

BUFFALO FISCAL STABILITY AUTHORITY
Meeting Minutes
July 29, 2015

The following are the minutes from the meeting of the Buffalo Fiscal Stability Authority (the “BFSA” or the “Authority”) held on Wednesday, July 29, 2015, in the first floor conference room of the Buffalo Market Arcade Complex. The meeting was called to order at 1:03 PM.

Board Members Present

Chair R. Nils Olsen
Interim Vice-Chair Richard T. Jurasek
Secretary George K. Arthur
Director Fredrick Floss
Mayor Byron W. Brown (proxy Estrich)
County Executive Mark C. Poloncarz (proxy Williams)

Board Member(s) Excused

Director Dottie Gallagher-Cohen
Director Frank Mesiah

Staff Present

Comptroller Robert L. Miller
Principal Analyst/Media Liaison Bryce E. Link
Administrative Assistant Nikita Fortune

Additionally Present

Mr. James L. Magavern, Esq., Magavern Magavern & Grimm LLP

Opening Remarks

Chair Olsen welcomed everyone to the July Board meeting, thanked all that were in attendance, reviewed the logistics of the meeting, and the meeting’s agenda.

Chair Olsen noted that Governor Cuomo appointed Ms. Dottie Gallagher-Cohen to the Board to fill the vacancy left by Ms. Brigid Doherty. Ms. Gallagher-Cohen is the President/CEO of the Buffalo Niagara Partnership and currently serves on the advisory boards of Univera Healthcare and Visit Buffalo Niagara.

Chair Olsen then advised Directors that the annual self-evaluation form as well as a code of ethics certification page was available in their board books for submittal to BFSA staff.

Chair Olsen notified the Board that both Executive Director Jeanette M. Mongold-Robe and Senior Analyst/Manager of Technology Nathan D. Miller were excused from the proceedings for medical purposes. He commended BFSA staff for facilitating the meeting in light of these excused absences.

Roll Call of the Directors

Secretary Arthur called the roll noting that Directors Gallagher-Cohen and Mesiah were excused. A quorum being present, the meeting commenced.

Erie County Constituent Services Assistant, Mr. Leonard Williams, represented County Executive Mark C. Poloncarz. City of Buffalo Commissioner of Finance, Administration, Policy, and Urban Affairs, Ms. Donna Estrich, represented Mayor Byron W. Brown in accordance with Subdivision 1 of §3853 of 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 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 signal designee...."

Chair Olsen introduced Resolution No. 15-11, "Approving Minutes and Resolutions from June 22, 2015."

Secretary Arthur made motion to approve.

Director Floss seconded the motion.

The Board voted 6-0 to approve Resolution No. 15-11.

City of Buffalo

Collective Bargaining Agreement with the Police Benevolent Association

Chair Olsen advanced the agenda to review the analysis of the proposed labor agreement between the City of Buffalo and the Buffalo Police Benevolent Association, Incorporated (the "PBA"). Principal Analyst Bryce E. Link began his presentation on the findings. Mr. Link provided background information in regards to the PBA and stated that all 801 positions were funded through the General Fund and there was a current vacancy rate of 10.1%.

The previous CBA ("Collective Bargaining Agreement") expired June 30, 2009. The current Memorandum of Agreement ("MOA") would be effective through June 30, 2019, and was ratified by the union on July 9, 2015, by a vote of 504 to 81.

Some of the changes made in the MOA include:

- Overtime will be assigned based on seniority within a platoon/unit as opposed to department wide seniority. This change allows officers on lower steps to receive overtime;
- Survivor benefits for health care coverage changed to provide continued coverage for a spouse as long as they do not remarry; dependents are covered until the age of 26;
- Establishment of a sick leave donation program;
- All military personnel will receive three additional paid days off per year; and
- New hires shall maintain their City of Buffalo domicile for seven years. This provision has a sunset provision of June 30, 2019.

Director Floss questioned what the assumptions were with respect to retirement. Mr. Link advised the assumption was a 1 to 1 ratio; as an officer retires, a new officer is hired. Director

Floss then noted that the City could potentially see more cost savings with this contract as more officers will be willing to retire.

