
BUFFALO FISCAL STABILITY AUTHORITY
Governance Committee Meeting Minutes
July 20, 2011

The following are the minutes from the meeting of the Governance Committee (the “Committee”) of the Buffalo Fiscal Stability Authority (the “BFSA”) held on Wednesday, July 20, 2011, in the Buffalo Market Arcade Complex. The meeting was called to order at 12:33 PM.

Committee Members Present: Arthur, Johnstone

Committee Members Absent With Notice: Olsen

Additional BFSA Directors Present: Floss, Mesiah

Staff Present: Link, Miller, and Mongold

Opening Remarks

Secretary Arthur chaired the meeting at the request of Committee Chair Olsen who was excused from the proceedings.

Director Arthur asked Director Johnstone to call a roll of the attending Committee Members.

Director Johnstone called a roll and confirmed that a quorum was present.

Secretary Arthur announced the meeting’s agenda as follows:

- A review of various policies of the BFSA along with recommendations to the full Board regarding action on said policies;
- A review of the annual Procurement Report along with a recommendation to the full Board regarding action on this item;
- A discussion of a communication submitted to BFSA regarding the adopted Mission Statement; and
- A discussion regarding a new requirement relating to an annual evaluation of the Board by the individual Directors.

Approval of Minutes

Director Arthur introduced Governance Committee Resolution No. 11-02, “Approving Minutes and Resolution from March 9, 2011.” He sought a motion to move the item.

Director Johnstone offered a motion to approve the item. Director Arthur seconded the motion.

GOVERNANCE COMMITTEE RESOLUTION NO. 11-02
APPROVING MINUTES AND RESOLUTION FROM MARCH 9, 2011

BE IT RESOLVED that the Buffalo Fiscal Stability Authority Governance Committee approves the minutes of its meeting on March 9, 2011.

BE IT FURTHER RESOLVED that the Buffalo Fiscal Stability Authority Governance Committee ratifies and affirms resolution 11-01 that was approved on said date.

The Committee voted 2-0 to approve the resolution.

BFSA Policies, Guidelines, and Report

Secretary Arthur advanced the agenda to the next items for consideration: a review of various BFSA policies, guidelines, and one report. He asked Executive Director Jeanette M. Mongold to provide a review of the various documents.

Mr. Mongold addressed the Committee and provided the following summaries:

Procurement Report

The 2011 Procurement Report was prepared in a manner different from the 2010 Procurement Report. Financial Analyst / Manager of Technology, Mr. Nathan D. Miller, reviewed the New York State reporting guidelines on procurement contracts as compared to the BFSA's procurement policy. New York State Public Authorities' Law requires an annual report on procurement contracts with an actual or estimated value of five thousand dollars or more and does not require Board approval. BFSA's Procurement Policy requires an annual report on the acquisition of goods and services in the actual or estimated value of \$25,000 or more and also requires Board approval. In order to simplify the reporting process, the reporting requirements for the two entities have been merged and the single report includes a listing of all vendors who received in excess of \$5,000 during the 2011 fiscal year, pursuant to the lower dollar threshold established by New York State Public Authorities Law.

The Procurement Report lists eight vendors who have contracts with BFSA and whose fiscal year 2011 remuneration met the minimal threshold for reporting. The most significant contract noted is with Harris Beach, PLLC, whose FY 2011 compensation totaled \$157,669. Additionally significant is the \$41,283.50 paid currently paid to the Buffalo Economic Renaissance Corporation ("BERC") for rent. BERC is currently being "unwinded" into the Buffalo Urban Development Corporation ("BUDC"). BFSA ultimately rents its office space from the City of Buffalo, as opposed to an independent company. Therefore the amount paid for rent is returned to the City to be used for other purposes.

Director Johnstone asked if each item would be considered individually or cumulatively.

Director Arthur suggested that all of the items could be sent to the full Board with a singular recommendation, if desired. He noted that a portion of the fees paid to Harris Beach were for reimbursement of travel to and from Pittsford, New York for BFSA Board meetings. Harris Beach has an office located in downtown Buffalo. Therefore, it appears to be more cost-effective to have a representative from the Buffalo branch attend certain BFSA Board Meetings rather than from the Pittsford branch in order to avoid travel charges. This change would only occur for meetings where a general counsel is requested for more operational items. However, for meetings which discuss items such as pending litigation, it continues to be beneficial to have A.V. Buzard, Esq., BFSA's litigation

counsel, continue to travel from the Pittsford branch office to Buffalo to attend the proceedings.

