

Minutes

Buffalo Fiscal Stability Authority

May 19, 2004

A meeting of the Buffalo Fiscal Stability Authority (“BFSA”) convened at 1:02 p.m. at the Smith Performing Arts Theater 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

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

Opening Statement:

Chair Baker announced roll call of Directors, made a few opening remarks noting the day’s agenda and announced that action on the minutes from the previous two meetings will be put on the agenda in June.

City Issues:

Executive Director Johnson discussed the BFSA staff analysis of the City’s financial plan with a graphic presentation (attached). She noted that the health care and parks initiatives together account for approximately \$8 million of the City’s program to eliminate the gap. Johnson categorized the savings from these initiatives as speculative and cannot be guaranteed throughout the plan. Based on the fact that all steps had not yet been taken to ensure financial plan balance, Johnson stated that the plan was incomplete and as such did not comply with the BFSA Act.

The Mayor provided an update on his gap-closing initiatives, noting that discussions on the parks and health care proposals have been taking place. Administration and Finance Commissioner Milroy stated that if the parks and health insurance initiatives could not be finalized, the Administration’s contingency plan would need to include additional layoffs and/or increasing the property tax levy to bring about budgetary balance. The property tax increase would exceed \$8.6 million dollars, or there would be over 500 layoffs or a combination of the two.

Directors focused on the consequences of the additional cuts and a potential additional property tax increase. Should the budget not be balanced the City would not be eligible for BFSA deficit financing that is projected at \$20 million for 2004-2005. It was noted that a recent study showed that Erie County property taxes are 29.2% above the national average while the County has also experienced the largest decline in population among the 20-35 year old age group.

The City has two weeks to create efficiencies before the more draconian actions would have to be taken.

1. Directors voted to approve resolution 04-52 to disapprove the City of Buffalo Four Year Financial Plan dated May 1, 2004, to return the Four Year Plan to the City of Buffalo with instructions that the City revise the plan in accordance with the BFSA Report, and to direct the City of Buffalo to submit to the BFSA a revised Financial Plan no later than June 2, 2004. Motion by Townsend, second by McCall. Vote 9-0, to take effect immediately.

RESOLUTION 04-52

DISAPPROVE BUFFALO FOUR YEAR FINANCIAL PLAN- MAY 19, 2004

WHEREAS, Chapter 122 of the laws of 2003 requires the City of Buffalo to submit a four-year financial plan that includes the City of Buffalo, the Buffalo Public Schools and other covered organizations and the Mayor's proposed City budget to the Buffalo Fiscal Stability Authority ("BFSA") not later than the date required for submission of the budget to the Common Council as set by the City Charter, and

WHEREAS, the City of Buffalo submitted a Four Year Financial Plan and proposed City budget on May 3, 2004 to the BFSA, and

WHEREAS, In compliance with Chapter 122, the BFSA engaged the Institute for Local Governance and Regional Growth ("ILGRG") to seek public input and comment relating to the City's and/or any covered entities financial plan, and.

WHEREAS, The ILGRG held an all day public comment session on Saturday May 8, 2004, and

WHEREAS, The City of Buffalo, Buffalo Public Schools, the Buffalo Municipal Housing Authority and the Buffalo Urban Renewal Agency presented the Four Year Plan to the BFSA at a BFSA Board meeting on May 12, 2004 and responded to questions from BFSA Board members, and

WHEREAS, The ILGRG presented a report to the BFSA at a Board meeting on May 12, 2004 reporting on the public comments received in connection with the public comment session held on May 8, 2004 by the ILGRG, and

WHEREAS, The staff of the BFSA has engaged in a detailed review of the Four Year Financial Plan, has met with officials from the City of Buffalo, the Buffalo School Board and other covered organizations and has prepared a Report with recommendations for consideration by the BFSA ("BFSA Report"), and

WHEREAS, The BFSA staff recommends that the Four Year Financial Plan be disapproved for the reasons contained in the BFSA Report to be presented to the Mayor on May 23, 2004,

NOW THEREFORE BE IT RESOLVED THAT, the BFSA:

1. Disapproves the City of Buffalo Four Year Financial Plan dated May 1, 2004,
2. Returns the Four Year Plan to the City of Buffalo with instructions that the City revise the plan in accordance with the BFSA Report, and
3. The City of Buffalo is directed to submit to the BFSA a revised Four Year Financial Plan no later than June 2, 2004.

