

Minutes

Buffalo Fiscal Stability Authority

January 21, 2004

A meeting of the Buffalo Fiscal Stability Authority ("BFSA") convened at 1:01 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, Giambra, Masiello, Tobe, Townsend and Wilmers

Directors Present
Via Conference Phone: McCall

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

Others present: Peter J. Spinelli, Esq. (Harris Beach, LLP)

Opening Statement

Chair, Baker made an opening statement, noting the day's agenda and the attendance of Directors. BFSA has set a schedule of monthly meetings with the exception of March. Also noted that while Director McCall is attending the meeting via conference phone he will not be able to vote in the day's proceedings.

Approve Minutes

The Directors voted to approve Resolution 04-01 to approve the minutes of the meeting of December 15, 2003 and to ratify resolutions numbered 03-69 through 03-78. Motion by Townsend; second by Faso. Vote 7-0. Director Tobe noted that the resolutions to be ratified were sent to the Board in advance. The version of Resolution 03-70 that had been sent in advance was incorrect. The correct version of the Resolution was provided to the Board at the meeting of January 21, 2004..

Review Audit, Finance & Budget Committee Meeting Documents

Directors voted to approve resolution 04-02 authorizing the Investment Guidelines as set forth and recommended by the Committee. Motion by Tobe; second by Masiello. Vote 7-0.

City Issues

- **MUNIS System**

Johnson reported that the City Comptroller's Office had indicated that the modified budget, approved by the Authority on October 21st, is now fully on-line in the City's MUNIS system. BFSA is also working with the City's MIS Department (Management Information Systems) to bring MUNIS capabilities into BFSA offices. This should be completed within the month, and will enable BFSA to verify spending records, account balances and fund sufficiency for contracts submitted for our approval.

□ **Sales Tax Study**

The Institute for Local Governance and Regional Growth has agreed to a more in depth study as defined by the BFSA. This expanded report is expected to be completed by March 15, 2004. Discussion by various Directors indicated a desire for the study to be completed more quickly.

□ **License and Permitting Process Reform Update**

Mr. McGurn and Mr. Jadd Cordes indicated that though they have been meeting on a regular basis and making successive strides, a few additional days were needed in order for the preliminary report and timetable submitted to the BFSA to be completed. They reassured the BFSA that this report on the implementation of an improved permit process would be delivered shortly and commented on at the following meeting.

□ **City and County Working Group Update**

The Group met on January 16th to review progress on a series of consolidation proposals included in the City's Four Year Financial Plan. BFSA staff has been working with City and County officials to assess the legal, financial, organizational and logistical implications of the proposal to merge the two Public Works Departments. Other collaboration proposals, including Assessment, Audit, Collections and Purchasing are being discussed. The City's Financial Plan assumes \$1.93 million in savings for the next fiscal year from collaborative efforts with the County. The Working Group is continuing to work aggressively toward implementation and will continue to report progress.

□ **Fire Commissioner and Homeland Security Director Search**

Mayor Masiello reported that a number of résumés and personal bios have been received and that the search team was looking at responses from advertising both nationally and locally. Furthermore, this process is actively being pursued to completion.

□ **City Independent Audit**

Comptroller A. SanFilippo spoke to the City's Independent Audit report for fiscal year ending 2003. Through a brief explanation he stated that the Audit revealed an undesignated unreserved \$8.3 million fund balance. He also indicated that the Management Letter would be shared as soon as it becomes available.

SanFilippo applauded the through job done by Deloitte & Touché. He indicated the firm had a one-year engagement, and that an RFP would be issued for the 03-04 audit. Chair Baker indicated that BFSA would be looking for quarterly reports in 04-05 to be presented on a budgetary (GAAP) basis in addition to cash basis. Baker also asked for a public presentation on the audit by the Comptroller's office and outside auditor, to be made at the following BFSA

meeting, currently scheduled for February 18, 2004. SanFilippo agreed to make such a presentation.

□ **2001 – 2002 Revenues**

The Mayor sought BFSA approval and certification of the availability of funds in the amount of \$3,074,550 from the 2001-02 fund balance. Of that amount, \$2,581,550 would be appropriated for capital outlays and the remaining \$1,393,000 would be appropriated for judgment and claims. The Directors voted to approve Resolution 04-03 to approve the request by the Mayor for certification of funds and related appropriations. Motion by Wilmers; second by Giambra. Vote 7-0.

Employment and Work Related Issues

□ **City Hiring Requests**

The Mayor submitted to BFSA on December 18th a letter requesting 104 waivers from the Authority's hiring freeze.

