
**MINUTES
BUFFALO FISCAL STABILITY AUTHORITY
WEDNESDAY, MARCH 18, 2009**

The following are minutes of the Buffalo Fiscal Stability Authority (BFSA) meeting held on Wednesday, March 18, 2009, at the Buffalo & Erie County Central Public Library.

Directors Present: Arthur, Brown, Collins, Giardino, Johnstone, Kolkmeier, Mertz & Townsend

Staff Present: Kelly, Link, Miller, Mitchell and Mobley

Others Present: Paul Braunsdorf, Esq. (BFSA Counsel with Harris Beach)

Opening Remarks

The regular meeting of the Buffalo Fiscal Stability Authority (BFSA) was called to order at 1:16 PM by Chair Paul J. Kolkmeier. The meeting was convened by a “Notice of Meeting” sent to the Board of Directors and announced to the public and press.

Chair Kolkmeier welcomed all in attendance. He summarized the meeting’s agenda as follows:

- A collective bargaining agreement [CBA] between the City of Buffalo and Local 2651 Building Inspectors,
- Two requests from the City for budget & financial plan modifications,
- A discussion of the current standing of the Intermunicipal Parks Agreement between the City of Buffalo and Erie County,
- A recommendation from the Audit, Finance and Budget Committee regarding the retention of Lumsden & McCormick as Independent Auditor, and
- A review of the proposed process regarding the hiring of a new Executive Director, as proposed by the Executive Director Ad-Hoc Search Committee, Chaired by Director Johnstone.

Chair Kolkmeier noted that Mr. Wade Norwood had resigned his position as BFSA Director on March 17, 2009. Mr. Norwood had recently been appointed to the New York State Board of Regents. He thanked Mr. Norwood for his service to the Board and the City of Buffalo and wished him success with his new responsibilities, in absentia.

Vice-Chair Townsend asked that staff prepare a resolution to thank Mr. Norwood for his service to the BFSA and City of Buffalo.

RESOLUTION NO. 09-04

HONORING FORMER BFSA DIRECTOR WADE NORWOOD

WHEREAS, on July 3, 2003, New York State Governor George Pataki signed into law Chapter 122 of the Laws of 2003, also known as the Buffalo Fiscal Stability Authority Act, which created the Buffalo Fiscal Stability Authority (“BFSA”) to assist in the restoration of fiscal stability in the City of Buffalo; and

WHEREAS, Governor Spitzer appointed Wade Norwood, Director of Department of Community Engagement, Finger Lakes Health Systems Agency, at the recommendation of the State Comptroller, as a Director of the Authority on January 1, 2007, to fill the seat vacated by Director H. Carl McCall; and

WHEREAS, Mr. Norwood’s dedicated service on the Authority complements a lifetime of commitment as a tireless public servant, having served for over twenty years in both elected and appointed government positions at both the state and local levels, in addition to his work as an ordained minister; and

WHEREAS, Mr. Norwood’s commitment to the BFSA Board, and the trust and confidence placed in him by his fellow Board members, is evidenced by his appointment and service as a member of the Ad Hoc Executive Director Search Committee in 2007; and

WHEREAS, after more than two years of tireless and dedicated service on the BFSA Board, Mr. Norwood has resigned as Director in order to more closely focus on his duties as a Regent, on the New York State Board of Regents; and

WHEREAS, despite the end of his tenure on the BFSA Board, Mr. Norwood’s innumerable contributions to BFSA and the community will endure.

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby honor and appreciate Mr. Wade Norwood for his significant and outstanding contributions to the Buffalo Fiscal Stability Authority, and to the betterment of the City of Buffalo, its citizens and the Western New York Community.

He asked Secretary Arthur to conduct a roll call. Director Arthur determined that a quorum was present; the meeting commenced.

Compliance with New York State Executive Order #9

Chair Kolkmeier noted that the City of Buffalo’s camera crew was not present to record the video of the meeting. The video has been made available to BFSA in the past per an agreement with the City so that the Authority may create a “web-friendly” version of the meeting for online posting, in accordance with Governor Patterson’s Executive Order #9, “Review, Continuation and Expiration of Prior Executive Orders.” He asked for a motion to proceed with the meeting without the video recording.

Motion by Arthur, second by Mertz. Vote 8-0 to proceed with the meeting without the camera crew.

Approval of Minutes

Chair Kolkmeier directed the Board to BFSA's February 11, 2009, meeting minutes and asked for a motion to approve.

Motion by Townsend, second by Johnstone. Approval 8-0.

RESOLUTION NO. 09-05

APPROVING MINUTES AND RESOLUTIONS FROM FEBRUARY 11, 2009

BE IT RESOLVED that the Buffalo Fiscal Stability Authority approves the minutes of its meeting on February 11, 2009, and ratifies and affirms resolutions numbered 09-01 through 09-03 that were approved February 11, 2009.

