

BUFFALO FISCAL STABILITY AUTHORITY
Meeting Minutes
September 13, 2017

The following are the minutes from the meeting of the Buffalo Fiscal Stability Authority (the “BFSA” or the “Authority”) held on Wednesday, September 13, 2017, in the first-floor conference room of the Buffalo Market Arcade Complex. The meeting was called to order at 1:11 PM.

Board Members Present

Chair R. Nils Olsen, Jr. (via video)
Interim Vice-Chair Jeanette T. Jurasek
Secretary George K. Arthur
Mayor Byron W. Brown (proxy Estrich)
County Executive Mark C. Poloncarz

Board Member(s) Excused

Director Frederick G. Floss
Director Dottie Gallagher-Cohen
Director Frank Mesiah

Staff Present

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

Additionally Present

Mr. James L. Magavern, Esq., Magavern Magavern & Grimm LLP
Dr. Kriner Cash, Superintendent Buffalo City School District
Hon. Barbara Seals Nevergold, President Buffalo Board of Education
Mr. Geoff Pritchard, Chief Financial Officer, Buffalo City School District
Mr. Nathaniel Kuzma, General Counsel, Buffalo City School District

Opening Remarks

Interim Vice-Chair Jurasek served as Chair Pro Tempore for the Special Meeting of the Board. She welcomed and thanked all that were in attendance, reviewed the logistics of the meeting, and reviewed the sole and specific purpose of the meeting: to review the proposed collective bargaining agreement between the Buffalo City School District (“BCSD” or “District”) with the Buffalo Council of Supervisors and Administrators (“BCSA”).

Roll Call of the Directors

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

City of Buffalo (“City”) Commissioner of Finance, 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 BFS 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...."

Analysis of the Buffalo City School District Labor Agreement with Buffalo Council of Supervisors and Administrators

Interim Vice-Chair Jurasek advanced the agenda to the review of the proposed CBA between the BCSD and the BCSA. She asked Senior Analyst II/Manager of Technology, Mr. Nathan D. Miller, to present the staff's analysis.

Mr. Miller began his presentation stating the current CBA expired on June 30, 2004. The proposed CBA will be effective July 1, 2004 through September 1, 2020. The tentative agreement terms were agreed upon on August 22, 2017. BCSA membership approved the CBA on August 24, 2017 and the Board of Education will consider the CBA at their next board meeting on September 20, 2017.

The current staffing levels are funded as follows as of August 22, 2017:

- General Fund: 207 full-time equivalent ("FTE") positions budgeted and filled (0% variance)
- Grants Fund: 36 FTEs budgeted and 46 FTEs filled (27.8% variance)

Summary of Key Terms:

- No salary increases from 7/1/04 through 08/27/2017. No payments will be retroactive to the period of the wage freeze
- All steps to receive an increase:
 - 8/28/17 - 12%
 - 7/1/18 - 2.5%
 - 7/1/19 - 2.75%
- There will be no increases for those who left the District prior to the CBA ratification
- Up to 60 days after ratification: \$3,000 - \$10,000 one-time payment
 - This payment does not increase the base salary
 - Payment is based on years of service (minimum of two years)
- Central Office Administrators' longevity payments will be on par with BCSD Administrators
- Health Insurance for active employees:
 - Employees did not pay premiums under previous contract provision
 - Two coverage options (base or enhanced) to be provided by single carrier, Blue Cross/Blue Shield
 - Premiums will be paid as follows:
 - FY 2017-18: 7% current employees (\$498-670 annually for single coverage or \$1,380-\$1,473 for family coverage) / 11.5% for new hires (\$819- \$1,100 for single coverage or \$2,266 - \$2,419 for family coverage)
 - FY 2018-19: 8% current employees/ 13% new hires
 - FY 2019-20: 9% current employees/ 15% new hires Dollar amount of contribution frozen on 9/1/20

