

Minutes

Buffalo Fiscal Stability Authority

September 8, 2004

A meeting of the Buffalo Financial Stability Authority (“BFSA”) convened at 1:13 p.m. in room 101 of the Buffalo Convention Center in Buffalo, New York. The meeting was convened by a Notice of Meeting sent to the Directors by Chair Baker and announced to the public and press.

Directors present: Baker, Faso, Masiello, Stenhouse, Tobe, Townsend and Wilmers

Directors present via
Conference phone: McCall (not authorized to vote)

Directors Absent: Giambra

Staff Present: Johnson, McPherson, Mitchell, Santos, Stefko, Tocker

Others: Nancy Winkler, *Managing Director*, Public Financial Management

Opening Statement

Chair Baker announced roll call of Directors, and made a few remarks noting the day’s agenda.

Approve Minutes

The Directors voted to approve Resolution 04-88 to approve the minutes of the July 21, 2004 meeting and to ratify resolutions numbered 04-73 – 04-87. Motion by Wilmers second by Stenhouse. Vote 7-0 to take effect immediately.

RESOLUTION 04-88

APPROVING MINUTES AND RESOLUTIONS FROM JULY 21, 2004.

BE IT RESOLVED that, the Buffalo Fiscal Stability Authority approves the minutes of its meeting of July 21, 2004 and ratifies and affirms the resolutions numbered 04-73 through 04-87 that were approved on July 21, 2004.

Contract Approval Policy

Executive Director Dorothy Johnson commented on a proposal to revise the contract approval process that was put forth for action by the Directors. Subsequent to Johnson’s introduction some suggested revisions to the proposal, including the designation of two specific board members to approve contracts valued at between \$50,000 and \$200,000, an option to hold requests for Board meeting approval and the addition of a competitive bidding monitoring process. Chair Thomas E. Baker announced that the new process

would raise the dollar limit for those items coming to the full Board of the BFSFA for approval or disapproval of contracts from \$50,000 to \$200,000. The BFSFA will continue to act publicly to approve or disapprove all labor and collective bargaining agreements and contract, regardless of value. The emergency approval process would not be affected by the proposed changes.

The Directors then voted to approve Resolution 04-89 to approve a new approval process for contracts, settlements or other obligations binding or purporting to bind the City of Buffalo and other Covered Organizations incorporating the suggested changes. Motion by Wilmers second by Faso. Vote 7-0 to take effect immediately.

RESOLUTION NO. 04 - 89

APPROVING A NEW APPROVAL PROCESS FOR CONTRACTS, SETTLEMENTS OR OTHER OBLIGATIONS BINDING OR PURPORTING TO BIND THE CITY OF BUFFALO AND OTHER COVERED ORGANIZATIONS

WHEREAS, Chapter 122 of the Laws of 2003 as amended by Chapter 86 of the Laws of 2004 authorizes the Buffalo Fiscal Stability Authority (“BFSFA”) to review and approve or disapprove contracts or other obligations binding or purporting to bind the City or any covered organization; and

WHEREAS, Chapter 122 of the Laws of 2003 as amended by Chapter 86 of the Laws of 2004 permits the BFSFA to review and approve or disapprove the terms of any proposed settlement of claims against the City or any covered organization in excess of \$50,000.00; and

WHEREAS, in order to carry out the mission of the BFSFA, the BFSFA reviews contracts or other obligations in excess of \$50,000, though the BFSFA Act provides no limitation for contracts or obligations; and

WHEREAS, pursuant to BFSFA Resolution No. 03-78, the BFSFA provided an emergency contract review process utilizing the concurrence of at least two BFSFA Directors to approve contracts or other obligations prior to the next scheduled BFSFA meeting; and

WHEREAS, in the interests of expediting the contract approval process and focusing the BFSFA Directors on larger value contracts, the BFSFA Staff has suggested that the current review and process be revised;

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority (BFSFA) hereby authorizes the following process for the approval of contracts or other obligations binding or purporting to bind the City of Buffalo or other covered organizations, including settlements of claims and hiring freeze waiver forms. The process shall be as follows:

