

Minutes

Buffalo Fiscal Stability Authority

December 15, 2003

A meeting of the Buffalo Fiscal Stability Authority ("BFSA") convened at 1:04 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, Masiello, Pirtle, Tobe and Townsend

Directors Arriving Late: McCall

Directors Present
Via Conference Phone: Faso

Directors Absent: Giambra and Wilmers

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

Staff Absent: Stefko

Others present: Friedman, Esq.

Opening Statement

Chair, Baker made an opening statement, noting the day's agenda and the attendance of Directors. BFSA intends to establish a regular pattern of meetings; next meeting would be scheduled on January 21, 2003.

Approve Minutes

The Directors voted to approve Resolution 03-69 to approve the minutes of the meeting of November 18, 2003 and to ratify resolutions numbered 03-59 through 03-68. Motion by Masiello; second by Pirtle. Vote 5-0. (Director McCall had not yet arrived.)

Quarterly Reports

Revised Quarterly Cash Flow Report. Submitted to the BFSA on December 1, 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 the City, School District and BURA have completed the report according to the

standards required by the BFSA but that the BMHA did not, and that staff will continue to work with BMHA to satisfy the requirements.

City Quarterly Report

A. Johnson summarized the City's report as follows –

- i. The MUNIS System will be updated and will soon reflect the Approved Financial Plan as the Adopted Budget.
- ii. The City's failure to reflect the Approved Plan in the first instance was a matter of process rather than a matter of software limitations.
- ii. Two charts were projected to the Audience and handed to the Directors.

A. "Most Significant Projected Expenditure Overages"

- Chart depicted Police, Fire and personnel areas of projected year end overages

B. "Gap Analysis FYE 2004"

- Chart displays the City's Gap as presented in the 1st Quarter report. The chart showed PEG actions of \$4.2 million, BFSA borrowing of \$7.8 million, \$4 million in uncertified revenues and the \$2 million gap previously acknowledged by the City.
- The detail of the uncertified \$4 million is as follows:
\$2.5M from prior years capital fund and \$1.4M from a \$4 million fund established in 2001-02 (and not spent) for liabilities and claims.

- iii. Audited financials from the fiscal year ending ("FYE") 2003 continue to be unavailable, making precise analysis of FYE 2004 revenues impossible. City accountant, Anne Forti-Sciarrino confirmed that the said \$4 million in prior year's fund would be available for use in the current fiscal year. Forti-Sciarrino indicated that audited numbers would be available when the independent audit was complete, to be expected mid-January.

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

- Presentation needs to be clearer

- The City reported at the close of the 1st quarter a \$2 million year-end projected gap over the \$7.8 million previously agreed upon. This is after the additional \$4 million expenditure overage covered by the uncertified revenues.
 - Recurring expenditure are expected to be financed by one-time revenues. This will increase the projected gap in the out years, thus requiring additional PEG actions.
 - The City needs to further reduce spending.
 - Its goal should be to keep variable costs to a minimum.
 - There seems to be a risk that the projected reduction in police headcount through retirements may not be achieved.
 - Managing the budget is a crucial management tool. Reference was made to the City Charter requirements as it relates to unappropriated expenses. [Sec. 20-11. "Increases Over Budget Appropriations" read into the record. This requirement must be adhered to.].
 - Asked the City to provide a report on workforce productivity, including non-uniformed and exempt employees' hours worked in a year after adjustment for time off due to vacation, sick leave, bereavement leave, personal days, summer hours and other time off.
 - 2nd Quarter report can include usage of 2001-2002 fund balances as long as they have been certified by audited statements (due to the BFSA no later than Feb 1) and by action of BFSA.
 - The City has imposed a hiring freeze on all departments. Hiring will be allowed on a case-by-case basis. Other budget lines have also been frozen.
- B. Directors questioned the City Comptroller's Office regarding the report and commented on the following:
- The City should be able to close its own books at year end and produce unaudited financial statements for internal and budgeting use very shortly after the close of the fiscal year.
- C. Directors discussed the need to order a hiring freeze on all positions in the City of Buffalo to reduce costs sufficient to ensure compliance with BFSA certified revenues in the Approved Financial Plan, to be waived only on a case-by-case basis at the request from the Mayor and approval by the Chair of the BFSA. Only reasons for approval would be if required for the health and safety of the citizens, is required by the Charter,

