

BUFFALO FISCAL STABILITY AUTHORITY
Meeting Minutes
July 20, 2020

The following are the minutes from the July 20, 2020 Special Board Meeting of the Buffalo Fiscal Stability Authority (the “BFSA”); this meeting was called for the sole and specific purpose of reviewing the final City of Buffalo 2020-21 Adopted Budget and 2021-2024 Financial Plan. The Board met via teleconference in compliance with New York State Executive Order 202.1. as amended. A transcript of the meeting was prepared, as required. The meeting was called to order at 4:04 PM.

Board Members Present

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

Board Members Excused

Secretary George K. Arthur

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

Mr. Richard A. Grimm, III, Esq., Magavern Magavern & Grimm LLP
Mr. James Magavern, Esq., Magavern Magavern & Grimm LLP
Mr. William Ferguson, City Accountant, City of Buffalo
Mr. Delano Dowell, Deputy Comptroller, City of Buffalo
Mr. Geoffrey Pritchard, Chief Financial Officer, Buffalo City School District

Opening Remarks

Chair Olsen welcomed everyone to the meeting and thanked all that were in attendance. Chair Olsen asked BFSA Administrative Assistant Nikita Fortune to announce who was on the call. Ms. Fortune announced all identified callers.

Roll Call of Directors

Secretary Pro Tempore Floss called the roll.

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 Deputy Budget Director, 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...."

With a quorum present the meeting commenced.

Amendments to BFSA Bylaws

Chair Olsen advanced the agenda to review the proposed BFSA Bylaws amendment as presented by BFSA Executive Director Jeanette Robe. Ms. Robe stated the proposed amendment is in Article IV Section 3, "Other Committees of the BFSA Bylaws." Secretary Arthur had previously suggested the bylaws be amended to change the required number of votes needed for the Board to take action. The BFSA Act mandates the count required for Board action be five and therefore could not be altered by amending the bylaws. The amendment to the bylaws provides that in the event a director abstains from voting, resulting in four or fewer directors present and able to vote, the Chair or presiding director may designate the remaining four or fewer board members as an ad-hoc committee to consider that item of business and recommend action at the next meeting of the full Board.

Secretary Pro Tem Floss made a motion to approve the amendment to the BFSA Bylaws.

Interim Vice-Chair Jurasek seconded the motion.

Chair Olsen stated there have been three board vacancies for a significant period of time. It is unlikely the positions will be filled soon and therefore recommended amending the bylaws.

Interim Vice-Chair Jurasek asked how this provision compared to tabling an item of business. Chair Olsen responded that the change would permit immediate consideration and recommendation to the full board at the next meeting.

Hearing no additional comments Chair Olsen asked Secretary Pro Tem Floss to record the vote:

Chair Olsen – aye

Interim Vice-Chair Jurasek – aye

Secretary Pro Tem Floss – aye

Mayor Brown (Proxy Estrich) -aye

County Executive Poloncarz (Proxy Swanekamp) – aye

The amendment to the bylaws passed with a vote of 5 to 0.

City of Buffalo (“City”)

2020-21 Adopted Budget and 2021-2024 Financial Plan

Chair Olsen advanced the agenda to review the final City of Buffalo’s 2020-21 Adopted Budget and corresponding 2021-2024 Financial Plan as submitted to the BFSA on June 30, 2020. The plan in its preliminary form was reviewed at a special BFSA meeting held on June 16, 2020. The resolution was tabled and subsequently approved on June 17, 2020. This item was again reviewed at the regular Board meeting on June 24, 2020. Chair Olsen asked BFSA Principal Analyst Bryce Link to begin the presentation.

Mr. Link began his review of the 2020-21 Adopted Budget and 2021-2024 Financial Plan. The Buffalo Common Council (“Common Council”) approved the \$519.6M budget on June 4, 2020 with minor changes to both revenues and expenditures, as discussed at the BFSA’s June 16th board meeting. The four-year Financial Plan revenues total \$2,090.3B and expenditures total \$2,077.7B. A \$12.7M surplus is estimated over the Financial Plan.