1. Any contract, settlement or other obligation binding or purporting to bind the City or covered organization with a value of \$50,000 or more will be reviewed and approved by the BFSA before it becomes effective. The request must be in writing; from the Mayor on behalf of the City, from the Superintendent or Board President on behalf of the School District, from the Executive Director or Board Chairman on behalf of the Buffalo Municipal Housing Authority and the President or Chairman of the Buffalo Urban Renewal Agency. Such request shall be submitted to BFSA with a completed standard contract approval request form, as such may be developed by the BFSA Staff, and shall include all required authorizations prior to submission to the BFSA, along with any additional supporting information that may be required. No request will be considered absent a written request and completed form.
2. Upon meeting the above conditions, all contracts, settlements or other obligations binding or purporting to bind the City or covered organization will be reviewed by BFSA Staff. Regarding those with a value of \$50,000 or more but less than \$200,000, the BFSA Staff will make a recommendation regarding the request to the BFSA Chair and Vice Chair. If one of them is not available, then the Secretary may be consulted. With the concurrence of two Directors, the request will be considered approved. Failure to gain two Director approvals shall be deemed disapproved. BFSA Staff will then notify the requesting organization in writing that their request has been approved or disapproved. Disapproved requests can be resubmitted with additional information to support reconsideration or the matter can be referred to the entire BFSA Board for their consideration. Upon the written confirmation of the approval of two Directors, the request is deemed approved. There will not be a vote to affirm the decision by the full BFSA Board, but the written approval will be provided to all members of the BFSA Board for their information. Matters referred to the entire BFSA Board for their consideration will require an affirmative vote before being considered approved.
3. Unless approved under the process described in paragraph 4 of this resolution, any contract, settlement or other obligation binding or purporting to bind the City or covered organization with a value of \$200,000 or more must meet the same conditions as above, but will be submitted for review and approval by the BFSA Board at the next scheduled Board meeting.
4. In the event any contract, settlement or other obligation binding or purporting to bind the City or covered organization with a value over \$200,000 needs to be approved prior to the next scheduled Board meeting, it may be submitted for emergency review by the Staff with the approving concurrence of at least two Directors. Such request must meet the conditions established in paragraph 1 and must explain why the request should be considered an emergency. Once approved, any contract, settlement or other obligation binding or purporting to bind the City or covered organization with a value over \$200,000 will be placed on the agenda of the next scheduled Board meeting for affirmation.

5. All labor-related items regardless of amount, including collective bargaining agreements, memoranda of understand/agreement and negotiated settlements to grievances will not be eligible for expedited review and must be submitted to the BFSA Board for review and approval at the next regularly scheduled Board meeting.
6. Hiring freeze waiver request forms should also be submitted in the manner described in paragraphs 1 and 2 until such time as the BFSA Board lifts the hiring freeze.

BE IT FURTHER RESOLVED, that BFSA Resolution 03-78 is hereby rescinded in favor of the process outlined herein.

City Issues

Ms. Johnson presented some preliminary facts relative to the City's fourth quarter report and end of year closeout. Final figures will be completed and presented to the Board subsequent to the year-end audit's completion. Dorothy Johnson then stated that due to a State Aid spin-up of approximately \$15.6 million, the City is required to modify its Financial Plan and budget for fiscal year 2004-05. The Directors then voted to approve Resolution 04-90 to approve a budget modification request to modify its Financial Plan and budget for fiscal year 2004-05. Motion by Wilmers, second by Townsend. Vote 7-0 to take effect immediately.

RESOLUTION NO. 04-90

MODIFICATION TO THE 2004-2005 FINANCIAL PLAN TO INTERCEPT \$15.6 MILLION IN UNRESTRICTED STATE AID FOR BFSA DEBT SERVICE

WHEREAS, on August 31, 2004 the Mayor of the City of Buffalo submitted a request for BFSA approval for a modification to the 2004-2005 Four-Year Financial Plan, and

WHEREAS, the modification that the Mayor requests is for BFSA to intercept spin-up aid in the amount of \$15.6 million authorized by the State Legislature and divert it to BFSA debt service and operational expenses, and

WHEREAS, the 2004-2005 Four-Year Financial Plan needs funds to cover the debt service on the recent deficit borrowing by BFSA on behalf of the City, in the amount of \$ 3.5 million each year of the financial plan, as well as to cover operating expenses of BFSA of approximately \$1.2 million each year of the financial plan, and

WHEREAS, approving this request would serve to modify the Plan, the BFS still requires a formal direction by the City to utilize these funds beyond the first month of their capture, and

NOW THEREFORE BE IT RESOLVED THAT, the BFSA approves the modification of the 2004-2005 Four-Year Financial Plan to utilize \$15.6 million in unrestricted aid to cover BFSA debt service and operational expenses in 2004-2005, and

BE IT FURTHER RESOLVED THAT, the City of Buffalo present to the Buffalo Fiscal Stability Authority a formal request to retain and deposit the \$15.6 million in unrestricted aid for the purposes directed by the City.