will avoid the excessive use of overtime or will produce revenues in excess of costs Furthermore, the Mayor shall officially notify all Commissioners and Department Heads of this hiring freeze.

Directors approved Resolution 03-70 to approve a hiring freeze. Motion by Pirtle; second by Masiello. Vote 5-0. (McCall had not yet arrived.)

D. Commissioner Milroy indicated that the next Quarter report would reflect the Approved Financial Plan, validate the use of the projected \$4 million in revenues and be on target to substantially shrink the current projected gap.

E. The City indicated that:

- ❑ Police court time projections are in line with the prior year and that the figure was a result of the larger number of arrests. E. Hempling
- ❑ The City had attempted to create and hold Night Court, without success.
- ❑ The City had already instituted a hiring freeze.
- ❑ The Corporation Counsel stated that he had issued an opinion that the City Charter does not require salary ordinances. Adoption of the position in the budget is sufficient The Comptroller's Office indicated it would comply with this decision of the Corporation Counsel. The City Administration does not intend to use the salary ordinance process in 2004/2005 budget process. After the adoption of the budget, changes can occur through the budget amendment process.

School District Quarterly Report

A. Johnson summarized the School District report as follows –

- i. It was satisfactory and easy to follow. Additional work is required in the presentation of PEG actions for the out-years of the financial plan.

BMHA Quarterly Report

A. Johnson summarized BMHA report as follows –

- i. It was inadequate, making analysis difficult with the limited information provided to ascertain as to where the Housing Authority projections stand relative to their Approved Plan at the close of the 1st quarter.

HSBC Arena Refinancing

City Comptroller's office presentation advised the BFSA that the City was in a position to earn substantial savings by the refinancing of certain bonds relating to the construction of the HSBC Arena, but that the refinancing needs to close before year end. Directors noted that the Authority is entitled to 30 days to review and comment on all borrowing, and that this request came only a few days ago. The Comptroller's Office was advised that only timely submissions will be recognized in the future.

Resolution 03-71 reflects a motion to approve refinancing of HSBC arena bonds by Tobe; second by Pirtle. Vote 5-0. (McCall had not yet arrived.)

Capital Budget Presentation

Ken Freidman the Chair of the Citizens Planning Council's (CPC) provided the Directors with a report dated December 15, 2003 and made a presentation with the following points:

- The CPC has requested an inventory of buildings and property numerous times, but this information has yet to be provided by the City.
- The Common Council has approved the Mayor's recommended current year Capital Budget without revision and without prior CPC review as required by the City Charter.
- Despite the late submission by the City, the CPC subsequently reviewed the Capital Budget and finds no objections with the current year proposal, except for the fact that it is not part of a comprehensive strategic plan.
- BFSA directed the City to prepare and submit an inventory of buildings and a four-year capital plan, as supplements to the 2005 Capital Budget, and to submit it to the BFSA only after compliance with the Charter and review by the CPC.
- The City should incorporate cost efficiency goals into its Capital Budget recommendations.

On the recommendation of the Executive Director, the Directors approved Resolution 03-72 to approve the 2004 Capital Plan of the City of Buffalo. Moved by Baker; second by Pirtle. Vote 6-0.

Permit and Licensing Process

Mayor Masiello made an opening statement indicating that all permit functions have been reorganized into one shop, there is a need for new technology and a new permit fee plan was being implemented.

