

**BUFFALO FISCAL STABILITY AUTHORITY**  
**Meeting Minutes**  
**June 21, 2016**

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The following are the minutes from the meeting of the Buffalo Fiscal Stability Authority (the “BFSA” or the “Authority”) held on Tuesday, June 21, 2016, in the first floor conference room of the Buffalo Market Arcade Complex. The meeting was called to order at 12:53 PM.

**Board Members Present**

Chair R. Nils Olsen  
Secretary George K. Arthur  
Mayor Byron W. Brown (proxy Estrich)  
Director Frederick Floss  
Director Frank B. Mesiah  
County Executive Mark C. Poloncarz (proxy Maloney)

**Board Member(s) Excused**

Interim Vice-Chair Richard Jurasek  
Director Dottie Gallagher-Cohen

**Staff Present**

Executive Director Jeanette M. Robe  
Comptroller Robert L. Miller  
Principal Analyst/Media Liaison Bryce E. Link  
Senior Financial Analyst/Manager of Technology Nathan D. Miller  
Administrative Assistant Nikita M. Fortune

**Additionally Present**

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

**Opening Remarks**

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

**Roll Call of the Directors**

Secretary Arthur called the roll. A quorum being present, the meeting commenced.

City of Buffalo Commissioner of Finance, Ms. Donna Estrich, represented Mayor Byron W. Brown in accordance with Subdivision 1 of §3853 of the BFSA Act.

Erie County Project Administrator, Ms. Siobhan Maloney, represented County Executive Mark C. Poloncarz, in accordance with Subdivision 1 of §3853 of the BFSA Act.

Subdivision 1 of §3853 of the BFSAs 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 [of Buffalo] or County [of Erie], 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 signal designee...."

### **Approval of the Minutes**

Chair Olsen introduced Resolution No. 16-06, "Approving Minutes and Resolutions from May 18, 2016."

Secretary Arthur made a motion to approve.

Director Floss seconded the motion.

The Board voted 5-0 to approve Resolution No. 16-06.

### **Buffalo City School District ("BCSD" or "District") FY 2017-2020 Adopted Budget and Financial Plan**

Chair Olsen advanced the agenda to the next item for consideration: a review of the changes to the final BCSD adopted budget and the impact on the Financial Plan. Chair Olsen turned the floor over to BFSAs Executive Director, Ms. Jeanette Robe and Senior Financial Analyst, Mr. Nathan Miller for their presentation.

Ms. Robe began her presentation by recognizing the efforts of BCSD Chief Financial Officer, Mr. Geoffrey Pritchard, in ensuring that the final Financial Plan was consistent with the adopted budget and addressed the concerns of the BFSAs in a timely fashion.

During the preliminary review of the fiscal year ("FY") 2016-17 Preliminary Budget (the "Preliminary Budget") and FY 2017-2020 Preliminary Financial Plan (the "Preliminary Financial Plan") at BFSAs's May Board meeting, it was found that some items were deemed too speculative to rely on for any budgetary relief. The exclusion of these items resulted in FY 2017-18, or year one of the Preliminary Financial Plan, being out of balance and include:

- Additional funds from the City of Buffalo (the "City");
- Projected cuts to the budget for special education services; and
- Transportation savings based on changing the start times of schools.

Chair Olsen asked if the labor management aspect of the proposed changes or unilateral changes in contract terms was discussed. Ms. Robe noted this was the basis for excluding transportation savings from the analysis.

Ms. Robe stated the BCSD passed the FY 2016-17 Adopted Budget (the “Adopted Budget”) on June 8, 2016. The revised FY 2017-2020 Financial Plan (the “Final Financial Plan”) was provided to BFSA on June 10, 2016. With respect to the cosmetic surgery rider, year one of the Financial Plan reflects a \$5.0 M reduction in monies for that expenditure due to the recent Board of Education resolution halting this program; the monies are retained in the three out-years of the Financial Plan, as per the District’s CFO. Ms. Robe turned the remainder of the presentation over to Mr. Nathan Miller.

Mr. Miller reviewed the significant changes of the Adopted Budget beginning with the changes to the General Fund.

- Revenues increase \$0.7 M
- Expenditures decreased \$4.2 M:
  - \$5.0 M to eliminate the cosmetic surgery rider for eligible active and retired employees.
  - \$1.0 M resulting from limiting employee overtime by 50%. Overtime has been declining since the end of the Joint School Construction Board (“JSCB”) program.
  - \$2.1 M for adjustments to budgeted staffing reflecting a reduction of 23 FTEs; this was the result of final staffing numbers as related to the community schools initiative.