City Contracts

The Directors voted to approve Resolution 04-91 authorizing the City to enter into the eleven contracts listed in Resolution 04-91. Motion by Masiello second by Stenhouse. Vote 7-0 to take effect immediately.

RESOLUTION NO. 04 - 91

AUTHORIZE CITY OF BUFFALO TO ENTER INTO ELEVEN CONTRACTS AND/OR OBLIGATIONS

WHEREAS, Chapter 122 of the Laws of 2003 as amended by Chapter 86 of the Laws of 2004 permits the Buffalo Fiscal Stability Authority (“BFSA”) to review and approve or disapprove contracts or other obligations binding or purporting to bind the City or any covered organization; and

WHEREAS, Chapter 122 of the Laws of 2003 as amended by Chapter 86 of the Laws of 2004 permits the BFSA to review and approve or disapprove the terms of any proposed settlement of claims against the City or any covered organization in excess of \$50,000.00; and

WHEREAS, in order to carry out the mission of the BFSA, the BFSA will review contracts or other obligations in excess of \$50,000, though the BFSA Act provides no limitation for contracts or obligations; and

WHEREAS, the Mayor and other City officials have submitted 11 contracts for approval at the September 8, 2004 BFSA meeting, and have signed the BFSA Remittance Approval Request Form (“RARF”) in which they indicate that there are sufficient funds available for such items; and

WHEREAS, BFSA Staff have reviewed such items and the RARF and recommend approval of eleven (11) such contracts or obligations; and

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority approve and authorize the City of Buffalo to enter into eleven (11) contracts and obligations as listed below:

1. Trautman Associates - fire facilities consultant contract
\$85,560

2. Ferguson Electric - South Park lift bridge construction contract
\$1,424,368
3. Hohl Industrial Services - South Park lift bridge construction contract
\$5,200,000
4. Robert Traynor Coles Architect PC - 60 Hedley Place consultant contract
\$90,000
5. Paul Gallo Contracting - Massachusetts Ave N.O.C. renovation contract
\$370,000
6. Bergmann Associates - traffic signal improvement change order
\$55,425
7. Destro Brothers Concrete - Michigan Ave signal change order
\$70,353
8. Destro Brothers Concrete - Masten Ave traffic signals change order
\$100,000
9. Destro Brothers Concrete - Sycamore/Walden signal change order
\$70,353
10. Foit Albert - Inner Harbor Parking Facility change order
\$144,600
11. Valk Manufacturing - snow plow cutting edges purchase contract
\$84,218

Negotiated Settlements

The Directors voted to approve Resolution 04-92 authorizing the City to enter into three negotiated settlements listed in Resolution 04-92. Motion by Wilmers second by Masiello. Vote 7-0 to take effect immediately.

RESOLUTION 04-92

APPROVE CITY OF BUFFALO TO ENTER INTO THREE NEGOTIATED SETTLEMENTS

WHEREAS, Chapter 122 of the Laws of 2003 as amended by Chapter 86 of the Laws of 2004 permits the Buffalo Fiscal Stability Authority (“BFSA”) to review and approve or disapprove any collective bargaining agreement binding or purporting to bind the City or any covered organization; and

WHEREAS, negotiated settlements between the City and a collective bargaining unit that settles an outstanding grievance are agreements that must be reviewed pursuant to Section 3858 (2)(E) of the BFSA Act; and

WHEREAS, the City has submitted three negotiated settlements for consideration at the September 8, 2004 BFSA meeting; and

WHEREAS, the City has demonstrated that there are sufficient funds to pay the costs associated with implementing the agreements (when costs are incurred) and that the agreements are in accordance with the approved financial plan; and

WHEREAS, BFSFA Staff have reviewed the terms of the agreements and recommend approval of three (3) such negotiated settlements;

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority approve and authorize the City of Buffalo to enter into three (3) negotiated settlements as listed below:

1. Local 17S (James Carrubba) – auto allowance \$3,300
2. Police Benevolent Assoc. – Memo of Agreement (Narcotics/Vice) no cost
3. Local 650 (James Noreck) – RT Overtime 4 hrs/time & a half

Emergency Contract Approvals (City)

The Directors voted to approve Resolution 04-93 to affirm emergency approvals authorizing the City to enter into the five contracts listed in Resolution 04-93. Motion by Masiello second by Townsend. Vote 7-0 to take effect immediately.