The following identifies the uncertain City revenues as identified by BFSA that were included in the 2021-2024 Financial Plan:

Uncertain City Revenues					
	2020-21	2021-22	2022-23	2023-24	Four-Year Total
Federal Aid	65,082,569	-	-	-	65,082,569
TSC Casino Revenue "i.e. Casino Revenue"	11,000,000	35,000,000	11,000,000	11,055,000	68,055,000
State AIM Increase	-	10,000,000	20,000,000	32,257,047	62,257,047
Sales Tax Increase*	-	-	-	-	-
Total Uncertain Revenue	76,082,569	45,000,000	31,000,000	43,312,047	195,394,616
Percent of Total Estimated Revenues	14.6%	8.7%	5.9%	8.2%	

*Impact on sales tax is unknown/unable to be predicted.

The City’s assumption is that New York State (“NYS”) Aid and Incentives to Municipalities (“AIM”) will return to budgeted 2019-20 level of \$161.3M in the fourth year of the financial plan. Mr. Link noted NYS AIM has been at \$161.3M since FY 2012 when NYS reduced AIM following the Great Recession. Sales tax was omitted from this list due to the difficulty in predicting this revenue.

- Federal Stimulus – The City included \$65.1M in federal stimulus aid in FY 2020-21 that represents a non-recurring revenue.
 - The U.S. Health and Economic Recovery Omnibus Emergency Solutions (“HEROES”) Act has passed the U.S. House of Representatives; the U.S. Senate has not taken up the legislation at this time.
 - Within the HEROES Act is \$1.0 trillion of funding to state and local governments facing revenue shortfalls due to the impact from the pandemic
 - It is unknown if the legislation will be passed or the amount to be provided to the City of Buffalo
 - Federal stimulus amount of \$65.1M reflects the assumed reduction of \$32.3M in AIM, \$19.5M in sales tax, and a remaining amount of \$14.4M

- Tribal State Compact (Casino) revenue - The Financial Plan includes \$68.1M of Tribal State Compact revenue over the Financial Plan.
 - Increases from \$11.0M in 2020-21 to \$35.0M in 2021-22, and then reduced back to \$11.0M in 2022-23 and 2023-24.
 - \$35.0M in year 2021-22 represents the estimated cumulative outstanding balance of \$24.0M from previous years.
 - In November 2019, the U.S. District Court of Western New York upheld the decision that the Seneca Gaming Corporation wrongly withheld \$255.0M in casino payments to NYS
 - The City’s estimated outstanding amount is \$24.0M
 - It is unknown when the Seneca Gaming Corporation will make payment

- NYS AIM – The City included \$62.3M in increased NYS AIM over the three out-years of the Financial Plan.
 - Estimated to be reduced by \$23.2M in FY 2020-21 to \$129.0M, increasing \$10.0M to \$139.0M in 2021-22, increasing \$10.0M to \$149.0M in 2022-23, and increasing \$12.3M to \$161.3M in 2023-24.
 - Increases are contradictory to the NYS Enacted budget, which includes reoccurring \$8.0 - \$8.2B in local assistance reductions over the four years of the Financial Plan

Mr. Link noted AIM was deferred from the City and several other municipalities in June 2020; no timeframe has been provided for disbursement.

- Sales tax is estimated at \$71.4M in 2020-21 and increasing by \$23.5M, or 32.9 percent, to \$94.9M in year 2023-24
 - It is unknown when, or if, sales tax collections will resume to pre-pandemic levels in the near-term
 - Reduced by \$18.4M, or 20.5 percent, between 2019-20 and 2020-21 due to COVID-19 Pandemic
 - Estimated to rebound in 2021-22 and increase by \$19.8M, or 27.7% to \$91.2M.
 - An increase of \$1.9M to \$93.1M, or 2.1% in 2022-23
 - Followed by an additional \$1.8M, or 1.9%, increase in 2023-24 to \$94.9M
- Both the school zone camera and school bus camera revenue programs are untested and should be closely monitored. The Financial Plan should be adjusted as needed
- No other substantive changes reflected in revenues