The conclusion is the retroactive costs for the CBA have been fully funded through the annual accrual for unsettled labor contracts of \$6.9 million. There are no significant changes to healthcare for active employees; all employees contribute towards their health insurance during their first four years of service. After the initial four-year period, the employees are no longer required to contribute towards health insurance.

BFSA staff therefore would not recommend approval of this contract based on the lack of concessions with respect to healthcare if the Authority were in a control period.

Ms. Estrich reminded the Board that the City has moved to self-insured and that move will also be a further cost savings to the City.

Secretary Arthur made the motion to receive staff's analysis.

Director Floss seconded the motion.

Mr. Williams reported that County Executive Poloncarz reviewed the contract as well and was satisfied with the agreement.

Mr. William Gambino, 2nd Vice President of the PBA stated the raises total 16.5% and not 17.1% as originally stated in Mr. Link's presentation. Mr. Gambino also advised that the PBA consulted an insurance broker that presented a significant cost savings to the City; however, it was rejected.

City of Buffalo Director of Employee Relations Omar Price also wanted to clarify that the raises total 16.5%. Mr. Price also spoke to the fact that interest arbitration does cause some obstacles.

Mr. Link stated a request of staff is that a single complete contract be provided as opposed to multiple booklets consisting of arbitrations and judgements.

Director Floss made a motion to accept staff's recommendation and request that the City of Buffalo's Law Department consolidate the contracts and orders into a single document.

Secretary Arthur seconded the motion.

Board voted 6-0 to approve.

Efficiency Grants

Mr. Link began his presentation on the efficiency grants. The program is winding down with the final reimbursement needing to be moved to New York State by September 2015. The City would like to reallocate an unspent balance of \$194,500 as there are several accounts that the City would like to sweep and move the remaining monies to the approved Department of Parking project for pay and display parking meters with 3G modem upgrades as well as increase allocations for the MUNIS upgrade.

Director Floss made a motion to approve Resolution No. 15-02, "Approval of Redesignation and Reallocation of Efficiency Incentive Grant Request."

Secretary Arthur seconded the motion.

Board voted 6-0 to approve.

Buffalo Municipal Housing Authority
Review of Revised 2016-2019 Financial Plan

Chair Olsen advanced the agenda forward to discuss the fiscal year ("FY") 2016-2019 Financial Plan of the Buffalo Municipal Housing Authority, ("BMHA"). He welcomed Modesto Candelario, Deputy Executive Director of BMHA to the proceedings.

Secretary Arthur questioned the response of Chairman Michael Seaman of the BMHA Board of Commissioners since a letter requesting his presence at this meeting was sent.

Ms. Estrich advised that Chairman Seaman had a conflict and would not be able to attend. He offered to meet at a later date.

Secretary Arthur asked that this item be held in abeyance until the Chairman was able to appear before the Board.

Mr. Williams reported that he spoke with Chairman Seaman on Tuesday, July 28th. Chairman Seaman is working on an issue that has arisen in the media with respect to another member of the BMHA Board of Commissioners and therefore is unable to attend this meeting but offered to meet at a later date.

Secretary Arthur stated that this meeting was scheduled prior to any issues with the BMHA Commissioners. Chair Olsen reported that he had granted the Mayor's request that Chairman Seaman be excused from the meeting. Secretary Arthur insists that the Chairman of the Board of Commissioners attend the meeting to answer questions about the policies that the Board establishes as opposed to staff persons.

Chair Olsen stated he and Ms. Mongold-Robe met with Chairman Seaman on previous occasions.

Chair Olsen agreed with Secretary Arthur that Chairman Seaman needs to address the BFSAs Board. However, in the interim Mr. Candelario should address the Board to answer any questions that BFSAs may have regarding the BMHA financial plan. The level of collaboration or discussion with BMHA has greatly diminished since the BFSAs Board is now in an advisory position. However, BMHA's 2016-2019 Financial Plan is delaying approval of the City's complete financial plan and needs to be addressed and approved sooner rather than later.