RESOLUTION NO. 04 - 93

AFFIRM AUTHORIZATION OF THE CITY OF BUFFALO TO ENTER INTO FIVE CONTRACTS

WHEREAS, Chapter 122 of the Laws of 2003 as amended by Chapter 86 of the Laws of 2004 permits the Buffalo Fiscal Stability Authority (“BFSFA”) to review and approve or disapprove contracts or other obligations binding or purporting to bind the City or any covered organization; and

WHEREAS, Chapter 122 of the Laws of 2003 as amended by Chapter 86 of the Laws of 2004 permits the BFSFA to review and approve or disapprove the terms of any proposed settlement of claims against the City or any covered organization in excess of \$50,000.00; and

WHEREAS, in order to carry out the mission of the BFSFA, the BFSFA will review contracts or other obligations in excess of \$50,000, though the BFSFA Act provides no limitation for contracts or obligations; and

WHEREAS, on occasion, there may be times when the approval of a contract may be necessary prior to the next scheduled meeting of the BFSFA; and

WHEREAS, Resolution No. 03-78 provides a process for the emergency approval of contracts by BFSFA Staff, such contracts must be submitted to the BFSFA for affirmation by the Board; and

WHEREAS, City officials have submitted items for emergency approval at the September 8, 2004 BFSFA meeting, and have signed the BFSFA Remittance Approval

Request Form (“RARF”) in which they indicate that there are sufficient funds available for the items;

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby affirm the emergency approval authorizing the City of Buffalo to enter into five (5) contracts as listed below:

- | | |
|--|-------------|
| 1. McKinley Parkway Street Lighting Replacement | \$259,050 |
| 2. Downtown Buffalo Parking Sign Project – East of Main Street | \$48,446 |
| 3. Downtown Buffalo Parking Sign Project – West of Main Street | \$46,971 |
| 4. Signage Project – City of Buffalo Medical Campus | \$45,998 |
| 5. Contract to supply electric to various City accounts | \$9,725,611 |

Hiring Freeze Waiver Requests

Following a description by Johnson of the City positions for which waivers from the hiring freeze were requested, the Directors voted to approve Resolution 04-94 to authorize the hiring of sixteen employees listed in Resolution 04-94 and granting exemptions from Resolution 03-70. Motion by Masiello second by Stenhouse. Vote 7-0 to take effect immediately.

RESOLUTION NO. 04 - 94

**WAIVER OF HIRING FREEZE ORDERED ON CITY OF BUFFALO,
AUTHORIZING SIXTEEN POSITIONS FOR CITY GOVERNMENT**

WHEREAS, Chapter 122 of the Laws of 2003 as amended by Chapter 86 of the Laws of 2004 authorizes the Buffalo Fiscal Stability Authority (“BFSA”) to review and approve or disapprove contracts or other obligations binding or purporting to bind the City or any covered organization; and

WHEREAS, Section 3858(2)(C) of the Public Authorities Law authorizes the BFSA to impose a hiring freeze during a control period upon a finding by the BFSA that a hiring freeze is essential to the maintenance of a financial plan; and

WHEREAS, Section 3858(2)(O) of the Public Authorities Law further provides that the BFSA may, to the extent it deems necessary or desirable in order to accomplish the purposes of the BFSA Act, including but not limited to the timely and satisfactory implementation of an approved financial plan, issue a binding order to the appropriate City official; and

WHEREAS, on December 15, 2003, the BFSA found that the immediate imposition of a hiring freeze upon the City of Buffalo was essential to the maintenance of the City of Buffalo Revised Financial Plan and was necessary to accomplish the purposes of the BFSA Act and to insure the timely and satisfactory implementation of the Revised Financial Plan; and

WHEREAS, on December 15, 2003 the BFSA approved Resolution 03-70, ordering a hiring freeze on the City of Buffalo with certain exemptions; and