This resolution shall take effect immediately.

BFSA Issues

Preliminary BFSA budget and Four-Year Financial Plan

Chair Kolkmeier announced that the Audit, Finance & Budget Committee had met earlier and approved the posting of BFSA's preliminary budget for public comment, per New York State Office of the State Comptroller [NYSOSC] requirements. As done previously, the preliminary budget will be posted on the BFSA website as well as the area public libraries. The actual budget is expected to be presented for approval at the June 10th meeting.

Engagement of Independent Audit Services

Chair Kolkmeier stated that BFSA staff had recently put out an RFP for independent auditor services. The Audit, Finance & Budget Committee had approved a motion recommending the retention of Lumsden & McCormick for the next three years, reviewable on a yearly basis. He asked Committee Chair, Director Giardino to elaborate.

Director Giardino reiterated that the Committee had met and determined that, of the only two submissions, Lumsden & McCormick had been determined to be the best value proposal. Further, a new engagement officer, Ms. Donna Gonser (Lumsden & McCormick Partner) has been chosen, as Mr. John Schivone may no longer serve in this capacity. The Committee had voted unanimously to recommend this action.

Motion to approve by Giardino, second by Mertz.

Mayor Brown conveyed his concern for this stating the engagement term of three years seemed to be too long, and he wanted to ensure that other firms received an opportunity to bid on the work. The mayor further inquired as to where the RFP was advertised

Director Giardino responded that the work of the firm is subject to review and reapproval of the Board on an annual basis.

Executive Director Mitchell added that the RFP was posted in NYS Contract Reporter, which is available to all vendors, she added that for some firms there could be a possible conflict of interest, because many of the firms that might typically bid on the work already have engagement for audits for the City, Schools or another covered organization. Mayor Brown responded that Lumsden already did work for some City units.

Chair Kolkmeier noted that many of the firms look at this type of work and consider the possible revenues before ultimately deciding if bidding on the work would be in the best interests of the firm. He also noted that some of the larger firms might not be inclined to bid on this work, because BFSAs' audit is relatively small.

Vote 7-1 (Brown dissents) to approve the resolution.

**RESOLUTION NO. 09-06
APPROVE ENGAGEMENT OF LUMSDEN AND McCORMICK, P.C. AS INDEPENDENT
AUDITOR**

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

WHEREAS, the BFSAs receives the City's share of the County's sales tax and state aid revenue to pay for the expenses of the BFSAs and debt service on the BFSAs' bonds, notes and other obligations; and

WHEREAS, to the extent that those revenues exceed the needs of the BFSAs, those funds are to be transferred to the City as soon as practicable; and

WHEREAS, Section 3871 of the BFSAs Act requires the engagement of an independent certified auditor and to fulfill this requirement BFSAs issued on January 19th, 2009 a request for proposals for an independent auditor to audit the BFSAs accounts for the next three years, subject to yearly review and renewable to a maximum of five years; and

WHEREAS, Lumsden and McCormick, BFSAs' current auditor, submitted a bid to continue to serve as BFSAs independent certified auditor providing auditing services to the Authority; and

WHEREAS, the Audit, Finance and Budget Committee selected Lumsden and McCormick, as the firm most capable of carrying out the required duties; and

WHEREAS, the New York State Public Authorities Accountability Act mandates that the primary engagement partner of the independent auditor firm may not serve in that capacity for more than five years; and

WHEREAS, John P. Schiavone has served as primary engagement partner on the BFSAs audit team for the last five independent audits; and

WHEREAS, Donna M. Gonser, CPA will replace John P. Schiavone as primary engagement partner on

the BFSA audit team,

WHEREAS, the firm of Lumsden & McCormick LLP has performed its duties as independent auditor in a satisfactory manner; and

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby engage the accounting firm of Lumsden and McCormick, P.C. to provide accounting and auditing services to the BFSA through the fiscal year 2010-2011, subject to annual review. Such services shall be undertaken for such amounts and on such terms as agreed upon by the Chair, Vice Chair or Executive Director.

This Resolution shall take effect immediately.

Executive Director Search Process

Chair Kolkmeier asked Ad Hoc Search Committee Chair, Director Johnstone to update the Board regarding the progress to hire a replacement Executive Director, upon Ms. Mitchell's retirement.

Director Johnstone updated the Board on the progress of the Committee. The members had finalized the proposed position description, the advertisement, the list of ad placements, as well as a search timetable and procedures.

Chair Kolkmeier submitted a resolution titled, "Affirming The Formation Of A Search Committee For The Purpose Of Identifying Permanent Executive Director And Approving The Proposed Process For The Search."