Secretary Arthur withdrew his motion to place the item in abeyance and therefore proceed with the presentation by Mr. Candelario with the understanding that Chairman Seaman will be asked to attend the next BFSAs Board meeting on September 21, 2015.

Mr. Candelario began his presentation by stating the BMHA was working with less federal funding. BMHA has lost \$12.3 million in subsidy over the past five years which presents a challenge in continuing to meet the needs of the residents. Currently, BMHA is receiving 82% of the federal funding they are eligible for. There are combined revenues of \$43.1 million and expenses of \$41.2 million before debt service. Major challenges for this budget is OPEB accrual as an expense of \$1.2 million but does not have a cash impact on the budget. The legacy costs are about \$3 million per year for those that have already retired. The largest impact on staffing is in the Central Office Cost Center staff. The plan does not rely on using operating reserves.

Secretary Arthur questioned BMHA's response to the letter they received from the United States Department of Housing and Urban Development ("HUD") regarding receivership and its effect on BMHA finances. Mr. Candelario clarified that the letter received from HUD covers a variety of factors including reserves, liquidity, occupancy, etc.... It did not indicate that the state of the finances or the state of the BMHA properties were at such a level that the agency would be placed in receivership for those factors alone. The reserves are currently \$4.2 million and therefore is \$6.0 million short of the HUD recommended four month reserve threshold. Therefore, BMHA's financial plan does not rely on the use of reserves. Two large developments, A.D. Price Courts and Commodore Perry Homes are lowering BMHA's occupancy rate even though a majority of those units are uninhabitable. Subsequently, BMHA has asked HUD to remove those two developments from their portfolio when calculating the BMHA occupancy rate and therefore, BMHA's occupancy rates would appear to increase. In an effort to increase the reserves, BMHA is planning to sell some of its assets.

Mr. Candelario stated there is a revitalization plan in progress for A.D. Price Courts.

Secretary Arthur questioned the five year vacancy of the Willert Park area and BMHA taking another five to six years to develop a plan for the area.

Mr. Candelario stated Commodore Perry Homes have some challenging physical conditions and a submission for Choice Neighborhood transformation funding was made. BMHA was not successful in obtaining that grant.

Secretary Arthur asked if the Commodore Perry Homes were being neglected on purpose to be a possible new Bills stadium site. Mr. Candelario advised that the Commodore Perry development is not being purposely neglected and the remaining residents have been housed closer together for safety and security purposes. Secretary Arthur stated more information needs to be conveyed to the residents.

Secretary Arthur stated that he would like to see another property developed and named for Al Woodson, the first tenant elected to the housing authority, since the property that was named in his honor located at Best St. and Michigan Ave. was demolished. Mr. Williams seconded Secretary Arthur's sentiments about Mr. Woodson and his great contributions to public housing.

Director Floss stated the BMHA financial plan does not take the need for low cost housing into account which seems to miss the mark as to why BMHA was first established. We do not have enough affordable housing in the City and the BMHA vacancy rates are high partly because staff has not been in the right places over a long enough period of time. How did BMHA end up with so many delinquent properties that are then easy to sell off because BMHA cannot afford to

maintain them? The University of Buffalo and Buffalo State College's planning departments need to be scoped into the BMHA planning process. Director Floss volunteered to bring people to the table who would be willing to assist BMHA with the planning they so desperately need in order to be able to provide the services needed by the community.

Chair Olsen acknowledged that much planning is going on but not a lot of "fixing." Acknowledged that there have been major policy changes that caused extreme funding declines for public housing which in turn makes budgeting and facility upkeep difficult. While Buffalo is undergoing a renaissance there has to be particular attention paid to the majority of the population who will not benefit from the technological advances. It is everyone's responsibility for the Buffalo renaissance to work together for the betterment of the community as a whole. The BFSA Board has a legal requirement to have a dialogue with BMHA about their financial issues.

Secretary Arthur questioned the state of the Marine Drive complex. Mr. Candelario stated that Marine Drive does not receive any form of subsidy and therefore BMHA is left to figure out how to pay for \$50 million in improvements for standard conditions for the property.

