

Minutes

Buffalo Fiscal Stability Authority

November 18, 2003

A meeting of the Buffalo Fiscal Stability Authority (“BFSA”) convened at 1:05 p.m. in room 106 of the Buffalo Convention Center 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, Masiello, Pirtle, Tobe, Townsend and Wilmers

Directors Arriving Late: Giambra

Directors Present Via Conference Phone: none

Directors Absent: McCall

Staff Present: Johnson, Mitchell, Tocker, Santos and Stefko

Others present: Friedman, Esq.

- I. **Opening Statement** Chair, Baker made an opening statement, noting the change in BFSA’s role after approving the City’s Financial Plan. The goal now is to monitor implementation and to continue building on the Authority’s knowledge base. BFSA intends to establish a regular pattern of meetings.
- II. **Approve Minutes** The Directors voted to approve Resolution 03-59 to approve the minutes of the meetings of October 7 and October 21, 2003 and to ratify resolutions numbered 03-34 through 03-58. Motion by Wilmers, second by Pirtle. Vote 7-0. Director Giambra had not yet arrived.
- III. **Quarterly Reports** Quarterly Cash Flow Report. Submitted to the BFSA on November 10, 2003. Summary by Executive Director Dorothy Johnson. BFSA required information on budget, cash flow the Program to Eliminate the Gap (PEG actions), threats to the Financial Plan (positive/negative), and mayoral recommendations to remediate any negative variances. Johnson reported that BURA has completed the report to the standards required by the BFSA but the City, School District and BMHA did not.

City Quarterly Report

- A. Johnson summarized the City’s report as follows –

- i. The report claimed negative variance in excess of \$2 million, although this was not verifiable, based on information provided.
- ii. No review of progress on PEG initiatives was included.
- ii. The adopted budget as of July 1, 2003 is still being used rather than the Budget as modified by the City and approved by BFSA.
- iii. Audited financials from the fiscal year ending (“fye”) 2003 continue to be unavailable, making precise analysis of fye 2004 revenues impossible.

B. Directors questioned Commissioner of Finance and Administration, Dr. James Milroy regarding the report and commented on the following:

- the need for a better financial reporting to enable BFSA to monitor revenues and expenditures in relation to the Budget;
- the need to ensure that the City’s accounting system is modified to reflect the budget approved by BFSA; and
- the importance of constraining non-essential spending, particularly in areas where significant overspending was documented, such as in the police and fire departments.

BFSA staff was directed to ensure that the City’s MUNIS accounting system is updated to reflect the adopted budget.

C. Commissioner Milroy indicated problems in updating the system were related to the accounting system itself, and the City Comptroller’s position that changes could not be made absent additional Common Council action. Milroy stated that the City had adopted a limited hiring freeze and the Fire Commissioner had developed a plan to limit overtime in fire department

D. Commissioner Milroy stated that all non-essential spending has been frozen and a hiring freeze has been instituted for all positions except those that are required for public health and safety, are required by the charter or are necessary to bring in outside funding.

E. Dr. Milroy said he does not use a written definition of “non-essential” spending. He and his staff review each departmental spending request and determine if the spending should be authorized.

F. The City indicated that:

- police retirements were lagging by at least 30 positions,
- police and fire overtime were driving the negative budget performance and
- that legislation was still pending in Albany that would facilitate the retirement of police and firefighters injured on duty. According to Mr. Materese the City of Buffalo has the highest rate of injured on duty that has ever been seen in the United States

School District Quarterly Report

- A. Johnson summarized the School District report as follows –
- i. It was generally inadequate and included no progress report on 04-05 PEG initiatives.
 - ii. No status report on employee negotiations was given.
 - iii. Discrepancies between cash flow and budget were not explained.
 - iv. No detail given on variances from adopted budget.
- B. School District Administration representative James Kane made a presentation to address the discrepancies and gaps in the School District's submitted report, and its PEG initiatives. A revised report was in process.
- C. Directors indicated dissatisfaction with the School District's Quarterly Report and commented on the School District search for a CFO, noting that an eight-month time line is too long – the new CFO would not be in place to impact the 2004-05 budget. Director Wilmers recommended that the School District use a head hunting firm and offered to locate resources for finding a quality CFO.
- D. Mr. Kane reported that the School District actual expenses and revenues were on target with the adopted budget and there were no lines in the budget that were of concern.

