

Minutes

Buffalo Fiscal Stability Authority

March 10, 2004

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, Giambra, Masiello, McCall, Stenhouse, Tobe, Townsend and Wilmers

Directors Arriving Late: None

Directors Present Via Conference Phone: None

Directors Absent: None

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

Others Present: None

Opening Statement

Chair Baker welcomed those present at the Convention Center, noted the emergency evacuation information and announced the roll call of Directors. He introduced and welcomed Rev. Richard Stenhouse as the newest member of the Board. Baker stated that the mission of the BFSA is to put the City of Buffalo on a strong fiscal basis and to make sure it can provide efficient service to its citizens. The BFSA monitors the City’s finances, and does not replace elected officials. Displeasure regarding City services must be directed to the City’s elected officials. Baker noted that 31% of eligible voters in the City of Buffalo voted in the last Common Council election. Furthermore, he encouraged citizens to vote and participate in the electoral process in order to effectuate change.

Approve Minutes

The Directors voted to approve Resolution 04-24 to approve the minutes of the meeting of February 18, 2004 and to ratify resolutions numbered 04-14 through 04-23. Motion by Wilmers, seconded by McCall. Vote 9-0.

City Issues

2003-04 Budget Modifications & 2004-05 Baseline Gap

Johnson spoke on the two 2003-04 budget modifications submitted by the Mayor.

1. Certification of \$1.8 million in additional sales tax revenues.
2. Authorization to allow for the retention of firefighters, as opposed to laying them off.

Johnson provided some background to the second budget modification request and other cost centers contributing to this request by the Mayor. The Approved Financial Plan for 2003-04

called for the closure of Ladder 11 and Engine 10 on November 1, 2003, along with the elimination of 22 vacant positions. Next, Ladder 9 was closed on March 1, 2004. The Mayor is now asking not to eliminate sixteen firefighter positions, which were scheduled for layoff on March 1. The savings associated with the layoff and closings were to be worth \$1.25 million in the current year. The City's analysis now shows that laying off the remaining firefighters per this year's plan would with overtime costs factored in, cost \$18,000. The number of firefighters on injured on-duty (IOD) status is increasing and driving up costs. Counting total IOD's there are 38 (IOD's over 180 days) in Fire and 16 Police. Johnson referenced that the number of IOD's in Syracuse was 3 and that, should the City stray from the initiative it would cost the City \$2.25 million in the current year and up to \$3 million through 04-05.

Mayor Masiello pointed out that the City Administration and Common Council met the commitment to close 2 companies and 22 funded positions, and on March 1st closed Ladder 9. He decided not to lay off 16 firefighters based on the numbers entering summer months with vacation time with more overtime likely. Staffing is currently nine over the plan, 5 of which are off in Iraq. He acknowledged that there are problems with IOD, which increases daily (24 to 38). The MMA Report is being worked on with implementation teams, and provides an excellent blueprint to re-engineer the Fire Department, but half of the recommendations require union support.

Director McCall asked if the nine positions over planned staffing levels equated to \$5 million? Johnson explained that the combination of the overtime costs and the layoffs that have not occurred now and through the end of 04-05 are needed to get credit for the PEG action.

Commissioner of Administration and Finance James Milroy provided additional information on the Mayor's request. He supports the retention of the 16, believing that laying them off now would be imprudent because with current staffing, overtime will likely increase. No more fire companies are set to close until September 2005, so the City has to keep the present staff level until then.

Chair Baker inquired about why does IOD continue to grow. Does Syracuse manage it differently? Mayor Masiello pointed out that there are contractual issues and a recent court case that make it very difficult to manage.

Commissioner of Human Resources Leonard Matarese proceeded to explain further. There are many issues that hinder effectively managing the Department. Many firefighters on City books are pending a State determination for disability retirement, others are on appeal. Other factors include the time to which these cases can be contested, or acted upon.

Directors inquired further into the problems and asked if there was any financial detriment to the individual firefighter while on IOD. There is no FICA withholding, so the firefighter gets more money, rather than getting off the City's books. Furthermore, Director Faso asked if the City still has to pay the FICA share.

Matarese claims that the numbers of IOD's will drop subject to the City's Policy allowing a maximum IOD status of no more than six months.