Chair Olsen stated that it is imperative that low income residents have the same advantages and choices as their counterparts.

Mr. Candelario stated the tools available are tax credits and Federal Housing Administration-secured financing. The challenge with programs like that is the subsidy cannot be used to pay debt and there is competition with the private sector. The Capital Fund Grant that BMHA relies on for improvements is decreased yearly. The fact that the department used as much of its reserves over the past five years shows the commitment to its residents.

Chair Olsen acknowledged that the use of reserves is an assumed aspect of budgets even though it is a non-recurring source of income.

Interim Vice-Chair Jurasek stated BMHA is in a crisis with the quality of services and assets. The BFSA must be part of producing the turnaround plan. There should be a condition placed on the approval of this plan stating that the first draft of a turnaround plan be submitted to the Board in 30 days.

Chair Olsen proposed that the BMHA financial plan be approved according to staff's recommendations and the fact that the plan satisfies the requirements of the BFSA Act. The proposed approval is contingent on the condition that the Chairman of the Board and Executive Director meet with BFSA Board to provide the planning documents that have been developed thus far.

City of Buffalo
Office of Strategic Planning Presentation

Chair Olsen advanced the agenda to the next item: a discussion with the City of Buffalo's Executive Director of the Office of Strategic Planning, Mr. Brendan Mehaffy.

Mr. Mehaffy addressed the Board and discussed Buffalo being the city of opportunity, first providing jobs and attracting investment and then insuring that many in the City benefit from the opportunities provided. The Administration recognizes that there are significant challenges with poverty and segregation within the City. All proposals now have community benefit agreements, including Minority and Women Business Enterprise ("MWBE") goals and workforce participation goals.

The City receives federal Housing Opportunities Made Equal ("HOME") funds. Contracts between \$30-40 million will be signed and hundreds of affordable housing units will be available in various areas of the City.

The workforce training center on the east side of Buffalo is located on 50-60 acres obtained by Buffalo Urban Development Corporation and is part of the "Buffalo Billion" project. There are brownfield issues associated with this land and funds have been identified to address these blight issues. Working with the New York Power Authority and National Grid, prospective employees can be fast tracked through this site.

The Better Buffalo fund looks at neighborhood commercial corridors and transit hubs to improve the physical appearance and entrepreneurial environment on main streets outside of the downtown area. There is a fund specifically for mixed used projects in those areas as well.

Proposals were received for another major downtown site to include a grocery component, residential housing, and a relationship with Erie Community College. This project will also have a community benefit component.

There have been over \$5 billion in investments in the City since 2012 and the number continues to grow.

Chair Olsen stated the public sees primarily commercial development and high-end residential projects. It is important for the City Administration's effort to be discussed, especially when most of the growth of the City revolves around the high-tech and medical fields. The BFSA Board is aware that 50% of the population is left behind when the public school system has a graduation rate of 50%, which would also affect job training efforts. There needs to be major cross connection with the Administration, particularly with respect to the public school system, in order to meaningfully improve the quality of life within the City.

Mr. Mehaffy stated the Buffalo Employment and Training Center ("BETC") is the arm of the City to connect the employers to employees. There is also plan to secure procurement opportunities for MWBE through the Beverly Gray Business Exchange, a business development center on the East side of the City. There is an intentional effort being made by the City to address the pressing issues as presented in the Mayor's new Opportunity Pledge in order to build an inclusive, strong and prosperous Buffalo.

Secretary Arthur stated his dissatisfaction with the Buffalo Niagara Medical Campus' practice of hiring Fruit Belt residents primarily as janitors and doorkeepers. The Northland project will not be completed until 2017 and therefore training will not begin until 2018, and therefore the residents that need jobs now will still be behind. In the past commitments made by companies to employ area residents were not monitored and there were no penalties for renegeing on those commitments. He questioned who would monitor the future commitments of entities and what penalties could be imposed.

