

Minutes

Buffalo Fiscal Stability Authority

January 26, 2005

A meeting of the Buffalo Financial Stability Authority (“BFSA”) convened at 1:05 p.m. in room 106 of the Buffalo Convention Center, in Buffalo, New York. The meeting was convened by a Notice of Meeting sent to the Directors by Chair Lipke and announced to the public and press.

Directors present: Lipke, Faso, Giambra, Masiello, McCall, Stenhouse, Tobe, and Wilmers

Director present via conference phone: Townsend*

Staff present: Johnson, McPherson, Mitchell, Stefko, and Tocker

Other attendees: Former Chair Thomas E. Baker

Opening Statement

Chairman Lipke delivered an opening statement in which he thanked all who had expressed their support of him in his new role as Chairman of the BFSA. He urged a new beginning so that Buffalo can regain its full economic health and vitality, he also expressed that the Citizens of Buffalo deserve improved services at a reduced cost. Chairman Lipke noted that fiscal stability and a balanced budget will help open the doors to prosperity. He sees a real responsibility of all those involved in City governance – control board, elected officials, City managers, employees and their representatives – to the citizens of the City. Chairman Lipke noted that his business experience has taught him that we must find ways to work smarter and better, and that by working together we can find a better way to regain fiscal stability as a stepping-stone towards prosperity.

Following his opening remarks, Chairman Lipke announced roll call of the Directors, and noted the day’s agenda.

Bank Signatories

The Directors voted to approve Resolution 05-01 to approve bank signatories for the Authority’s bank and trust accounts. Motion by Wilmers second by Stenhouse. Vote 8-0 to take effect immediately.

RESOLUTION NO. 05-01

TRUST ACCOUNTS AT BANK OF NEW YORK AND DEPOSIT ACCOUNTS AT HSBC BANK, USA; AND AUTHORIZED SIGNATORIES AND SIGNING RESTRICTIONS FOR ALL SUCH ACCOUNTS

WHEREAS, the Legislature of the State of New York, pursuant to Chapter 122 of the Laws of 2003, as the same may be amended (the "BFSA Act"), has enacted legislation creating the Buffalo Fiscal Stability Authority (the "BFSA") with certain control, advisory and borrowing powers; and

WHEREAS, pursuant to the BFSA Act, City and School District Tax Revenues and State Aid Revenues (as such terms are defined in the BFSA Act) are paid by the New York State Comptroller to the BFSA until June 30, 2037; and

WHEREAS, Bank of New York (the Trust Bank) maintains a Trust Account #466983 (the "Collection Account") into which City and School District Tax Revenues and State Aid Revenues are deposited by the New York State Comptroller; and

WHEREAS, in order to efficiently carry out the requirements of the BFSA Act, it was and may in the future be necessary for the BFSA to open other trust account and subaccounts thereto the "Trust Accounts") at the Trust Bank so that funds can be transferred from the Collection Account to other trust accounts and subaccounts and then transfers made out of the Collection Account and all trust accounts; and

WHEREAS, HSBC Bank USA (the Bank) maintains a deposit account #750016612 (the "Deposit Account") and another deposit account #750019344 (the "Additional Deposit Account") to accommodate the operating requirements of BFSA; and

WHEREAS, the BFSA desires to appoint certain authorized signatories and to establish certain signing restrictions for the Collection Account, the Trust Accounts, the Deposit Account and the Additional Deposit Account;

NOW THEREFORE, BE IT RESOLVED, that in connection with the transfer of funds from the Collection Account to the Trust Accounts and subaccounts; and transfers from the Collection Account, the Trust Accounts and subaccounts, the Deposit Account and the Additional Deposit Account, the following persons are authorized and directed to give direction to the Trust Bank and the Bank with respect to such transfers; and

1. Brian J. Lipke, H. Carl McCall, Alair Townsend, Robert G. Wilmers, Richard Tobe and Dorothy A. Johnson are each authorized as a sole authorizing party or signer for any payment up to and including \$25,000.00; and

2. Two of the above-listed board members or officers of the BFSA are required to jointly authorize or sign for any payment or transfer over \$25,000.00.