WHEREAS, for consideration at the July 21, 2004 BFSA meeting, the Mayor of the City of Buffalo has submitted requests to waive the BFSA hiring freeze for sixteen (16) positions, in accordance with the exemption criteria imposed and established by Resolution 03-70,

WHEREAS, the request is to fill the following sixteen positions:

1. Police	Lieutenant	\$66,315
2. Police	Report Technician	\$27,214
3. Parking Violations	Parking Meter Coin Collector (part-time)	\$9.00/hour
4. Parking Violations	Parking Enforcement Officer (6) @\$25,793	\$154,758
5. Administrative Adjudication	Administrative Law Judge	\$13.75/hour
6. Public Works, Parks & Streets	Motor Equipment Operator (2) @\$28,999	\$57,998
7. Permit & Inspection Services	Building Inspector	\$45,696
8. Law	Assistant Corporation Counsel I	\$45,757
9. Law	Assistant Corporation Counsel II	\$57,245

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority recognizes that without the approval of these waiver requests, the City would otherwise incur larger than anticipated overtime costs and/or a loss of revenues to the City; and

BE IT FURTHER RESOLVED, that the Buffalo Fiscal Stability Authority hereby finds that the Mayor's requests to waive the hiring freeze with regard to sixteen (16) positions complies with the exemption criteria contained in Resolution 03-70, determines that they are in the best interests of the City, and does hereby authorize the sixteen (16) waiver requests.

Litigation Issues

Chief Counsel Darryl McPherson updated the Directors on the status of two court cases affecting the BFSA: the Police Benevolent Association decision, which is being appealed to the Fourth Department of the Appellate Division, and the federal case involving unions representing school district employees, which is still awaiting a scheduling conference.

School Issues

Ms. Johnson presented some preliminary facts relative to the School District's fourth quarter report and end of year closeout. Final figures will be completed and presented to the Board subsequent to the year-end audit's completion. Ms. Johnson then gave a textual and graphical slide presentation relative to the School District's Operating Engineers. Discussion centered on the Engineers' contracts with the Buffalo Public Schools. Directors and School Administration Staff (Gary Crosby and Roy Rogers, the

Chief Financial Officer and Chief Operating Officer, respectively) discussed the current labor relationship with the Operating Engineers. Mr. Rogers noted that maintenance cost calculations per student and per square foot basis are formula driven and are therefore not comparable to benchmark numbers as presented in the slide presentation. He also indicated that though the costs are relatively high it is probably due to the age of the school buildings and facilities. Mr. Rogers agreed that more factors that go into the custodian formulae – square footage of parking, sidewalks, grass, hallways and classrooms – are not related to the age of buildings. Mr. Rogers stated that 29 out of 51 schools need improvement. Director Townsend asked if the City Comptroller had a right to go and look at the contracts and if the custodians were not forthcoming, what leverage is there to change this formula especially if Buffalo is paying more than the national median.

Director Richard Tobe questioned the District about the number of new teachers starting this year and the approximate class size. Mr. Crosby's response was that there are 167 new teachers, in which all are certified and most are dual certified and that the average class size is approximately 28 students, which is approximately the same as last year. Director Tobe then asked that the Public Schools move forward with the project of zero-based budgeting. Mr. Crosby agreed with the approach, but noted it would be difficult. Mayor Masiello asked that the Public Schools address and report to Board at or before the next Authority meeting on the 'in need of improvement' schools. The Directors and Johnson reiterated the importance of a move to a single health insurance provider in terms of offsetting budget gaps. Chair Baker stressed the importance of all efficiencies in light of the City's deep financial distress.

School Contracts

The Directors voted to approve Resolution 04-95 authorizing the School District to enter into thirty-nine contracts listed in Resolution 04-95. Motion by Masiello second by Wilmers. Vote 7-0 to take effect immediately.

