ERIE COUNTY LEGISLATURE

92 Franklin Street - 4th Floor
Buffalo, New York 14202

MINUTES

Citizens' Budget Review Commission meeting
Wednesday, September 18, 2013 at 3 p.m.

I. Call to order
The meeting began at 3:06 p.m.

PRESENT:
Willie Price
Gregory Olma
Edward Kumrow
Michael Otto
Scott Bylewski
Michael McFarlane
Thomas Earl Webb
Laythanette Shine
Jennifer Diagostino
Tim Callan
Jeremy Toth
Greg Gach

ABSENT:
Joseph Winter
Robert Mueller

II. Approval of minutes from Meeting #2
Motion was made by Thomas Earl Webb to accept the minutes with the addition of a full list of the members who were present. The motion was seconded by Michael McFarlane. The minutes were approved unanimously.

General discussion (not on the agenda)

- Scott Bylewski: We have our commission's report due by October 15th. There are no previous annual reports from the Commission. Should we meet around when the BMRs are coming out? What is our power of compulsion if there's failure to deliver on reports? BMRs are complete up to July. Given our timeline of October 15th, when can we expect more up-to-date information?
- Tim Callan: August BMR should be done by the beginning of October. I don't know what information the Commission wants. I'm not sure what you would put in a report. I don't know what you would want it to say.

- Michael Otto: Is there a BMR for each department?
- Tim Callan: No, it's overall for the County.

- Michael Otto: We want to break out, here are the mandated pieces, here are the non-mandated pieces, this is what we recommend. On the non-mandated pieces, it would be looking at the data and seeing, for example, what departments have overtime as a problem, we can talk about that.
- Greg Olma: I suggest we follow the agenda. This is on the agenda for later in the conversation.

- Michael McFarlane: How do we propose changes to the agenda? Just continuing to review BMRs is not super helpful if we want to accomplish a report by October 15th.
- Scott Bylewski: We're mandated and empowered to give a report, and it's important to take the time to do it to figure out how we can do this better next year. We're only appointed to the commission for a year. Greg Olma makes a good point about following the agenda, but we have powers and duties we're supposed to take care of and handle, and maybe after we take a look at some further data, maybe we can figure out if there's more things we can do.

- Michael McFarlane: This is our only meeting before October 15th, so I'm concerned.
- Scott Bylewski: We can meet again before then if we want. I would like us to have a report that the Commission agrees on, and obviously we don't have a draft right now.

III. Discussion of recent Budget Monitoring Reports

Tim Callan, Deputy Director of Budget & Management:

- Not really useful to go over the June report. Right now, we have a positive variance. Sales tax revenue is still going up, but not as much as we had budgeted for. The July BMR doesn't include back to school shopping. In October, we'll get additional back from the state, so we'll know more then.
- As you can see on the salary line, there's a $3.5 million positive variance on salary. Positive variance on salaries is offset by significant overtime expenditures. Health, Correctional Facility, and Jail Management are significantly over budget. Jail Management is estimated at $2.5 million over budget by the year's end.
- Safety Net programs are constitutionally offered by the state to fill in the gap for TANF and other public assistance programs. Our Safety Net caseloads in Social Services are significantly up, and the Legislature arbitrarily reduced budgeting for that. (Pg 11 – Safety Net assistance) By July, Safety Net Assistance is $2.5 million over budget. It's a significant driver of next year's budget.
- Those are really the biggest issues in the July BMR. It does not include $705,641 we'll have to repay to FEMA from the 2006 October storm. That was disallowable expense allocated too late by the Legislature. Fortunately, due to the intervention of Sen. Schumer, we don't have to pay the full $48 million back. Also, the money owed to FEMA will come from the $720,000 efficiency grant surplus money was given to the County by the Control Board from their fund balance to use as see fit, which will be offset by the FEMA payment.
- Last Thursday, the County Legislature unanimously approved two contracts for CSEA nurses and the Sheriff PBA to get their salary and benefits up to what is comparable at places like Kaleida to deal with some recruitment problems we've had that resulted in significant overtime problems. The Legislature also voted to settle contract with Police Benevolent Association. Was not out of the range of what other arbitrators are getting in other places, and is less than some of the contract settlements in Long Island and the Hudson Valley. We will use some of the appropriated fund balances at the end of the year to account for those.
- We're holding a block of $1.45 million spending in County Division of Highways with transfer tax surplus money to do that work without affecting the positive variance.

