

MINUTES
Buffalo Fiscal Stability Authority
November 9, 2006

The regular meeting of the Buffalo Fiscal Stability Authority (BFSA) was called to order at 1:09 PM on November 9, 2006, at the Buffalo & Erie County Central Public Library by Mr. Brian J. Lipke, Chairman of the Board. The meeting was convened by a Notice of Meeting sent to the Directors by Chairman Lipke and announced to the public and press.

Directors Present: Brown, Colucci, Giambra, Giardino, Lipke, & Townsend

Directors Absent (excused): Stenhouse

Directors Absent (telephonic participation): Wilmers

Staff Present: Johnson, McPherson, Miller, Mitchell, & Stefko

Opening Remarks:

Chairman Lipke welcomed attendees and provided a review of the day's agenda. He noted that the day's meeting included a renewed look at the challenges facing the School District's financial plan, the City's Casino agreements, as approved by the City's Common Council, and the extraordinary recovery efforts by the City after the "October Surprise" storm. Following his opening statement, Chairman Lipke requested a roll call of the Directors. In Secretary Stenhouse's absence, Vice-Chair Townsend confirmed that there was a quorum present and the meeting commenced.

Approval of Minutes

The Directors voted to approve Resolution 06-66 to ratify the September 28, 2006 Board Meeting Minutes and to ratify resolutions numbered 06-57 thru 06-65. Director Colucci expressed his support for approving the minutes with one amendment. He requested the minutes be corrected to reflect that he had stated, "to build bridges and respond with theological love", not "to build bridges and respond with theocratic love" (see page 5, paragraph 3, line 3). Motion to approve with the revision by Giambra, second by Townsend, Vote 6-0 to take effect immediately

RESOLUTION NO. 06 – 66

APPROVING MINUTES AND RESOLUTIONS FROM SEPTEMBER 28, 2006

BE IT RESOLVED that the Buffalo Fiscal Stability Authority approves the minutes of its meeting of September 28, 2006 and ratifies and affirms nine resolutions numbered 06-57 through 06-65 that were approved on September 28, 2006.

Buffalo School District

Budget Modification

Chairman Lipke introduced a budget modification to the School District's budget and explained that it involved the re-categorization of some grant funds for the current year's budget. He

requested that Executive Director Dorothy Johnson address the Board and summarize the modification.

Ms. Johnson explained that the proposed modification was due to a Magnet School grant the District received totaling \$4 million. The District originally intended to include these funds in its grant budget, but New York State had advised that the funding should be included in the General Fund under "Other State Aid". Further, there is no substantive impact on the District's budget.

Motion by Townsend, second by Giardino, Vote 6-0 to take effect immediately

RESOLUTION NO. 06 - 67

MODIFICATION TO THE 2006-07 FINANCIAL PLAN TO RECOGNIZE AN INCREASE IN THE GENERAL FUND BUDGET

WHEREAS, the School District has submitted to the Buffalo Fiscal Stability Authority (BFSA) a proposed budget modification for the current fiscal year, and

WHEREAS, the modification would increase the District's General Fund budget by \$4 million, to \$578.8 million, and

WHEREAS, the modification is due to a Magnet School grant the District received for this year, and

WHEREAS, the District originally intended to include these funds in its grants budget, but New York State has advised that the funding should be included in the General Fund under the category of "Other State Aid," and

WHEREAS, the Board of Education approved the change on September 27, 2006, and

WHEREAS, the BFSA staff has studied the Plan modification and finds it reasonable and with no other substantive impact on the financial plan,

NOW THEREFORE BE IT RESOLVED THAT, the Buffalo Fiscal Stability Authority approves the modification of the Buffalo City School District's 2006-07 general fund budget as submitted to Buffalo Fiscal Stability Authority on September 28, 2006.

Current Issues Update

Chair Lipke stated that, since BFSA's last meeting, a decision was reached in terms of the School District's initiative to save approximately \$1 million every month through a move to a single health insurer. If the arbitrator's decision were to stand, the District will have \$12 million less a year in funds which could be used for more constructive uses such as adding additional teachers and improving the educational system. He invited School District Superintendent Dr. James Williams to address the Board regarding the decision.

