

Minutes

Buffalo Fiscal Stability Authority

September 10, 2003

Meeting of the Buffalo Fiscal Stability Authority (“BFSA”) convened at 1:00 p.m. in the Mason O. Damon Auditorium of the Central Library of the Buffalo and Erie County Public Library in Buffalo, New York

The Meeting was convened by a Notice of Meeting sent to the Directors by Chair Baker and announced to the public and press.

Directors Present: Baker, Faso, Giambra, Masiello, McCall, Pirtle, Tobe, Townsend, Wilmers

Staff Present: Johnson, Tocker, Stefko

Others present, Friedman, Esq.

1. Agenda Item 1-Chair Baker made an opening statement:
 - a. Today’s meeting would include presentations by the City of Buffalo, Buffalo School Board and the Institute of Local Government and Regional Growth.
 - b. The next BFSA meeting would be on September 15, 2003 at 1:00 p.m. at the Downtown Public Library.
 - c. The BFSA has opened offices in the Market Arcade Building, 617 Main Street, Buffalo, New York 14203, telephone number 853-0907. Fax and e-mail numbers are being established.
 - d. The Buffalo and Erie County Public Library was thanked for providing space for the BFSA meetings.

2. Agenda Item 2-Minutes

The Directors voted to approve Resolution 03-18 to approve the minutes of the meeting of August 6, 2003 and to ratify fifteen resolutions numbered 03-03 through 03-17. Motion by Wilmers, second by Townsend, vote 9-0. (Attachment 1).

3. Agenda Item 3- Working Groups

The Directors voted to approve Resolution 03-19 Establishing and Reconstituting Working Groups. Motion by Giambra, Second by Masiello, vote 9-0. (Attachment 2).

4. Agenda Item 4-Execuive Session

The directors decided that an Executive Session was not necessary at this time.

5. Agenda Item 5- Engage Staff

The Directors voted to approve Resolution 03-20 to hire the following three staff members:

- a. Robert M. Tocker
- b. Joseph V. Stefko, PhD
- c. Heidi Santos

Motion by Townsend, second by Faso, vote 9-0. (Attachment 3).

6. Agenda Item 6-Presentations and Responses:

- a. Andrew SanFilippo, Comptroller's Office, accompanied by Todd Miles, of Hawkins, Delafield and Wood (Bond Counsel) and Chester Johnson, Government Finance Associates, Inc. (Financial Advisors) addressed the BFSA as follows:
 - i. Comptroller SanFilippo, pursuant to BFSA Resolution 03-10 that authorized the City Comptroller to begin the process of conducting a sale by the City of Revenue Anticipation Notes (RAN) subject to final approval by the BFSA, now requests approval of a RAN sale of \$120 million. The sale is described in a
 1. Memorandum from the three parties dated September 8, 2003 (Attachment 4),
 2. Preliminary Official Statement dated September 5, 2003 (Attachment 5),
 3. State BFSA Aid Trust Agreement dated September 16, 2003 (Attachment 6),
 4. Letter of Credit and Reimbursement Agreement draft dated September 9, 2003 (Attachment 7),
 5. Fiscal Agency Agreement dated September 16, 2003 (Attachment 8) and
 6. Contract of Purchase dated September 10, 2003 (Attachment 9).
 - ii. The Comptroller indicated that the proceeds from the RAN will be used to pay current year operations expenses of the City and Buffalo Public Schools until January 2004. The RANS will be repaid by a direct pay Letter of Credit from the Bank of New York which will be secured by and repaid from a portion of the state aid that will be paid to the BFSA.
 - iii. Mr. SanFilippo and the advisors reported that a number of bids had been received, that the RAN had on a preliminary basis received

the highest short term rate available based upon the Bank of New York Letter of Credit and the interest rate that investors would yield would be 1.08 % which is the current market rate. The cost of the letter of credit is 72 basis points.