Hiring Freeze Waiver Requests:

Following a description by Johnson of the City and Common Council positions for which waivers from the hiring freeze were requested, Directors voted to approve resolution 04-53 to authorize the hiring of employees to fill the positions listed in Resolution 04-53 and granting exemptions from resolution 03-70. Motion by Townsend, second by Wilmers. Vote 9-0 to take effect immediately.

RESOLUTION NO. 04 - 53

**WAIVER OF HIRING FREEZE ORDERED ON CITY OF BUFFALO,
AUTHORIZING ELEVEN POSITIONS FOR CITY GOVERNMENT**

WHEREAS, Chapter 122 of the Laws of 2003 authorizes the Buffalo Fiscal Stability Authority (“BFSA”) to review and approve or disapprove contracts or other obligations binding or purporting to bind the City or any covered organization; and

WHEREAS, Section 3858(2)(C) of the Public Authorities Law authorizes the BFSA to impose a hiring freeze during a control period upon a finding by the BFSA that a hiring freeze is essential to the maintenance of a financial plan; and

WHEREAS, Section 3858(2)(O) of the Public Authorities Law further provides that the BFSA may, to the extent it deems necessary or desirable in order to accomplish the purposes of the BFSA Act, including but not limited to the timely and satisfactory implementation of an approved financial plan, issue a binding order to the appropriate City official; and

WHEREAS, on December 15, 2003, the BFSA found that the immediate imposition of a hiring freeze upon the City of Buffalo was essential to the maintenance of the City of Buffalo Revised Financial Plan and was necessary to accomplish the purposes of the BFSA Act and to insure the timely and satisfactory implementation of the Revised Financial Plan; and

WHEREAS, on December 15, 2003 the BFSA approved Resolution 03-70, ordering a hiring freeze on the City of Buffalo with certain exemptions; and

WHEREAS, for consideration at the May 19, 2004 BFSA meeting, the Mayor and the City Clerk submitted requests to waive the BFSA hiring freeze for eleven (11) positions, in accordance with the exemption criteria imposed and established by Resolution 03-70; and

WHEREAS, the request is to fill the following positions:

1. Community Services	Drug Abuse Nurse (RN)	\$28,930
2. Police	Chief	\$84,771
3. Police	Lieutenant (2)	\$66,315
4. Council	Sr. Legislative Assistant	\$39,003
5. Council	Legislative Aide	\$30,258
6. Council	Legislative Aide (2)	\$60,516
7. City Clerk	Council and Committee Reporter	\$41,465
8. City Clerk	Data Control Clerk	\$31,153
9. City Clerk	Laborer II	\$27,939

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority recognizes that without the approval of these waiver requests, the City would otherwise incur larger than anticipated overtime costs and/or a loss of revenues to the City; and

BE IT FURTHER RESOLVED, that the Buffalo Fiscal Stability Authority hereby finds that the Mayor's requests to waive the hiring freeze with regard to eleven (11) positions complies with the exemption criteria contained in Resolution 03-70, determines that they are in the best interests of the City, and does hereby authorize the eleven (11) waiver requests.

School Issues:

Executive Director Johnson discussed the BFSA staff analysis of the School District's financial plan with a graphic presentation (attached). Johnson noted that the District had contingently requested \$17.7 million in BFSA borrowing to close their gap absent an increase in State Aid. Johnson's presentation quantified the level of risk in the District's plan. She recommended that the School District Plan be approved with the recommendation that reserves be built up.

Directors discussed the District's health coverage plan, and fiscal discipline. The District indicated it was pursuing the one insurance provider option to try to achieve savings in a manner similar to the City. County Executive Giambra indicated that the Schools' reliance on additional sales tax was speculative.

The Directors then moved to table discussion of school issues until June 9, whereupon the BPS would be asked to report on the one health insurance provider initiative. Motion by Wilmers, second by Stenhouse. Vote 9-0.

Other Covered Entities:

Johnson provided the Board with the BFSA staff analysis of the Financial Plans submitted by the Buffalo Urban Renewal Agency (BURA) and the Buffalo Municipal Housing Authority (BMHA) (attached). The Directors then moved to table discussion of BURA and BMHA until June 9. Director Tobe gave some indication that at the next meeting, there would be a discussion on the possibility of lifting the wage freeze for BMHA if the BMHA budget for 2004-05 is balanced, such an action did not negatively impact the City of Buffalo and the BMHA requested such a waiver. Motion by Wilmers, second by Stenhouse. Vote 9-0.

