

Minutes

Buffalo Fiscal Stability Authority

February 18, 2004

A meeting of the Buffalo Fiscal Stability Authority (“BFSA”) convened at 1:05 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, Tobe and Townsend

Directors Arriving Late: None

Directors Present Via Conference Phone: None

Directors Absent: Masiello, McCall and Wilmers

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

Others Present: Ray Stapell, Esq.

Opening Statement

Chair Baker welcomed those present at the Library, noted the emergency evacuation information and announced the roll call of Directors.

Approve Minutes

The Directors voted to approve Resolution 04-14 to approve the minutes of the meeting of January 21, 2004 and to ratify resolutions numbered 04-01 through 04-13. Motion by Faso, seconded by Giambra. Vote 5-0.

City Issues

Johnson reports the information provided by the City has been analyzed. The \$2 million budget gap has improved by \$1.9 million. The City has made budget modifications – the new total budget is \$284 million. Johnson noted concerns of BFSA staff related to the use of one shot revenues and some overspending by the City. She also identified threats to the 2004-05 plan as pension spending has increased, BURA has cut revenue to the City and other PEG actions not progressing according to the Plan. While City-County merger activities could still happen for 2004-05, the effort has problems. Although the 2003-04 budget will probably balance, the 2004-05 budget looks problematic.

Administration and Finance Commissioner James Milroy explained that the injured on duty (IOD) for firefighters was presenting an unexpected challenge, that next year, the switch from an experience rating instead of a community rating should provide \$2 million in health care savings. A Police/Fire dispatch initiative will also save \$2 million. He has increased the

projection of sales tax and is hopeful for more State Aid. Johnson pointed out that the City has been conservative on its sales tax projection.

Mr. Milroy summarized the 2004-05 situation by reviewing the challenges and opportunities, agreed with Johnson that 2004-05 was problematic and that the City usually discovers there are more challenges than opportunities.

Chair Baker saw the need for more recurring actions that would produce long term decreases in expenditures or operations. He asked Mr. Milroy why nothing was budgeted for Injured On Duty ("IOD"). Milroy explained that IOD personnel are still actively employed by the City and are paid out of the salary line. The City doesn't budget for them initially as the City does not know who will be injured in the course of the year. Human Resources Commissioner Leonard Matarese explained that the City was moving IOD firefighters to disability retirement, when possible. He estimated that of the 49 positions currently IOD, 12 or 13 would be coming back to full duty. Director Faso thought it might be prudent to forecast number for police/fire disability costs.

Director Tobe reviewed the MMA Report, which calls for implementation of Fire Department reform by the City. Milroy advised that training was complete. The challenge was meeting the 2005 goal of building firehouses. MMA is currently reviewing new City-owned locations. Public Works, Parks and Streets Commissioner Joseph Giambra advised that in order to bond out the costs of construction, the City needed to own the locations. A bond sale has been scheduled for June 1, 2004, but they may not be sold until next spring. The estimated cost of a new firehouse is between \$1.7 to \$2 million with a future cost for five new firehouses estimated at \$10 million. If the City stays on schedule, ground will be broken for the first new firehouse this June.

Director Townsend thought moving inactive firefighters to disability made sense. Commissioner Matarese said that the State Comptroller's Office has been helpful. After six months, he will generally automatically move an IOD firefighter to disability, regardless of the firefighter's opinion on the matter. The nature of the injury will play a role in deciding exactly when to file for disability retirement with the State. Some claims have been denied by the State, though the IOD firefighter clearly cannot return to duty.

Licensing and Permitting Reform

Permit and Inspection Services Commissioner Ray McGurn reported on the Department's operations and status. He explained that his department has lost some staff positions since the beginning of the fiscal year. His inspectors are starting to use technology in the field. A new user group will help the department study how the new permit system really works.

George Grasser did not think his report would be positive. This process started in April 1998 and after 14 months of studying the department, there has been little progress. Online permitting has occurred, but changing the permit fee structure has been difficult to implement. New York State's adoption of the new International Building Code accounted for some delays, though he felt the problem came from a lack of information flowing between the department and

the Partnership group. The only times they received reports were before a BFSA meeting or after a story ran in the press.

Grasser and McGurn disagreed about how many inspections had been done. Mr. Grasser said he had reviewed reports from the City showing 11,000 or 4 per day per inspector. Mr. McGurn said the actual number of inspections including follow-up inspections was 70,000.

Chair Baker explained why the BFSA was involved with this issue. People are looking to the BFSA to find new sources of revenue to help the City. Economic development can promote new revenues in the City, by increasing the assessed valuation of the City. Chair Baker encouraged Mr. McGurn and Mr. Grasser to find final, reasonable solutions to their problems.

City/County Working Group

Chair Baker reported that work has taken place relative to consolidations of public works functions and parks. Director Giambra asked about the progress of discussions with labor unions. Commissioner Matarese indicated that some changes had been made to the proposal and that he was planning to meet with the unions on Friday, February 20.

Employment and Work Related Issues

Johnson reported that the City of Buffalo and the Common Council requested a group of waivers from the hiring freeze. The City requested 33 waivers, which fell into three categories. The first category contained current employees who were merely changing their status. These changes had no impact on the budget. The second category promoted a current employee to fill a vacant position that is required by union contract. The third category hired temporary seasonal employees to defray overtime costs. Funds to cover the positions are in the current budget. BFSA Staff recommended approval. Motion to approve by Giambra; second by Townsend. Vote 5-0.