Mr. Jadd Cordes made a presentation reporting on the importance of an efficient permit process for the development of the City. He described work that had been commenced at the request of the Mayor in 1999. A task force of approximately 50 people has been working through the Buffalo Niagara Partnership on changes to the City's permitting and licensing process. The methodology, process and costs of implementation were discussed. Cordes indicated that even though work had commenced several years ago, much remains to be done.

Mr. Cordes and the Administration were directed to work together and to report at the next meeting on implementation of an improved permit process. .

City & County Working Group Update

Chair, Baker indicated that staff has been working to facilitate a merger of services between City and County Public Works and Parks Departments.

City Contracts and Settlements – E. Hassett requested approval of Certain City Contracts, as follows:

- PUBLIC WORKS
 - Service contract with Patrick Development [\$2,983,300]
 - Sidewalk replacement with P&J Construction [\$312,895]
 - Dump Truck bodies with plows with Valley Fab & Equipment [\$65,422]
 - Dump truck chassis with Buffalo Truck [\$39,270]
 - Emergency work on water main rupture with C. Destro Development [\$111,876]
- POLICE
 - Payment to Erie County for consolidated cellblock operations [\$778,965]
 - Sub-agreement for services with Dunford Educational Associates [\$50,000]
 - Local Law Enforcement Block Grant year 8 [\$593,344]
 - Urban Area Security Initiative [\$978,174]
- HUMAN RESOURCES
 - Medical case management services with Managed Care Network [\$94,000]

Johnson indicated that funding was available for all listed contracts.

The Directors approved Resolution 03-73 to approve ten contracts. Motion by Tobe; second by Masiello. Vote 6-0.

School District Contracts and Settlements - J. Kane requested approval of certain School District contracts, as follows:

- A. Directors did not to take action on the Proposed Collective Bargaining Agreement relating to Buffalo Educational Support Team (BEST) – Teacher Aides and will take it up at a later date.
- B. Other Contracts
 - **CONSTRUCTION CHANGE ORDER**
 - Computer tables and equipment for Riverside High School and School 89 [\$110,014]
 - **“NO CHILD LEFT BEHIND” SERVICES**
 - Tutorial assistance with Brooks Learning Center [\$76,019]
 - Tutorial assistance with Bethel African Methodist Episcopal Church [\$50,680]
 - Tutorial assistance with Boys and Girls Club of Buffalo [\$84,466]
 - Tutorial assistance with Bethesda World Harvest International Church [\$67,573]
 - Tutorial assistance with Buffalo Urban League [\$84,466]
 - Tutorial assistance with Concerned Ecumenical Ministry [\$33,786]
 - **PURCHASE CONTRACTS**
 - Center for Applied Technologies use of Title IId Funds [\$551,338]
 - Hardware for Buffalo Vocational Technical Center relocations [\$200,000]
 - Voyager Learning professional development program [\$64,900]
 - Xerographic Paper [\$58,159]
 - Ecology and Environment Inc. [\$380,800]
 - **LEASE AGREEMENT**
 - For the Career Collegiate Institute at 160 Edward Street with Catholic Diocese. Cost covered by Erie County Community College.

Johnson noted that funding was available for all contracts.

The Directors approved Resolution 03-74 to approve thirteen school district contracts. Motion by Townsend; second by Pirtle. Vote 6-0.

BMHA contracts and Settlements – S. West requested approval of certain Housing Authority contracts, as follows:

- **KENFIELD HOMES PHASE IV (Capital Funds Program Grant)**
 - Site work, utility and roadway improvements with Scott Lawn Yard [\$181,000]
 - Site work, utility and roadway improvements with Man O'Trees [\$2,662,000]
 - Site work, utility and roadway improvements with Ferguson Electric [\$516,000]
- **INSURANCE (Low Income Public Housing Federal Operations Budget)**