Johnson briefed the Directors on the Joint Schools Construction Board (JSCB), a covered entity under the BFSA Act (attached).

Technical Changes to BFSA Act:

Johnson reported that both houses of the New York State Legislature have passed the technical amendments to the BFSA Act and that BFSA anticipates a AA credit rating.

City Contracts:

Directors voted to approve resolution 04-54 authorizing the City to enter into the eleven contracts listed in Resolution 04-54. Motion by Masiello, second by Wilmers. Vote 9-0 to take effect immediately.

RESOLUTION NO. 04 - 54

AUTHORIZE CITY OF BUFFALO TO ENTER INTO ELEVEN CONTRACTS AND/OR OBLIGATIONS

WHEREAS, Chapter 122 of the Laws of 2003 permits the Buffalo Fiscal Stability Authority (“BFSA”) to review and approve or disapprove contracts or other obligations binding or purporting to bind the City or any covered organization; and

WHEREAS, Chapter 122 of the Laws of 2003 permits the BFSA to review and approve or disapprove the terms of any proposed settlement of claims against the City or any covered organization in excess of \$50,000.00; and

WHEREAS, in order to carry out the mission of the BFSA, the BFSA will review contracts or other obligations in excess of \$50,000, though the BFSA Act provides no limitation for contracts or obligations; and

WHEREAS, various City officials have submitted 11 contracts for approval at the May 19, 2004 BFSA meeting, and have signed the BFSA Remittance Approval Request Form (“RARF”) in which they indicate that there are sufficient funds available for such items; and

WHEREAS, BFSA Staff have reviewed such items and the RARF and recommend approval of eleven (11) such contracts or obligations; and

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority approve and authorize the City of Buffalo to enter into eleven (11) contracts and obligations as listed below:

1. Service contract for vehicle storage – Great Arrow, Inc. \$350,000
2. Contract for Jefferson Ave. curbs and sidewalks – P&J Construction \$259,022
3. Service contract for City Hall elevator ventilation – Parise Mechanical \$ 84,400
4. Service contract for Sycamore St. signal system - Stantec \$ 50,000
5. Service contract for Fillmore Ave. signal system - Stantec \$ 50,000
6. Service contract for Fillmore Ave. signal system – Destro & Bros. \$200,000
7. Service contract for Peace Bridge expansion EIS - URS \$250,000
8. Service contract for Historical Society building – Landmark Const. Co. \$916,200
9. Service contract - Sycamore & Walden traffic signals – Destro & Bros. \$200,000
10. Change order - Buffalo traffic signal improvements – Bergmann Assoc.
\$ 74,904
11. Change order for Main Street construction – Erdman Anthony \$1,000,000

School Contracts:

Directors voted to approve resolution 04-55 authorizing the School system to enter into the seven contracts in Resolution 04-55. Motion by Stenhouse, second by Giambra. Vote 9-0 to take effect immediately. The Directors then motioned to table authorization of the Independent Auditor’s contract with the School System until June 9. Motion by Giambra, second by Wilmers. Vote 8-0. Director Faso was absent.

RESOLUTION NO. 04 – 55

AUTHORIZE THE BUFFALO SCHOOL DISTRICT TO ENTER INTO SEVEN CONTRACTS

WHEREAS, Chapter 122 of the Laws of 2003 permits the Buffalo Fiscal Stability Authority (“BFSA”) to review and approve or disapprove contracts or other obligations binding or purporting to bind the City or any covered organization; and

WHEREAS, Chapter 122 of the Laws of 2003 permits the BFSA to review and approve or disapprove the terms of any proposed settlement of claims against the City or any covered organization including the Buffalo School District in excess of \$50,000.00; and

WHEREAS, in order to carry out the mission of the BFSA, the BFSA will review contracts or other obligations in excess of \$50,000, though the BFSA Act provides no limitation for contracts or obligations; and

WHEREAS, School District officials submitted eight contracts for approval at the May 19, 2004 BFSA meeting, together with signed BFSA Remittance Approval Request

Forms (“RARF”) in which they indicate that there are sufficient funds available for such contracts; and

WHEREAS, BFSAs Staff have reviewed such contracts and the RARF and recommend approval of seven contracts, leaving one contract for further consideration by the BFSAs Board; and