- iv. Mr. SanFilippo and his advisors reported that the BFSA did not bear any risk with regard to this financing. Late payment of state aid or other risks are to be borne by the City of Buffalo and the Bank of New York.
 - v. Executive Director Johnson reported there are sufficient funds available to the BFSA after this transaction to cover the anticipated operating expenses of the BFSA.
 - vi. The Directors voted to approve Resolution 03-21 to approve the issuance by the City of RAN pursuant to terms described by the Comptroller to the BFSA and to authorize the BFSA to enter into documents recommended and approved by BFSA Counsel as fully described in said resolution. Motion by Faso, second by Townsend vote 9-0 (Attachment 10).
- b. Mayor Anthony Masiello and Commissioner of Administration and Finance Jim Milroy made a presentation to the BFSA on the Four Year Financial Plan
- i. The City's plan was reviewed by the Mayor along with the history of prior budget actions, including a reduction of 399 positions in the workforce since Mayor Masiello took office. The Mayor stated that he welcomed the "control board" as the last best chance to save Buffalo.
 - ii. The Mayor stated that it is not prudent for the City to incur additional debt (or to have the BFSA issue debt on the City's behalf). As a result, he has not requested the BFSA to borrow on behalf of the City.
 - iii. The Mayor confirmed that his plan for 2003/2004 and years thereafter relied upon the receipt of large amounts of additional sales tax aid from Erie County. The Mayor also confirmed that there was not an agreement with Erie County regarding this aid.
 - iv. The Mayor indicated that the City did not have a plan to bring the budget into balance without additional sales tax aid. Should such aid not be received, the City would attempt to balance the budget by attrition.
 - v. The BFSA requested monthly cash flow reports from the City. The Mayor indicated that these would be provided by the Comptroller.
 - vi. The City was advised that:
 - 1. The Four Year Plan did not comply with the BFSA statute.
 - 2. The Mayor should consider more aggressive cost cutting actions.
 - 3. The BFSA cannot undertake a borrowing on behalf of the City unless the City makes a declaration of need.

4. The BFSA legislation allows the Authority to assist with the imposition of financial discipline and can offer borrowed funds.
 5. The BFSA cannot direct the County or State to provide additional aid.
 6. The BFSA was not going to lobby on the City's behalf.
- c. Buffalo School Superintendent Marion Canedo, James Kane and Deputy Superintendent Yvonne Hargrave made a presentation to the BFSA.
- i. The BPS plan was presented in a power point presentation.
 - ii. The BPS stated that the current budget (2003/2004) is balanced. The BPS also stated that based upon cash flows and expenses there is a positive balance for the months of July and August 2003.
 - iii. The BPS provided a report dated September 10, 2003 to the BFSA that includes eleven attachments. This report was distributed to BFSA members at the commencement of the meeting. (Attachment 11)
 - iv. The BPS relies upon additional state aid, additional sales tax revenue from Erie County, and loans of up to \$60 million to balance its budget in future years.
 - v. The BPS confirmed that there was not an agreement with New York State, Erie County or the BFSA regarding this aid.
 - vi. The BPS will provide the BFSA with actual enrollment, the number of teachers in classrooms, the number of teacher's aides, and the number of all other instructional personnel in the classroom for the last three years, and project the same information for the current year and the next four years. The BPS will also calculate average class size for all years. For future years, the calculation shall be made as if the revenue items contained in the Four Year Plan under Potential Additional Items to Reduce the Gap are not received. The BPS also may make these calculations as if the revenue was received for purposes of providing a comparison.
 - vii. The BPS is to provide a calculation that displays the average expenditure per student for the last five years including 2003/2004. This calculation shall include all aid from all sources. The BPS also may demonstrate with data that there are large variations between the average cost per student and the high costs for some students and the impact of these variations on the average cost calculation.
 - viii. The BPS advised the BFSA that it has prepared a budget document that includes a narrative, budget message, time line, targets and accomplishments by cost center. This document is to be provided to the BFSA staff.
 - ix. The BPS was advised that:

1. Its reliance on Potential Additional Items to reduce the Gap particularly “additional local aid/borrowing” was not permitted by the BFSAs statute.
 2. Its failure to reflect the projected declines in enrollment while projecting increased expenses was a serious concern.
 3. It must provide current cash flow information.
 4. It must respond to the serious deficiencies identified in audits and the reports from Council of Great City Schools.
- d. John Sheffer, Executive Director from the University of Buffalo’s Institute for Local Government and Regional Growth provided a Report on Public Comments Pertaining to the City of Buffalo’s Four Year Financial Plan. Mr. Sheffer summarized the procedural steps that lead to the public hearing that was held on September 6, 2003, reviewed the statistics regarding those who testified, and provided a summary of the salient comments.
- i. The BFSAs accepted the Report and documents, and the videotapes of the public session,
 - ii. The BFSAs directed Mr. Sheffer to post the Report on the website developed for the hearing, and
 - iii. The BFSAs thanked Mr. Sheffer and his staff for their excellent work.

7. Agenda Item 7- Approval of Certain City Contracts

James Milroy requested approval of four contracts described in a Memorandum dated September 9, 2003. (Attachment 12) Executive Director Johnson indicated that there are sufficient funds in the City’s adopted budget to cover all four contracts and recommended approval.

- a. The Directors voted to approve Resolution 03-22 to authorize the purchase of nine additional police cars at a cost of \$220,681 and for the equipment needed to equip 34 police cars at a cost of \$132,000 (the purchase of 25 police cars was approved in Resolution 03-14) for a total cost of \$352,681 (Attachment 13). The equipment will come from the City’s capital budget and the funds to purchase the police cars will come from the Local Law Enforcement Block Grant-Year 7. Motion by Masiello, Second by Giambra, vote 7-0 (directors McCall and Faso were not present at the time of the vote)
- b. The Directors voted to approve Resolution 03-23 to authorize the City of Buffalo and the Buffalo Sewer Authority to sell \$9.1 million in property tax and Sewer charge liens to the New York State Municipal Bond Bank Agency subject to the City and Sewer Authority receiving a purchase price acceptable to the City (Attachment 14). All liens are old and there have been multiple efforts to enforce collection. It is expected that the MBBA will sell the rights to collect against the liens and to foreclose on the property to a commercial collection agency. Motion by Townsend, Second

by Pirtle, vote 7-0 (directors McCall and Faso were not present at the time of the vote).

- c. The Directors voted to approve Resolution 03-24 to authorize the City of Buffalo to enter into a three year contract with Erie County to provide funding for a recycling education contract (Attachment 15). Funding is provided by the State (50%), County (19%) and City (31%). Buffalo is responsible for \$35,000 per year. This sum will be provided by the City's recycling contractor, BFI as part of its contractual obligation to provide \$75,000 per year in recycling education. Motion by Pirtle, Second by Wilmers, vote 7-0. (Directors McCall and Faso were not present at the time of the vote).
- d. The Directors voted to approve Resolution 03-25 to authorize the City of Buffalo to enter into a contract for \$120,000 with Buffalo Place, Inc. for the management, maintenance and promotion of the Buffalo Place Special Assessment district. The funds were included in the City's general fund budget. Motion by Giambra, Second by Tobe, Vote 7-0 (directors McCall and Faso were not present at the time of the vote).

