

€BUFFALO FISCAL STABILITY AUTHORITY
Meeting Minutes
June 24, 2020

The following are the minutes from the meeting of the Buffalo Fiscal Stability Authority (the “BFSA” or the “Authority”) held on Wednesday, June 24, 2020. The Board met via teleconference in compliance with New York State Executive Order 202.1. As required by such Executive Order, a transcript of the meeting has been prepared. The meeting was called to order at 1:04 P.M.

Board Members Present

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

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
Comptroller Claire A. Waldron

Additionally Present

Honorable Rasheed N.C. Wyatt, University District, Buffalo Common Council
Honorable Bryan Bollman, Lovejoy District, Buffalo Common Council
Mr. James L. Magavern, Esq., Magavern, Magavern & Grimm LLP
Mr. Geoffrey Pritchard, Chief Financial Officer, Buffalo Public School District

Opening Remarks

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

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.

Erie County Deputy Budget Director, Mr. Benjamin Swanekamp, represented County Executive Mark C. Poloncarz, 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 [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. 20-06: “Approving Minutes and Resolutions from May 20, 2020.”

Director Floss motioned to approve.

Secretary Arthur seconded the motion.

The Board voted 6-0 to approve Resolution No. 20-06.

Discussion with Common Councilmembers

Chair Olsen stated an invitation was extended to the Buffalo Common Council (the “Common Council”) to meet with the Board. He welcomed Councilmember Rasheed Wyatt.

Councilmember Wyatt thanked the Board for the opportunity to address how the COVID-19 Pandemic (the “Pandemic”) had drastically affected the City budget and placed the City in a very difficult situation. Councilmember Wyatt stated his continued concern with overstated City revenues that have not materialized over the last three years and because of this he, along with Councilmember Bryan Bollman, did not support the fiscal year (“FY”) 2020-21 proposed City budget. Councilmember Wyatt shared his desire to work more closely with the BFSA, the City Comptroller’s Office (the “Comptroller’s Office”) and the City Administration (the “Administration”) to make sound budgetary decisions. The uncertainty of state and federal funding will require several budgetary plans to minimize the Pandemic’s fiscal impact.

Chair Olsen stated it is extremely important for the Board to work closely with the Common Council, Administration and the Comptroller’s Office to ensure the maintenance of essential services for City residents.

Secretary Arthur asked what budgetary recommendations, if any, were made by Common Council’s staff. Councilmember Wyatt replied no recommendations were made as the Common Council was focused on securing a paid independent counsel position. Secretary Arthur asked if the Council considered raising property taxes to address potential budgetary gaps.

Councilmember Wyatt stated the Council did not consider raising property taxes in light of Pandemic and the effect that it has had on increased unemployment. Secretary Arthur stressed major layoffs will also cripple the City and highlighted the fact the City has not raised taxes in several years. Councilmember Wyatt stated the alternative plan submitted to the BFSA on May 22, 2020 by the Administration was not shared with the Council.

Secretary Arthur asked for clarification on the independent counsel position. Councilmember Wyatt stated the Common Council had a desire to hire an attorney solely for the Common Council with a salary of \$94,000; however, due to political pressure and increased fiscal strain, the Common Council decided not to fill the position. Secretary Arthur stated during his time on the Common Council there were two attorneys within the Department of Corporation Council that were assigned specifically to the Common Council. Councilmember Wyatt replied the Common Council desires an attorney independent of the Administration to assist the Council in

making decisions. The position will be funded through attrition within Common Council staff. Secretary Arthur stated in the past when there were disagreements between Common Council and Administration, Corporation Counsel would recuse itself and contract with independent attorneys for the parties as opposed to having to hire a full-time attorney.

Secretary Arthur then suggested someone from Common Council staff should be assigned to attend all BFSAs Board meetings to keep the Common Council up-to-date on what the Board covers. Councilmember Wyatt stated someone will be assigned to attend BFSAs meetings in the future.

Chair Olsen recognized Councilmember Bryan Bollman on the call and extended an offer to him to address the Board. Councilmember Bollman thanked the Chair and stated he concurred with Councilmember Wyatt's statements.

Chair Olsen again stressed the importance of all branches of government and the BFSAs working together to provide the best information available to make the most sound decisions possible. He thanked Councilmember Wyatt for his participation in the meeting.