Motion to approve by Arthur, second by Brown.

Director Arthur suggested that the resolution be amended to add language requiring the new Executive Director to either be a resident of the City of Buffalo or, upon hire, to become a resident inside of the City within a reasonable amount of time.

Mayor Brown expressed his support for the amendment stating that, as the funds for the position are City funds, it is logical that the newly hired individual be a resident or become a resident.

Director Townsend disagreed with the residency requirement stating that it would limit the pool of qualified applicants. Further, not all Board members have been residents of Buffalo. She offered another amendment which would include a clause giving preference to City residents but not requiring it as a condition of employment.

Motion by Arthur, second by Brown to add the amended language to the resolution. Vote 2-6 [Collins, Giardino, Johnstone, Kolkmeier, Mertz, & Townsend dissent]. The motion did not carry.

Director Townsend withdrew her motion to amend the resolution stating that, as the previous motion had not carried, it was no longer necessary.

Mayor Brown stated that he had reviewed the material and disagrees with the workload for the staff after BFSA enters into an “Advisory Period.” Mayor Brown also noted that the taxpayers of Buffalo should not have to pay salaries for the full complement of staff during such period. If this is the subject matter of the vote, he is going on record against the motion.

Director Johnstone stated that the resolution did not address these areas. It only covers the hiring process. She agreed however that the question of staff workload and requirements during an “advisory period” is an important issue that must be investigated.

Vote 8-0 to approve.

RESOLUTION NO. 09-07

AFFIRMING THE FORMATION OF A SEARCH COMMITTEE FOR THE PURPOSE OF IDENTIFYING A PERMANENT EXECUTIVE DIRECTOR OF THE BUFFALO FISCAL STABILITY AUTHORITY AND APPROVING THE PROPOSED PROCESS FOR THE SEARCH

WHEREAS, Bertha H. Mitchell has advised of her retirement as Executive Director of the Buffalo Fiscal Stability Authority (“BFSA”) effective June 30, 2009; and

WHEREAS, it is imperative that BFSA identify a permanent Executive Director given the importance of this position in BFSA’s operations; and

WHEREAS, at the BFSA Board meeting of February 11, 2009 Chairman Paul Kolkmeier announced the creation of a search committee for the purpose of identifying a permanent Executive Director of BFSA, with Director Gail Johnstone as Chair of the Committee, and Directors John Giardino and Wayne Mertz as members of the Committee, and

WHEREAS, the members of the Committee have presented a proposed process for the search effort which includes a timeline for the process, a position description, a master advertisement for the position and a list of newspapers and websites where the search will be advertised,

NOW THEREFORE BE IT RESOLVED, that the search committee is hereby affirmed for this purpose; and

BE IT FURTHER RESOLVED, that the following directors are members of the search committee, Gail Johnstone, John Giardino and Wayne Mertz; and

BE IT FURTHER RESOLVED, that the search process as presented is hereby approved.

This resolution shall take effect immediately.

Compliance with New York State Executive Order #9 (continued)

Chair Kolkmeier noted that the City’s camera crew had arrived and had begun recording the meeting [1:48PM].

City Issues

Collective Bargaining Agreement w/Local 2651 Building Inspectors

Chair Kolkmeier introduced a resolution to approve the Collective Bargaining Agreement between the City of Buffalo and AFSCME Local 2651 Building Inspectors. He asked Ms. Mitchell to provide further detail for the Board.

Ms. Mitchell utilized a slideshow presentation. She stated that the City had reached an agreement with the Building Inspector's bargaining unit. The agreement was approved by the members of the union on March 10, 2009, and by the Buffalo Common Council on March 17, 2009.

The proposed agreement covers the period of July 1, 2004, through June 30, 2012, and replaces the prior agreement which ran from July 1, 2001, to June 30, 2004. The agreement covers the 61 members of this bargaining unit.

The City's Building Inspectors typically handle tasks such as:

- ✓ home and building inspections,
- ✓ ensuring the safety of the structures,
- ✓ checking plumbing and electrical work on new construction projects taking place throughout the City, and
- ✓ and reviewing buildings to check for compliance with codes and zoning regulations.

The proposed wage increases for the new CBA are as follows:

- ✓ a 3% pay increase retroactive to July 1, 2007,
- ✓ a \$2,250 base salary increase with a 3% increase July 1, 2008,
- ✓ a 3% increase July 1, 2009,
- ✓ a 3% increase July 1, 2010, and
- ✓ a 3% increase July 1, 2011.

The proposed CBA comes with a number of reforms. Some of the reforms on the health insurance side include:

- ✓ moving all employees into the lowest cost (204) health plan,
- ✓ having new hires contribute to health insurance – 25% for single coverage and 15% for family coverage,
- ✓ granting the City the ability to RFP for health and dental insurance providers annually, potentially yielding a multitude of additional savings,
- ✓ all new staff hired after the approval of the CBA will contribute to health insurance upon their retirement, as will existing employees who retire with less than 20 years of service, and
- ✓ new employees will pay 5% of their dental premium.