Mr. Mehaffy responded that the Buffalo Niagara Medical Campus data has not been as readily available as it should be. Answers are still being sought regarding the hiring practices of Fruit Belt residents. Once the information is obtained the information will be shared directly with Secretary Arthur.

Chair Olsen noted that the Mayor is aware of the problems within the City, however, it all goes back to education. The inadequacy of the public education that is being provided has hindered those that should be benefiting from the employment boom on the medical campus. It is critical that UB is pressured to devote its resources and time to the issues of housing, economic development and education; the more direct connections that can be made with Buffalo State, UB and ECC, the better. If things do not change soon, Buffalo will begin to reflect New York City and become a city of the affluent. It is important to note the City is promoting more affordable housing in areas that are becoming gentrified.

Mr. Mehaffy also reported on another effort of adaptive reuse being made for affordable housing with respect to abandoned school buildings which complements an investment on infrastructure and leveraging private investment. The improvements in infrastructure springboard development in areas as evidenced by the resurgence in the 500 block of Main Street.

Chair Olsen thanked Mr. Mehaffy for his presentation on behalf of the Administration and its commitment to the City as a whole.

BFSA Business

Chair Olsen advanced the agenda to BFSA business and an organizational overview presented by Mr. Link.

Mr. Link stated there are two committees:

1. **Audit, Finance and Budget:** assist the Directors in fulfilling their responsibilities as to Authority budgets, financial operations and controls, accounting policies and reporting practices and sufficiency of audit procedures. This committee meets approximately three to four times per year and has three members, Chair Olsen, Director Floss, and Director Mesiah.
2. **Governance:** keeps the Board informed of current best governance practices, reviewing corporate governance trends, and reviewing and updating the Authority's corporate governance principles. This committee meets two to three times per year and currently has two members, Chair Olsen and Secretary Arthur. There is currently a vacancy due to the ending of Ms. Doherty's term.

Chair Olsen noted that all Directors of the Board who are not members of either committee have a standing invitation to participate in the proceedings.

Mr. Link moved on to review the organizational overview of the BFSA. There are five staff members of the BFSA. Ms. Jeanette Mongold-Robe, Executive Director, reports directly to the Directors. Mr. Bryce Link, Principal Analyst/Media Liaison, is the analyst for the City of Buffalo (“COB”) and the Buffalo Urban Renewal Agency (“BURA”). Mr. Nathan Miller, Senior Financial Analyst/Manager of Technology, is the analyst for the Buffalo City School District. Mr. Robert Miller, Comptroller, handles financial matters of the Authority as well as reports for the Buffalo Municipal Housing Authority (“BMHA”). Ms. Nikita Fortune, Administrative Assistant, provides office support.

The following is a review of all collective bargaining units, the number of full-time equivalent employees (“FTEs”) within each unit, and the expiration date of each agreement:

City of Buffalo:

- PBA – 720 FTEs with a CBA through 6/30/19;
- Local 282 (Fire) - 694 FTEs, with a CBA through 6/30/17;
- Local 264 (Blue-Collar) – 522 FTEs, CBA expired June 30, 2011;
- Local 650 (White-Collar exempts) – 453 FTEs, with a CBA through 6/30/19;
- Crossing Guards – 118 employees with a CBA through August 31, 2015;
- AFSCME 2651 (Building Inspectors) – 54 FTEs, CBA expired June 30, 2012;
- Local 264 – 31 FTEs with CBA through June 30, 2017; and
- Operating Engineers – 21, CBA expired June 30, 2012.

Buffalo City School District:

- BTF (teachers) – 3,431 FTEs, with a CBA which expired on June 30, 2004;
- BEST (teacher aides/assistants) – 870 FTEs, with a CBA which expired on June 30, 2012;
- Su/B (substitutes) – number of part-time employees undetermined by the BCSD, with a CBA which expired on June 30, 2012;
- TAB (bus aides) – 415 part-time employees, with a CBA which is current through June 30, 2017;
- PCTEA (White-Collar) – 431, expired June 30, 2013;
- Local 264 (Food Service Workers) – number of part-time employees undetermined by the BCSD, with a CBA which is currently through June 30, 2017;
- BCSA (administrators) – 239 FTEs, with a CBA which expired on June 30, 2004; and
- Local 409 (custodial engineers) 58 FTEs, FTEs, with a CBA which expired on June 30, 2010.

