

**MUNICIPAL FINANCE OVERSIGHT BOARD**

**Meeting May 11, 2022**

**(conducted by conference call)**

**MINUTES**

**Board Members Present:** State Auditor Suzanne Bump (Chair), Deborah Wagner (Department of Revenue), Margaret Hurley (Office of the Attorney General), Nicola Favorito (Office of the State Treasurer)

**Non-Board Members Present:** Ben Tafoya (Office of the State Auditor), Hilary Hershman (Office of the State Auditor), Carina DeBarcelos (Office of the State Auditor), George Chichirau (Office of the State Auditor), David Todisco (Office of the State Auditor), Cinder McNerney (Hilltop Securities), Monica Mulcahy (Hilltop Securities), Bill Arrigal (Department of Revenue), Bethiny Moseley (Department of Revenue), Kristy Tofuri (Hilltop Securities), Mark Ianello (Chief Administrative & Finance Officer – City of Lawrence), Ramona Ceballos (Comptroller – City of Lawrence), Perla Ortiz (Treasurer/Tax Collector – City of Lawrence), Bryan De Peña (Mayor – City of Lawrence)

The meeting was called to order at 11:00 a.m.

Auditor Bump made introductory remarks and read a statement noting that, in accordance with Chapter 20 of the Acts of 2021, passed June 16, 2021, and the Massachusetts Attorney General's Office June 16, 2021 guidance, this meeting was being held by conference call. The public meeting notice for this meeting provided a public call-in number to facilitate public access during a relaxation of Open Meeting Law requirements. After the statement was read, Auditor Bump announced that the meeting was being recorded and that Hilary Hershman was acting as Executive Assistant.

Board Member roll call: All members indicated orally that they were present.

**Minutes from April 13, 2022**

Ms. Wagner made a motion to approve the minutes from the last meeting, which was seconded by Ms. Hurley. On the question of approval of the minutes from the meeting on April 13, 2022, the members voted as follows to approve the draft minutes without any changes:

Auditor Bump: YES

Ms. Wagner: YES

Ms. Hurley: YES

Mr. Favorito: voted Present, as he was not in attendance at the previous meeting

## City of Lawrence

Auditor Bump invited the Lawrence team to introduce themselves. Mr. Ianello, Ms. Ceballos, and Ms. Ortiz introduced themselves before the Board. Auditor Bump asked if there were any representatives from Hilltop in attendance. Ms. Tofuri replied that she, Ms. McNerney, and Ms. Mulcahy are representing Hilltop for the City.

Mr. Ianello then spoke about the current application, which concerns the Leahy Elementary School, a \$102 million project. The MSBA is expected to fund approximately 55% of the project, with the city's share at roughly \$40 million, which the City intends to borrow before the end of next month. The City is asking for \$50 million, to be safe in the event of cost overruns.

The school capacity will be about 1000 students, yet the school currently houses 500 students. The project is a complete teardown and rebuild, to be completed in 2025. The bond authorization was originally presented as a debt override to voters, which failed. Fortunately, the City received \$57.3 million in ARPA funds, which normally cannot be spent on construction activities. The City has unusual circumstances, because of settlement proceeds from the Columbia Gas Company that came in 2019. When the City calculated its revenue loss under ARPA regulations, their revenue loss actually exceeded the entire ARPA funding of \$57.3 million, since they had a revenue loss of \$86 million (because the Columbia Gas proceeds were included in that calculation).

In brief, this enabled the City to move some of its general fund expenditures over to the ARPA Fund. The City plans to transfer \$33 million in Cherry Sheet tuition assessments to the ARPA Fund before the end of the year. This will create a \$33 million free cash position on the City's FY 2022 books. Mr. Ianello stated that it is likely that the same will be done for the next fiscal year. That should use up the ARPA funds.