Director Townsend stated that approximately 1% of the City's population works for the City while the remaining 99% supports them. The residents don't have the ability to enjoy the layers of protection in their employment that the City employees have. She stressed that there is a fundamental imbalance between those who are paying for the services and those who deliver them.

Director Faso asked how can we deal with a hole that is larger next year, while IOD remains a growing issue. He also inquired about the limit on personal leave. Matarese stated that the employees can take leave whenever they want. He cannot control personal time-off. Faso was not sure that in light of the \$4 to \$5 million budget gap next year, if it sends the right message to put off the layoffs.

Tobe questioned if BFSAs should allow the deferral of layoffs. Commissioner Milroy indicated that it takes three months after a layoff occurs before the City realizes the full benefit of the layoff because of unemployment costs. It indicated that most firefighters would choose to go on a preferred hiring list and as a result would not cash out accrued vacation and sick leave.

Tobe also asked the staff to reconcile the difference regarding firefighters on IOD status. The number has grown very rapidly and City Staff did not agree on the number of those on IOD, their status or the reason for the large increase.

Johnson indicated that it appeared highly unlikely that the City would finish the current fiscal year in balance due to favorable variances in revenues.

Director McCall asked when was the IOD policy negotiated and who approved it. Matarese indicated that it was negotiated prior to the Masiello Administration. He further pointed out that arbitrators in New York State only deal with wages and benefits; management issues won't be resolved in arbitration.

Chair Baker looked for a motion from the Board on the request made by the Mayor. Director McCall made the motion to approve the deferral, seconded by Masiello. Vote 2-7, motion defeated. Directors: Baker, Faso, Stenhouse, Tobe, Townsend and Wilmers voted in the negative. Baker noted that despite the vote, the firefighters would still be on the payroll since they have not been given notice of the layoff.

Director Giambra made the motion to table the request made by the Mayor until the next meeting so that the results of the meeting with the City's consultant MMA could be considered as part of the decision, second by Townsend. Vote 8-1. McCall voted in the negative. Masiello stated for the record that he voted to table the vote until the next meeting as he could not accept the alternative.

Johnson stated that assuming the City's current baseline gap for fiscal year ending 2005 initiatives hinge on county merger savings; however the gap is likely to grow to 38.5 million.

Milroy indicated that the City is looking at the following initiatives: health care valued at \$7 million, a regional park system, increased State aid, and Homeland Security monies in order to close next fiscal year's gap increase of \$17 million.

City/County Working Group

Chair Baker stated that both sides have been working constructively together. He stressed that time is of the essence. The Mayor then stated that in the 4-year plan the City will have reached an agreement on a merger of parks with Erie County. He anticipates that the savings from the planned consolidations will be part of the 2004-05 City budget. Director Tobe reminded the Mayor that BFSAs consent would be necessary and requested that the Mayor be sure to submit the consolidation plan in sufficient time to permit proper consideration by the BFSAs. The Mayor indicated he would do so.

Debt Issuance

At the February meeting, the Directors voted to authorize certain State legislative amendments be made to the BFSAs Act to prepare for the borrowing on behalf of the City. These amendments include: routine, technical measures in order to ensure the maximum benefit for the City and the School District. These changes will:

- ❑ Guarantee the best possible credit rating for BFSAs by the pass-through of School District sales tax revenues through the BFSAs accounts;
- ❑ Make sure that BFSAs can issue the deficit bonds the City School District has requested. (The City's benefit is ensured since its sales tax and State aid revenues are already flowing through BFSAs accounts.);
- ❑ Avoid a negative impact on the City's taxing capacity; and
- ❑ Ensure BFSAs's capacity to do short-term cash flow borrowing.

With the amendments in place, a vote of the Board of Education will be required to request BFSAs deficit financing, prior to action by the Mayor and Common Council. Without the amendments and the capture of School District sales tax, BFSAs would be unable to do the deficit financing the School District has requested in the 2004-05 financial plan (nearly \$10 million).

While BFSAs will not know for certain what its credit rating will be until the rating agencies have acted, every underwriter who responded to the RFP, and the BFSAs financial advisor, all believe the rating will be substantially higher than the current City ratings. Given that the City of Buffalo itself is rated Baa3 with a negative outlook (the lowest investment grade rating), a very conservative analysis indicates the savings through BFSAs borrowing could be substantial.