Estimated Expenditures over the 2021-2024 Financial Plan

	2020-21 Adopted Budget	2021-22	2022-23 Projection	2023-24
Departments	\$	\$	\$	\$
Police	86,053,364	84,406,090	87,231,787	87,988,817
Fire	63,079,032	62,579,611	65,813,652	67,327,090
Public Works	30,653,472	28,237,877	31,617,139	32,162,054
All other departments	57,798,066	49,908,517	58,945,447	59,417,977
Total Departmental	237,583,934	225,132,095	243,608,025	246,895,938
General Charges				
Fringe Benefits	153,864,003	145,862,124	151,262,397	156,091,983
Health Insurance	84,724,515	84,489,181	87,575,256	90,202,514
Pension Contributions	41,833,000	41,268,479	41,805,583	43,495,459
Salary Adjustment	4,935,222	3,381,498	3,381,498	3,381,498
Freeze Adjustment	-	(6,000,000)	(4,500,000)	(4,500,000)
All other fringe benefits	22,371,266	22,722,966	23,000,060	23,512,512
Utilities	16,644,947	15,657,968	15,671,120	15,684,403
Fringe Personal Services	6,000,000	3,620,000	3,692,400	3,766,248
All other General Charges	4,542,500	4,167,500	4,167,500	4,137,501
Total General Charges	181,051,450	169,307,592	174,793,417	179,680,135
Interfund Transfers Out	100,915,160	123,085,160	97,816,536	97,789,942
Total Budget	519,550,544	517,524,847	516,217,978	524,366,015

The following Financial Plan changes were highlighted :

- Total expenditures are projected to increase \$4.8M, or 0.9%. The largest component of expenditures is departmental costs and are budgeted to increase by \$9.3M, or 3.9%
- Total General Charges are projected to decrease by \$1.4M
- Transfers Out are projected to decrease by \$3.1M, or 3.1%. The projected decrease is based on the decreased amount for repayment for principal and interest on projects
 - Repayment of the principal and interest for \$25.0M deficit note, sold in June 2020, is included in FY 2021-22
 - Departmental and General Charge expenditures are reduced 10-12% in FY 2021-22 to address the repayment of the deficit note
- The withholding of \$19.7M in AIM in 2019-20, and the unknown timing or payment of withheld amount, may negatively impact fund balance

As of June 30, 2019, fund balance totaled \$92.9M as follows:

- Nonspendable/Restricted \$41.4M
- Committed/Rainy Day Fund \$38.5M
- Assigned \$13.0M
- Unassigned \$ 0.0M

Depending on the timing of NYS AIM and if a deficit for FY 2020 is reported, the City may need to draw-down on Assigned fund balance to address the shortfall.

The staffing plan over the Financial Plan is as follows:

	2019-20 Adopted	2020-21 Projected	2021-22 Projected	2022-23 Projected	2023-24 Projected
Police (uniform)	798	798	798	798	798
Fire (uniform)	742	742	742	742	742
Other	1,142	1,134	1,134	1,134	1,134
Citywide	2,682	2,674	2,674	2,674	2,674
Net Increase/(Decrease)	-	(8)	0	0	0

Current staffing levels include 748 full-time equivalent (“FTE”) sworn police officers, 738 FTE firefighters, and the remaining City workforce consists of 1,134 FTEs.

Mr. Link ended his presentation and gave the floor to Ms. Robe for her comments and report conclusions. Hearing no questions Ms. Robe gave opening remarks acknowledging the difficulty the City is facing in making projections during an unprecedented pandemic.