The amount of paid leave is reformed as follows:

- ✓ current employees will give up one personal day, reduced to five days,

- ✓ new employees will earn less personal leave, capped at three days,
- ✓ new hires will now have the ability to earn up to twenty vacation days, compared with twenty-five for current employees,
- ✓ sick leave will be reduced from fifteen days to fourteen days for current employees, and
- ✓ sick leave will be reduced from fifteen days to nine days for new employees.

The way that personal leave is accumulated has been changed. Previously, when an employee was hired as a Building Inspector, they received the lump sum of six personal leave days per year. This has been reduced to five days. New employees will also receive their personal leave differently as follows:

- ✓ Year One – new employees will receive one personal leave day,
- ✓ Year Two – new employees receive two leave days, and
- ✓ Year Three – new employees receive three leave days.

Personal leave days will now be capped at three.

Under the old CBA, the maximum paid days off totaled 46 days for current employees. Under the new CBA, the maximum total days off equal 44. The maximum paid days off for new employees under the proposed CBA will now be 32, a reduction of 14 days.

Paid holidays remain unchanged at 13 additional days off a year for both current and new employees. Additionally, employees are eligible for up to five bereavement days in the event of a death to a family member.

The CBA agreement comes with a number of additional reforms including:

- ✓ Salary steps are increased from five to seven steps, which means it will take longer for employees to reach the top salary steps.
- ✓ Longevity payments decreased \$100 for new employees at each longevity increment (typically five year increments).
- ✓ All Local 2651 employees will be subject to the City's Employee handbook.
- ✓ The probationary period will be changed to a term not less than two months and not more than twelve.
- ✓ Residency within the City of Buffalo will be required for all employees.
- ✓ The new employees of Local 2651 have agreed to additional training and use of new technology in the performance of their jobs.

To recap the CBA agreement comes with a number of concessions in exchange for salary increases partly including:

- ✓ Health insurance contributions will be increased for future employees.
- ✓ Current and future employees will receive a lower cost benefit plan.
- ✓ The senior product option.
- ✓ Employees give up their tool allowance.
- ✓ The City will have flexibility in choosing both Health and Dental carriers based on costs and equal levels of coverage.

- ✓ There will be a longer vesting period for free healthcare for current employees.
- ✓ Paid time off has been reduced in personal, vacation and sick leave.
- ✓ There will be an increased number of salary steps.
- ✓ Those covered in the CBA agree to withdraw from outstanding lawsuits against the City.

Benefits that have remained unchanged are:

- ✓ The auto allowance remains intact and has been increased \$3 to \$18/ day (covering use of private vehicles while doing City business).
- ✓ The “in-lieu of health insurance” payment has increased from \$40 to \$60 per month for single health and \$60 to \$100 per month for family coverage.
- ✓ The sick leave buy-back provision remains intact. It includes a 300 daily personal sick leave bank, 200 days of which can be sold-back at 40%, equaling a total of 80 days. The remaining 100 days can be credited for service towards NYS retirement.
- ✓ The perfect attendance payment remains intact. It pays employees eight hours of straight time for each quarter of the fiscal year that a member has perfect attendance. The use of personal leave and vacation days do not count against an employee under this provision.
- ✓ Building Inspectors receive free parking.
- ✓ Employees receive free life insurance for themselves and their family members.
- ✓ The “in-lieu of dental insurance payment remains \$100 a year.
- ✓ Bereavement leave remains up to five consecutive work days outside of normal leave categories.
- ✓ Employees can accrue and bank up to 50 vacation days (400 hours).

The overall costs including salary and other employee increases total approximately \$2.5 million, which are the marginal cost increases over the cost of the old contract . The savings achieved through concessions total slightly more than \$500,000 over the life of the contract.

The net costs before considering a reserve that the City had previously put away for a new labor agreement with Local 2651 total \$1.96 million.

Finally, after factoring the \$112,000 that the City had previously set aside for a new CBA with the Building Inspectors, the net impact is approximately \$1.85 million over the life of this agreement.

Ms. Mitchell concluded her presentation.

Motion to approve by Arthur, second by Townsend.

Director Townsend noted that progress has been made with the new CBA. However, the total amount of paid time, approximately 6.4 week in total, is still extraordinarily high and much greater than that received in most places.

Director Mertz first asked whether the City and BFSA’s staff were in agreement relative to the amount of prospective savings in the CBA. Ms. Mitchell indicated that there was agreement.