RESOLUTION NO. 04 – 95

AUTHORIZE THE BUFFALO SCHOOL DISTRICT TO ENTER INTO THIRTY-SEVEN CONTRACTS

WHEREAS, Chapter 122 of the Laws of 2003 as amended by Chapter 86 of the Laws of 2004 permits the Buffalo Fiscal Stability Authority (“BFSA”) to review and approve or disapprove contracts or other obligations binding or purporting to bind the City or any covered organization; and

WHEREAS, Chapter 122 of the Laws of 2003 as amended by Chapter 86 of the Laws of 2004 permits the BFSA to review and approve or disapprove the terms of any proposed settlement of claims against the City or any covered organization including the Buffalo School District in excess of \$50,000.00; and

WHEREAS, in order to carry out the mission of the BFSA, the BFSA will review contracts or other obligations in excess of \$50,000, though the BFSA Act provides no limitation for contracts or obligations; and

WHEREAS, School District officials submitted a letter dated August 26, 2004 in which they seek the approval of contracts at the September 8, 2004 BFSA meeting, together with signed BFSA Remittance Approval Request Forms (“RARF”) in which they indicate that there are sufficient funds available for such contracts; and

WHEREAS, BFSA Staff have reviewed such contracts and the RARF and recommend approval of thirty-seven contracts; and

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority approve and authorize the Buffalo School District to enter into thirty-seven contracts as listed below:

1. Consultant contract for athletic trainers
(\$88,000 – Vendor: UB School of Medicine’s Sports Medicine Institute)
2. Consultant contract for behavior management
(\$76,000 – Vendor: University at Buffalo)
3. Consultant contract for U.S. Dept of Education Community Tech Centers
(\$449,745 – Vendors: Buffalo Urban League and Community Action Org)
4. NCLB services with 12 vendors
(\$1,041,785 total, with individual organizations’ payment based on level of student participation – Vendors: African American Cultural Center; Erie I BOCES; Brooks Learning Center; Buffalo Urban League; Community Action Organization; Friends to the Elderly, Youth and Family Center; Huntington Learning Center; Bob Lanier Center; Learninghelp Inc; Mount Olive Baptist Church; True Bethel Baptist Church; Bethesda World Harvest International Church)
5. Universal Prekindergarten Program with 17 vendors
(\$1,042,000 – Vendors: Bethel Head Start; CAO Head Start; Catholic Academy; Gloria Parks Child Care; Holy Cross Head Start; Kiddie Corner Child Care; Mount St. Joseph Academy; Ripen With Us; Ss. Columba Brigid; St. John’s Christian Academy; St. Joseph University; St. Margaret School; St. Martin of Tours; St. Rose of Lima; UB Child Care; Valley Child Care; YWCA)
6. MUNIS Software support services
(\$101,100 – Vendor: MUNIS Inc.)
7. Purchase of gasoline and diesel fuel
(\$623,042 – Vendor: Kurk Fuel Oil Company)
8. Purchase of fuel oil for heating season
(\$758,148 – Vendor: Noco Energy)
9. Purchase of bread and bread products
(\$500,000 – Vendor: Kaufman’s Bakery, via BOCES contract)
10. Provision of transportation services to Charter Schools
(\$128,000 is net cost to the District after NYS reimbursement)

The Directors voted to approve Resolution 04-96 to affirm emergency approvals authorizing the School District to enter into the nine contracts listed in Resolution 04-96. Motion by Townsend second by Masiello. Vote 7-0 to take effect immediately.

RESOLUTION NO. 04 - 96

AFFIRM AUTHORIZATION OF THE BUFFALO SCHOOL DISTRICT TO ENTER INTO NINE CONTRACTS

WHEREAS, Chapter 122 of the Laws of 2003 as amended by Chapter 86 of the Laws of 2004 permits the Buffalo Fiscal Stability Authority (“BFSA”) to review and approve or disapprove contracts or other obligations binding or purporting to bind the City or any covered organization; and

WHEREAS, Chapter 122 of the Laws of 2003 as amended by Chapter 86 of the Laws of 2004 permits the BFSA to review and approve or disapprove the terms of any proposed settlement of claims against the City or any covered organization in excess of \$50,000.00; and

WHEREAS, in order to carry out the mission of the BFSA, the BFSA will review contracts in excess of \$50,000, though the BFSA Act provides no limitation for contracts or obligations; and

WHEREAS, on occasion, there may be times when the approval of a contract may be necessary prior to the next scheduled meeting of the BFSA; and

WHEREAS, Resolution No. 03-78 provides a process for the emergency approval of contracts by BFSA Staff, such contracts must be submitted to the BFSA for affirmation by the Board; and

WHEREAS, School District officials have submitted contracts for emergency approval at the September 8, 2004 BFSA meeting, and have signed the BFSA Remittance Approval Request Form (“RARF”) in which they indicate that there are sufficient funds available for the contracts;