2021-2024 Financial Plan Key Conclusions

- The Financial Plan is not operationally balanced as it relies on speculative revenue to support annual expenditures. The BFSAs are unable to conclude if projected expenditures for FY 2021-22 are reasonable. Uncertain revenues over the Financial Plan are estimated at \$195.4M and include:
 - Federal stimulus funding of \$65.1M (not approved by the federal government)
 - Tribal State Compact revenue of \$68.1M, including \$11.0M in FY 2020-21, increasing to \$35.0M in FY 2021-22 in contemplation of receiving outstanding amounts due in that year, and then reduced to \$11.0M in the last two out-years.
 - Incremental State AIM payments of \$62.3M. The anticipated return to pre-pandemic levels in the year 2023-24 which is contrary to the State’s plan which includes a recurring reduction in aid to localities, ranging from \$8.0-\$8.2B.
 - Sales tax – projected to return to pre-pandemic levels in the Financial Plan’s second fiscal year. The assumption is inconsistent with economic forecasts made by recognized economists. The City did reduce its estimate for sales tax for FY 2020-21 by \$18.4M, or a 20% budget reduction year-to-year.
- Various expenditure projections in 2021-22 have been reduced in response to the maturity and repayment of a \$25.0 million deficit note issued in June 2020. It is unclear what impact, if any, such reductions to operations will have on the provision of services. Additionally, insufficient information was submitted to determine if such reductions are reasonable and if expenditures overall are reasonably projected.

Other Areas of Significance

- The Financial Plan will require close monitoring, including those difficult-to-estimate revenues, as unfavorable budgetary results will result in a decrease to unrestricted fund balance.
 - Unrestricted fund balance at June 30, 2019 was \$51.5M consisting of \$38.5M in the Rainy-Day Fund and \$13.0M of Assigned fund balance
 - The Government Finance Officers Association recommends no less than two months of regular operating expenditures;
 - Two months of budgeted 2020-21 expenditures is equivalent to \$87M with transfers factored in;
 - If transfers out are excluded, two months is equivalent to approximately \$70M.
 - The City is currently under recommended levels and should consider a fund balance replenishment program
 - We specifically recommend school zone camera violations revenue be closely monitored and revisions made to Financial Plan as necessary
- The third year of Financial Plan includes the sale of a parking ramp in the amount of \$13.9M, which is equivalent to 2.6% of projected revenue. Reliance on non-operating revenues for normal, recurring operating expenditures could be problematic as a change in estimate or timing would result in a budget gap that would require gap closing measures
- The City may be underestimating fire department overtime. The 2020-21 Adopted Budget is less than what is projected for 2019-20 by \$2.9 to \$3.2M
 - Inability to significantly alter the incurrence of overtime expenditures would have a significant impact on the City's financial results
 - BFSA recommends the City closely monitor this area and modify the Financial Plan as necessary
- Various unanticipated revenue shortfalls and expenditure increases could occur due to the unknown economic impact of the COVID-19 pandemic
 - BFSA recommends the City monitor financial operations closely and develop a revised Financial Plan as necessary
 - Such plan should be developed with sufficient time to react without incurring widespread reductions in services
- There is a continued reliance from transfers in from the Parking Fund to fund the general operations of the City
 - Projected at \$24.2M over the Financial Plan
- The City is maintaining its contribution to the District of \$70.8M annually
 - The District continues to request additional funding
- The City no longer annually subsidizes the Solid Waste and Recycling Fund operations. Based on current projections, the rates charged for services will be adequate to fund operations
 - At June 30, 2019, there was \$18.4M due to the General Fund which is reported as a restriction to fund balance
 - No formal plan has been developed to address the outstanding receivable in the General Fund
 - The City has indicated cash surpluses will be applied against the outstanding receivable

Secretary Pro Tem Floss acknowledged the difficulty with making projections and his concern with the City's cashflow. Ms. Robe stated the liquidity of the City has been cited as a strength based on annually issued bond rating reports. The reports consider the combined cash flow of the City and the Buffalo City School District ("BCSD"). The City does rely on the combining of cash to navigate periods of cash needs. Secretary Pro Tem Floss noted withholding NYS AIM assists NYS with its cashflow and has a counter effect on the City's cashflow. Ms. Robe commented BFSAs staff reviews the City cashflow report and believes it will be beneficial to share the report at a future meeting.

Chair Olsen stated the BFSAs is statutorily required to consider conservative financial criteria when evaluating financial plans and fully recognizes the difficulty the City Administration ("Administration") faces producing an appropriate budget under these unprecedented circumstances and financial challenge while at the same time, not compromising City services. The BFSAs Board is applying the criteria as established in the BFSAs statute. The BFSAs could be used as a fall-back for seeking additional funding in case current revenue assumptions are inaccurate.