Director Mertz noted that there had been positive changes in the health insurance, including the new contribution level for new hires as well as the overall shift to 204 health insurance. He asked whether, the analysis included the increased costs of healthcare over the period of the contract.

City Director of Administration & Finance Ms. Donna Estrich stated that an average increase of 9%, which the City had been experiencing in the past few years, had been factored in.

Director Mertz asked how residency was monitored. Mayor Brown stated that the City maintains investigators whose job function it is to investigate whether employees reside within the City, per the contract.

Director Mertz noted that the current employees gave up a sick day and a personal leave day but, as Director Townsend had stated, they retain a very high number of paid days off. The tool allowance has been given up, but the City now provides the tools for the workers to use. The salary increases will cost \$2.3 million. This calculated to about \$38,000 per employee over the life of the contract, 38 months. Further, post-employment healthcare benefits are retained. He asked if employees get post-employment healthcare after ten years of employment.

The City of Buffalo Commissioner of Human Resources, Ms. Carla Thomas addressed the question. She stated that employees can retire after ten year of employment and subsequent participation in the NYS Retirement program, granted that they have reached a certain age.

Director Mertz stated that the City will essentially be paying “health insurance for life” for these employees. This benefit is unparalleled in the private sector. He queried whether or not the market required this benefit to attract qualified individuals for the position.

Ms. Thomas replied that, with the salaries provided by the City of Buffalo, fringe benefits are the only incentive available to attract quality applicants. As far as “healthcare for life”, employees will start contributing a percentage toward their benefit with this contract. Additional concessions may be able to be secured in future CBAs.

Director Mertz refocused that the question at hand was whether or not the market demanded that these employees be provided this benefit. He noted that other unions, or more specifically, trade unions with whom he personally negotiates, do not receive “healthcare for life.” Salary compensation, however, is competitive with the Building Inspectors.

Additionally, members of the private sector unions, as concerned taxpayers, have personally expressed dissatisfaction that individuals working the same job as them in the public sector receive these expensive benefits. The market has shifted and these lucrative benefits are no longer required to attract and retain quality applicants.

Ms. Thomas offered an explanation. She stated that in the private sector, product revenues generate employee salaries. However in the public sector, especially in the City, employees tax dollars generate employee salaries. The public sector employees also pay taxes and the money is

“recycled.” The employees that are working are the same as those paying taxes, due to the residency rules.

Mayor Brown interjected that the negotiating environment in the public sector is not the same as that of the private sector. The City Administration has to abide by rules and laws established by the State. With this contract, the City’s Administration has done the best possible job in negotiating this contract, while adhering to those state imposed limitations.

Director Townsend noted that public employees, at one point in time, used to trade a lower salary than their private sector counterparts for better benefits, regular wage increases and greater job security. However, those days have long since passed. According to an independent study conducted by the Citizen Budget Commission, New York State public employees are comparably paid. So the bargain that was struck is now out of date and the current pay structure is unfair to taxpayers. Public employees pay taxes along with all other taxpayers. However, to suggest that they pay for their own salaries is misleading. The contract has a great deal of progress but there is “a long way to go” to update the “bargain” with public sector employee, i.e., no longer underpaid, excessive benefits.. “All the public should recognize that working for the government ought not privilege you for the rest of your life.”

Director Mertz noted that he has examined new public sector contracts from around the county. Although they do not deal in the negotiating environment of New York State, “negotiations are negotiations.”He also reminded the Board of the significant burdent the OPEB liability has placed on governments. Other municipalities have been successful in negotiating out “healthcare for life”, sometime with an upfront payment, but the mission was accomplished.

Mayor Brown requested a vote on the resolution.

Chair Kolkmeier called for a vote. Vote 7-1 [Mertz dissent] to approve.

APPROVAL OF COLLECTIVE BARGAINING AGREEMENT

Resolution 09-08

WHEREAS, Chapter 122 of the Laws of 2003, Section 3858(2)(e), requires that during a control period the Buffalo Fiscal Stability Authority (“BFSA”) shall approve or disapprove any collective bargaining agreements binding or purporting to bind the City of Buffalo (“City”); and

WHEREAS, the BFSA is required to promptly review a collective bargaining agreement that is submitted to it and shall disapprove any collective bargaining agreement that is not in compliance with the approved financial plan; and

WHEREAS, the City and AFSCME Local 2651 (“Building Inspectors”) commenced negotiations in September 2007 and fully and completely bargained with respect to the terms and conditions of employment of union members; and

WHEREAS, on March 10, 2009, the members of Local 2651 approved an Agreement Amending the Collective Bargaining Agreement between the City and Local 2651; and

WHEREAS, the City submitted such agreement with supporting materials to the BFSA for approval under Section 3858(2)(e) of the Act, and has fully and promptly complied with all information requests of the BFSA; and