BFSAs will evaluate the actual savings that could accrue to the City relative to capital borrowing (for fire houses, repair of City Hall, etc.) and for any possible refunding (interest rate savings) once BFSAs is rated, which is expected to be by late March. At that time, BFSAs will give a full report of the anticipated savings to all parties. The Mayor and Common Council would then need to act to request BFSAs borrowing for those purposes, if it is deemed to be the most cost-effective method of acquiring needed funds.

Johnson stated that staff has or will make presentations to the BPS, Common Council, Western New York Delegation and to the Office of the State Comptroller regarding these changes. Staff is looking for information from the City Comptroller's Office and they have been provided with

some details relating to information systems, checks and balances, bank accounts, and internal operations, etc.

Chair Baker stated that the BFSA will borrow, only if it is determined to be a lower cost for the City of Buffalo. Comptroller SanFilippo was called to the podium, but stated that he was not prepared to speak. Furthermore, he stated that neither he nor his office is trying to obstruct BFSA's deficit borrowing. He indicated that he was not there to challenge the BFSA, and that his office was not inhibiting the BFSA's ability to get a credit rating. He had hoped everyone would have the opportunity to discuss this privately. He expressed great respect for staff.

Chair Baker stated that until BFSA has a rating, BFSA will not and cannot know if it can harness an interest rate savings.

Director Tobe then asked SanFilippo if he had any problems with the legislation and whether he would oppose the legislation if the School District wanted it. SanFilippo indicated that he would not if that was what the District wanted.

Licensing and Permitting Reform

Executive Director Johnson stated that there was no progress to be reported and that the information, which Mr. Grasser had requested at the meeting, was not received. There was a FOIL request submitted by the Partnership group for: daily sheets, automotive sheets and overtime. To that end a meeting has been set for tomorrow.

Employment and Work Related Issues

Johnson reported that the City of Buffalo submitted a letter dated March 1, in which the Mayor requested a group of waivers from the hiring freeze. The City requested 38 waivers, which fell into five categories. These requests are asking to:

1. Change current employees status. These changes had no impact on the budget.
(4 positions)
2. Change current temporary employees status to fill vacant positions, curtailing overtime.
(3 positions)
3. Promote current employees to fill vacant positions that are required by union contract.
(5 positions)
4. Hire temporary seasonal employees to defray overtime costs. Funds to cover the positions are in the current budget.
(25 positions)
5. Promote current employee to fill a new position in order to produce revenues, which exceed the cost of the position.
(1 position)

BFSA Staff recommended approval, since sufficient funds exist in the budget.

Directors voted to approve resolution 04-25 authorizing the 38 hiring freeze waiver requests. Motion by Faso; second by Giambra. Vote 9-0.

School Issues

□ Budget

Johnson stated that in fiscal year 03-04 there were no modifications at the close of the 3rd quarter, and that staff has been evaluating the BPS in terms of baseline budget. To that end Johnson indicated that there is an \$18 million increase to the gap without making changes.

□ CFO Search

Chair Baker stated that the CFO search is underway and the school system is looking for a candidate. Director Wilmers asked that a report be presented to the BFSA Board detailing why the BPS has not yet been able to hire a Chief Financial Officer. He went on and stated that the school system has a \$600 million budget, and that it is the largest entity in the US without a CFO, this search has been going on for four months and nobody has been interviewed to date, why? Directors encouraged the BPS to move forth on this by the next Authority meeting and to have details ready.

Other Covered Organizations

□ Buffalo Urban Renewal Agency (BURA)

BFSA was recently updated on actions outlined in the approved Financial Plan and their status. The layoff delay is driving BURA's budget shortfall, as a result staff reductions of approximately 6 -10 are planned in the near term. BURA remains optimistic that New York State retirement incentives (if available) might bring an alternate means toward balance. It should be noted that BURA's cash flow will remain in tact, since revenues can be drawn down from future years. The United States Department of Housing and Urban Development's (HUD) will release the \$5 million HOME Grant fund allocation from the current fiscal year as soon as BURA has completed a satisfactory policy memorandum on management practices for the Grant. On March 15th the CDGB Budget process will be complete, BURA will then forward the entire package to BFSA and HUD for review and approval. This will require expeditious action by the Authority since the CDBG grant year begins April 1 as opposed to BURA's operating year, which commences May 1. Again, BFSA encourages BURA to complete the planned layoffs and other efficiencies necessary to finish the fiscal year in balance.