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby affirm the emergency approval authorizing the Buffalo School District to enter into nine (9) contracts as listed below:

- | | |
|---|-----------|
| 1. Assistant Superintendent for Leadership & Evaluation | \$110,860 |
| 2. Associate Superintendent for Instruction | \$117,835 |
| 3. Community Service Grant Program | \$173,085 |
| 4. YMCA Summer Day Camp Program | \$67,732 |
| 5. Purchase order for produce commodities | \$200,000 |
| 6. Purchase of bread and rolls | \$54,584 |

7. Purchase of specialty produce items	\$115,850
8. Collection and disposal of refuse	\$264,000
9. Professional development for “No Child Left Behind”	\$80,000

Chair Baker asked that the Public Schools address and report to the Authority on or before its next scheduled Authority meeting on the progress made with regard to the search for a new school Superintendent and the status of developing a central commissary.

Other Covered Organization Issues

BURA

Ms. Johnson stated that based on a preliminary 4th quarter projection the Urban Renewal Agency shows a small surplus for the year.

BMHA

Johnson stated that the Housing Authority closed the fiscal year \$600,000 worse than budget and the Authority projects a \$400,000 budget gap for the current fiscal year (2005).

BMHA Contracts

The Directors voted to approve Resolution 04-97 authorizing the Housing Authority to enter into the three contracts listed in Resolution 04-97. Motion by Masiello second by Wilmers. Vote 7-0 to take effect immediately.

RESOLUTION NO. 04 - 97

AUTHORIZE BUFFALO MUNICIPAL HOUSING AUTHORITY TO ENTER INTO THREE CONTRACTS AND/OR OBLIGATIONS

WHEREAS, Chapter 122 of the Laws of 2003 as amended by Chapter 86 of the Laws of 2004 permits the Buffalo Fiscal Stability Authority (“BFSA”) to review or approve or disapprove contracts or other obligations binding or purporting to bind the City of Buffalo or any covered organization; and

WHEREAS, Chapter 122 of the Laws of 2003 as amended by Chapter 86 of the Laws of 2004 permits the BFSA to review and approve or disapprove the terms of any proposed settlement of claims against the City or any covered organization including the Buffalo Municipal Housing Authority in excess of \$50,000.00; and

WHEREAS, in order to carry out the mission of the BFSA, the BFSA will review contracts or other obligations in excess of \$50,000.00; and

WHEREAS, Sharon M. West, Executive Director of the Buffalo Municipal Housing Authority seeks the approval of three contracts; and

WHEREAS, BFSA staff have reviewed such contracts and recommend approval of said contracts,

NOW THEREFORE BE IT RESOLVED, that the BFSFA authorize the Buffalo Municipal Housing Authority to enter three contracts listed below:

- | | |
|---|-----------|
| 1. Recreational and leisure programming – Erie Regional Housing Corp. | \$125,000 |
| 2. Flooring Work – Spectra Contract Flooring – WNY | \$75,000 |
| 3. Kenfield Homes sitework – Man O’Trees, Inc. | \$66,807 |

Report from the Audit, Finance and Budget Committee

Outside Audit

Chair Baker stated that John Schiavone the Authority’s Auditor from Lumsden & McCormick, LLP reported earlier in the day that a formal report would be complete for the next BFSFA meeting.

Swap Policy

Nancy Winkler of Public Financial Management (PFM), Financial Advisors to BFSFA, discussed a proposed Swap Policy. PFM and Lehman Brothers, BFSFA Underwriter, have been monitoring interest rates and believe that there may be an opportunity to generate savings for the City through a refunding. Ms. Winkler noted that BFSFA has a better credit rating and can have additional savings using a swap on all or portion of a City’s debt refunding.. She mentioned that guidelines put forward for BFSFA Staff with the advice of PFM are based on the swap policy that was crafted and used by the Nassau County Interim Finance Authority, the limits set by the BFSFA Act, and are designed to minimize risks to BFSFA.