City Commissioner of Finance, Ms. Donna Estrich, stated the Administration is closely monitoring federal and state legislation in addition to find more ways to improve efficiency. Cashflow is being closely monitored. Chair Olsen noted that the rates were not increased in this Enterprise Fund to make sure services are provided to residents. Ms. Estrich stated taxes were not raised to the tax cap due to the difficulty it would place on residents and noted tax payments for July 2020 are equal to the amount collected for July 2019.

Hearing no other comments, Chair Olsen advanced the agenda to consider a resolution related to the review of the City's final 2021-2024 Financial Plan. The resolution recognizes the unprecedented nature of the COVID-19 pandemic and the uncertainty of its financial impact. The resolution states the BFSAs determines the Financial Plan does not comply with the BFSAs Act. The resolution requests that in order to avert a severe disruption of essential services, NYS authorize special legislation to issue bonds to finance the City's operating deficits for fiscal years 2021 and 2022, not to exceed \$121.0M. This request is intended to be contingency against any future revenue shortfalls and does not preclude the City from pursuing special legislation. The BFSAs Board would continue to work with the City Mayor and the City Comptroller to determine the most cost-efficient way to issue bonds. If deficit financing is required in out-years three or four, the BFSAs would request additional authority at that time. The purpose of the resolution is not to challenge the City's budget, but to maintain BFSAs's statutory requirements and provide the greatest flexibility assisting the City with these issues.

Secretary Pro Tem Floss made a motion to approve the resolution.

Chair Olsen seconded the motion.

Secretary Pro Tem Floss stated that keeping important City services intact for the citizenry is of the utmost importance to the BFSAs. The BFSAs Act provides the flexibility to be able to step in and assist if needed.

Ms. Estrich asked for the clarification if the resolution applies to the City budget or the ability to borrow. Chair Olsen stated the resolution addresses both issues as it will allow for borrowing and deems the Financial Plan unbalanced. Ms. Estrich stated the Mayor will abstain from the vote.

Chair Olsen asked Secretary Pro Tem Floss to call the vote:

Chair Olsen – aye
Interim Vice-Chair Jurasek – aye
Secretary Pro Tem Floss – aye
Mayor Brown (Proxy Estrich) - abstain
County Executive Poloncarz (Proxy Swanekamp) – aye

The resolution did not pass with a 4-1 vote.

Chair Olsen asked for a second resolution, that would allow him to forward the result of the vote of the previous resolution, stating that it is being forwarded without the required majority approval considering the extraordinary challenges the City is facing. He requested a motion.

Secretary Pro Tem Floss made the requested motion.

Interim Vice-Chair Jurasek seconded the motion.

Chair Olsen read the following resolution:

RESOLVED, that pursuant, to BFSAs Act §3857, subd. 2(e), the Executive Director shall transmit copies of 1) the foregoing Resolution, with the notation that it failed because, the Mayor having abstained, it received four favorable votes and did not receive the five favorable votes required for BFSAs to take any action, 2) the City's approved budget and financial plan, 3) the Mayor's letter of June 30, 2020, and 4) BFSAs's staff report to the Mayor, the State Director of the budget, the State Comptroller, the Chair of the Assembly Ways and Means Committee, and the Chair of the Senate Finance Committee.

Chair Olsen stated the resolution is approved and will take effect immediately.

Hearing no questions, Secretary Pro Tem Floss called the roll for a vote:

Chair Olsen – aye
Interim Vice-Chair Jurasek – aye
Secretary Pro Tem Floss – aye
Mayor Brown (Proxy Estrich) - aye
County Executive Poloncarz (Proxy Swanekamp) – aye

Privilege of the Floor

Chair Olsen extended thanks to the Mayor and Ms. Estrich for working closely with the Board and then opened the floor for public comment.

Hearing no comments Chair Olsen asked for a motion to adjourn.

Adjournment

Secretary Pro Tem Floss made the requested motion.

Ms. Estrich seconded the motion and thanked everyone for their assistance and support.

The meeting adjourned by consensus at 5:01 PM.