Director Floss asked if the new federal Department of Labor guidelines for overtime which state that certain individuals making under \$50,000 were now eligible for overtime. Mr. Miller stated this caveat was discussed in the BCSD Finance Committee. Overtime is already a component of current collective bargaining agreements (“CBAs”).

Chair Olsen asked what correlation was found between community schools, which require evening hours and extended day coverage, and overtime. Mr. Pritchard stated there is some teacher overtime as well as clerical and engineer staffing. Therefore, this information was taken into account when the reduction in overtime was decided.

Mr. Miller continued with his presentation by stating the deficit was reduced by \$5.0 M from \$9.9 M to \$4.9 M. Fund balance will be used to close said deficit. Therefore the FY 2016-17 Adopted Budget is balanced. The gap between the expenditures and revenues narrows in each year of the Financial Plan and therefore the projected operating deficit decreases over the three out-years.

Chair Olsen asked if there was a discussion about an alternative if the cosmetic surgery rider was no longer an expense. Ms. Robe stated the original Financial Plan included the cosmetic surgery rider as an expense and the offset was fund balance.

Ms. Siobhan Maloney entered the meeting at 1:05 PM as proxy for County Executive Poloncarz.

Mr. Miller continued his presentation. The Programs-to-Eliminate-the-Gap (“PEG”) Plan was adjusted to demonstrate the ability to close out-year gaps. Two new PEG actions were introduced:

1. Renegotiate existing service contracts; and
2. Transfer idle facilities back to the City which would result in maintenance and utility savings.

Chair Olsen asked if the referenced idle facilities received Building Aid from New York State. Ms. Robe stated the facilities referenced were swing schools and did not receive reconstruction funds.

Mr. Miller stated that the final Financial Plan was balanced with the use of \$13.4 M in Assigned fund balance and \$4.9 M of Unassigned fund balance. Unassigned fund balance is only appropriated in the Adopted Budget. The use of Unassigned fund balance is maintained at a level that provides for a balance in compliance with the District’s Fund Balance policy, which is 4% of total expenditures.

The final Financial Plan does not include increases associated with settled CBAs. It was noted that the District’s teachers and administrators have been without current labor contracts since FY 2003-04.

The out-years utilize funds previously set-aside for the settlement of expired CBAs and is being used to reduce budgetary gaps instead. As of June 30, 2015, the amount set-aside for bargaining was \$51.2 M. This amount is projected to decrease to \$34.1 M by June 30, 2020.

Ms. Robe stated the amount available for contract settlements continues to steadily decline. Director Floss stated approximately 2/3 of the fund balance has been spent over the past few years in order to close budgetary gaps which continues to increase the difficulty of settling expired contracts. Chair Olsen stated the teachers being out of contract for more than ten years, in addition to a dwindling fund balance and salary freeze, does not lend itself a speedy resolution.

Ms. Estrich asked for clarification on the PEG action of the delay in the implementation of the New Education Bargain. Mr. Miller stated there were new non-mandated initiatives in the New Education Bargain which could be curtailed to reduce the deficit.

Chair Olsen stated the goal to reach contract agreement is in direct opposition to the budget in addition to an ambitious plan to increase hours of operation, student-teacher ratios and graduation rates.

Director Floss asked if litigation costs with respect to the cosmetic surgery rider have been taken into account. Reserves which could be used for pupil education will instead be used for legal fees. Director Floss stated his desire to see a cost-benefit analysis of litigation. Chair Olsen added there are intangibles to unilateral actions which may prompt overuse of the nullifying provision.

Chair Olsen asked if there were any other questions or concerns. Hearing none, Chair Olsen advanced the agenda to the discussion with BCSD Superintendent Dr. Kriner Cash and other District officials.

### **Discussion with BCSD Superintendent Cash and District Officials** ***BCSD Presentation***

Chair Olsen thanked Dr. Cash for his attendance. Dr. Cash thanked the BFSA Board for the invitation to share his plan for BCSD. Dr. Cash gave a brief history about himself and his experience of fiscal responsibility. Dr. Cash highlighted some of the guiding principles, values and expectations of the BCSD since he filled the position nine months ago.