Chair Baker stated the only time BFSFA would use SWAPS is if it would generate a potential benefit to the City. That said, Chair Baker asked for an approval noting that Director McCall (present via conference phone) was not favorable to SWAPS. Director Tobe noted that he was not in favor of adopting the swap policy if the intent was to give an unrestricted authority for a refunding without the details first being provided to the Board. Director Faso suggested that the Swap Policy be approved as a stand-alone policy, separate from the refunding related resolutions. After some further discussion the Directors voted to approve Resolution 04-98 authorizing the BFSFA Swap Policy listed in Resolution 04-98. Motion by Faso second by Wilmers. Vote 7-0 to take effect immediately.

RESOLUTION NO. 04 - 98

APPROVING SWAP POLICY

WHEREAS, Chapter 122 of the Laws of 2003 as amended by Chapter 86 of the Laws of 2004 formed the Buffalo Fiscal Stability Authority (“BFSFA”) to oversee the City’s budget, financial and capital plans; to issue bonds, notes or other obligations to achieve budgetary savings through debt restructuring; to finance short-term cash flow or capital needs; and

WHEREAS, Chapter 122 of the Laws of 2003 as amended by Chapter 86 of the Laws of 2004 authorizes BFSA to enter into interest rate exchange or similar arrangements with certain limitations; and

WHEREAS, in order to carry out its duties efficiently, the BFSA desires to establish an Interest Rate Swap Policy to provide guidelines for the use and management of all interest rate exchange transactions and other similar arrangements incurred by the BFSA, whether in connection with the incurrence of debt obligations or in furtherance of other non-speculative corporate purposes; and

WHEREAS, the attached Policy sets forth the manner of execution of Swaps, provides for security and payment provisions, risk considerations and certain other relevant provisions;

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby adopt the Interest Rate Swap Policy attached to this resolution.

2004-2005 BFSA Budget Modification

Dorothy Johnson stated that \$950,000 of the BFSA's Budget is for operating costs and \$250,000 is for legal expenses. Chair Baker restated that the operating costs are the same, as for the prior fiscal year with an additional \$250,000 for litigation. He noted that the BFSA is not initiating the lawsuits, but must use the City's resources to defend against them.

The Directors voted to approve Resolution 04-99 authorizing the BFSA Budget modification listed in Resolution 04-99 for fiscal year 2004-05. Motion by Masiello second by Wilmers. Vote 7-0 to take effect immediately.

RESOLUTION NO. 04-99

AMEND OPERATING BUDGET FOR BFSA FOR 2004-2005

WHEREAS, the Buffalo Fiscal Stability Authority (the "BFSA") was formed by Chapter 122 of the Laws of 2003 as amended by Chapter 86 of the Laws of 2004 to (1) oversee the City of Buffalo's budget, financial and capital plans, (2) issue bonds, notes or other obligations to achieve budgetary savings through debt restructuring, (3) finance short-term cash flow or capital needs and (4) if necessary, to develop financial plans on behalf of the City of Buffalo if it is unwilling or unable to take the required steps toward fiscal stability; and

WHEREAS, the BFSA is required to commence operations immediately and to receive and act upon a four-year fiscal plan for the City of Buffalo and other Covered Organizations; and

WHEREAS, the BFSA will have costs and expenses to operate and carry out its functions, including but not limited to paying the costs and expenses of its agents,

employees and facilities hereof, reimbursement of costs incurred by Directors for actual and necessary expenses incurred in the performance of such Director's official duties, and otherwise to carry on and effectively carry out the obligations required by Chapter 122 of the Laws of 2003 as amended by Chapter 86 of the Laws of 2004; and

WHEREAS, the staff of the BFSA has carefully reviewed the revenues to be received and expenses and costs anticipated to be incurred in carrying out the duties and functions of the BFSA and has prepared a budget (attached) based upon its reasonable assumptions of such revenues, costs and expenses; and

WHEREAS, changing circumstances can affect a fluid document like a budget and adjustments may be necessary from time to time to meet new assumptions regarding revenues, costs and expenses.

NOW THEREFORE, BE IT RESOLVED, that the Directors of the Buffalo Fiscal Stability Authority do hereby approve an amendment to the 2004-2005 BFSA Operating Budget prepared by the BFSA Staff.

Bond Anticipation Note Series 2004A-1

The Directors discussed but did not approve a resolution that would have authorized the sale and issuance of sales tax and State Aid secured bonds to refund general obligation bonds of the City of Buffalo.

There being no further business, Chair Baker entertained a motion to adjourn, which was duly seconded unanimously.

The meeting adjourned at 3:16 p.m.