WHEREAS, the agreement provides for salary increases that are partially offset by savings in each year through changes to health insurance, restructuring of paid leave time, elimination of tool allowances, increasing the number of salary steps, transition to the lower cost 204 health insurance plan, reduced future OPEB costs, health insurance contributions in retirement for new and some existing employees, and requires all Local 2651 employees to live in the City; and

WHEREAS, the proposed agreement is in all respects in accordance with the approved financial plan and is in compliance with the draft guidelines established by the BFSA for review and approval of collective bargaining agreements; and

WHEREAS, the agreement provides for the terms and conditions of employment for the period from July 1, 2004 through June 30, 2012 and supersedes any other terms and conditions for that period, including any changes due to contract, Interest Arbitration, judgment or otherwise, now in effect or hereinafter existing; and

WHEREAS, the City will pay for the increased costs of this collective bargaining agreement through the use of preexisting savings in the current budget and four-year financial plan; and

WHEREAS, all Local 2651 litigation against the City and BFSA concerning the steps upon the lifting of the wage freeze will be withdrawn and discontinued; and

WHEREAS, on March 17, 2009, the agreement was approved by the Buffalo Common Council.

NOW, THEREFORE, BE IT RESOLVED, that the BFSA does hereby approve the aforementioned agreement between the City and Local 2651, which is to be effective for the period from July 1, 2004 through June 30, 2012.

This Resolution shall take effect immediately.

Budget & Financial Plan Modifications regarding Business Incubator & Demolitions

Chair Kolkmeier introduced two resolutions to modify the City's Budget and Financial Plans. The first was titled, "Approval of City of Buffalo Budget Modification for the Bethesda CDC Business Service Incubator." The second was titled, "Approval of City of Buffalo Budget Modification For Demolitions and Asbestos Abatement." He asked Principal Analyst Mike Kelly to provide a summary for the Board.

Mr. Kelly utilized a slide-show presentation. He provided the following summary for the Board.

The City has asked BFSA to look at two proposed budget modifications. They are as follows:

Proposed Budget Modification #1 –The Mayor submitted the \$162,000 modification request for the Bethesda Community Development Center Business Incubator. The funds are requested from the City’s 2007-2008 AIM funds and are expected to be used as gap financing for this 16,000 square foot building renovation. The total project costs equal \$1.3 million. When completed, the facility will assist new or expanding businesses by providing affordable office space, potentially resulting in job creation.

Proposed Budget Modification #2 – The second proposed budget modification is for demolition and asbestos abatement work. The \$10 million budget modification request came to BFSA on March 9th. The funding will come from part of the State’s Spin Up funding that will come to the City in June.

The City will receive a total of \$10.54 million; the additional \$540,000 will be available for future uses. The \$10 million is expected to result in 588 demolitions throughout the City. The project is expected to create shovel-ready sites throughout the City for future economic development initiatives. An additional benefit is neighborhood stabilization.

The budget takes into account the Building Inspector contract, as well as the newly proposed budget modifications.

Chair Kolkmeier asked for a motion to approve the two items.

Motion by Brown, second by Townsend. Vote 8-0 to approve both items.

RESOLUTION NO. 09-09

APPROVAL OF CITY OF BUFFALO BUDGET MODIFICATION FOR THE BETHESDA CDC BUSINESS SERVICE INCUBATOR

WHEREAS, on March 2, 2009, the City of Buffalo (“City”) submitted a budget modification request for the 2008-09 fiscal year to the Buffalo Fiscal Stability Authority (“BFSA”); and

WHEREAS, the proposed modification would serve to amend the budget originally approved by BFSA on June 5, 2008 and as modified on August 20, 2008; and

WHEREAS, the modification addresses a single-year change in the City’s 2008-09 budget and four year financial plan; and

WHEREAS, the modification would utilize the 2007-08 New York State Aid Incentives for Municipalities (“AIM”) funds; and

WHEREAS, in providing increased AIM funding to the City in 2007-08, New York State restricted its use for the following purposes: 1) To maintain, minimize or reduce the real property tax burden; 2) To support investments in technology or other efficiency and productivity initiatives that permanently minimize or reduce the municipality's operating expenses; 3) To support economic

development or infrastructure investments that are necessary to achieve economic revitalization and generate growth in the municipality's real property tax base; and/or 4) To minimize or prevent reductions in City services; and

WHEREAS, the City has previously allocated these funds, totaling \$12.8 million, into the "Grow Buffalo Trust Fund" to support economic development initiatives and currently there is \$6,734,938 available for related projects; and

WHEREAS, the proposed modification would draw down \$162,000 of these remaining funds for the purpose of funding an economic development project: The Bethesda CDC Business Service Incubator, located at Main/Union Square; and

WHEREAS, the City's Common Council will consider the approval of a budget modification and the utilization of these funds once BFSA has approved the use of AIM funds for this purpose; and

WHEREAS, BFSA staff has reviewed the budget modification and determined that it complies with the requirements of the BFSA Act.