Dr. Williams provided a brief synopsis of the decision and asked School District Executive

Director for Labor Relations Patricia Pancoe, Esq. to explain the legal aspects of the arbitrator's decision and what steps can be taken to appeal it.

Following Ms. Pancoe's summary, Chair Lipke questioned the required rehiring of teachers, given the District's budgetary imbalance. She explained the arbitrator's position and noted that the decision will be challenged in the appeal process by the District.

Chief Financial Officer Gary Crosby provided the Board with a summary of the financial impact that the arbitrator's decision will have on the District's budget, if it should stand.

Mayor Brown questioned Mr. Crosby whether the quality of healthcare coverage has diminished with the switch to a single-carrier provider. Crosby responded that initial minor issues were successfully resolved.

County Executive Giambra noted that the problem is with the arbitration process prescribed by the Triborough Amendment to the Taylor Law which dictates that terms of employment can not be changed without negotiations. This is an unfortunate situation for the District because real savings can be realized without any diminishment of service quality through single-carrier implementation. Giambra stated that this highlights the need for Albany to reform the Taylor Law so that municipalities can gain more control of workforce expenditures.

Chair Lipke concurred with the County Executive's statements and noted that the BFSAs Board has made numerous presentations depicting the need to reform the Taylor Law. He questioned Mr. Crosby about the source of funds that will be needed to address the budgetary shortfall caused by the ruling. Mr. Crosby replied that the District may have to use funds that are currently designated as unrestricted fund balance. These funds are reserved for emergencies.

Vice-Chair Townsend remarked that the injection of competition among multiple carriers helped to drive down costs. Given that the services provided by the single carrier had replicated those provided by multiple carriers and that a return to multiple carriers would jeopardize the District's ability to retain teachers, she queried why the Buffalo Teachers Union (BTF) had been so ardent to pursue the lawsuit. Mr. Crosby replied that the motive was unclear unless it was the union's determination to use the issue to resolve the disagreement on a new contract. Vice-Chair Townsend noted that unions have received pension sweeteners in recent years without givebacks which taxpayers are paying for today.

Director Giardino acknowledged that the BTF leadership understood the value of a switch to a single-carrier. He questioned what types of negotiations will be needed to advance this agenda.

City of Buffalo

Contract

Chair Lipke introduced the proposed contract with the Seneca Gaming Corporation, Seneca Erie Gaming Corporation and Seneca Nation of Indians. The Mayor had requested that the contract be considered expeditiously and has received prior approval from the Common Council. The BFSAs Board has had access to all information provided by a number of interested parties. Following his summary, he invited the Mayor to discuss the decision-making process.

Mayor Brown provided a brief summary and invited City Corporation Counsel Alisa A. Lukasiewicz to elaborate.

County Executive Giambra made a motion to table a vote on the resolution. He conveyed his position that he felt the process had moved along too fast and that the full economic impact of the agreement had not been thoroughly examined. He further noted that the Seneca casino in Niagara Falls had not had the anticipated economic benefits. There was no second to the motion.

Director Colucci pondered whether the City had appropriately solicited companies to do the appraisal of the Fulton Street land to be sold. Addressing this, Ms. Lukasiewicz stated that the City had used the same appraisal process used for all developmental projects. The procedure is prescribed by the City's Charter. The appraiser was represented in the appraisal board hearing and answered extensive questions from its board's members.

Director Giardino questioned how BFSA's action on the contract might affect pending lawsuits. The Corporation Counsel indicated it would have no impact.

Director Wilmers commented via telephone. He stated his opposition to casinos, that such a development would not enhance the City's economic condition. However, he believed that the Administration had handled the issue responsibly and the Common Council had voted to approve the contracts. Given this, it is not the control board's charge to second-guess these decisions and would vote in the affirmative, if present.