8. Agenda Item 8- Approval of Certain School Board Contracts

- a. James Kane submitted a letter to the BFSA dated September 8, 2003 (Attachment 17) in which he sought approval of 24 contracts. All contacts were approved by the Buffalo School Board and there are funds in the Buffalo School Board budget in sufficient amounts for each contact. Executive Director Johnson recommended approval of each contract. The Directors voted to approve Resolution 03-26 to authorize the Buffalo School Board to enter into 24 contracts as specified in the letter of September 8, 2003. Motion by Townsend, Second by Pirtle, vote 7-0 (directors McCall and Faso were not present at the time of the vote).
- b. James Kane requested approval of a contract between the Buffalo School Board and the union, Buffalo Education Support Team ("BEST"). The contract provides a new method for offering health insurance to BEST members. The BFSA has requested a full explanation of the events that led to the serious cost overrun in the BEST Union Benefit Trust. Although all questions were not satisfactorily answered, in order to avoid a loss of health care coverage to BEST members the BFSA reviewed the Memorandum of Understanding between Buffalo Educational Support Team and the Buffalo School District, executed by Marion Canedo, Superintendent and Ellis Woods, President of BEST on September 8, 2003. The Directors voted to approve Resolution 03-27 to authorize the Buffalo School District to enter into the Memorandum of Understanding dated September 8, 2003 (Attachment 18). Motion by Wilmers, Second by Tobe, Vote 7-0 (directors McCall and Faso were not present at the time of the vote).

9. Agenda Item 9-BFSA Timetable/Response to City Plan due September 16, 2003

BFSA will meet on September 15, 2003 to vote on the recommendations provided by Executive Director Johnson.

10. Agenda Item 10- Approval of Lease and other matters

- a. Executive Director Johnson requested approval of a lease for office space for the BFSA. She indicated that BFSA has sufficient funds to make these payments. The Directors voted to approve Resolution 03-28 to authorize the BFSA to enter into a lease with the Buffalo Economic Renaissance Corporation for 2,460 square feet of office space at the Market Arcade Complex located at 617 Main Street for a monthly cost of \$2,460 for a term of three years in accordance with the terms and conditions contained in a Term Sheet attached to Resolution 03-28. (Attachment 19). Motion by Townsend, Second by Pirtle vote 7-0 (directors McCall and Faso were not present at the time of the vote).
- b. Executive Director Johnson requested approval of the purchase of computers and other equipment via the New York State Office of General Service master purchase contract. She indicated that BFSA has sufficient funds to make these payments. The Directors voted to approve Resolution 03-29 to authorize the BFSA to purchase computers and other items needed to establish the new BFSA office from the OGS purchase contract in an amount not to exceed \$38,000. Motion by Giambra, Second by Townsend, Vote 7-0 (directors McCall and Faso were not present at the time of the vote).

11. Agenda Item 11-Approve BFSA Budget

Executive Director Johnson requested approval of a budget for the operations of the BFSA. The budget, on an annual basis is \$934,108. She indicated that BFSA will have sufficient funds to make these payments. The Directors voted to approve Resolution 03-30 to approve the BFSA budget (Attachment 21). Motion by Giambra, second by Masiello, vote 7-0 (directors McCall and Faso were not present at the time of the vote).

12. Agenda Item 12- Employee Benefit Package

The BFSA has considered benefits for its employees. Although the final benefit package has not yet been determined, the BFSA has decided to elect to participate as an employer in the New York State and Local Employees Retirement System and approves the inclusion of its officers and employees in such system. The Directors voted to approve Resolution 03-31 to join the New York State and Local Employees Retirement System. (Attachment 22) Motion

by Giambra, Second by Townsend, Vote 7-0 (directors McCall and Faso were not present for the vote).

13. Agenda Item 13- Executive Session

The directors decided that an Executive Session was not necessary at this time.

14. Other Business

- a. The directors approved Resolution 03-32 to authorize certain Directors and officers (Baker, McCall, Townsend, Wilmers and Johnson) acting singularly to sign checks of less than \$25,000 and for any two of such directors to jointly sign checks of more than \$25,000 (Attachment 23). Motion by Townsend, Second by Pirtle, Vote 7-0 (directors McCall and Faso were not present for the vote).

The BFSA meeting was adjourned at 4:47 p.m.