- High expectations for all
- Teachers and staff are the District's most important resources
- Strong leadership is important and it is valued
- The District must save where it can to fund its needs by implementing:
  - Cost savings
  - Cost avoidance
  - Revenue generation
- Rigorous curriculum
- Strong student and family support
- Talented succession management
- Focus on improving the perception of BCSD
- Ensuring an effective teacher for every student
- Striving to achieve a District "Good Standing"
- Greater percentage of students finishing college
- Foster a large, strong stable middle class in Buffalo by working to bridge the gap between the working poor and the affluent middle class populations to include retention of the population as well as attract more people to the City

Three main goals for the District:

1. Student achievement in accelerating the academic performance of all students.
2. Accountability in every aspect of the District by establishing a systematic program of work for Executive Team Leaders.
3. Improve parent and community engagement by building and strengthening family and community partnerships to foster personal growth and responsibility of parents and students.

Dr. Cash stated the District is in the process of improving its compliance, repairing broken systems and upgrading outdated systems and processes. All in an effort to create a District that is effective, efficient and sustainable. Dr. Cash then spelled out his plan for his New Education Bargain with students and parents as follows:

- Rigorous early elementary education (pre-k through grade 3): lower class sizes within three years. Currently the class sizes are 28-34 students and the goal is for the class sizes to be 18-20;
- Strong community schools: 13 schools will be open 7:00AM until 7:00 PM in collaboration with the faith based community. City leaders and community organizations to provide a more enriched day program (8:00AM until 3:00PM) which will be followed by strong after school programming to include academic enrichment as well as a health a wellness;
- New innovative high schools designed to address the emerging needs of the economy; extended learning excellence;
- Services for the District's neediest families with a more coordinated plan especially on the East and West sides of the City where 50% or more of the City's population lives in poverty; and
- New relationship with teachers by establishing trust and a better relationship with Buffalo Teachers Federation ("BTF") Union.

Ms. Estrich exited the meeting at 1:36 PM.

In conclusion, Dr. Cash thanked the BFSB Board for their support and guidance in improving the Districts best practices.

Chair Olsen thanked Dr. Cash for his presentation and acknowledged the varying stressors placed on the District which seem to be an impediment to implementing the changes outlined for overhauling the District. The highlighted stressors include but are not limited to:

- The teachers and administrators being without a contract for over ten years;
- Working with a Board that sometimes takes unilateral action with respect to the teachers;
- A lack of any significant savings within the budgets;
- Projected cuts in special education and overtime; and
- The blatant lack of respect among school board members.

Director Floss stated his concern about the large use of fund balance in attempting to implement new programs without a statement of cash flow being included in the budget to show the sustainability of the programs. This also ties into the issue of the new labor contracts as they have to be funded at some point. The District cannot continue to not have a competitive system for wages and benefits for teachers and administrators.

Director Mesiah expressed his concerns regarding the responsibilities of the communities surrounding the schools as well as the importance of parents being vested in their children's education.

Dr. Cash responded to the Directors Mesiah's concerns by stating the District cannot do the work alone. Children in poverty begin school with only 400 to 800 vocabulary words and not the recommended 3,000 to 5,000 expressive word baseline. Children should be taught at home that reading and literacy are essential.

Dr. Cash addressed Director Floss' concerns regarding program sustainability by stating he wanted to use less than \$5.0 M in fund balance, and eventually not have to use fund balance at all. The budget was scrubbed excessively to find as much money as possible in order to fund the New Education Bargain. There has also been a push to get more people off of single coverage insurance to free up monies once used for premium payments. Mr. Pritchard stated the District has signed approximately 50 employees up for alternate more cost effective insurance plans. Dr. Cash stated previously vendors' services were not evaluated but the educational and business vendors lists are being scrubbed to ensure the District is receiving the best for the \$23 M that is being spent. There are twelve or more specific areas the District is looking at to reduce or avoid costs and in turn use the savings to sustain the new programming. Dr. Cash stated there are several local philanthropic organizations that have offered to assist the District and he plans to seek out the offered help as a sustainability measure once the programs have been implemented.

Dr. Cash responded to Chair Olsen's concerns that all of the challenges stated can be turned into opportunities. The settling of the labor contracts is an absolute must and the District and the Buffalo Teachers' Federation have to meet somewhere in the middle. The tone of the BCSD board is changing and interactions are improving. With respect to legal costs, it is expected that the new legal team will help to decrease the BCSD legal costs.

Dr. Cash thanked the Board again and ensured his availability when his presence is requested by the BFSA Board.

Chair Olsen thanked Dr. Cash again for his presentation to the Board.