Director Arthur indicated that he would vocalize this opinion to the full Board.

Director Johnstone concurred that it was appropriate to continue to have Mr. Buzard continue to attend meetings where litigation issues are discussed.

At 12:39 PM Director Floss entered the proceedings.

At 12:40 PM Director Mesiah entered the proceedings.

Director Arthur noted that the Buffalo branch of Harris Beach has many quality legal counsels. It is prudent to have counsel from the Buffalo branch attend certain meetings, especially those that are not lengthy. He asked if Director Johnstone wished to offer a motion relative to considering all of the items en masse.

Director Johnstone indicated that she would wait until the summaries had been provided for all of the motions before offering a motion.

Code of Ethics

Ms. Mongold continued her summary of the various documents before the Committee for consideration. She noted that the Code of Ethics had been included for consideration, and includes minor proposed changes. BFSAs Code of Ethics is derived from the framework provided by the New York State Public Authorities Law.

The Code of Ethics pertains to all BFSAs Directors appointed by the Governor as well as the BFSAs staff. It provides a framework of guidelines for ethical conduct and helps individuals covered avoid conflicts of interest.

The majority of the changes are for minor clarifications as well as punctuation changes. There were no substantive changes to the document. For example, page 5, paragraph 5 read, “*No Director or Employee shall disclose confidential information acquired by him or her...*” This has been changed to read, “*No Director or Employee shall disclose Confidential Information acquired by him or her...,*” as the term Confidential Information is defined in Section II., “Definitions”. Similarly, page 6, paragraph 8(b) states, “Under no circumstances may Authority mail, postage, internal office mail, or couriers be used or non-Authority purposes.” This has been amended to read, “Under no circumstances may Authority mail, postage, internal office mail, or couriers be used for non-Authority purposes.”

Appendix C, “Executive Order No. 1: Establishment of Ethical Conduct Guidelines” and Appendix D, “Executive Order No. 2: Eliminating Politics From Government DecisionMaking” have both been removed from the Code of Ethics as Governor Cuomo’s Executive Order No. 2 rescinded both of these earlier Executive Orders. Governor Cuomo has since issued Executive Order No. 3, “Ethics Training.” This particular Executive Order does not pertain to public authorities, as confirmed by legal counsel.

Ms. Mongold concluded her summary of the proposed changes to the Code of Ethics. Hearing no further questions, she began her summary of the next document for consideration: BFSAs Investment Guidelines.

Investment Guidelines

Ms. Mongold noted that there were no significant changes in the Investment Guidelines. As a side-note, she noted that the Incumbency Certificate, the document which designates who is authorized as a banking signatory on the behalf of the BFSA, was updated, reviewed by the Governance Committee at the March 9, 2011 meeting, and approved by the full Board, per the recommendation by the Governance Committee.

Prompt Payment Policy

Ms. Mongold noted that there were no substantive changes to the Prompt Payment Policy. The Prompt Payment Policy, which requires annual Board review and approval, is consistent with New York State Public Authorities Law and is appropriate for the efficient management of payables.

Property Disposal Guidelines

Ms. Mongold noted that there have been no substantive changes to the Property Disposal Guidelines. It requires annual Board review and approval and is consistent with New York State Public Authorities Law. She also indicated that BFSA owns very little property. Property primarily consists of computers and copiers.

Whistleblower Policy

Ms. Mongold noted that there have been no substantive changes to the Whistleblower Policy. All employees have a copy of the Employee Handbook which includes this policy. The Whistleblower Policy outlines the resources available to an employee to report malfeasance or misconduct, if need be.

Ms. Mongold concluded her summary of the Procurement Report and the various policies which require annual review and approval.

Director Johnstone offered a motion to send the 2011 Procurement Report, the Code of Ethics, the Investment Guidelines, the Prompt Payment Policy, the Property Disposal Guidelines, and the Whistleblower Policy to the full Board with a recommendation by the Committee for approval.

Director Arthur seconded the motion.

