
BUFFALO FISCAL STABILITY AUTHORITY
Meeting Minutes – June 27, 2011

The following are the minutes of the Special Meeting of the Board of Directors of the Buffalo Fiscal Stability Authority (“BFSA” or the “Authority”) held on Monday, June 27, 2011, in the Buffalo Market Arcade Complex, 1st Floor Conference Room. The meeting was called to order at 12:00 PM.

Board Present: Arthur, Brown (initially via proxy and later in-person), Collins, Floss, Johnstone & Mesiah

Board Excused: Giardino & Olsen

Staff Present: Link, Miller & Mongold

Additionally Present: P. Malgieri, Esq., Harris Beach, PLLC

Opening Remarks

Secretary Arthur called the meeting to order. He noted that he had been asked to chair the meeting by Chair Olsen due to his inability to be present today.

Roll Call

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

Director Johnstone called a roll of the attending members and confirmed that a quorum was present.

City of Buffalo Commissioner of Administration, Finance, Policy and Urban Affairs, Ms. Janet Penksa, represented Mayor Byron Brown in accordance with Subdivision 1 of §3853 of the Buffalo Fiscal Stability Authority Act (the “BFSA Act”).

Subdivision 1 of §3853 of the BFSA Act reads, “...*The Mayor and the County Executive shall serve as ex officio members. Every director, who is otherwise an elected official of the City or County, shall be entitled to designate a single representative to attend, in his or her place, meetings of the Authority and to vote or otherwise act in his or her behalf. Such designees shall be residents of the City of Buffalo. Written notice of such designation shall be furnished prior to any participation by the single designee...*”

Buffalo School District Issue

Reconsideration of a Separation Agreement, Waiver, and General Release

Director Arthur welcomed the attending members of the public to the Special Meeting of the Board. He noted that the meeting had been called for a singular purpose: consideration of a proposed Separation Agreement, Waiver, and General Release (the “Separation Agreement”) between the Buffalo School District (the “District”) and Deputy Superintendent Folasade Oladele, Ed.D. (the “Deputy Superintendent”). The item had been tabled at BFSA’s June 15, 2011 Board Meeting, as there was a possibility of additional Buffalo Board of Education actions which would impact the terms of the Separation Agreement. However, the Buffalo Board of Education has not acted to amend the terms of the proposed contract. Therefore the contract, as originally submitted to the BFSA, is brought forth for BFSA’s consideration.

City of Buffalo Commissioner of Administration, Finance, Policy and Urban Affairs, Ms. Janet Penksa entered the proceeding on the behalf of Mayor Brown at 12:03 PM.

Director Johnstone noted that BFSA's staff has provided extensive financial analysis and answered most of her standing questions regarding the Separation Agreement. However, there remain some unanswered legal questions which need to be addressed.

Director Johnstone offered a motion to enter into Executive Session with the singular purpose of discussing legal matters. Director Floss seconded the motion.

Vote 6-0 to enter into an Executive Session.

The Board exited the public session at 12:04 PM.

BUFFALO FISCAL STABILITY AUTHORITY
Executive Session Meeting Minutes – June 27, 2011

The following are the minutes of the Executive Session of the Board of Directors of the Buffalo Fiscal Stability Authority (“BFSA” or the “Authority”) held on Wednesday, May 11, 2011, in the Buffalo Market Arcade Complex, Suite #400. The meeting was called to order at 12:10 PM.

Board Present: Arthur, Brown (via proxy), Collins, Floss, Johnstone & Mesiah
Board Excused: Giardino & Olsen

Staff Present: Link & Mongold

Additionally Present: P. Malgieri, Esq., Harris Beach, PLLC

Litigation Matters

The Board voted to convene in Executive Session at 12:10 PM to discuss proposed, pending and/or current litigation.

City of Buffalo Commissioner of Administration, Finance, Policy and Urban Affairs, Ms. Janet Penksa, represented Mayor Byron Brown in accordance with Subdivision 1 of §3853 of the Buffalo Fiscal Stability Authority Act (the “BFSA Act”).

Subdivision 1 of §3853 of the BFSA Act reads, “...*The Mayor and the County Executive shall serve as ex officio members. Every director, who is otherwise an elected official of the City or County, shall be entitled to designate a single representative to attend, in his or her place, meetings of the Authority and to vote or otherwise act in his or her behalf. Such designees shall be residents of the City of Buffalo. Written notice of such designation shall be furnished prior to any participation by the single designee...*”

The Board discussed a resolution tabled at the June 15, 2011 board meeting.

Motion by Townsend, second by Mesiah to exit Executive Session.

Approval 6-0 to exit Executive Session.

The Board exited from Executive Session at 12:25 PM.

Exit from Executive Session

The Board returned from Executive Session at 12:31 PM.

Mayor Brown attended the remaining proceedings on his own behalf.

Director Arthur called the meeting to order. He asked Executive Director Jeanette M. Mongold to address to Board and provide a summary of the Separation Agreement.

Buffalo School District Issue

Reconsideration of a Separation Agreement, Waiver, and General Release (continued)

Ms. Mongold addressed the Board and provided the following summary:

- The original employment agreement includes a buy-out provision that includes up to three month's salary for severance. This provision must be enforced by the Superintendent for it to be applied;
- The Superintendent did not opt to execute the buy-out provision of the employment agreement. As such, a separate Separation Agreement was negotiated by the Superintendent and the Deputy Superintendent, as permitted per the terms of the employment contract;
- The Separation Agreement was subsequently approved by the Buffalo Board of Education on June 8, 2011;
- BFSA has been asked to approve the contract by the District for an amount not to exceed \$215,000. This amount includes one year of the Deputy Superintendent's salary, the cash equivalent of any unused leave time, and the cost of one year's COBRA health insurance. The actual amount to be paid will be determinable after the close of the fiscal year on June 30, 2011;
- BFSA has reviewed the budgetary implications of the Settlement Agreement. Adequate funds are available in the FY 2011 Claims & Judgments expense account to pay for the contract;
- No budget modification is required.

Director Arthur asked if any Directors had questions to pose to the Executive Director. Hearing none, he requested a motion to move the item from the table.

Director Johnstone offered a motion to consider the item. County Executive Collins seconded the motion.

Vote 3-3 to consider the item (Collins, Brown and Johnstone – yes; Arthur, Floss, & Mesiah - no). The motion did not pass.

Director Arthur noted that the motion had not passed; the item subsequently remained tabled.

Director Floss noted his concern about several areas of the Separation Agreement and its future implications. The Buffalo Board of Education has alternatives available to the Separation Agreement that are worth examining.

Director Floss explained that he had dissented to remove the item from the table as he had standing questions regarding the item, one of which was why the Deputy Superintendent had not been assigned to other duties, as permitted by the terms of the Employment Agreement. The District could continue to receive value from the Deputy Superintendent's work in other ways such as assisting with the attendance issue, rather than terminating her services altogether. He asked that the Buffalo Board of Education consider this option and make BFSA aware of their findings, prior to BFSA reconsidering the Separation

Agreement. Additionally, BFSAs needs to confirm that there are policies and practices in place internally in order to address issues such as this type of agreement, so that BFSAs is able to review these types of issues from a financial standpoint. It is not the role of the BFSAs to question policy but to rather evaluate items on their financial merits.

Director Floss directed Ms. Mongold to examine BFSAs's procedures with respect to these issues.

Adjournment

Director Arthur requested a motion to adjourn.

Director Mesiah offered a motion to adjourn. County Executive Collins seconded the motion.

Vote to adjourn 6-0.

The Board adjourned at 12:36 PM.