- Workers Comp Policy with PERMA [\$534,594 full year amount (one half is accruable to the current fiscal year and the remainder to the following fiscal year)]
- CONSULTANT (Replacement Housing Factor Grant)
 - For preparation of HUD application with Gilmore Kean LLC [\$58,748.64]
- CONSTRUCTION (Capital Funds Program Grant)
 - Roof repair by Allstate Development [\$123,700]
- MANAGEMENT
 - Project construction manager at FDT (contract renewal) with Charles W. Miller [\$66,950 from the State Reserve Fund]
 - Operations by the Buffalo Housing Resident Council for the Martha Mitchell Center [\$113,000 from the Low Income Public Housing Fed. Op. Budget]
- SETTLEMENT
 - Agreement with Vanstrom-Burr for roof work at Holling Homes. BMHA will receive a payment of \$70,000 towards damages and pay \$53,000 from retention account [net value to BMHA \$17,000]

Johnson noted that this list of contracts represented those from November and December, since information on those from the prior month was just recently made available to BFSA staff. She noted that funding was available for all contracts, and that the proposed settlement was reasonable.

Directors approved, through Resolution 03-75, to approve eight housing authority contracts and one settlement. Motion by Pirtle; second by Tobe. Vote 6-0.

Sewer Authority

After a discussion of the status of the Buffalo Sewer Authority and with the advice of counsel the Directors without dissent determined that the Buffalo Sewer Authority is a “covered organization” under its review and control. Therefore, BFSA expects that the Sewer Authority to immediately submit its budget, financial and capital plans, its proposed contracts, financings, collective bargaining agreements and settlements to the BFSA for consideration.

Sales Tax Study Update

Chair Baker acknowledged receipt of a preliminary report from the University at Buffalo’s, Institute for Local Governance and Regional Growth. An expanded report was requested that would increase the scope of the analysis and findings. The Directors approved an extension of the engagement of the “Institute” to complete the study in next two months.

The Directors approved Resolution 03-76 to approve the engagement of the Institute for Local Governance and Regional Growth to complete the said Study. Motion by Pirtle; second by Tobe. Vote 6-0.

School District CFO Search Update

Superintendent of Buffalo Public Schools, Marion Canedo noted that the District hired ProAct Search, a national firm, on December 7, 2003. The District published an advertisement in many publications and has scheduled interviews. ProAct has indicated that it expects to complete the search in March 2004. The Directors expressed their availability to serve in conjunction with the selection process.

BFSA's Requests for Proposals (RFP's):

- A. Proposals in response to the BFSA RFP for General Counsel have been received and evaluated.
The Directors approved Resolution 03-77 to engage Harris Beach LLP as general counsel. Motion by Tobe; second by Townsend. Vote 6-0.

Chairman Baker thanked Mr. Friedman of the firm of Hodgson Russ for his assistance as Interim General Counsel during the July-December period.

- B. Proposals in response to the BFSA RFP's relating to bond issuance are due today and will be evaluated shortly for:

- i. Bond and Disclosure Counsel
- ii. Senior and Co-managing underwriters
- iii. Financial Advisor

- C. Independent Auditor RFP will be posted by December 22nd.

BFSA Contract Approval Process

The Directors discussed this item at a prior meeting where it was decided that the BFSA should have the ability to approve contracts between meetings where an emergency existed. The prior draft had been revised based upon prior comments and is now recommended by the Executive Director for approval. Directors advised the Executive Director that this process should be available only on an as needed, emergency basis, and not for tardy paperwork.

The Directors approved Resolution 03-78 that allows the approval of certain contracts between meetings. Motion by McCall; second by Townsend. Vote 6-0.

BFSA Staff appointment

Eugene D. Mahaney, CPA, CGFM was appointed to the position of Principal School District Analyst.

Closing Remarks

BFSA Director Ron Pirtle was thanked for his leadership, time and efforts.

Chair Baker remarked that the next meeting would be held at the Buffalo and Erie County Convention Center, January 21, 2004. He asked the Directors to

report back to staff on the survey included in their book to present a finalized schedule of 2004 meetings on January 21, 2004.

Meeting adjourned at 3:21pm