

BUFFALO FISCAL STABILITY AUTHORITY
Meeting Minutes
February 6, 2017

The following are the minutes from the meeting of the Buffalo Fiscal Stability Authority (the “BFSA” or the “Authority”) held on Monday, February 6, 2017, in the first floor conference room of the Buffalo Market Arcade Complex. The meeting was called to order at 1:00 PM.

Board Members Present

Interim Vice-Chair Jeanette T. Jurasek
Secretary George K. Arthur
Mayor Byron W. Brown (proxy Estrich)
Director Frederick Floss
Director Frank Mesiah
County Executive Mark C. Poloncarz

Board Member(s) Excused

Chair R. Nils Olsen
Director Dottie Gallagher-Cohen

Staff Present

Executive Director Jeanette M. Robe
Principal Analyst/Media Liaison Bryce E. Link
Senior 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

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 meeting’s agenda. The agenda included an analysis of the Buffalo City School District’s fiscal year (FY) 2017-2020 Modified Financial Plan (Modified Financial Plan).

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 BFS 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 BCSD FY 2017-2020 Modified Financial Plan

Interim Vice-Chair Jurasek advanced the agenda to the BFSA review of the BCSD modified financial plan and gave the floor to Executive Director Jeanette M. Robe to begin the presentation.

Secretary Arthur stated that he had received an email from Dr. Seals-Nevegold, President of the Buffalo Board of Education, stating she had a death in the family and therefore was unable to attend today's meeting. He asked if representatives from the Superintendent's office were en route. Ms. Robe responded Mr. Geoff Pritchard, Chief Financial Officer for the Buffalo City School District ("BCSD") was in attendance.

Ms. Robe stated the modified financial plan was necessary due to the recently settled labor contract with the Buffalo Teachers Federation ("BTF"). She noted that New York State will be finalizing the State's 2017-18 budget likely in March, at which time the District's funding levels for next year will have been determined. Therefore, in consultation with the Chair and Vice Chair, it was decided that the BFSA Board of Directors will delay meeting with District officials at this time and will meet in connection with the upcoming 2018-2021 financial plan submission.

Secretary Arthur stated the BCSD budget is not set in May. The Mayor submits his recommendations to the Common Council in May and the Council in turn accepts or returns the Mayor's recommendations and the deadline by Charter is June 21st. The City's final budget affects the budget of the BCSD. Ms. Robe stated the BFSA Act requires a financial plan submission annually by May 1.

Interim Vice-Chair Jurasek emphasized that there was new leadership at the District. NYS's budget is the key driver in revenue projections. Once NYS's budget has been released the District can be held accountable for the expenditures and revenues.

Ms. Robe then turned the floor over to BFSA Senior Analyst Nathan Miller to summarize the District's Modified Financial Plan. Mr. Miller provided the following information:

The District and BTF settled a Collective Bargaining Agreement ("CBA") on October 17, 2016. The Adopted Budget and four-year Financial Plan were not modified at that time. The Modified Financial Plan was approved by the Buffalo Board of Education three months after ratification of the labor contract. The current year (year one) of the Modified Financial Plan estimates total contract costs of \$41.5 million for both compensation increases and one-time payments. This explains why the net contract cost is so large in year one; year two the net cost decreases to \$22.0 million for a net \$135.0 million over the four years of the financial plan.

Revenues were adjusted slightly in the modified financial plan to account for the more accurate data on state aid. Expenditures changed significantly which accounts for the tremendous growth in the projected deficit. The projected cumulative deficit projection increased from \$23.9 million in the Adopted Financial Plan to \$161.9 million in the Modified Financial Plan.

Director Floss indicated the increase in the projected deficit was not solely due to the labor contract, as other expenditure areas have also increased.

Mr. Miller stated the original financial plan had a programs to eliminate the gap action plan (“PEG Plan”) to address the budgetary gaps with a use of \$22.6 million of fund balance. The revised plan calls for \$85.1 million, a net change of \$62.5 million over the four years. Out year 3 does not show an anticipated use of fund balance. The average annual rate of increase is 3.5%.