Hearing no additional comments Chair Olsen advanced the agenda.

City of Buffalo

Deficit Note Transaction Review

Chair Olsen stated a proposed deficit note may be issued prior to the current fiscal year (the "CFY") at June 30, 2020. There have been discussions with the Comptroller's Office and the BFSAs regarding the most financially beneficial method of issuance.

BFSAs Executive Director Jeanette M. Robe began her presentation. The City proposed issuing a deficiency note in the CFY to fund revenue deficiencies due to the Pandemic. On April 30, 2020, the third quarter gap report projected a year-end deficit of \$15.0M. The Comptroller's Office has proposed a deficit financing of \$18.0M to occur prior to June 30, 2020. The note would be sold as an 18-month direct placement with JPMorgan Chase & Co. ("JPMorgan Chase") with an option to extend the term for an additional six months until June 2022. The optional extension had not been built into the terms of the agreement. The costs of issuance, including the financial advisor and bond counsel, are estimated at \$21,700 and paid by finance proceeds. The interest rate offered by JPMorgan Chase of 1.22% is greater than the rate predicted by BFSAs financial advisor of 1.04%. A letter was submitted to the Comptroller's Office recommending other financial institutions be contacted to potentially obtain a more favorable rate for the City. The City Comptroller's response stated it would be challenging to obtain offers from additional institutions due to the limited time available in order to close the transaction by June 30, 2020. The BFSAs's financial advisor further estimated a fifteen-basis point advantage would be available if BFSAs issued the note instead of the City and estimated an interest rate of 0.89%. The variables in basis points and interest rates provide a cost advantage ranging between \$40,000 and \$88,000 between a BFSAs and City issue.

Director Floss asked if the City will have enough cash on hand for the entirety of the year and questioned if more financing should be considered. Ms. Robe responded the City is limited to \$25.0M according to NYS Local Finance Law. As of today, State Aid remitted for June is

reported to be at a 20% reduction; it is unclear what exactly is needed at this time. Director Floss stressed his concern with the City not borrowing enough and in turn restricting its future cash flow.

Erie County Deputy Budget Director Mr. Swanekamp stated that Erie County has experienced a massive slowdown in New York State (“NYS”) reimbursement payments and no clarification will be available from the NYS Division of the Budget on how aid cuts will be handled until federal action occurs. In addition, many grants that are usually renewed may not be renewed this year.

Commissioner of Finance Donna Estrich commented that the City was notified that some NYS aid will be withheld until further notice. The Administration asked the City Comptroller to increase the deficit note to the maximum of \$25.0M in an effort to assist with cashflow.

Hearing no additional comments Chair Olsen advanced the agenda to the Buffalo City School District.

Buffalo City School District (“BCSD” or “District”)

FY 2020-21 Adopted Budget

Chair Olsen stated the BCSD adopted the 2020-21 Budget on May 27, 2020, and changes made since the preliminary budget was presented at the May 20, 2020 meeting will be discussed today. He asked BFSA Senior Analyst II Nathan Miller to review the staff’s analysis.

Mr. Miller began his presentation comparing the recommended budget to the adopted budget by noting the following:

- A deficit of \$50.0M is reflected in the Adopted Budget
- The FY 2021-2024 Financial Plan has not been approved
- A budget gap has been projected for each year of the Financial Plan with a cumulative four-year budget gap of \$219.9M
- The Recommended Budget included \$12.5M in unspecified “other necessary cuts in planning.” The Adopted Budget defines and codifies these cuts within the budget as follows:
 - Facility closures of PS #86 and #187: \$0.4M
 - Program consolidations: \$3.0M
 - Changes in program operation and transportation: \$1.4M
 - Reductions in discretionary spending: \$2.1M
 - Central Office hiring freeze: \$1.0M
 - Special Education reduction of self-contained classrooms, Special Education Chairs and a reducing the program to a mandated level of service: \$1.6M
- General Fund revenues were unchanged and total \$904.7M

New York State’s finances have been deeply impacted by the COVID-19 Pandemic and the resulting Coronavirus Recession. The New York State 2020-21 Enacted Budget included a “Pandemic Adjustment” reduction in NYS aid payments to each school district equivalent to the federal stimulus provided under the U.S. Coronavirus Aid, Relief, and Economic Security (CARES) Act. The BCSD NYS aid reduction totaled \$29.6M.