Motion to approve by Brown, second by Townsend, Vote 5-1 to take effect immediately (Giambra dissent).

RESOLUTION NO. 06 - 68

AUTHORIZE CITY OF BUFFALO TO ENTER INTO ONE CONTRACT FOR SALE OF LAND AND OTHER OBLIGATIONS

WHEREAS, Chapter 122 of the Laws of 2003, as amended, 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, as amended, 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 limit on contracts or obligations; and

WHEREAS, the BFSA will review contracts or other obligations in excess of \$50,000, but will require approval by the full BFSA Board when contracts or other obligations are valued at \$200,000 or more; and

WHEREAS, the Mayor and other City officials have submitted a contract for approval at the November 9, 2006 meeting, and have signed the BFSA Remittance Approval Request Form (“RARF”) in which they indicate that there are sufficient funds available for the contract, if necessary; and

WHEREAS, BFSA Staff has reviewed the contract and the RARF and offers no recommendation at this time; and

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby adopt and accept the Determination of Significance and the Findings of Fact as adopted by the City of Buffalo Common Council in Item No. 113 on October 31, 2006; and

BE IT FURTHER RESOLVED, that the Buffalo Fiscal Stability Authority does hereby authorize the City of Buffalo to sell Fulton Street for the amount of \$631,600; and

BE IT FINALLY RESOLVED, that the Buffalo Fiscal Stability Authority does hereby approve and authorize the City of Buffalo to enter into a contract with the Seneca Gaming Corporation, the Seneca Erie Gaming Corporation and the Seneca Nation of Indians.

This Resolution shall take effect immediately.

Storm Impact Update

Chair Lipke invited Mayor Brown to update the board on the impact of the recent “October Surprise” storm.

Mayor Brown thanked all City and County employees who worked very hard to help the City during the crisis. He explained that it was a well coordinated recovery and thanked the County Executive for all of his aid as well.

County Executive Giambra stated that the first responders’ efforts were tremendous; it was a pleasure to work with the City during the crisis. As a result of everyone’s efforts, the loss of property and life was minimized.

Commissioner of Public Works Joseph Giambra addressed the board. He provided an update on the costs associated with the clean-up efforts. Ms. Lukasiewicz elaborated on the details of the FEMA reimbursement.

At 3:02 PM Chair Lipke excused himself from the proceedings.

Director Giardino stated that the efforts by the City employees were fantastic; everyone is impressed by the outcome.

BFSA Administrative Matters

Property Disposal Guidelines

In Chair Lipke's brief absence, Vice-Chair Townsend introduced a procedural matter regarding the disposal of Authority property. Ms. Johnson & Chief Counsel Darryl McPherson summarized the topic for the Board.

At 3:06 PM Chair Lipke reentered the proceedings.

Motion to approve by Giambra, second by Townsend, Vote 6-0 to take effect immediately.

RESOLUTION NO. 06 - 69

ADOPTING PROPERTY DISPOSAL GUIDELINES

WHEREAS, Chapter 122 of the Laws of 2003, as amended, created the Buffalo Fiscal Stability Authority ("BFSA") to provide financial oversight and budgetary control over the City of Buffalo and other Covered Organizations; and

WHEREAS, as a public authority, the BFSA is subject to regulation by the State of New York, either in the form of rules and regulations promulgated by the State Comptroller or legislation enacted by the State Legislature and signed by the Governor; and

WHEREAS, Section 2896 of the Public Authorities Law requires public authorities to adopt comprehensive guidelines which detail the authority's operative policy on the disposal of personal property valued in excess of five thousand dollars; and

WHEREAS, the BFSA has developed and implemented property disposal guidelines to comply with this requirement; and

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby adopt the attached property disposal guidelines as required by Section 2896 of the Public Authorities Law; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer is hereby designated as the "contracting officer" who shall be responsible for the disposition of property.

Closing Remarks

Chairman Lipke thanked all who attended the meeting. Having no further business, Chairman Lipke made a motion to adjourn, which was duly seconded unanimously. The meeting adjourned at 3:08 PM.