BURA Quarterly Report

- A. Johnson summarized BURA's report, as follows –
- i. The report was well done.

- ii. Follow up is needed on the delay in layoff of certain employees required for financial plan balance.

B. Directors requested an explanation for the delay in workforce reduction, (currently about one month late) and the current status. They encouraged quicker action on workforce issues to ensure financial plan balance.

C. BURA and Office for Strategic Planning Administration Executive Director Timothy Wanamaker indicated that layoff of union employees was a time-consuming process due to bumping rights but would be accomplished shortly. He noted that the HUD consultant would be making a recommendation on staffing soon.

D. Mr. Wannamaker reported that five cuts required action by the Common Council, that the Council had not yet acted and that the items would be submitted this week.

BMHA Quarterly Report

- A. Johnson summarized BMHA report as follows –
 - i. It was inadequate, making analysis difficult with the limited information provided.
 - ii. Cash flow and budget were not appropriately projected.
- IV. **Resubmit Reports** Chair, Baker requested that, by December 1, 2003, the City, School District and BMHA resubmit a report on the 1st Quarter in a fashion that is more responsive to the requirements detailed by the BFSA staff, and that the reports should reflect a quarterly comparison to the budget and financial plan approved by BFSA. He also requested the Mayor to make a presentation on the City's Capital Budget and the City's licensing and permitting processes at the December 15th BFSA meeting.
- V. **BFSA Work Plan** – Chair Baker indicated that Board members had been given a copy of the BFSA's draft work plan for the remainder of the fiscal year, to foster discussion on what areas the BFSA staff would be researching. Directors agreed to focus on issues such as work time, sick leave rules and overtime for the City and School District. Additional study is needed on the relationship between enrollment and plans for staffing and facilities in the School District. The Mayor asked that State mandates on the City be explored.
- VI. **City Contracts and Settlements** – E. Hassett requested approval of Certain City Contracts, as follows:
 - A. Permit and Inspection

- i. Roto Rooter Services water and sewer terminations [\$463,000 from Capital Projects Funds Account]
- B. Public Works
 - ii. Johnson Equipment for “packer bodies” [\$240,000 from DPW budget account]
 - iii. Construction change order with John Danforth Co. [\$201,700 from Division of Water Account]
 - iv. Construction change order with Trimax Residuals [\$110,994 from Division of Water Account]
 - v. Construction change order with C. Destro Development [\$69,650 from Division of Water Account]
 - vi. Construction contract with Clover Construction [\$58,015 from Division of Water Account]
- C. Law Department
 - i. PILOT Agreement for 195 unit apartment complex located at 10 Hertel Avenue. The annual payment would start at \$67,931 and increase by 2 percent each year for 15 years.
 - ii. PILOT Agreement for a planned 82 residential unit apartment complex located at 499-501 Washington Street. The annual payment would start at \$20,845 and increase by 3 percent each year for 15 years.
 - iv. Agreement with lobbying firm to provide the City of Buffalo with legislative and regulatory representation in calendar year 2004. [\$50,000 from operating budget] ** Note: The City indicates that this was not RFP’d **

Johnson indicated that funding was available for all listed contracts, and that PILOT agreements substantially complied with City policy. The Directors’ discussion focused on the process for the submission of contracts for BFSA approval. It was noted that the processes is currently under review. The City’s RFP process with regard the lobbying contract was also questioned.

- VII. Resolution 03-60 reflects a motion to approve first eight contracts by Townsend second by Masiello. Vote 8-0.
- VIII. Resolution 03-61 reflects a motion to approve lobbyist contract by Masiello second by Townsend. Vote 6-2. Directors Baker and Tobe are recorded as opposed.
- IX. **School District Contracts** James Kane requested approval of certain School District contracts
 - A. Directors chose not to take action on the School #89 reconstruction effort since the contract relating to this project was approved by the BPS Board and signed (although not executed) prior to the formation of the BFSA.