The level of NYS aid may be reduced further from that already provided for within the NYS Enacted Budget. The NYS Director of the Budget is authorized to determine whether the NYS Enacted Budget is balanced during three “measurement periods”: April 1 through April 30, May 1 through June 30, and July 1 through December 31. If a general fund imbalance has occurred during any measurement period, the Director of the Budget is empowered to “adjust or reduce any general fund and/or NYS special revenue fund appropriation and related cash disbursement by any amount needed to maintain a balanced budget”. Based on this, the District has quantified an additional potential reduction in NYS aid of \$110.0M, or a 20% reduction; this potential reduction is not reflected in the budget or financial plan.

- General Fund expenditures were unchanged in total at \$954.7M
 - Adjustments made within the budget:
 - Employee compensation increased by \$1.8M to \$337.8M
 - Employee benefits increased by \$0.5M to \$201.6M
 - Transportation decreased by \$1.9M to 58.4M
 - All other expenditures decreased by \$0.4M to \$116.5M
 - A net reduction of 49 FTE positions

BFSA’s analysis determined individual employee compensation lines were somewhat overstated given the employee composition and the current contractual terms. The General Fund employee compensation and benefits have largely been increased despite the reduction of positions. The District has conveyed that mean salaries were rounded upwards to be conservative. If individual expenditure lines are projecting to be less than budgeted, budgetary transfers, including those directed by the Superintendent for the purposes of school equity, will be performed.

Conclusions

- The Adopted Budget has been finalized and is not anticipated to be modified until July 1st, with the recognition of carry-forward encumbrances from the CFY
- The District’s FY 2021-24 Financial Plan has not been adjusted to reflect the changes in the FY 2020-21 Adopted Budget
- The Adopted Budget includes some of the new expenditures the District will incur to reopen the schools due to COVID-19
 - Reopening strategies are currently in the development phase
 - The New York State Education Department intends to provide specific guidance in July 2020
 - The actual plan to reopen the schools will impact the Adopted Budget
- The FY 2020-21 General Fund revenues have not been adjusted and reflect the most up-to-date projections. The FY 2020-21 General Fund expenditure categories have been adjusted but in total were unchanged.
- The FY 2020-21 budgeted staffing has decreased by a net of 49 FTEs from 4,901 to 4,852 FTEs. General Fund employee compensation and benefits have largely been increased despite the reduction of positions, which will allow for budgetary changes throughout the year as needed
- BFSA recommends the formal adoption of the 2021-2024 Financial Plan

Chair Olsen asked if the decrease in transportation cost is driven by online learning and the need to bus fewer students. Mr. Miller replied that the Extended Learning Program will occur in a

virtual environment. Transportation savings are anticipated from this operational change. The number of bus aides will be reduced based on the reduced need for transportation. The budgetary savings are estimated at \$3.0M.

Chair Olsen then asked if social distancing will be enforced on buses which will actually require more bussing. Mr. Miller stated that had not been quantified within the budget. Chair Olsen stated his concern with reopening the buildings and maintaining social distancing which would require more classes to be taught. He asked for clarification regarding changes in the Special Education Department.

Mr. Miller replied that the Special Education Department plans to reduce the number of self-contained classrooms and Special Education Chairs. The Summer Handicapped Program will be reduced to the mandated level of service. The District estimated \$1.075M in budgetary savings.

Chair Olsen asked for additional details regarding Special Education Department budgetary cuts. Mr. Miller noted that there were many individual programmatic cuts made. For example, the District will change the level of service for High School New York State Alternate Assessment classes from the 6:1:1 model to an 8:1:1 model except for the behavior focus classes. All Individual Educational Programs will be amended to reflect this change. The classes will be consolidated which will cause the reduction of two FTE teachers.

Director Floss asked if there are any additional monies for restarting Special Education after the COVID-19 shutdown and what the plan is to ensure students are at grade level. Mr. Miller stated the budget is based on the traditional model for opening. Some budgetary actions have occurred including increasing the equipment and supplies expenditure lines. The District is awaiting NYSED's guidance to reopen the schools. The guidance is anticipated to be issued in mid-July.