NOW THEREFORE BE IT RESOLVED THAT, the Buffalo Fiscal Stability Authority hereby determines that the proposed budget modification is complete, complies with the standards set forth in Sections 3857 and 3858 of the Buffalo Fiscal Stability Authority Act, and is hereby approved.

This Resolution shall take effect immediately.

RESOLUTION NO. 09-10

APPROVAL OF CITY OF BUFFALO BUDGET MODIFICATION FOR DEMOLITIONS AND ASBESTOS ABATEMENT

WHEREAS, on March 9, 2008, the City of Buffalo ("City") submitted a budget modification request for the 2008-09 fiscal year to the Buffalo Fiscal Stability Authority ("BFSA"); and

WHEREAS, the proposed modification would serve to amend the budget originally approved by BFSA on June 5, 2008 and subsequently modified on August 8, 2008; and

WHEREAS, the modification addresses a single-year change in the City's 2008-09 budget and four year financial plan; and

WHEREAS, the modification would utilize \$10 million in "Spin-UP" New York State Aid and Incentives for Municipalities ("AIM") funds; and

WHEREAS, the "Spin-Up" AIM is not subject to the provisions established in 2007-08 for the utilization of increased AIM; and

WHEREAS, the City had not previously allocated these funds, totaling \$10.54 million, for said purpose; and

WHEREAS, the proposed modification would draw down \$10,000,000 in these funds as the City of Buffalo continues it's comprehensive demolition strategy of vacant and dangerous structures to prepare shovel ready sites, stabilize neighborhoods and foster economic development; and

WHEREAS, the City's Common Council has approved the budget modification, on February 17, 2009; and

WHEREAS, BFSA staff has reviewed the budget modification and determined that it complies with the requirements of the BFSA Act.

NOW THEREFORE BE IT RESOLVED THAT, the Buffalo Fiscal Stability Authority hereby determines that the proposed budget modification is complete, complies with the standards set forth in Sections 3857 and 3858 of the Buffalo Fiscal Stability Authority Act, and is hereby approved.

This Resolution shall take effect immediately.

At this point, Director Giardino left the proceedings.

Intermunicipal Parks Agreement Update

Chair Kolkmeier stated that, at the last Board meeting, the Board had requested that the City give an update on the status of the Intermunicipal Parks Agreement between the City of Buffalo and Erie County. In June of 2008, the County had advised the City that they were withdrawing from the agreement effective June 13th, 2009. The work required to open the parks on time must begin in the next few weeks. The County has no money allocated in their FY2010 budget for City parks past June 13th and has "zeroed out" the City parks seasonal workers in their current budget. Additionally, there appears to be no park expenditures in the City's 2008-2009 budget. Hence, the Board has the following concerns:

1. Is the County undertaking the required work to open the parks on time and
2. Who will manage the parks from June 13 forward and what costs will be incurred by the City to remedy this situation both in the current budget and forward?

The staff has prepared a presentation to provide a summary on the agreement.

Mayor Brown requested that the presentation be preempted by his report on the current situation.

Mayor Brown stated that the County and the City are currently in negotiations. Their respective staffs are in frequent contact with each other and a workable solution will be forthcoming to ensure that the parks, pools etc. will be open for operations for the summer months.

Director Johnstone asked whether the forthcoming changes will be reflected in the 2009-10 budget BFSA will need to approve. Mayor Brown stated that they would.

County Executive Collins echoed Mayor Brown's sentiments of having the parks up-and-running for the start of the summer season. He stated that discussions are ongoing. There is a lot of "gray area" in the current contract as to which parks are covered by whom and which entities pay

for what. The County will defer to the City as to what they should do as long as it is “revenue-neutral” to County operations.

Chair Kolkmeier acknowledged that work has been done on both sides of the contract. He agreed that the concept of “negotiating in public” should be avoided to preserve the integrity of the process. He requested that staff go forward with some of the presentation to grant the Board some cursory information regarding the agreement.

Director Arthur expressed that the presentation should be omitted as both the County Executive and Mayor have stated that negotiations are in process. He moved to have the next item on the agenda presented.

Motion by Arthur to remove the Parks presentation from the agenda, second by Brown. Vote 3-4 [Johnstone, Kolkmeier Mertz & Townsend dissent]. The presentation carried forward, as originally intended.

Ms. Mitchell stated that there is concern at the Olmsted Conservancy. They are funded through the current year to continue the work but because of the uncertainty going forward, major funders of the Conservancy are awaiting resolution of the situation. She asked Senior Analyst Mr. Bryce Link to provide further detail.