Council President David Franczyk requested 2 waivers for positions in Councilmember Antoine Thompson's office. The Councilmember lost a staff person and wanted to promote a current employee and then fill the vacant position. Funds were identified in the Council budget to cover the positions. Motion to approve by Giambra; second by Faso. Vote 5-0.

School Issues

Johnson reported that 41 percent of the School District's budget has been spent this year, as compared to 40 percent last year. Revenues were at 27 percent this year as compared to 24 percent last year. Of concern is the high number of teacher retirements that the District may not have properly budgeted for. Also, student enrollment is falling off and there is a need for \$2.5 million for charter schools. Though the District may end this year in balance, the District could run into a shortfall if the State does not pass a school aid budget.

Director Giambra inquired whether the District had heard something from the Legislature. Executive Assistant to the Superintendent James Kane explained that they were going to Albany to find out what aid may be coming. The Governor may have cut school aid by \$5 million. Director Tobe asked that with the significant reduction in enrollment, why hasn't District staff declined at the same pace? Mr. Kane said that charter schools take students one-by-

one from District classes, so the relative effect across the District is not easily realized on a wholesale basis.

Superintendent Marion Canedo provided an update on the search for a Chief Financial Officer for the District. Twenty-seven candidates have been interviewed by phone and 10-15 prime candidates will be brought in for interviews. Interviews are expected to be over by the end of March.

Other Covered Organizations

BMHA reports rental income is under budget and expenditures are slightly higher, but still expects to end on balance. The New York Department of Housing and Community Revitalization has not made a final ruling on the severance payments to the former employees of Marine Drive Apartments' original managers.

Director Tobe noted that there is an outstanding request for financial information from the Buffalo Water Board by the Erie County Water Authority. Commissioner Joseph Giambra and City Accountant Anne Forti-Sciarrino explained that the financials have been audited and will be provided to the ECWA. There have not been specific talks with the unions about a potential takeover as legislation must be changed at the State level and a referendum is required. A target date of July 2005 is set.

It was reported that BURA is eliminating positions to help meet their plan and expect to end the year in balance.

City Contracts and Settlements

The City submitted 6 items for BFSA approval, three Public Works contracts, a Human Resources grievance arbitration, a Law Department personal injury settlement and a Parking Enforcement service contract. BFSA Staff recommended approval of all except the Parking Enforcement contract. Director Giambra moved for the approval as recommended by BFSA Staff; second by Faso. Vote 5-0.

Commissioner Milroy explained with Parking Enforcement Director Leonard Sciolino that the Parking Enforcement service contract was needed immediately as the City was changing companies that leased automated parking ticket writers to the City. Though the current year budget does not cover the entire cost, the revenues generated by the new machines justify disencumbering funds from the old contract and moving the expense into the next year's budget. Director Faso moved to approve the contract, subject to BFSA Staff review of the plan; second by Giambra. Vote 5-0.

School District Contracts and Settlements

The District submitted 6 contracts for BFSA approval and an amendment to the operating engineers contract approved by the Board of Education. The amendment would allow the operating engineers to include years of service with the City or BMHA to their retirement calculation. The contracts are :

1. Service contract for America's Choice School Design program (\$209,664)
2. Service contract for NYS Middle School Association (\$80,000)

3. "No Child Left Behind" funding for Learninghelp, Inc. (\$50,680)
4. "No Child Left Behind" funding for Sylvan Education Solutions (\$79,398)
5. Purchase contract for automatic lidding machine (\$185,961)
6. Service contract for repairs to school food service equipment (\$150,000)

Chair Baker moved to approve the District's contracts; second by Townsend. Vote 5-0. Chair Baker moved to approve the operating engineers contract amendment, subject to clarification of the future benefit of the contract by BFSA Staff with the School District; second by Townsend. Vote 5-0.

RFP's

Upon a review of responses, it was recommended that the firm of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, PC be appointed as Bond Counsel. The Directors voted to approve the appointment of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, PC as Bond Counsel. Motion by Faso; second by Giambra. Vote 5-0.

Upon a review by the Audit, Finance and Budget Committee, it was recommended that the firm of Lumsden and McCormick be appointed as the BFSA's independent auditor. Chair Baker motioned for the approval; second by Giambra. Vote 5-0.

Other Business

Johnson reports that the BFSA Act needs to be amended to divert School District sales tax to the BFSA, to authorize the School District to request BFSA borrowing assistance, clarify that debt issued by BFSA to provide benefits to the City or School District will not negatively impact the City's property tax capacity; and to exclude cash flow borrowing by the BFSA from the \$175 million debt cap. The State Budget Office wants the amendment circulated among the BFSA's debt team, the Mayor's Office, the Common Council and the Board of Education for their information. Chair Baker moved to approve the Resolution indicating BFSA support for the Amendments; second by Faso. Vote 5-0.

Chair Baker noted the appointment of Darryl McPherson to the BFSA Staff as Chief Counsel.

Next Meeting: March 10, 2004 1:00 pm Buffalo Convention Center Room 106.

Meeting adjourned at 3:34 PM.