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July 25, 2008

Ms. Lynne A. Sobczak
Board Clerk and Director
Office of Board Governance
Milwaukee Public Schools
5225 W. Vliet St.
Milwaukee, WI 53201-2181

Re: Transmittal of FY09 MPS Budget to Common Council

Dear Ms. Sobczak:

You have advised us of the occurrence of the following events and request a legal opinion as to their consequences. On June 19, 2008, the Milwaukee Board of School Directors adopted the preliminary FY 2009 budgets for the School Operations Fund, the Extension Fund and the Construction Fund, as well as the tentative amounts to be raised by tax levies for these funds. In regard to the School Operations Fund, however, as MPS had not yet received notification from the Wisconsin Department of Public Instruction of the estimated amount of the FY 2009 general state aids which MPS is to receive, the Board has authorized a tax levy in an amount that was yet "to be determined." It was not until July 2, 2008, that the Board received DPI's July 1 estimate of general state aids. Upon receipt of the DPI estimate, MPS staff performed the ministerial function of calculating the amount of the levy for the School Operations Fund. This ministerial function simply consisted of subtracting the amount of the estimated state aids from the amount of the FY 2009 School Operations Fund budget as adopted by the Board on June 19, 2008.

There are two applicable provisions of law. Wis. Stat. § 119.16(8)(b) states, in pertinent part, as follows:

"The board shall transmit its completed budget to the common council on or before the first Monday in August of each year on forms furnished by the auditing officer of the city."

OFFICE OF THE CITY ATTORNEY

Milwaukee City Hall Suite 800 • 200 East Wells Street • Milwaukee, Wisconsin 53202-3551 • Telephone: 414.286.2601 • TDD: 414.286.2025 • Fax: 414.286.8550

Wis. Stat. § 119.46(1) states, in pertinent part, as follows:

“As part of the budget transmitted annually to the common council under s. 119.16(8)(b), the board *shall report* the amount of money required for the ensuing school year to operate all public schools in the city under this chapter” (Emphasis supplied.)

By letter dated July 23, 2008, you have asked this office for a legal opinion as to whether or not the mandate of the above statutes has been complied with in the attached transmittal letter and certifications that you propose to send to the Milwaukee Common Council. For the reasons stated below, we conclude that the attached draft letter and certifications meet the requirements of the law.

Section 119.16(8)(b) requires that the Board transmit its “completed budget” to the Common Council. The attached documents advise the Common Council that the Board has adopted a budget for FY 2009 of \$959,516,015. Thus, the Board has complied with this statute.

Wis. Stat. § 119.46(1) requires only that the Board “shall report” the amount of money required for the ensuing school year. Your proposed letter of transmittal and certifications to City Clerk Ron Leonhardt specify such an amount. The amount of \$260,435,358 was derived by subtracting the amount of state aid from the requested budget amount of \$959,516,015 that was approved by the Board on June 19.

The underlying question is whether or not this ministerial calculation by MPS staff must be sent back to the Board for approval before being transmitted to the City Clerk. We can find nothing in either of the statutory sections quoted above, or in any other provision of state or local law that requires the Board to confirm what is simply a ministerial function.

The final certified budget will be transmitted at a later date after the Board adopts the final FY 2009 budget. This transmittal usually occurs in the month of October after additional consideration of the budget by the Board.

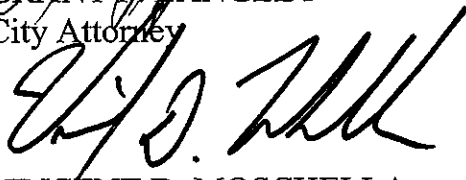
Ms. Lynne A. Sobczak
July 25, 2008
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Please do not hesitate to contact us if you have any additional questions or concerns.