Mr. Link utilized a slideshow presentation, he provided the following material:

Historic Costs of Operating the City Parks (City of Buffalo)

- ✓ Looking back to FY 1999 thru FY 2004 (FY 2004 being the last fiscal year prior to the Intermunicipal Parks Agreement), the Personnel Service average cost was \$4.8 million, and \$0.6 million for all other Operational costs, totaling \$5.5 million.
- ✓ Staffing data was incomplete. However, Personnel Service costs increased over this time frame, averaging 88.3% of the total expenditure.

At this point, Director Giardino reentered the proceedings.

Historic Costs of Operating the City Parks (Erie County)

- ✓ From FY 2005 thru FY 2008, Personnel Service costs averaged 74% of the total Operational cost, with little variance.
- ✓ The total Operational cost grew from \$4.4 million in FY 2005 to \$5 million in FY 2008.

Erie County Gross Costs minus Offsets (TANF & COPS)

County Executive Collins stated that the chief offset is the County’s “Welfare to Work” initiative. Most of the parks workers work through this program; funding is from the Federal Government’s TANF (Temporary Assistance for Needy Families) program. In 2004, there were sixteen County workers in the parks. Currently there are only nine.

Further, he stated that the County is not satisfied with the service that they have provided in the last few years. The “21 day cut” schedule formerly used has been deemed insufficient. To provide a “first-rate” service which the citizenry deserve, more will need to be done. However, over the last few years, there has been a lot of “finger-pointing” on both sides. Capital improvements remain the responsibility of the City of Buffalo while maintenance has been the County’s duty. There is often times disagreement over what constitutes a capital improvement and a maintenance cost. As a result, no action takes place.

Director Townsend noted that it is useful to examine the environment in which the agreement originally took place. There was a push toward regionalism at the time; a sharing of costs to improve the product for the citizenry in the most cost-effective manner. It did not seem logical to have two Commissioners, two distinctive staffs, etc. when the County could provide this service at a reduced cost. Hopefully, going forward there is less emphasis on “whom is short-changing who” and more emphasis on the right level of funding to provide a superior, efficient product.

Director Giardino agreed with Director Townsend that the original intent was to remove inefficiencies. It was a valid assumption at the time. However, the County was “taken by surprise” by the number of “pocket-parks” and small parcels that needed regular maintenance. There are several important aspects to consider. The first is the role of the Olmsted Park Conservancy. In a sense, this is a privatization of the service. The Conservancy also acts as a fund raising arm to draw revenue for the upkeep of the parks. The second piece is the revenue opportunity which needs to be considered. The third piece is the settlement with the Power Authority, the remediation of \$2 million annually for fifty years to the County for parks spending. This is a perfect place to search for capital funds. It is necessary to look at all of the pieces to properly put the issue into context.

Director Arthur stated that the “Olmsted piece really needs to be examined” because, according to many people, the work in some parks leaves “a lot to be desired.”

At this point of the meeting, Mayor Brown left the proceedings.

County Executive Collins stated that Olmsted is a perfect model because it is a private entity without labor union issues. The wages paid are very different from “Living Wage.” Olmsted allows the parks to be maintained in a very cost effective way. However, Olmsted is also underfunded which leads to the inadequate maintenance of some parks. NYSPA \$2 million does help fund park maintenance but also needs to be used in a myriad of other ways.

Director Arthur disagreed with the County Executive and stated that he has heard a lot of dissatisfactory comments regarding Olmstead.

Director Giardino stated that he is a Commissioner on the Niagara Frontier Greenway Commission. The clear intent of the NYSPA \$2 million funding was to protect the area parks and “greenspaces.”

Director Mertz stated that, as an individual living on Delaware Avenue near Hoyt Park, the Olmsted Conservancy is doing a wonderful job.

Chair Kolkmeier stated that in 2004, the agreement needed NYS Legislative approval. He enquired whether a State level approval be required in the future.

Director Giardino stated that the City of Buffalo engaged the Conservancy based on the New York City model. At the time when the City sought out the County's cooperation for servicing the parks, the City's financial situation was in dire shape. There was no need for legislation by the State Legislature to engage into the contact, as it was strictly a management contract.

Chair Kolkmeier expressed his desire for the agreement to continue. He asked for a motion to adjourn.

Director Johnstone noted that, at the last meeting of the Authority, Director Arthur had requested an Executive Session to discuss the current situation of litigation.

Chair Kolkmeier stated that, at the next meeting, the Board will enter into Executive Session to discuss this issue.

Closing Remarks

Chair Kolkmeier requested a motion to adjourn. Motion to adjourn by Arthur, seconded unanimously. Vote 7-0 to adjourn the meeting at 3:02 PM.