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority approve and authorize the Buffalo School District to enter into seven contracts as listed below:

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|---|-------------|
| 1. Purchase of software - Oracle | \$250,000 |
| 2. Design development services (Phase II- JSCB) – Ciminelli Const. | \$9,600,000 |
| 3. Tutorial reading and math services – Edison Schools | \$ TBD |
| 4. Purchase of freezer and refrigerator – Buffalo Hotel Supply | \$118,338 |
| 5. Meal delivery services – Sodexo Services | \$106,238 |
| 6. Purchase sandwiches for summer meal program – Maramont Corp & Cloverdale Farms | \$145,136 |
| 7. Purchase web-based student info system – various vendors | \$3,134,507 |

BMHA Contracts:

Directors voted to approve resolution 04-56 authorizing the Housing Authority to enter into one contract in Resolution 04-56. Motion by Stenhouse, second by McCall. Vote 8-0 to take effect immediately.

RESOLUTION NO. 04 - 56

AUTHORIZE BUFFALO MUNICIPAL HOUSING AUTHORITY TO ENTER INTO ONE CONTRACT

WHEREAS, Chapter 122 of the laws of 2003 permits the Buffalo Fiscal Stability Authority (“BFSAs”) to review or approve or disapprove contracts or other obligations binding or purporting to bind the City of Buffalo or any covered organization; and

WHEREAS, Chapter 122 of the laws of 2003 permits the BFSAs to review and approve or disapprove the terms of any proposed settlement of claims against the City or any covered organization including the Buffalo Municipal Housing Authority in excess of \$50,000.00; and

WHEREAS, in order to carry out the mission of the BFSAs, the BFSAs will review contracts or other obligations in excess of \$50,000.00; and

WHEREAS, Sharon M. West, Executive Director of the Buffalo Municipal Housing Authority seeks the approval of one contract; and

WHEREAS, BFSA staff have reviewed such contracts and recommend approval of said contract,

NOW THEREFORE BE IT RESOLVED, that the BFSA authorize the Buffalo Municipal Housing Authority to enter one contract listed below:

1. Erie Regional Housing Development Corp. for community self-sufficiency services - \$600,000

Audit, Budget and Finance Committee Report:

Director McCall reviewed the Audit, Budget and Finance Committee's report. He noted that the proposed BFSA operating budget for the 2004-05 fiscal year totals \$1.2 million, an increase of \$250,000 from the 2003-04 budget. He indicated that the increase is for anticipated litigation expenses.

Directors voted to approve resolution 04-57 adopting a BFSA operating budget for fiscal year 2004-05. Motion by McCall, second by Giambra. Vote 8-0, to take effect immediately.

RESOLUTION 04-57

ADOPT OPERATING BUDGET FOR BFSA FOR 2004-2005

WHEREAS, the Buffalo Fiscal Stability Authority (the "BFSA") was formed by Chapter 122 of the Laws of 2003 ("Chapter 122") to (1) oversee the City of Buffalo's budget, financial and capital plans, (2) issue bonds, notes or other obligations to achieve budgetary savings through debt restructuring, (3) finance short-term cash flow or capital needs and (4) if necessary, to develop financial plans on behalf of the City of Buffalo if it is unwilling or unable to take the required steps toward fiscal stability; and

WHEREAS, the BFSA is required by Chapter 122 to commence operations immediately and to receive and act upon a four-year fiscal plan for the City of Buffalo no later than September 15, 2003; and

WHEREAS, the BFSA will have costs and expenses to operate and carry out its functions, including but not limited to paying the costs and expenses of its agents, employees and facilities hereof, reimbursement of costs incurred by Directors for actual and necessary expenses incurred in the performance of such Director's official duties, and otherwise to carry on and effectively carry out the obligations required by Chapter 122 of the Laws of 2003; and

WHEREAS, the staff of the BFSA has carefully reviewed the revenues to be received and expenses and costs anticipated to be incurred in carrying out the duties and functions of the BFSA and has prepared a budget (attached) based upon its reasonable assumptions of such revenues, costs and expenses.

NOW THEREFORE, BE IT RESOLVED, that the Directors of the Buffalo Fiscal Stability Authority do hereby approve the 2004-2005 BFSA Operating Budget prepared by the Staff.

There being no further business, the Chairman entertained a motion to adjourn, which was duly seconded unanimously.

The meeting adjourned at 3:40 pm.