When the Lawrence City Council approved the Leahy School, as well as the Oliver Partnership School and the station from Lawrence's January 2022 MFOB request, Mr. Ianello expressed to the councilors that the City cannot afford the projects without using free cash. Due to the reallocated ARPA funds, the City is able to use more free cash than anticipated for the projects. The City plans to allocate free cash to the Leahy School project for 12 years. Their base debt service budget will go back to normal by 2032. From 2023 to 2032, the City plans to use approximately \$20 to 25 million in free cash to subsidize the general fund operating budget for debt service. He stated that Columbia Gas "blew up half our City," but it enabled them to use ARPA funds to get the two new schools.

The City has a very healthy free cash position at present of approximately \$6 million, and they expect to add to that with general operations revenue. Mr. Ianello reiterated that the big increase will be when they move the City's Cherry Sheet assessment to the ARPA fund, which will create an approximately \$33 million addition to their free cash position.

Auditor Bump invited Board members to comment. Mr. Favorito asked Mr. Ianello if ARPA money can be used for debt service only for the stated project or in general. Mr. Ianello responded that they are turning their ARPA funds into free cash. The ARPA funds will be used for their Cherry Sheet assessment, which will increase their free cash position. Free cash can be used for debt service, unlike ARPA funds. Ms. Wagner clarified that the revenue loss portion of ARPA funds can be used for any governmental purpose.

Auditor Bump welcomed Mayor De Peña to the meeting. Mayor De Peña complimented the City team on their management. Auditor Bump congratulated the team on how well things are going.

Ms. Wagner then moved to approve the application of the City of Lawrence. Mr. Favorito seconded the motion. A call of the roll was made as follows:

Auditor Bump: YES

Ms. Wagner: YES

Mr. Favorito: YES

Ms. Hurley: YES

### **Ms. Hurley's Proposal to Establish Limits on the Lifespan of Local Authorization Votes**

Auditor Bump asked Ms. Hurley to lead the discussion on her proposal to the Board. Ms. Hurley thanked the Board for considering the proposal, as its conception was prompted by a community's application at last month's MFOB meeting. According to her, the community's authorization vote was outdated by a decade. Conversely, the Lawrence application the Board saw at today's meeting had a City Council vote from February 2022. The recentness of the City Council vote is what Ms. Hurley wishes to see in all MFOB applications.

Ms. Hurley suggested that the Board can talk about a potential limit on how many years an authorization vote should hold. She stated that for cases in which there is an outdated original authorization for borrowing and pursuing the State Qualified Bond avenue, the Board could create a mechanism within the application to ensure that the current municipal administration was approving the state qualified bond application. In her view, a municipality's current executive branch should affirm that the application for qualified bonds is a good way to proceed, since the financial picture can change quickly in a few years. Ms. Hurley sent suggested language to Ms. Hershman and Mr. Tafoya very late, but suggested that the Board could reconvene at the meeting to discuss further.

Auditor Bump asked if Ms. Hurley's proposed draft had been forwarded to her. Ms. Hershman stated it had not been forwarded to the Board members. Mr. Tafoya added he forwarded an email to Auditor Bump this morning with the information. Auditor Bump stated that she doesn't see where the changes are being made to the Board application.

Auditor Bump then reiterated Ms. Hurley's concern, to make sure she understood correctly. Auditor Bump stated that in her view, an application has the support of the current administration for Qualified Bond Program participation to come before the Board with an application. Ms. Hurley stated that the MFOB statute states that there needed to be approval by a mayor, city council, select board, regional school committee, etc., but it doesn't state *when* the approval needs to take place. Brockton's vote was years before they came before the MFOB. Auditor Bump then asked Ms. Hurley if it was the state qualified bond vote or the bond authorization that was made years ago. Ms. Hurley replied that, the municipal vote often consists of a combination of two authorizations – a borrowing authorization and an authorization to apply for Qualified Bonds. Brockton's outdated vote authorized the borrowing and also authorized the pursuit of an application to the Qualified Bond Program.

Mr. Tafoya added that Brockton's Qualified Bond and borrowing authorizations were made in 2015 – seven years prior – but they were authorized two mayoral administrations ago. He added that he

understands that the Board may be concerned about particular circumstances where local leaders change.