Very truly yours,



GRANT E. LANGLEY
City Attorney



VINCENT D. MOSCHELLA
Deputy City Attorney

VDM:dms

Enc.

c: W. Martin Morics
Michelle Nate
Shirley Lallensack
Ronald Leonhardt

1034-2008-2276:135407

The Common Council of the City of Milwaukee
c/o Mr. Ronald D. Leonhardt, City Clerk
City Hall, Room 205
200 East Wells Street
Milwaukee, WI 53202-3567

Ladies and Gentlemen:

For your information only, I am hereby advising you that, at a meeting held on June 19, 2008, the Milwaukee Board of School Directors adopted the following resolutions relating to the FY2009 School Operations Fund budget, the FY2009 Extension Fund budget, the FY2009 Construction Fund budget, and the tentative amounts to be raised by lax levies for these Funds:

SCHOOL OPERATIONS FUND

RESOLVED, That pursuant to the provisions of Section 119.46, Wisconsin Statutes, relating to the School Operations Fund, the Board of School Directors hereby advises the Common Council that the amount of \$959,516,015 will be required for the operation of the Milwaukee Public Schools, for the repair and keeping in order of school buildings and equipment, and the making of material improvements to school property during the 2009 Fiscal Year; and that *(to be determined)* thereof is to be raised by a tax levy on all real and personal property in the City of Milwaukee subject to taxation for Milwaukee public school purposes in 2009, pursuant to the provisions of Section 65.07(1)(e), Wisconsin Statutes, said amount to be raised by tax levy being in addition of the money to be received from state aids, shared taxes, and from other miscellaneous sources.

CONSTRUCTION FUND

RESOLVED, That, pursuant to the provisions of Section 119.48, Wisconsin Statutes, the Board of School Directors hereby advises the Common Council that the amount of \$19,498,233 will be required for the 2009 Fiscal Year Construction Fund budget purposes and that it is to provide, in accordance with Section 65.07(1)(f), Wisconsin Statutes, \$17,001,718 by a tax levy on all real and personal property in the City of Milwaukee subject to taxation for Milwaukee public school purposes in 2009, said amount to be in addition to the money received from other miscellaneous sources.

EXTENSION FUND

RESOLVED, That, pursuant to the provisions of Section 119.47, Wisconsin Statutes, relating to the Extension Fund, the Board of School Directors hereby advises the Common Council that the amount of \$14,071,832 will be required for the maintenance of playgrounds, recreation centers, and similar activities during the 2009 Fiscal Year, and that \$11,142,826 thereof is to be raised by a tax levy on

all real and personal property in the City of Milwaukee subject to taxation for Milwaukee public school purposes in 2009, pursuant to the provisions of Section 65.07(1)(g), Wisconsin Statutes, said amount being required in addition to other miscellaneous sources.

As MPS had not yet received notification from the Wisconsin Department of Public Instruction (DPI) of the estimated amount of FY09 general state aids which the district is to receive, in adopting the budgetary resolution for the School Operations Fund, the Board had authorized a tax levy in an amount that was yet to be determined. On June 30, 2008, DPI notified MPS that the district is estimated to receive FY09 net general state aids in the amount of \$594,512,505. MPS staff has performed its ministerial calculations based on the DPI's estimates, and the resultant amount of tax levy authorized by the Board to support the adopted School Operations budget is estimated at \$260,435,358 (please see attached).

The total FY09 estimated property-tax levy for the School Operations, Construction, and Extension Funds will be \$288,579,902.

However, as in the past, the **final certified budget** will be transmitted at a later date after the Board adopts the Final FY09 budget (usually in October). The certification of the final FY09 budget that you will receive in October is the only figure that should be used to determine the amounts to be raised by Tax Levies for these Funds.

Sincerely,

Mrs. Lynne A. Sobczak
Board Clerk

cc: Martin Morics
Shirley Lallensack
Michelle Nate

July 23, 2008

SCHOOL OPERATIONS FUND

RESOLVED, That pursuant to the provisions of Section 119.46, Wisconsin Statutes, relating to the School Operations Fund, the Board of School Directors hereby advises the Common Council that the amount of **\$959,516,015** will be required for the operation of the Milwaukee Public Schools, for the repair and keeping in order of school buildings and equipment, and the making of material improvements to school property during the 2009 Fiscal Year; and that **\$260,435,358** thereof is to be raised by a tax levy on all real and personal property in the City of Milwaukee subject to taxation for Milwaukee public school purposes in 2009, pursuant to the provisions of Section 65.07(1)(e), Wisconsin Statutes, said amount to be raised by tax levy being in addition of the money to be received from state aids, shared taxes, and from other miscellaneous sources.

CONSTRUCTION FUND

RESOLVED, That, pursuant to the provisions of Section 119.48, Wisconsin Statutes, the Board of School Directors hereby advises the Common Council that the amount of **\$19,498,233** will be required for the 2009 Fiscal Year Construction Fund budget purposes and that it is to provide, in accordance with Section 65.07(1)(f), Wisconsin Statutes, **\$17,001,718** by a tax levy on all real and personal property in the City of Milwaukee subject to taxation for Milwaukee public school purposes in 2009, said amount to be in addition to the money received from other miscellaneous sources.