- Michael McFarlane: Is funding blocks one of the things we should look at in terms of what's working well?
- Tim Callan: Our biggest problem is that we have a Legislature that's not willing to go for recurring funding sources (i.e.: raising property tax) but aren't willing to cut down on spending in any real way, either, so we have recurring cost sources going up. There are measures with staffing that have addressed some intermediate cost-savings (health care contributions of employees, summer hours, etc.), but haven't dealt with long-term issues in the 4-year plan.

- Scott Bylewski: Are there any other revenue issues that are things we should really look at further?
- Tim Callan: To a much smaller extent, but still a significant expense, every single one of the county's top property owners are challenging their assessments at the towns. (National Fuel, National Grid, Ciminelli, Benderson, Wegmans, Tops, CSX, NRG, etc.) The county is not a plaintiff, it's the towns and school districts, but the county can be an intervener. It's not reflected in the BMR, it depends on how it goes in State Supreme Court.

- Scott Bylewski: The County Attorney's office can't comment on that, can they?
- Jeremy Toth: I'd encourage you to have an outside conversation with the counsel, but we're not going to talk publicly about ongoing litigation.

- Scott Bylewski: Ok, that's on the revenue end. What about on the spending end, apart from the Safety Net and the overtime?
- Tim Callan: Safety Net program is significant. CSEA has rejected two offers from the Poloncarz administration, and the rank and file has overwhelmingly rejected paying for health insurance.

- Greg Olma: There's a lot of negative in that contract for the average worker. I can see how that would be voting down. It may be good for your numbers, but the workers have calculators, too.
- Tim Callan: If you talk to employees outside DSS, they voted for the second contract. The DSS workers are driving the opposition. It's not sustainable to have a system where an entire county workforce doesn't pay anything at all for their health care. We continue to see state reduction in funding for services, like the crime lab, which is increasing the county's share. The state has reduced 100% of the funding for criminal investigations, which the county has had to take on entirely. Meals on Wheels and Senior Nutrition Sites have been cut significantly to Erie County, based on the 2010 census, and we've taken on those costs as well. Another one is day care, if we want to continue the program at current levels, the county share has to go up. Each individual program may only be a few hundred thousand or a million dollars, but it adds up quickly.

- Greg Olma: What are you looking at here? A drag of up to $10 million?
- Tim Callan: We have a multi-million dollar deficit for next year's budget. If we're not willing to vote for an increase in revenue, and sales tax isn't going up the way we thought it would, then the Legislature needs to be willing to make real cuts, not phony cuts. (Because if you cut things that are mandated by the state, you still have to pay for it in overtime.) We're mandated by the state to have 30 new positions in Jail Management. It's going to cost us for more than $100 million next year in jail management. It's out of control.

- Greg Olma: And that's not including lawsuits?
- Tim Callan: Not including lawsuits.

- Thomas Earl Webb: Does that include the Correctional Facility?
- Tim Callan: Yes.

- Michael McFarlane: Are there good stats showing negative variances because of the Giambra decisions re: jail/correctional facility many years ago that we can use in our recommendations?
- Tim Callan: Jail Management is a convoluted, complicated thing. None of these problems are new. Management, scheduling, overtime, contracts/bargaining units. It's all part of a bigger problem. Certain progress has been made by transferring the city cell block back to the city, which happened last year. The position of the Budget Office is that if current revenue is not keeping up with the current expense, then something needs to be cut. And the Legislature is not willing to do that.

- Michael McFarlane: Request to explain some of the property tax numbers.
- Tim Callan: Line 466060 (page 2 of 11) is re: foreclosure.

- Greg Olma: How is that working this year compared to previous years? Any sign of weakness?
- Tim Callan: I'm not aware of any problems with that. Coming in at the usual rate.
- Greg Gach: We see an uptick in uncollected, but it's slow and small. Mostly has to do with school levies going up even though the county hadn't. So it's a small percentage on $600 million but that adds up.