Director Floss asked how the District is preparing for additional budgetary costs associated with the extra instruction necessary for students that have fallen behind due to the COVID-19 shutdown such as additional summer instruction.

Mr. Miller noted that the District had a representative in audience. He asked Chair Olsen if it would be appropriate to ask the representative to provide an update on the District's reopening strategies.

Chair Olsen asked BCSD Chief Financial Officer Geoff Pritchard to provide an update on the District's reopening strategies. Mr. Pritchard stated a reopening in September 2020 has not been determined. The federal stimulus package for school districts will be the main determining factor for how and when schools will reopen across the country.

Chair Olsen asked if an evaluation was performed regarding the effectiveness of online learning that occurred while schools were physically closed during the last quarter. Mr. Pritchard stated he did not have that information available.

Director Floss asked if the budget has a line item for additional social workers, guidance counselors or teachers with the return to school. Mr. Pritchard replied school-based budgets provide the flexibility to shift funding as needed. In addition, department heads will continue to closely monitor the needs of the schools. Mr. Pritchard also acknowledged there is flexibility

within the budget as all positions have not been allocated which allows for adjustments as needed.

Chair Olsen asked for a status update on District bargaining unit agreements and which ones will need to be negotiated. Mr. Pritchard replied the administrators' contract expires in August, aides and assistants has been expired for several years and needs to be settled. There are several units that will be expired in September 2020.

Interim Vice Chair Jurasek asked if a deadline has been established for submitting modified budgets. BFSA legal advisor Mr. Jim Magavern replied that a specified time has not been established but the BFSA can set a deadline for modified budgets to be submitted when it appears revenues are not fairly stated. Ms. Estrich stated open communication takes place between her office and the BFSA on a regular basis. Ms. Robe added the BFSA Act requires entities to file budget reports on a quarterly basis and these reports have triggered the required submission of modified financial plans in the past. Chair Olsen thanked everyone for their contributions, especially during this time of extreme uncertainty and asked that all entities continue to work collaboratively for the betterment of the City.

Hearing no additional comments Chair Olsen advanced the agenda.

Buffalo Fiscal Stability Authority Items

Determination with Respect to the City of Buffalo 2020-21 Budget and 2020-2024 Financial Plan

Chair Olsen stated the draft resolution requires a final submission of the 2020-2024 Financial Plan to the BFSA reflecting Common Council changes to the 2020-21 Budget based on actions taken on June 4, 2020, and reflecting the financial impact of the anticipated deficit note financing and any other changes subsequent to BFSA Resolution No. 20-05, passed on June 17, 2020. The submission deadline is June 30, 2020.

Chair Olsen asked for a motion to approve the resolution.

County Executive Poloncarz (proxy Swanekamp) motioned to approve.

Director Floss seconded the motion.

Mayor Brown (proxy Estrich) abstained.

Secretary Arthur called the roll for the vote.

Chair Olsen – aye
Interim Vice-Chair Jurasek – aye
Secretary Arthur – aye
Director Floss – aye
County Executive Poloncarz (proxy) – aye
Mayor Brown (proxy) – abstain

The vote passed 5-0 with 1 abstention.

Approval of BFSFA 2020-21 Budget and 2021-2024 Financial Plan

Chair Olsen advanced the agenda to approve Resolution No. 20-08: “Adoption of 2020-21 Buffalo Fiscal Stability Authority Budget and 2021-2024 Four Year Financial Plan,” as recommended to the full Board by the Audit Finance & Budget Committee.

Secretary Arthur made a motion to approve Resolution No. 20-08.

Director Floss seconded the motion.

The Board voted 6-0 to approve Resolution 20-08.

New Business

Secretary Arthur asked Mr. Magavern if an amendment had been drafted for the BFSFA bylaws. Mr. Magavern responded in the negative and the two agreed to confer offline.

Chair Olsen stated the amendment to the bylaws was requested due to the lack of Board appointments. The increasing number of vacant seats on the board causes difficulty in securing meeting quorum and establishing a majority vote when necessary.

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. Hearing no comments, he requested a motion to adjourn.

Adjournment

Secretary Arthur moved to adjourn.
Director Floss seconded the motion.

The Board voted 6-0 to adjourn. The meeting adjourned at 2:37 P.M.