EXTENSION FUND

RESOLVED, That, pursuant to the provisions of Section 119.47, Wisconsin Statutes, relating to the Extension Fund, the Board of School Directors hereby advises the Common Council that the amount of **\$14,071,832** will be required for the maintenance of playgrounds, recreation centers, and similar activities during the 2009 Fiscal Year, and that **\$11,142,826** thereof is to be raised by a tax levy on all real and personal property in the City of Milwaukee subject to taxation for Milwaukee public school purposes in 2009, pursuant to the provisions of Section 65.07(1)(g), Wisconsin Statutes, said amount being required in addition to other miscellaneous sources.

**Citations Regarding an Action on
Adoption of the Fiscal Year 2009 Budgets for
School Operations, Construction, And Extension Funds**

I hereby certify that the following are true, correct, and compared citations of an action taken at the regular monthly meeting of the Milwaukee Board of School Directors on June 19, 2008, at which the Board adopted the FY09 School Operations, Construction, and Extension Funds budgets and positions, as reflected in the following customary budgetary resolutions:

Dated this ____ day of July, 2008.

LYNNE A. SOBCZAK
BOARD CLERK

Date of Meeting: June 19, 2008

Meeting Time: Called to order: 6:33 p.m.
Adjourned: 2:45 a.m.,
June 20, 2008

SCHOOL OPERATIONS FUND

RESOLVED, That pursuant to the provisions of Section 119.46, Wisconsin Statutes, relating to the School Operations Fund, the Board of School Directors hereby advises the Common Council that the amount of **\$959,516,015** will be required for the operation of the Milwaukee Public Schools, for the repair and keeping in order of school buildings and equipment, and the making of material improvements to school property during the 2009 Fiscal Year; and that *(to be determined)* thereof is to be raised by a tax levy on all real and personal property in the City of Milwaukee subject to taxation for Milwaukee public school purposes in 2009, pursuant to the provisions of Section 65.07(1)(e), Wisconsin Statutes, said amount to be raised by tax levy being in addition of the money to be received from state aids, shared taxes, and from other miscellaneous sources.

CONSTRUCTION FUND

RESOLVED, That, pursuant to the provisions of Section 119.48, Wisconsin Statutes, the Board of School Directors hereby advises the Common Council that the amount of **\$19,498,233** will be required for the 2009 Fiscal Year Construction Fund budget purposes and that it is to provide, in accordance with Section 65.07(1)(f), Wisconsin Statutes, **\$17,001,718** by a tax levy on all real and personal property in the City of Milwaukee subject to taxation for Milwaukee public school purposes in 2009, said amount to be in addition to the money received from other miscellaneous sources.

EXTENSION FUND

RESOLVED, That, pursuant to the provisions of Section 119.47, Wisconsin Statutes, relating to the Extension Fund, the Board of School Directors hereby advises the Common Council that the amount of **\$14,071,832** will be required for the maintenance of playgrounds, recreation centers, and similar activities during the 2009 Fiscal Year, and that **\$11,142,826** thereof is to be raised by a tax levy on all real and personal property in the City of Milwaukee subject to taxation for Milwaukee public school purposes in 2009, pursuant to the provisions of Section 65.07(1)(g), Wisconsin Statutes, said amount being required in addition to other miscellaneous sources.

Attendance of Board Members and Vote on Resolution:

Peter Blewett, President	Present.....	Aye
Michael Bonds	Present.....	Aye
Terrence Falk	Present.....	Aye
Danny Goldberg.....	Present.....	Present
Charlene Hardin	Present.....	Aye
Jennifer Morales.....	Present.....	Aye
Tim Petersons.....	Present.....	Aye
Jeff Spence	Present.....	Aye
Bruce Thompson.....	Present.....	Aye

Ayes – 8; Noes –0; Present – 1

I hereby certify that the foregoing are true, correct, and compared citations of an action taken at the regular monthly meeting of the Milwaukee Board of School Directors on June 19, 2008, at which the Board adopted the FY09 School Operations, Construction, and Extension Funds budgets and positions, as reflected in the foregoing customary budgetary resolutions.

Dated this ____ day of July, 2008.

LYNNE A. SOBCZAK
BOARD CLERK