Auditor Bump asked Mr. Favorito for his opinion. Mr. Favorito asked about the time frame that Ms. Hurley had in mind, and if the change would be a policy or statutory change. Ms. Hurley replied that there have been some votes that were conducted after a new mayor has taken office. She thought that the cover letter to the application should be changed, to make sure that the current administration approves it: for example, adding an extra line to reflect the approval of the current executive. Mr. Favorito asked if this could be done at this level, as opposed to a statutory change. Ms. Hurley said yes, that this would not be a legal necessity, but, given the broad investigatory powers of the Board, they could do as suggested. Mr. Favorito said he was open to the concept but would like to run it by the Treasurer and staff involved with bonding at the Treasury level. He can imagine situations where market forces or other changes in project needs could delay applications coming before the Board. He does not know how that comes into the thought process.

Auditor Bump asked Ms. McNerney about the time sequence in preparing an application – if Hilltop prepares materials before an authorization vote, or vice-versa, and if there is a period of time between a vote and application preparation. Ms. McNerney answered they usually work at the outset when a community is thinking of authorizing a project, because they know if a community would likely want to use the state Qualified Bond Act. Ms. McNerney and her team would also ask bond counsel to include the language in the form of vote that is authorized. In the case of Brockton, the City used the rest of their authorization earlier, but a remaining \$430,000 were to be used later to finish or add to existing work. In many cases, once the Board authorizes use of the State Qualified Bond Act, a municipality will issue short-term notes.

She added a comment on the timing – if you have to go back to the mayor or the city council to reapprove what a prior administration had already approved, it could be time-consuming. From the perspective of the community, it's not controversial. Ms. McNerney understands why the state might solicit an explanation why a long interval has passed between the authorization and the application, but it would be cumbersome for the community to get it re-approved. It may take longer than usual to get a project done, and some communities may have BANs maturing close to the MFOB vote. If that occurs, Hilltop would be inclined to sell a small piece instead of trying to get the debt reapproved.

Ms. Wagner stated that she wondered if adding a caveat that a community has to re-vote to seek State Qualified Bonds would cause instability or added controversy. Ms. McNerney answered she does not think it would add concerns, but it would impact project scheduling. In Brockton's situation, the City had notes maturing on June 17, 2022 and needed to get into the market before that the feds meet on June 14 and 15. A re-vote would probably result in their issuing the debt non-state-qualified; they would keep it as a note and roll it for 10 years. From a city's perspective, it can get complicated if they leave a project out of their original authorization.

Ms. Hurley added that Ms. McNerney provided a good solution to the issues that were raised; she did not want to create barriers to the program. Ms. Hurley suggested that the Office of the State Auditor could look at bond authorization dates in applications and can ask for an explanation of why an application is delayed. Ms. Wagner and Mr. Favorito agreed. Auditor Bump stated that they now have consensus on this position and left it to Ms. Hershman and Mr. Tafoya to examine this component for future applications.

### **Long-Range Municipal Fiscal Stability**

Ms. Wagner stated that her office conducted a free cash training webinar on April 26 with an attendance of about 200, and a webinar is upcoming on June 8 for certification of excess and deficiency funds for regional school districts. She stated that training needed to be done due to turnover in finance positions across the state. They are also revamping some of their processes to make them less labor-intensive for communities. DOR plans to integrate Excel forms into their Gateway website to reduce data-entry redundancy. The hope is to have the process completed by the end of the summer.

### **Updates and Topics for Next Meeting**

Auditor Bump asked if there are upcoming applications for June. Ms. Hershman answered she is not aware of any. Auditor Bump added she will keep the Board posted if a meeting will occur in June.

### **Adjournment**

Ms. Wagner made a motion to adjourn, which was seconded by Mr. Favorito. A call of the roll was made with the votes as follows:

Auditor Bump: YES

Ms. Wagner: YES

Ms. Hurley: YES

Mr. Favorito: YES

The meeting was ended at 11:42 a.m.