Mr. Miller gave the floor to Ms. Robe to address the PEG action plans. Ms. Robe stated that the new baseline gap was projected to be \$162.0 million. The assigned fund balance set aside specifically for labor negotiations of \$57.2 million is being fully used during the first two years of the Modified Financial Plan. The depletion of this reserve leave nothing for negotiations for any of the remaining unions. There is a projected appropriation of \$27.9 million in unassigned fund balance over the four years to narrow budgetary gaps. This keeps the Unassigned fund balance at the minimum required level per BCSD policy. After the use of fund balance there is a remaining gap of \$76.8 million.

The District PEG Plan is a list of actions for the Board of Education to consider to close the gaps in the out-years, which totals \$134.9M. If an action is implemented in out-year one there are expected continued savings in out years two through four. However, if the board chose not to act on those PEG plans in subsequent years the savings would ‘pushed out’ to later years.

The following PEG actions were provided:

Recurring Savings – Cumulative Four-Year

- Eliminate the reserve for contingencies: \$6.0 million
- Renegotiate existing service contracts: \$450,000
- Return (3) dormant school facilities (8, 18A and 171) back to the City of Buffalo: \$1.2 million
- Automate certain administrative process and institute new efficiencies: \$0.9 million with the reduction of seven FTEs through attrition
- Eliminate funding for the settlement of labor contracts: \$16.5 million

Director Floss asked if this action would affect any already existing contracts. Ms. Robe confirmed it would not affect any current labor agreements.

Director Floss had previously requested a cost analysis of projecting the terms of the BTF CBA onto the six out-of-contract collective bargaining units. He asked if this analysis had been performed and, if so, what the findings were. Mr. Miller stated that the analysis had been performed as requested. The estimated net, four-year cost would be an additional \$20.0 million to \$25.0 million based on the BTF CBA terms.

Vice Chair Jurasek stated the added costs of the additional labor agreements will need to be addressed by the BCSD and BFSa in the near future.

Ms. Robe continued her summary of the PEG Plan.

- Shared services agreement with the City: \$1.3 million
- Delay or cancel the expansion of Emerson Hospitality Program: \$2.0 million

Secretary Arthur asked about the lawsuit filed by a developer regarding the expansion of the Emerson program. Mr. Jim Magavern stated the developer is claiming sub costs and responding to a new BCSD Request for Proposals (RFPs) and suing to enforce the parameters of the old RFP.

Ms. Robe continued her summary of the PEG Plan.

- Changes in the delivery of special education services: \$3.0 million. A study has been performed and the results have not been implemented. Currently, the number of FTEs employees is lower than what was originally budgeted and therefore some savings are being achieved.
- Lay-off physical education teachers: \$5.7 million. This action would lay off the 20 additional physical education teachers which were hired during the 2015-16 school year in an effort to meet the minimum New York state physical education requirements. Despite its efforts the District has still been unable to meet the minimum mandate due to various reasons, one of which is lack of gym space.
- Downsize: reduce positions by 100 FTE in year one, 250 in year two and 350 in year three; which would account for an estimated savings of \$65.1 million. The positions cover all employment categories.

Reduce and/or Eliminate Portions of the New Education Bargain

- Scale Back/Eliminate Reduced Class-Size Initiative: \$21.0 million; 80 FTEs eliminated by FY 2019-20
- Curtail Extended-Day Programs: \$4.8 M cumulative savings

Director Floss asked about increased class size and suggested the implementation be done over a longer period of time instead of constantly having to start over because of funding and improper forecasting. Vice-Chair Jurasek stated learning initiatives cannot have an “on-off” switch based on finances.

- **Curtail Community School Initiative:** \$6.0 M cumulative savings

Commissioner Estrich asked if NYS aid specifically designated for community schools would be lost if the program were reduced. Mr. Miller replied that the PEG Action would roll-back some of the programs within the initiative. Areas with dedicated funding would likely not be impacted. Mr. Pritchard confirmed this and noted that programs currently funded through the General Fund may be able to receive grant funding instead to alleviate the financial impact of this initiative.