Buffalo Municipal Housing Authority:

- Local 264 (White-Collar) – 67 FTEs, with a CBA which expired on June 30, 2011;
- Local 264 (Blue-Collar) – 92 FTEs, with a CBA which expired on June 30, 2011;
- Local 264 (managers) – 5 FTEs, with a CBA which expired on June 30, 2011;
- Local 17 (operating engineers) – 9 FTEs, with a CBA which expired on June 30, 2013;
- Exempts – 3 FTEs, each with individual contracts; and

- Non-represented civil service – 15 FTEs, at-will employees with certain New York State civil service protections.

BURA:

- CSEA Local 1000 – 31, through June 30, 2017
- Exempts – 9, employed at-will

Chair Olsen exited the meeting at 3:25pm.

Interim Vice-Chair Jurasek noted that BTF is the single largest group of all negotiating units and questioned if a negotiator has been engaged.

Mr. Link believes that there was discussion between both the administration and BTF until recently, however since then complaints have been filed by both sides with PERB. In addition, the District has also let a contract for an outside contract negotiator.

Director Floss stated both sides have filed complaints against each other; however, that does not preclude them from coming to an agreement.

Policies, Guidelines and Reports

Director Floss noted the various proposed policies, guidelines, and reports which had been reviewed by the BFSA Governance Committee. He made a motion to consider all of these items by consent and approve the following resolutions:

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| • Bylaws, Resolution No. 15-14 | • Procurement Guidelines, Resolution No. 15-22 |
| • Code of Ethics, Resolution No. 15-15 | • Procurement Report, Resolution No. 15-23 |
| • Mission Statement, Resolution No. 15-16 | • Prompt Payment Policy, Resolution No. 15-24 |
| • Investment Guidelines, Resolution No. 15-17 | • Prompt Payment Report, Resolution No. 15-25 |
| • Property Disposal Guidelines, Resolution No. 15-18 | • Whistleblower Policy, Resolution No. 15-20 |
| • Lobbying Policy, Resolution No. 15-21 | • Use of Discretionary Funds Policy, Resolution No. 15-19 |

Secretary Arthur seconded the motion.

The Board voted 6-0 to approve.

Chair Olsen returned to the meeting at 3:29pm.

Secretary Arthur introduced Resolution No. 15-26, “Reconstitute Governance Committee,” and made a motion to reconstitute the Governance Committee by adding Interim Vice-Chair Jurasek.

Chair Olsen seconded the motion.

The Board voted 6-0 to approve Resolution No. 15-26.

Chair Olsen advanced the agenda to the final item, Resolution No. 15-27, “Approval of Market Arcade Complex Lease Agreement Term Sheet.”

Secretary Arthur made a motion to approve.

Director Floss seconded the motion.

The Board voted 6-0 to approve Resolution No. 15-27.

Privilege of the Floor

Chair Olsen extended the Privilege of the Floor to any member of the attending public who wished to comment for the public record on any actions taken by the Board at the day’s meeting.

Ms. Gallivan stated she does not usually speak because her concerns are always addressed by the BFSAs Board and she appreciates that. She apologized for the inappropriate behavior of the current tenant commissioner that prevented Mr. Seaman from attending today’s meeting. Ms. Gallivan stated she is appreciative that Chair Olsen advocates on the behalf of low income people being able to live on the waterfront. Ms. Gallivan has lived at Marine Drive since 2004 and there are rumors that rent will increase even though her rent has not increased since she moved in over ten years.

Chair Olsen thanked Ms. Gallivan for her attendance and comments and acknowledged that any apology from her on behalf of the tenant commissioner was not her responsibility.

Chair Olsen asked if there was any new business, hearing none he asked for a motion to adjourn.

Secretary Arthur made a motion to adjourn.

Director Floss seconded the motion.

The Board adjourned at 3:35 PM.