- Michael Otto: Workers Comp on page 8? There's a $5 million gap there.
- Tim Callan: It's a timing issue on disbursement. We had a large workers' comp settlement earlier this year, but we have a team working to minimize fraud and abuse. We've had a couple of cases of one-time write-offs, but it generally has been handled well.

- Jeremy Toth: Hamburger and Weiss handles it as an outside firm. They could come in if people want to talk about it.
- Tim Callan: Fringe budgets will not be as big of an increase in 2014, and between that and cost containment by Independent Health, particularly in the pharmacy work, has been helpful.

- Jennifer Diagostino: When you say "aggressive containment" of things like workers' comp and health care benefits, I hope you mean reducing overpayment and abuse, and not reduction of benefit and quality for the workers.
- Tim Callan: Yes. Things like using generic equivalent of name brand drugs, etc. Everyone still gets the same benefits they are supposed to get.

- Scott Bylewski: Will the Affordable Care Act affect costs in 2014?
- Tim Callan: We're at risk for being hit by the tax in 2015 because we offer such a good benefit package for our workers. We're working on trying to avoid that, but can't share details about it. Another impact will be whether we have to pay benefit for our part time employees. Intergovernmental transfer payments to ECMC will be a positive in general, with increased Medicaid coverage, but it's theoretical right now and we don't know what will happen with that in the future.

- Edward Kumrow: Have you changed the way you monitor grants, when you see the share of county spending growing to figure out what's happening?
- Tim Callan: Yes. We're going to see a negative impact of that [federal and state money decreasing, increase in county share]. We are going to have to make some hard decisions about what to do about those positions. But who do you not want to fund in the budget? Criminal investigators at the DA's office? The crime lab? Domestic abuse victim caseworkers? Senior dining, and those seniors otherwise don't eat? It's hard.
- Edward Kumrow: Maybe the mission of some of these grants should not be what the government should be providing. As long as you're aware and can see the county share go up…

IV. Discussion of recent sales tax numbers

- Greg Gach, Deputy Comptroller: Sales tax went up. Has grown by $6.2 million over seven months, 27%. Last year at this time, August to December 2012, only grew about 1.2% even with school and Christmas shopping. It's a crapshoot with sales tax. If sales tax continues to grow at only 2.7%, we'll be under budget by $7 million.
- Tim Callan: We won't know the quarterly reconciliation until October 10th, so it will be too late for next year's budget.

- Michael McFarlane: Is there a big-level message you want our commission to entertain for our recommendations?
- Greg Gach: It's a hard nut to crack. Sales tax is almost double what property tax is, but be very, very conservative in what you're expecting. The economy really hasn't come back from the recession.

- Scott Bylewski: On the expense side?
- Greg Gach: In terms of the job cuts, we can't cut many more unless the county decides it wants to get out of certain businesses.

- Tim Callan: DSS must have appropriate staffing in order to avoid litigation bring reopened, such as the Martin v. Weiner case.
- Greg Olma: And then if you cut stuff you end up with bad situations like that woman whose family killed her after Adult Protective Services was cut. It seems like people want to pay for Sheriffs out in the suburbs and nothing else.

- Scott Bylewski: Outside salary issues, Safety Net, Corrections, are there anything that the Comptroller's office thinks we should be looking at?
- Greg Gach: We're saving all kinds of money through the authority of our office. Quite frankly, this is the same thing that happened in the '80s, the '90s, the '00s. Nothing really changes. There's always that fight between the things that people want and need and what they are willing to pay. We're at the mercy of the market and sales tax because of the way we set ourselves up.

- Michael Otto: Development at the harbor, from a tax perspective, what's the deal?
- Tim Callan: They've all got inducements, PILOT projects. We won't get property tax from that.

- Michael Otto: And what about sales tax?
- Tim Callan: Some of them get sales tax inducements, too.

- Michael Otto: What about hotel tax?
- Tim Callan: We're getting some modest growth on the hotel occupancy tax, but we're not really seeing this massive growth of hundreds of thousands of dollars in hotel occupancy tax revenue. Is it just that people are moving from one hotel to another with vacancies?
- Greg Olma: We're just splitting it smaller amongst different hotels. Nobody's building super large hotels, so we're not going to get a growth in conferences coming here or anything.

