. HFA/AHC Member, Ms. Miller noted that the revenues are substantially decreased in 2014. Mr. Weinstock explained that the revenues decrease because the mortgage origination fees are related to deals and it's difficult to make long-term projections. A follow-up question was asked related to the percentage the agency was paying. Mr. Weinstock answered that it is a very small percentage – less than 3% total. Ms. Miller noted the number of staff positions totaling 208 and inquired about whether that number was representative of the total number of staff for all of the agencies. Ms. Robinson explained that the total staff positions listed represents a targeted goal; the number of staff members is actually lower and did not increase but decreased with the Mitchell-Lama portfolio. Ms. Miller expressed surprise given the enormous amount of responsibilities. Chairman Mulrow stated that the agency has been overburdened in a number of areas but hopes to fill some of the vacancies. Commissioner Towns further explained that the agency is charged with huge tasks and responsibilities and there have been discussions about raises in the Committee meetings. He commented that the fact that Board members appreciate and recognize the efforts of staff members is significant. One Board member asked if there was anything that could be done to supply additional support in this area of hiring, etc. especially since members of the Board have a fiduciary responsibility to be of assistance. It was noted that the Governor's offices have been completely responsive to the needs of the agency, however, there is a timing process.

Chairman Mulrow stated that the next three (3) items on the agenda were information items concerning the following:

- a. **Review of the Agencies' Quarterly Procurement Report for the period ending July 31, 2013.**
- b. **Financial Statement Update 3rd Quarter Fiscal 2013 for HFA/SONYMA/MBBA/TSFC and 1st Quarter Fiscal 2014 for AHC.**
- c. **Report of administrative budget expenditures for the nine months ending July 31, 2013 and updated financial plans.**

Chairman Mulrow stated that information regarding these items were contained in the meeting materials provided which are incorporated herein by reference. There was no discussion regarding these items.

Ms. Zucker noted that she contemplates that there may be a need for a TSFC meeting prior to December 2013 in light of the tobacco settlement which was a major win for New York State. She then proceeded to provide background information on the case. Ms. Zucker reported that in 1998, there was a major tobacco settlement (a 46-State settlement required the companies to make annual payments to resolve their liability in health-care cost litigation) that involved tobacco companies and a host of State Attorney Generals had to combat the singular attempts by States which were seeking redress from tobacco companies for the increase in tobacco costs caused by cigarette smoking. In 2003, New York State took the revenue stream and securitized it through the TSFC. After numerous litigation and hearings, she said that yesterday, (9/11/13), a decision was released -- essentially New York State was accurate in following its policy of not taxing cigarette sales on Indian reservations; a three-judge panel ordered the major tobacco companies to pay \$92 Million Dollars withheld from the state from their 2003 annual payment.

Howard Zucker of Hawkins, Delafield & Wood LLP and Bond Counsel to the TSFC explained the outcome of the litigation. He further noted that a number of states lost this precedent-

setting decision yesterday, (9/11/13), over the disputed payments; the fact that New York State was victorious is “a big deal.”

There being no unfinished business, Chairman Mulrow asked to a motion to conclude the meeting. Vice Chairman Bialo moved to adjourn; Ms. McCann seconded the motion and the meeting was adjourned at 9:11 a.m. a.m.

Mr. Valella reminded the members to be mindful of the upcoming ethics training dates.



C. Jason Kim, Secretary