Other Items

Ms. Robe stated the modified financial plan includes other items to consider that could potentially impact the District’s finances, such as lobbying the City to increase the annual contribution to the District, an increase in funding from the State, the redesignation of fund balance from other postemployment benefits, and a change to the fund balance policy to release the balances being retained.

Director Floss asked what the best practice is regarding the amount of unassigned fund balance. Mr. Miller stated best practice is 4% per the NYS Comptroller.

Director Floss questioned if some of the OPEB funds could be released based on the interest rates and inflation rates. Ms. Robe confirmed the funds may be reallocated at management's discretion.

Vice-Chair Jurasek asked where the City's allocation to the District is derived from. Ms. Estrich replied that the contribution of \$70.3 million is obtained from the real property tax levy which equates to more than half of the total tax levy. The City also provides grant funding for resource officers for the District through Say Yes to Education. The likelihood of increasing the amount is very low.

County Executive Poloncarz stated every school district in the county receives a portion of sales tax based on a formula established in 1977. The BCSD is projected to receive \$42.0 million in the current fiscal year. Renegotiation to increase the amount of money received from the County would involve negotiations between Lackawanna and Tonawanda as well as approval by the Erie County Legislature. The amount received by the school system increases as the total sales tax receipts increase. Based on last year's numbers there isn't much growth expected for this year. Ms. Estrich stated the BCSD used a 1.5% growth factor regarding the sales tax. Vice-Chair Jurasek stated there are no additional funds available for the District from the City or Erie County based on the information provided by Ms. Estrich and County Executive Poloncarz. However, there may be an increase from NYS once the budget has been released.

County Executive Poloncarz asked for the draft resolution to be amended to include a timeframe for submission of the requested items to the BFSAs; such amendment was made and agreed to by the Directors.

Director Floss stated the planning process needs to begin as soon as possible once the amount of funding from the state is disclosed.

Vice Chair Jurasek turned the floor over to Ms. Robe and Mr. Miller for their conclusions.

Recommendations and Conclusions

Ms. Robe stated the following:

- All covered entities should have a revised, modified financial plan to determine the affordability of any contracts and labor agreements.
- The modified financial plan does not provide enough information to understand what the true impact is on the District.
- The New Education Bargain is at risk with significant elimination of key components of the program.

- PEG Plan relies heavily on the use of available fund balance which is depleted during the third out-year of the Modified Financial Plan. The plan potentially reduces the workforce by 10% which could hinder the ability to provide quality education.
- The District is very conservative in its budgeting.

Ms. Robe stated the District will need to develop an organized plan beyond the current checklist format in order to demonstrate a balanced four-year financial plan and reviewed the proposed resolution RES 17-01 with the board.

Secretary Arthur made a motion to approve the resolution.
Director Floss seconded the motion.

County Executive Poloncarz made a motion that the first Resolved clause be amended as follows:

Original: *“BE IT THEREFORE RESOLVED, the District is directed to provide a 2018-2021 Financial Plan that:”*

Amended: *“BE IT THEREFORE RESOLVED, the District is directed to provide a 2018-2021 Financial Plan by May 1, 2017, and revised as necessary by June 1, 2017, that”*

Mr. Magavern, legal counsel to the BFSA Board, advised the Board as to this change to the resolution.

Secretary Arthur seconded the motion to amend the resolution as moved.

Interim Vice-Chair Jurasek called the question. The Board voted 6-0 to approve RES No. 17-01 as amended.

Privilege of the Floor

Interim Vice-Chair Jurasek extended the privilege of the floor to any attending member of the public who wished to make a comment for the public record. Hearing none, she requested a motion to adjourn.

Adjournment

Secretary Arthur made a motion to adjourn.

Director Floss seconded the motion.

The Board voted 6-0 to adjourn.

The meeting adjourned at 1:55 PM.