- B. No child left behind: [All funds will come out of the \$1.195 million in “No Child Left Behind” resources approved by the BFSA on October 7]
 - i. Tutoring program contracts with Community Action Organization of Erie County and the True Bethel Baptist Church.
 - ii. Revision to contract with Edison Schools that reflects a State Education Department-approved increase in Edison’s hourly rate per student.
 - iii. Supplemental education program contract with University Heights CDA.
- C. E-Rate District-wide Technology Program
 - i. Construction change order with Ferguson Electric Construction [\$541,504 from Capital Projects Fund]
 - ii. Construction change order with Ronco Communications [\$95,180 from Capital Projects Fund]

Johnson noted that funding was available for all contracts.

- X. Resolution 03-62 is a motion to approve all school district contracts by Giambra, second by Pirtle. Vote 8-0.
- XI. **BMHA contracts** requested by Executive Director Sharon West –Noted that the BFSA board had not taken action on contracts the BMHA has submitted. Director Giambra states that in this instance the board should allow the staff to review and authorized the Chairman to approve these contracts.
- XII. Resolution 03-63 for the above action. Motion to approve by Giambra second by Baker. Vote 8-0.
- XIII. Contract action process for interim approval summarized by Johnson. Directors’ discussion indicated that this process should be available only on an as needed / emergency basis, and not for tardy paperwork. A formal plan will be presented to Directors at the December 15th meeting for action and implementation.
- XIV. BFSA Finances and Accounts
 - A. Authorize BFSA Treasurer to sign checks by facsimile.
 - B. Authorize Director Richard Tobe to sign checks and other financial instruments.
 - C. Authorize additional bank accounts at HSBC Bank.
- XV. Resolutions 03-64, 03-65 and 03-66 relating to the above three actions. Motion to approve by Townsend second by Pirtle. Vote 8-0.
- XVI. Firefighters Lawsuits Update - K. Freidman updated the Board on two cases:
 - A. One brought by firefighters union against the BFSA which would have required imposition of a Financial Plan. The case has been dismissed

- B. One brought by firefighters union against the City asking the City to set aside \$8.2 million from \$20 million State spin up aid for future firefighter contract. BFSA was allowed to become a party with the City in this action. Firefighters reported that they intend to withdraw the suit.
- XVII. NYS Department of Labor Settlement: Director Faso indicated that the \$57,000 fine assessed against the City Public Works Department for leaky roof at a City owned building by the NYS Dept of Labor had been forgiven. The amount of the fine must instead be spent on the maintenance of the building.
- XVIII. BFSA's Requests for Proposals (RFP's): Johnson indicated that a number of RFP's had been issued, as follows:
- A. General Counsel proposals in response to the BFSA RFP have been received and evaluations will begin shortly.
 - B. Additional RFP's were scheduled to be advertised in the NYS Contract Reporter for the following services:
 - i. Bond and Underwriter's Counsel
 - ii. Senior and Co-managing underwriters
 - iii. Financial Advisor
- XIV Establishment of a City/County Working Group. Chairman Baker recommended the establishment of a City County Working Group. The membership will include the Mayor, County Executive and Chairman Baker along with City, County and BFSA staff. The goal is to encourage serious in-depth exploration of a merger of services with the City and County of Erie.
- XV. Resolution 03-67 Motion to approve creation of the City/County Working Group by Giambra, second by Masiello vote 7-0. .
- XVI. BFSA Director Ron Pritle has announced his plans to resign at the end of 2003 and Chair Baker noted that the Governor will fill the position. Chair Baker then nominated Richard Tobe as Leader of the Other Covered Organizations Working Group.
- XVII. Resolution 03-68 Motion to approve Tobe as leader of the working group was made by Townsend, second by Giambra. Vote 7-0.
- XVIII. Chair Baker remarked that the next meeting would be held at the Buffalo and Erie County Convention Center, December 15, 2003, and publicly thanked Paul Murphy for his help in enabling the use of the facility. He asked the Directors to report back to him on the possibility of holding regular meetings on the 3rd Wednesday of each month with a start of 1:00pm.
- XIX. Meeting adjourned at 3:30pm