#### *Newcomer's Academy Update*

Chair Olsen advanced the meeting to receive a presentation on the update of the Newcomer's Academy. Dr. David Mauricio, Chief of Strategic Alignment & Innovation for BCSD thanked the Board for the opportunity to update the Board on the progress of the Academy. Dr. Mauricio gave a brief history of the program based on Buffalo being a resettlement agency city and receiving a large number of English language learners ("ELL"). When the program began there were approximately 3,000 ELL pre-kindergarten through 12<sup>th</sup> grade students in the District and now there are approximately 6,000 ELL. The BCSD partnered with refugee agencies for children to be enrolled in school, especially high school aged children so they could attend an all-day program while learning English. However, it was found that many children were falling through the cracks. They would learn enough English in order to obtain employment and then drop out of school. Therefore the drop-out rate for ELL students was very high.

Subsequently, the Newcomer Academy was created as a small transition program with a strong nurturing environment to provide students with opportunities while maintaining their cultural heritage. The program began with 75 students and currently has 218 students enrolled. Next school year the program will be at approximately 300 students. Half of the students remain in the program and the other half tend to enter an adult education learning program mainly because they are older than a majority of the students in their class.

Dr. Mauricio presented the following data points on the program:

- 93% attendance rate as compared to the standard high school attendance rate goal of 95%
- Negligible number of suspensions
- 100% of the students entering the program must take course at the emergent language level
- 90% of the students that reach senior year have graduated
- 21 languages are spoken in the program
- The program is three years old
- 7 partners including but not limited to: Say Yes!, University of Buffalo, Catholic Charities, AmeriCorps, and resettlement agencies
- The program also offers after school and summer programs
- The students show a high level of respect for the teachers and education
- The program covers 7<sup>th</sup> through 12<sup>th</sup> grade

Chair Olsen asked what percentage of the student immigrant population were enrolled. Dr. Mauricio stated 218 students are enrolled out of approximately 6,000 students.

Director Mesiah stated his concerns for the availability of instructors and support with such a wide variety of languages being spoken in the District. Dr. Mauricio stated there are over 56 languages spoken within the District and there are eight English as a Second Language (“ESL”) teachers in the program. Teacher assistants are also being hired for increased support.

Director Floss questioned the growth of the program to be replicated for a larger number of students and its funding. Dr. Mauricio stated the intention is to keep the program small and growing at a slow rate in order to best support the students. There is a goal to phase in fourth, fifth and sixth grades for this program and eventually for the program to evolve into a small high school. Title I supports, campaign for fiscal equity funds and grant opportunities are becoming available to be used for funding this program.

Chair Olsen thanked Dr. Mauricio for his presentation and advanced the agenda to the FY 2016-17 Adopted Budget and 2017-2020 Financial Plan.

### **Final FY 2016-17 Adopted Budget & Related Four-Year Financial Plan**

#### ***Determination with Respect to the City of Buffalo 2017-2020 Four-Year Financial Plan***

Chair Olsen stated the next item was to approve the final Adopted Budget and 2017-2020 Financial Plan as a whole. The final District budget and Financial Plan was discussed earlier and changes to the City’s adopted budget were minimal at \$265,000. Chair Olsen asked for a motion to receive and file the report on the City’s final budget and financial plan.

Secretary Arthur made a motion to receive and file the City’s Final 2016-17 Adopted Budget and Related Financial Plan.

Director Mesiah seconded the motion.

The Board voted 5-0 to approve.



Chair Olsen noted that there were no changes to the Financial Plans submitted by the Buffalo Municipal Housing Authority (“BMHA”) or Buffalo Urban Renewal Agency (“BURA”) which were reviewed at the May Board meeting. Chair Olsen stated the review of the individual Financial Plans have been completed and for a motion to consider the final Financial Plan in its entirety as complete and that it complies with the BFSFA Act.

Chair Olsen introduced BFSFA Resolution No. 16-07: “Determination with Respect to the City of Buffalo 2017-2020 Four-Year Financial Plan.

Secretary Arthur offered a motion to approve.

Director Floss seconded the motion.

The Board voted 5-0 to approve Resolution 16-07.

Director Floss asked if BMHA management has a plan in place to address attrition or a change in management. Ms. Robe stated BMHA is very much in flux and BFSFA staff will attend BMHA’s next scheduled board meeting and will obtain a staffing update at that time. Ms. Robe also stated BMHA Deputy Executive Director Modesto Candelario had indicated that he will be leaving BMHA however, the date of departure is unknown. Chair Olsen stated there have been significant problems with BMHA especially with respect to their vacancy rate.