The requested positions are as follows:

- POLICE (1 Captain, 10 Detectives, 1 Chief, 4 Dispatchers, 2 Crime Scene Technicians and 26 Crossing Guards)
- FIRE (7 Lieutenants, 3 Captains and 1 Battalion Chief)
- PUBLIC WORKS (40 Seasonal Laborers, 3 Fee Collectors and 1 equipment operator)
- ASSESSMENT (3 Seasonal Clerks)
- WATER (1 Meter Reader)
- INVENTORY AND STORES (1 Laborer)

After much communication between the City and BFSA, the BFSA has received sufficient backup information to justify the request of waving the hiring freeze. BFSA Chair Baker expressed his concern that almost immediately after the BFSA imposed the hiring freeze in December the City request waivers for 98 positions. The Directors recognized that without the approval of these waiver requests the result would force overtime costs to rise and/ or a loss of revenues to the City. The Directors voted to approve resolution 04-04 authorizing 104 positions. Motion by Masiello; second by Wilmers. Vote 7-0.

□ **Common Council Hiring Requests**

Buffalo Common Council President David Franczyk made a presentation to the Directors in which he described plans to reorganize the staff of the Buffalo Common Council, including the hiring of new staff members. He indicated that the overall cost of the Council had been cut be approximately 30%.

Because certain information was not present at the meeting, the Directors voted to affirm Chair Baker's interim approval of six positions and waivers for four additional staff subject to the requirement that the cost of such hiring's will be paid for entirely from resources available to the Council or by cuts in other programs. The interim approval shall apply to the six positions as first requested by Council President Franczyk, which include: a legislative Staff Manager and five legislative assistants. The Directors then approved resolution 04-05; authorizing Chair Baker's interim approval of six positions and authorizing Chair

Baker to waive the hiring freeze and authorize the filling of four additional staff positions within the Common Council when the required documents are submitted in satisfactory form provided that they demonstrate that there are sufficient funds available to the Common Council. Motion by Tobe; second by Townsend. Vote 6-1, Director Baker opposed.

□ **Productivity Analysis**

At the Chairman's request, the City completed a "productivity analysis" by bargaining unit for all City workers.

The analysis gives details on holidays, vacation, sick leave and personal leave permitted under each collective bargaining agreement, and computes:

- Minimum total hours of work per employee/year, and
- Maximum percentage of employee work year allowable on leave.

Chair Baker indicated that additional work by the City and analysis by the BFSA staff was necessary before any conclusions would be drawn.

Collective Bargaining Agreement

□ **Buffalo Education Support Team (BEST), Teachers Aides**

At the BFSA September 10, 2003 meeting the Directors authorized the Buffalo Public Schools to enter into a Memorandum of Understanding with Buffalo Education Support Team (BEST) a union that represents teachers aides. Staff has analyzed the two-year agreement that covers the 2002/2003 and 2003/2004 school years and has examined the cost of the agreement in the aggregate and based on the separate costs of the new health insurance plan (already approved by BFSA and the proposed wage increase.

- Cost of the Agreement to the District (\$21.7 million), a one year increase of \$1.7 million
- Employee wages and benefits showed a 13 percent increase
- This increase was comparable to wage increases provided by the School District and the City
- District Strategies for Covering the Increased Teacher Aide Costs included layoffs and use of \$1.7 million from a \$3.1 million reserve. It was pointed out that a majority of these layoffs could have been avoided had the District managed to hold costs level from year to year.

The two-year costs of the teacher aide (BEST) contract agreement are fully funded in the Budget and Fiscal Plan submitted by the School District and approved by the BFSA for the current fiscal year. Costs in the out-years beyond this term of this contract are speculative and therefore hard to determine.

Directors approved resolution 04-06 authorizing the ratification of the Best contract for the years 2002/2003 and 2003/2004. Motion by Wilmers; second by Masiello. Vote 7-0.

Directors indicated that availability of sufficient funds to cover the cost of the contract in a BFSA approved budget and fiscal plan was required for the approval, but was not considered sufficient. In the future, BFSA would look closely at both the availability of funds and also the impact on important public

services. Contracts paid for through drastic layoffs that “cannibalize” the workforce may not be authorized.

School District CFO Search Update

Chair Baker noted that the District has identified 3 members of the School board, 3 members of the administration, and 3 members of the private sector to serve on the selection committee. More progress in this regard will be reported at the next Authority meeting.