- Cosmetic surgery rider eliminated after 10/30/17
- When spouses are District employees the tentative agreement will allow for one family coverage as opposed to two single coverage plans
- Supplemental Benefits for vision and dental will increase from \$530/employee to:
 - FY 2017-18 \$650/employee
 - FY 2018-19 \$675/employee
 - FY 2019-20 \$700/employee
- Health Coverage for retirees:
 - No change for current retirees or those who retire prior to 7/1/19. The annual contribution rate is \$800 for single coverage and \$1,600 for family coverage
 - Those who retire after 7/1/19 will retain the same health coverage and continue to pay the same premium percentage that was paid as an active employee
 - If an employee retires prior to 10/30/17 the cosmetic surgery benefit will be retained
 - Administrators that meet the “rule of 85” (age + years of service \geq 85) at the time of ratification will contribute flat rate towards premium (\$800 for single \$1,600 for family)
 - Mandatory enrollment for Medicare Advantage upon eligibility
- Workers’ Compensation:
 - Regular pay/benefits while unable to work due to assault reduced from five to four years
 - Regular pay/benefits while unable to work due to all other work-related injuries or illnesses reduced from two years to one year
- Miscellaneous Provisions:
 - Vacation reduced from 24 to 20 days:
 - This excludes assistant superintendents
 - Up to 5 unused days may be rolled-over and up to 5 days may be paid out at the daily rate
 - Winter, Mid-Winter, and Spring Recess (11 days):
 - Building administrators and central office administrators (except Assistant Superintendents) to receive paid leave
 - Assistant Superintendents to work during recesses
 - Personal Leave:
 - Up to 5 days annually for the observance of traditional and customary religious holidays and/or urgent personal business
 - Holidays:
 - 15 legal and Board of Education days annually for all employees
 - Work Day: 8 AM to 4 PM for Central Office Staff; standard school day for Building Administrators including the additional twenty-five minutes that were added into the teacher’s contract
 - Summer hours defined as July 1 through Labor Day were eliminated as they only pertained to Central Office Administrators
 - Sick Leave: maximum accumulation increased from 220 days to 250 days
 - Termination Pay:
 - Formula changed from 1/200th of final salary to 1/240th of final salary
 - Employee must give at least a 90 day notice to be eligible
 - Maximum number of days for pay out remains 220 days

- Performance Compensation:
 - District & BCSA agree to form a committee and consider a performance-based compensation model
- Unchanged Terms:
 - All employees must establish residency in Buffalo within six months of hire; certain exemptions apply
 - In-lieu-of health insurance: employees receive a waiver incentive of \$1,200 annually
 - Early retirement incentive is 70% of final salary of the cost of replacement with a Master's degree

The District has estimated that the net financial impact of the tentative agreement on the 2018-2021 Financial Plan is \$19.5M. It will not require a budget modification or a financial plan modification. Per the District, the incremental labor costs for 2017-2018 of \$4.4 M will be funded from budgeted contingency expense. The remaining amount of \$15.1M over the out-years of the Financial Plan will reduce the contingency funding earmarked for gap-closing measures. Subsequently, the gap-closing measures are reduced by \$15.1M in the three out-years as the funds are no longer available.

The Financial Plan includes a baseline gap of \$100.1M. After the appropriation of fund balance the gap is reduced to \$54.1M. A series of gap-closing measures in each fiscal year of the Financial Plan are proposed to be implemented to eliminate the remaining out-year gaps.

Interim Vice-Chair Jurasek asked if the reserve contingency monies are restricted. Mr. Miller stated the monies are unrestricted from assigned fund balance and would have to be reassigned by management to be utilized.

Conclusions

Ms. Robe stated this contract is the last remaining long-term expired contract to be reviewed under the BFSa act and it is approximately .05% of the District's budget. While not quantitatively material, it is qualitatively material as it places additional strain on the District's already tight budget. Significant deviation from this plan will detrimentally impact future years as there would only be \$3M available to settle any future contracts. Without any additional, identifiable revenues it is likely the District will need to eliminate any non-mandated programming and instructional staff to address the budgetary gaps.

Chair Olsen asked what gap closing measures would be effected by this contract. Ms. Robe stated community school programs may be eliminated or reduced, as well as \$8.5M in reduction for instructional staffing, and delay of the expansion of the Emerson II program. Mr. Miller added there are programs that were originally funded by grants that are now at least partially funded through the general fund may be eliminated since they are not mandated programs. Secretary Arthur asked what specific programs Mr. Miller was referring to. Mr. Miller deferred to Mr. Geoff Pritchard for comment.

Mr. Pritchard advised a Say Yes Summer internship program was initially funded by grants and Say Yes asked for the BCSD to carry the additional costs of the program once the grant funding ended. Another program is offered through Hillside is offered at a handful of schools also began as a grant funded program and now the cost is being carried by the District. While the program has proven to be effective it is very expensive and it does not help the entire school population.

Ms. Robe stated the gap closing measures are prioritized with the highest priority being to increase revenues such as obtaining an increase in contribution from the City or increased grant revenues. The second prioritized group of gap closing actions are based on savings to be achieved through efficiencies and do no impact the provision of programs or instructional services. The final category includes direct cost reductions and do include reductions to those services that would directly impact students and achievement.