The Governance Committee voted 2-0 to send the 2011 Procurement Report, the Code of Ethics, the Investment Guidelines, the Prompt Payment Policy, the Property Disposal Guidelines, and the Whistleblower Policy to the full Board with a recommendation by the Committee for approval.

Mission Statement

Director Arthur advanced the agenda to the next item for consideration: BFSA's Mission Statement. He asked Ms. Mongold to brief the Committee regarding this item.

Ms. Mongold noted that the Mission Statement had been drafted two years ago and subsequently approved by the Board. A new requirement is that public authorities annually review and approve their respective mission statements.

BFSA had received notice from the New York State Authorities Budget Office (“ABO”) that the Mission Statement, as currently approved, was deficient. Typically, a company’s mission statement is one or two succinct sentences which outline the mission of the company. The ABO requires a more expansive mission statement.

Ms. Mongold offered a recommendation that the Governance Committee establish a working group to review the current Mission Statement and draft a new document that meets the requirements of the ABO and is appropriate giving the scope of the BFSA. Additionally, she recommended that the Mission Statement be finalized prior to the September 28, 2011 Board meeting.

Director Arthur requested that the Executive Director offer suggested narrative to amend the Mission Statement. Ms. Mongold affirmed that she would prepare the requested material, per the request.

Director Mesiah noted that the ABO required operational data in the Mission Statement as well as the company’s objectives. This is atypical as mission statements traditionally are more succinct and outline a company’s objectives.

Director Johnstone concurred with this assessment and noted that the accepted best practice for a company’s mission statement is for it to be no longer than one sentence.

Director Arthur noted that the Committee accepted Ms. Mongold’s recommendation and would work with the Executive Director to draft a revised Mission Statement, per the instructions of the ABO.

Ms. Mongold noted that the ABO’s Policy Guidance No. 10-02, “Public Authority Mission Statements and Measurement Reports,” issued March 1, 2010, had been included with the Board book for referential purposes.

Annual Board of Directors Evaluation

Ms. Mongold offered a briefing of a new requirement for New York State public authorities: an annual board of director’s evaluation, per the New York State Public Authorities Reform Act of 2009. The Act amends New York State Public Authorities Law to require that directors who serve on public authorities annually review their performance. Evaluations are intended to be anonymous and confidential. The ABO issued Policy Guidance No. 10-05, “Annual Board of Directors Evaluation,” on October 26, 2010 which explains the requirement and offers a template evaluation form to be used.

Following the submission of the evaluations by directors, a cumulative report needs to be created and submitted to the ABO. Proposals for policy changes or other corrective actions can arise, per the suggestions in the various evaluations.

Ms. Mongold recommended that the evaluation template offered by ABO be accepted by the Governance Committee and recommended to the full Board for timely completion.

Director Johnstone asked for clarification of how the evaluations would be submitted anonymously. She asked if there was a 100% submission requirement. Ms. Mongold noted that the evaluations should not include names or other identifying marks. There is no requirement for 100% submission, only a recommendation that all Directors complete the form and submit it.

Director Arthur noted that the policy guidance included two form templates: the “Confidential Evaluation of Board Performance” to be completed by the individual Directors as well as the “Summary Results of Confidential Evaluation of Board Performance.” Both documents are offered as suggested forms to be used; BFSA is not required to use them and utilize an alternative form. However, it is prudent to utilize the forms provided as they are adequate to meet the requirement.

Ms. Mongold noted that there would be a better “feel” for the process after it has been completed. The process can be amended for future submissions, as deemed appropriate. She noted that stamped envelopes had been provided with the Board books to return the submissions to BFSA’s office.

Director Johnstone offered a motion to send the ABO’s evaluations forms to the full Board with a recommendation to adopt them.

Director Arthur seconded this motion.

Vote 2-0 to send the ABO’s evaluation forms to the full Board with a recommendation for adoption.

Ms. Mongold noted that the Code of Ethics contained a certification form that is required to be signed and submitted annually by the Directors who had been appointed by the Governor as well as by the BFSA’s staff. The ex-officio Directors are not required to submit this form.

Adjournment

Director Arthur asked for a motion to adjourn.

Director Johnstone offered a motion to adjourn.

Director Arthur seconded this motion.

The Governance Committee vote 2-0 to adjourn.

The Governance Committee adjourned at 12:55 PM.