Other Covered Organizations Working Group Update

□ BMHA

○ 1st Quarter Report

The report has been resubmitted and is now acceptable. Both revenues and expenditures came in at 22% and 21% of full year budget. However, BMHA still forecasts it will finish the year within budget (projected operating deficit of \$1,122,568).

○ Marine Drive

The lease on the complex was terminated on January 16, 2003 and an interim manager was brought in until a new RFP can be completed, as a result of technical problems with the responses to the initial RFP. It does not appear that there is a role for the BFSA at this time.

□ BURA Reorganization Proposal

Mr. Wanamaker commented on the reorganization plan of the Office of Strategic Planning (OSP). The reorganization creates 6 groups under the OSP and shuffles BURA employees. The complete proposal and report will be submitted to the BFSA for review prior to the next meeting. A Housing Rehabilitation Loan Program is planned once responses to a recent RFP have been reviewed and evaluated.

□ Covered Entities

Director R. Tobe noted that a covered organization status resolution was circulated in advance to the BFSA Directors. The BFSA reviewed a letter from the Buffalo Corporation Counsel that listed seven entities as covered organizations and a computer printout that listed 76 entities that receive city financial support. Based upon advice of counsel, the BFSA determined that not-for-profit corporations and state authorities are not included within the statutory definition of covered organizations. The BFSA reviewed in detail ten organizations that were mentioned in the Act, or determined to be covered by the Buffalo Corporation Counsel. All such entities were included on the printout from the City of Buffalo as receiving potentially receiving funds from the City. These organizations were the Buffalo City School District, the Joint School Construction Board, the Buffalo Municipal Housing Authority, the Buffalo Sewer Authority, the Buffalo Urban Renewal Agency, the Buffalo Water Board, the Buffalo Water Finance Authority, the Buffalo and Erie County Public Library, the Erie County Industrial Development Agency and the Erie County Board of Elections. Each

organization is a public agency, public authority or public benefit corporation and receives, or may receive moneys directly indirectly or contingently from the City.

The Board determined that all ten organizations were covered within the meaning of the Act but that certain organizations should be exempt because their operations do not currently materially affect the ability of the City to adopt and maintain a budget pursuant to the Act.

The Organizations to be exempt are:

“...The Buffalo Sewer Authority, the Buffalo Water Board, the Buffalo Water Finance Authority, the Buffalo and Erie County Public Library, the Erie County Industrial Development Agency, and the Erie County Board of The exemptions shall remain in effect until such time as the BFSA shall determine that the circumstances upon which an exemption was granted are no longer applicable.”

The Directors voted to approve resolution 04-07 determining covered organization status as it relates to the BFSA Act. Motion by Tobe; second by Masiello. Vote 7-0.

Affirmation of an Interim Approval for Sicilia Construction

Johnson indicated that a Remittance Approval Request Form was completed and that funding was available for this construction contract.

This item was requested after the low bidder on a contract who was approved by the BFSA withdrew its bid. The second low bidder was selected, but approval from the BFSA was not sought. In order to prevent the contractor from suffering from non-payment by the City, interim approval was sought. Commissioner Giambra agreed to alter bid solicitation and award documents and advise all bidders of the need to obtain BFSA approval.

This contract is now being brought forward for affirmation of a decision that was made by Chair Baker and Vice-Chair Townsend within the guidelines set forth by the Interim Contract Approval Process, approved at the previous BFSA meeting. The Directors voted to approve resolution 04-08, affirming the BFSA Chair's action validating the City of Buffalo's contract with Sicilia Construction and authorizing the City Comptroller to make payment. Motion by Giambra; second by Wilmers. Vote 7-0.

City Contracts and Settlements

- **Certain City Contracts presented by E. Hassett are as follows:**
 - **PUBLIC WORKS**
 - Michigan Avenue Transportation Improvement Project (\$1,112,496)
 - Masten Avenue Transportation Improvement Project (\$549,512)
 - Elmwood Avenue Transportation Improvement Project (\$498,816)
 - Michigan Avenue Bridge TIP (\$56,636)