- Ellen Przepasniak: There were some questions about IDAs and PILOTs at the last meeting, but it was hard to find one person to speak to that. Rich Tobe might be able to, but he was not able to come today. Maybe we could bring him and someone from the Real Property Office at the next meeting.
- Tim Callan: I don't think that PILOTs are our real problem.
- Scott Bylewski: If the Commission wants to be educated about it, we would like to bring someone in to talk more about PILOTs and their impact. I propose that if next BMR will come out October 6th, the Executive Committee should meet on the 7th, then the full Commission meets on the 9th and ready to go.

- Edward Kumrow: The BMR is not going to change much, unless the sales tax goes up.
- Tim Callan: We won't know the sales tax until Oct 10th.
- Scott Bylewski: If we want an annual report on Oct 15th, then what do we do?

V. Explanation of 2014 budget process

Tim Callan: Budget is due by County Charter, based on change made in 2005 by Legislature, on Oct. 15.

- Jennifer Diagostino: If the sales tax revenue comes in after the budget every year, why do we continue to build the budget before we have that data?
- Greg Gach: It used to be November 10, which was after Election Day, so there was a political decision made to have it due before the election.

- Greg Olma: That seems like the kind of recommendation we could be making as a Commission.
- Jeremy Toth: Will find out how changes to the charter need to be made. It might be a referendum, but it could be via a regular Legislature vote if that's how it was initially made.

- Scott Bylewski: Repeated question about meeting after the next BMR before October 15th to put a report together.
- Tim Callan: I still am unclear about what you want to do.

- Greg Olma: Michael pointed out looking at some of the big picture things. The overtime issue, the timing of the budget that's not working, I think that's what we want to.
- Scott Bylewski: I keep going back to the charter to see what we are charged to do.

- Ellen Przepasniak: Just a reminder that the purpose of the Commission is to address the concerns to the County Legislature, which you can do, but it will be after the budget is developed.
- Scott Bylewski: It's part of our charge to make these recommendations. Maybe the Legislature will want to make changes based on what the citizens want.

- Greg Olma: Is the BMR really that important for this process? Maybe the report should take a more readable common sense approach to talk about bigger trends. More analytical, more narrative, visual.
- Michael Otto: If all we're looking at is the county as a whole, it makes it impossible to make these kinds of recommendations. If the Sheriff is $3 million over budget, then that's hidden in the budget. Somehow we've got to get data on the department level to help us identify this stuff. Who's abusing this stuff? Who's doing it because of necessity?

- Scott Bylewski: I don't disagree, but we've got to start somewhere. I have no problem trying to identify that level of detail, if there's an issue you want to hone in on, that would be a good one to try to deal with. But we can't do them all.
- Michael McFarlane: I think we're all saying the same thing in different ways. We have some big ideas, high-level things we can talk about with the understanding that going forward with these BMRs, it's hard for us to clamp down on the problem children in the budget at this level, but there are ways we can get started. Be conservative about making sales tax predictions for next year, etc. There should be some good stuff in the minutes of the meeting.

- Scott Bylewski: The way I'm thinking about it, in good audit practice, you track what those recommendations are. But in the first audit, they have more bigger picture stuff and as they continue on with that engagement, they'll have more and more narrowed pieces they think should be addressed. I can see that happening with the Commission. Next year, what's changed, why hasn't that changed, etc.
- Greg Olma: I agree, but I have to go.

- Ellen Przepasniak: Do we want to keep the Oct 7th and 9th date?
- Scott Bylewski: Yes.
- Ellen Przepasniak: Jenn & I will get the minutes out to people.
- Scott Bylewski: Before we disperse does anyone have anything else?

Jennifer Diagostino made a motion to adjourn and Willie Price seconded it. The members unanimously voted to adjourn the meeting at 4:38 p.m.

The Executive Committee will meet on Monday, October 7 at 3 p.m.

The next full meeting of the Commission will be Wednesday, October 9 at 3 p.m. at the Legislature, 4th floor, 92 Franklin St.