Secretary Arthur asked if BMHA ever addressed the issues documented in the United States Housing and Urban Development (“HUD”) letter they received. Ms. Robe stated the HUD letter was more of a warning to BMHA to increase their occupancy rates or have BMHA taken over by HUD. BMHA’s response has been to take units off-line and put them into the Rental Assistance Demonstration (“RAD”) program. Secretary Arthur questioned if the directors of BMHA are also the directors of RAD. Ms. Robe stated she will have that information available for the next meeting.

Director Floss asked if BMHA responded to the Board’s questions at last month’s BFSFA Board meeting regarding the intentional deterioration of units in order to place them in the RAD program. Director Floss also stated his request for an analysis of housing needs of the City. Chair Olsen agreed with Director Floss’ request for analysis and its impact on other issues such as education. BMHA has failed to address their underlying structural issues of losing experienced staff and cuts in their budget.

Chair Olsen stated his concerns about the schools with respect to the continued lack of contracts and the inability to fund overtime. Director Floss stated that the lack of affordable housing in the City has become critical to the education mission because students need a stable environment to foster learning. Chair Olsen stated it is the responsibility of the BFSFA to not only ensure that the Financial Plans of covered entities are balance, but that they are also fulfilling the level of services and goals that they are in place to accomplish.

## **Buffalo Fiscal Stability Authority Items**

### ***Adoption of BFSA's FY 2016-17 Budget & FY 2017-2020 Financial Plan***

Chair Olsen advance the agenda to the BFSA FY 2016-17 Budget and FY 2017-2020 Financial Plan. The Audit, Finance and Budget Committee met earlier in the day and recommended the Board approve said BFSA items. There have been no changes since the Preliminary Budget and Financial Plan were presented in May and public response to the Budget has been nonexistent.

Secretary Arthur made a motion to accept Resolution No. 16-08: "Approval of 2016-17 Buffalo Fiscal Stability Authority Budget & 2017-2020 Financial Plan."

Director Floss seconded the motion.

The Board voted 5-0 to approve.

## **New Business**

Chair Olsen asked if the Board had any new business and there was none.

Chair Olsen stated his hope that Dr. Cash would return to the Board to address the ongoing ability to fund and service the plan he submitted. Director Mesiah asked if a report or evaluation of the new plan should be obtained before Dr. Cash is requested to address the Board again.

Secretary Arthur stated a new school Board will be in place next month, and the BFSA should monitor that and look to invite Dr. Cash back to a fall Board meeting and the status of the lawsuit will be known by that time.

Director Floss stated he still believes the BFSA can assist the BCSD in forecasting their budgets so as not to depend so heavily on fund balance.

Chair Olsen stated a collaboration with University at Buffalo ("UB") should be a model to be pursued as UB expands into the community and it has an obligation to help fund City education and lend its professional assistance to the District. Director Floss agreed with Chair Olsen that a collaborative effort to aid the struggling District has been underwhelming and joint meetings should be spearheaded by BFSA.

Director Mesiah stated his concern that the new programs for the school District are based on start-up monies as opposed to renewable grants and therefore unsustainable.

Director Floss stated his concern about the Newcomers Academy and the fact that it only has the capacity to enroll one-third of the District's ELL students. It is evident that the demand for this program will increase as the immigrant population continues to increase at an exponential rate.

Chair Olsen expressed the importance of having a conversation about funding mechanisms to support special education and overtime along with the additional services that special education provides including social workers and psychologists. A discussion of why cuts in special education and overtime are appropriate should be had. Director Floss suggested that the BFSA spearhead and organize a meeting to bring parties to the table to brainstorm holistic solutions.

Director Mesiah expressed his concern about the importance of thinking futuristically as opposed to simply focusing on the current broken educational system. Students need to be trained for future jobs and skills or else the knowledge they acquire now will be outdated.

Director Floss stressed the importance of refugee parents and their readiness to navigate the District's educational system and their ability to be able to assist their children with their schoolwork.

Chair Olsen said there definitely needs to be another opportunity for discussion about the District and the following:

- separation of schools of excellence and the rest;
- how community schools will be funded and will they be new criteria schools;
- what outreach is available for parents;
- what is the purpose of public education; and
- what is the plan to avoid falling into a vocational school trap.

### **Privilege of the Floor**

Chair Olsen extended the Privilege of the Floor to any member of the audience who wished to comment on any actions taken during the meeting for the public record. Ms. Marilyn Gallivan addressed the Board and thank it for having a public dialogue with Superintendent Cash regarding issues facing the BCSD.

### **Adjournment**

Secretary Arthur moved to adjourn.

Director Mesiah seconded the motion.

Meeting adjourned at 2:55 PM.