- Congestion Mitigation Air Quality TIP (\$272,506)
- Genesee St Congestion Mitigation Air Quality TIP (\$128,632)
- Tiff Street Greenway TIP (\$122,589)
- Genesee Street Construction (\$144,425)
- Hertel Avenue Street Lighting (\$105,875)
- Allentown Area Street Lighting (\$101,895)
- Michigan Avenue Bridge Water Main Work TIP (\$182,371)
- Manhattan Treated Water Facility Repair (\$137,200)
- Colonel Ward Treatment Plant Rehabilitation (\$433,100)
- Hertel/William Avenues Water Main Repairs (\$106,938)
- Michigan Ave Bridge Change Order – Disencumbrance (\$95,000)
- Michigan Ave Bridge Change Order – Incr Encumbrance (\$95,000)
- Painting and Structural Repair of Cazenovia Pool (\$72,600)
- Electric Contractor for Jefferson/Utica Library (\$498,900)
- Purchase of Dump Chassis from Buffalo Truck Center (\$86,720)
- **POLICE**
 - Department of Justice “Use of Force” Training (\$81,000)
- **LAW DEPARTMENT**
 - Personal Injury Settlement (\$250,000)
 - Personal Injury Settlement (\$175,000)
 - Tax Certiorari (\$179,394)
 - Tax Certiorari (\$67,967)

Johnson and the Directors asked a few questions with regards to the City’s contract award process and account and budget details. A suggestion was made that an RFP be issued to cover emergency repairs. Commissioner of the Public Works Department, Joe Giambra indicated he would look into it. Thereafter, Johnson indicated that funding was available for all listed contracts. The Directors approved Resolution 04-09 to approve 24 contracts. Motion by Masiello; second by Giambra. Vote 7-0.

□ **PILOT Agreement**

By letter, the Mayor requested BFSA approval of a PILOT (Payment In Lieu of Taxes) agreement for phase 3 of the Frederick Douglas Towers development. First-year (2004-05) payment is \$14,169, with annual payments increasing 3 percent per year for 14 years consistent with the city’s PILOT policy. The Directors voted to approve resolution 04-10, authorizing this PILOT agreement. Motion by Wilmers; second by Masiello. Vote 7-0.

School District Contracts and Settlements

- **Certain School District contracts presented by J. Kane are as follows:**
 - No Child Left Behind Services – Erie I BOCES (\$79,393)
 - No Child Left Behind Services – Erie I BOCES (\$84,466)
 - Additional NCLB Funding (\$321,332)
 - Additional NCLB Funding and Service Providers (\$1,412,191)
 - E-Rate bid award to Ronco (\$659,764)
 - E-Rate bid award to Verizon (\$5,353,742)

- E-Rate bid award to Frontrunner Network Systems (\$401,740)
- E-Rate bid award to Mainline Information Systems (\$4,561,728)
- United Way/VESID grant for “Closing the Gap” (\$100,000)
- Title IV Safe and Drug Free Schools Grant (\$50,000)
- Textbook purchase from Scott Foresman Co. (\$1,234,000)
- Staff development workshop through Erie I BOCES (\$50,690)
- Microsoft computer/software licensing (\$130,341)

Johnson and the Directors asked a few questions with regards to the School District’s contracts such as: book purchases, termination pay, internal approval processes and particular budget details. Thereafter, Johnson indicated that funding was available for all listed contracts including funding in the 04-05 fiscal year (pursuant to the approved financial plan) for textbooks. The Directors approved resolution 04-11 to approve thirteen school district contracts. Motion by Wilmers; second by Tobe. Vote 7-0.

□ **Arbitration Awards**

- \$137,024.80 in grievance awards for two teachers (\$51,583.30 & \$85,441.50)
- After some questioning on behalf of the Directors, Johnson indicated that funding was available for the arbitration awards. The Directors approved resolution 04-12 to approve the issuance of the arbitration awards. Motion by Tobe; second by Faso. Vote 7-0.

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

Proposals in response to the BFSA RFP for Financial Advisor and Managing Underwriters have been received and evaluated.

The Directors approved Resolution 04-13 to engage Public Financial Management (PFM) as Financial Advisors, and Lehman Brothers as Senior Managing Underwriter. Motion by Wilmers; second by Tobe. Vote 6-0. Director Faso had left.

Proposals in response to the BFSA RFP’s relating to Bond and Disclosure Counsel and Independent Auditor will be evaluated shortly.

Other Business

Chair Baker asked for the City’s input as it relates to their maintenance of the approved Financial Plan to date and adherence to the employment and layoff scheduled outlined within. The City’s Commissioners of Administration and Finance, J. Milroy, and of Human Resources, L. Matarese indicated that there are threats to the Plan. Among these threats the most significant are the overtime charges in the Fire Department, this is attributable to the large number of Injured-on-Duty (IOD) continuing to work.

Meeting adjourned at 3:10pm