□ Joint Schools Construction Board (JSCB)

The JSCB is a non-exempt covered organization per the BFSA Act and Resolution 04-07. Recently, BFSA met with the Ciminelli Group and discussed Phase I of the \$183 million redevelopment of 9 schools and Phase II totaling \$125 million. BFSA expects JSCB to be under full covered organization status beginning with the new Financial Plan in May.

□ Buffalo Sewer Authority (BSA)

BSA will be providing us with its budget, capital plan, meeting agendas, and reports prepared for its regulatory agencies, along with next year's budget for review in conjunction with the next City financial plan.

□ Other Covered Organizations

BFSA will be scheduling a meeting in the near future with the Buffalo Water Board and Municipal Water Finance Authority, to determine which financial documentation we will need to continue evaluating their exempt status in the context of the next City financial plan.

City Contracts and Settlements

Eva Hassett, Chief of Staff submitted three items in a letter dated March 1, 2004 for BFSA approval;

PUBLIC WORKS

1. Change order for federally funded West Ferry St Bridge project \$75,000

MANAGEMENT INFORMATION SYSTEMS

2. Replacement of computer hubs in City Hall \$104,400

FIRE DEPARTMENT

3. Renewal of service contract for occupational health services \$66,708

Directors voted to approve resolution 04-26 authorizing the 3 contracts.
Motion by Giambra; second by Stenhouse. Vote 9-0.

Johnson stated that at the February meeting, BFSA contingently approved a contract for hand-held ticket writers that the City would lease through EZ Tag. Consistent with the Board's contingent approval in February, staff approved this item on February 19th.

School District Contracts and Settlements

The District submitted one contract for BFSA approval;

1. Service contract with the Education Innovation Consortium for leadership development training, paid out of the DeWitt Wallace Urban Leadership Grant \$100,000

Directors voted to approve resolution 04-27 authorizing the contract.
Motion by Townsend; second by McCall. Vote 9-0.

Johnson stated that at the February meeting, BFSA contingently approved an amendment to the operating engineers contract. The amendment would remove a contract provision limiting District control of "community activity night" funding, in exchange for allowing up to 27 current engineers to become eligible for certain retiree health insurance benefits. BFSA finalized action on this request March 8th.

Urban Renewal Agency Contracts and Settlements

The Agency submitted two contracts for BFSA approval:

1. PILOT Agreement

This PILOT is between the City (BURA) and the Housing Authority (BMHA) for Phase II (b) HOPE VI Project. The first-year payment is \$14,000, with no annual increase in payments for 15 years. This payment structure is a calculation of the HUD voucher payments multiplied by the number of units (forty units * \$350). This agreement reflects the Comer v. Martinez settlement.

Johnson stated that the Mayor will be requesting emergency BFSA after action by the Common Council and the BMHA Board expected on or before March 19th. The New York State housing tax credit application is due March 22nd, prior to BFSA's next meeting.

2. Contract for the Belmont Shelter Corp. to Manage, Implement and Service the City's Housing Rehab Loan Program \$450,000

Johnson indicated that BURA will be requesting emergency BFSA after action by the BURA Board and the Common Council to comply with federal regulations and grant monies, which become available April 1st, prior to BFSA's next meeting.

Housing Authority Contracts and Settlements

The Authority submitted one contract for BFSA approval;

1. Service contract with Ferguson Electric for the relocation of electrical switches, low voltage wiring, and steam pipes to comply with the City of Buffalo Code at Commodore Perry Extension. \$141,900

Directors voted to approve resolution 04-28 authorizing the contract. Motion by McCall; second by Baker. Vote 9-0.

Other Business

□ Records Access

Directors voted to approve resolution 04-29 appointing Chief Counsel Darryl McPherson as Records Access Officer pursuant to the Freedom of Information Law (FOIL) and appointing BFSA Secretary and Director Richard Tobe, FOIL Appeals Officer. Motion by Tobe; second by Townsend. Vote 9-0.

□ RFP's

Directors voted to approve resolution 04-30 authorizing a request for proposals (RFP) for the Public Forum Leader and Event Coordinator. Motion by Stenhouse; second by Townsend. Vote 9-0.

Next Meeting: April 21, 2004 1:00 pm Buffalo Convention Center Room 106.

Meeting adjourned at 3:05 PM.