Chair Olsen stated reliance on grants continues to be problematic for the District as grants eventually end and alternate funding must be sought to continue helpful programs. There is also a concern about the difficult balance between appropriate compensation/benefits and quality education programming. The difficulty with efficiency savings has been an ongoing problem. Vice Chair Jurasek agreed with Chair Olsen that it has been extremely difficult to quantify significant efficiency savings in the past, and it is therefore highly unlikely to see major savings due to efficiencies going forward.

Chair Olsen stated another concern of the fiscal health of the District with respect to this pending CBA is the teacher's contract did not leave much funding for follow through for new contract negotiations; in addition, the probable ripple effect of the fiscal strain on non-mandated services that may need to be eliminated is in direct conflict with the task of improving the overall quality of education provided by the District.

Secretary Arthur recommended approval of the contract with the BFSA's strong concerns attached to be forwarded to the Board of Education. Chair Olsen agreed and emphasized the fact that the BFSA is no longer in a control period and therefore cannot approve or deny labor contracts; however, the BFSA is still able to provide the District and the public with valuable insight on the fiscal ramifications of the proposed contract. Secretary Arthur also recommended that the BFSA ask for a six-month status report. Chair Olsen agreed with the recommendation.

Interim Vice-Chair Jurasek stated the status report should be requested on a shorter cycle than six months and instead suggested a quarterly update. Secretary Arthur expressed his concern with the District's high dependency on grants as they are finite and grant opportunities are on the decline.

Ms. Estrich agreed and asked what grants are being sought so far. Mr. Pritchard stated a bulk of the grants are national foundation grants that the Superintendent has had success securing in the past with other districts.

With respect to reporting, Mr. Pritchard advised that the District is required to run quarterly reports and the first report for FY 2017-18 due in October regarding July through September along with the District's projections.

Interim Vice-Chair Jurasek noted the significance of receiving the quarterly reports and monitoring financial results against the current year budget, and emphasized the importance of receiving an additional performance report related to actions the District is taking to be able to implement the gap closing measures next fiscal year to address that projected budget gap. She cited it is crucial for the BFSAs mission to evaluate the decisions being made now that will impact the future, and the BFSAs has a responsibility to make sure that such gap closing measures aren't speculative. She requested that Ms. Robe draft a letter to the District requesting such a prospective performance report, and to include a specific due date as deemed appropriate.

Interim Vice-Chair Jurasek asked for a motion on the proposed BCSA collective bargaining agreement.

Secretary Arthur amended his motion to include that the District provide quarterly reports on the District's progress towards achieving the savings included in the gap-closing measures within the Financial Plan in addition to its standard quarterly fiscal report per due dates that will be requested by Ms. Robe of behalf of the BFSAs Board of Directors.

Chair Olsen seconded the motion.

The Board voted 5 to 0 to approve.

Chair Olsen and Interim Vice-Chair Jurasek thanked Mr. Pritchard for his cooperation in keeping the BFSAs abreast of District changes.

Other Business

Interim Vice-Chair Jurasek brought a matter to the board for discussion related to the Buffalo Municipal Housing Authority ("BMHA"). She summarized her recollection regarding numerous outstanding questions and concerns from prior meetings with BMHA leadership, including requests related to the privatization of certain housing structures, and referenced the recent new appointments to the BMHA Board of Commissioners. Chair Olsen noted additional concerns have been the occupancy rate, plans related to selling, privatization or rehabilitation of buildings, and the adequacy of building management, all of which are serious and fundamental to the organization.

Ms. Estrich indicated many BMHA decisions were on hold until the new board was in place and the new board has held only one meeting to date.

Secretary Arthur suggested the BFSAs express their concerns to the newly established BMHA board to foster a better relationship with the leadership and the new commissioners. Secretary Arthur also asked for a list of the new BMHA commissioners.

Interim Vice-Chair Jurasek asked Ms. Robe to draft letter requesting a meeting with BMHA Commissioners for review at the next BFSAs board meeting on September 25, 2017.

Chair Olsen stated a meeting was held with BMHA executive staff, Ms. Robe, Mr. Magavern and Mr. George Hezel to initiate a conversation of how BMHA can better manage their funding and buildings to provide adequate affordable housing. Chair Olsen stated the same discussion should be held with the Board of Commissioners.

Privilege of the Floor

Interim Vice-Chair Jurasek extended the Privilege of the Floor to any member of the public who wished to comment for the public record regarding any actions taken by the Board at the meeting.

Ms. Marilyn Gallivan expressed her support of the BFSA meeting with the new BMHA Board of Commissioners.

Adjournment

Hearing no additional business or comments, Secretary Arthur made a motion to adjourn.

Motion carried 5-0.

The meeting was adjourned by acclamation at 2:05 PM.