BE IT FURTHER RESOLVED, that in connection with the signing of checks, drafts or other orders for the payment of money issued in the name and on behalf of the BFSA against any funds deposited in the Deposit Account or the Additional Deposit Account, the following authorized signatories and signing restrictions will apply to all transactions, H. Carl McCall, the BFSA Treasurer and any of:

1. Brian J. Lipke, Alair Townsend, Robert G. Wilmers, Richard Tobe and Dorothy A. Johnson are each authorized as a sole signer for any payment up to and including \$25,000.00; and

2. Two of the above-listed board members or officers of the BFSA in addition to Treasurer H. Carl McCall, are required to jointly sign for any payment over \$25,000.00.

Approve Minutes

The Directors voted to approve Resolution 05-02 to approve the minutes of the November 17, 2004 meeting and to ratify resolutions numbered 04-109 through 04-114. Motion by Giambra second by Wilmers. Vote 8-0 to take effect immediately.

RESOLUTION NO. 05 - 02

APPROVING MINUTES AND RESOLUTIONS FROM NOVEMBER 17, 2004

BE IT RESOLVED that the Buffalo Fiscal Stability Authority approves the minutes of its meeting of November 17, 2004 and ratifies and affirms six resolutions numbered 04-109 through 04-114 that were approved on November 17, 2004.

County Executive Giambra noted that the sale of the City of Buffalo Water System to the Erie County Water Authority was a good business decision. Mayor Masiello urged the Common Council to vote favorably on this decision, because Buffalo Water's shrinking customer base makes running the system expensive and difficult to maintain. In addition, interest rate savings on outstanding debt are possible only through the merger, ensuring a better system at lower cost.

Directors asked that Authority Staff look into this issue.

Eliminating Working Groups

After discussing the Mayor's concerns on the effectiveness of the working groups and clarification by Chair Lipke on how issues will be addressed in the future, the Directors voted to approve Resolution 05-03 to eliminate working groups. Motion by McCall second by Wilmers. Vote 8-0 to take effect immediately.

RESOLUTION NO. 05 - 03

ELIMINATING WORKING GROUPS

WHEREAS, on August 6, 2003 Buffalo Fiscal Stability Authority ("BFSA") Chair announced the formation of seven "committees" for the purpose of gathering information and gaining expertise to support the work of BFSAs, and

WHEREAS, on September 10, 2003 in BFSA Resolution No. 03-19, BFSA officially established seven working groups, identifying the membership of each working group and defining the scope of authority of the working groups, and

WHEREAS, on November 18, 2003 in BFSA Resolution No. 03-67, BFSA established an eighth working group to oversee potential City of Buffalo and County of Erie merger opportunities, and

WHEREAS, though these working groups were created to facilitate organization, they no longer serve that purpose and are effectively obsolete, and

WHEREAS, it has been determined that they should be formally disbanded,

NOW THEREFORE BE IT RESOLVED, that the working groups established by the Buffalo Fiscal Stability Authority in BFSA Resolutions No. 03-19 and No. 03-67 be and hereby are formally discharged and dissolved.

Fire Initiative Funding

The Directors voted to approve Resolution 05-04 to urge the City of Buffalo Common Council to reconsider using re-engineering funds to finance the Fire Initiative as described in the attached resolution. Motion by Giambra second by Wilmers. Vote 8-0 to take effect immediately.

RESOLUTION NO. 05 - 04

FUNDING FOR FIREHOUSE RECONSTRUCTION

WHEREAS, as part of the City of Buffalo's Four Year Financial Plan, the City of Buffalo intends to reengineer and enhance the provision of fire protection services within the City; and

WHEREAS, such reengineering involves the building of new firehouses and expansion of an existing firehouse in certain parts of the City; closing other firehouses currently in use; and reducing the current staffing level of the Buffalo Fire Department (collectively, the "Fire Initiative"); and

WHEREAS, the City's Fire Initiative is a result of a comprehensive study prepared by independent consultants (MMA), released in October 2003; and

WHEREAS, the City's Fire Initiative is essential to provide savings included in the City's BFSA- approved Four-Year Financial Plan; and

WHEREAS, in order to achieve the planned savings, funds must immediately be encumbered for contracts related to the firehouse construction process in order to ensure that the new and expanded firehouses are fully completed by September 2005, at which

time three existing firehouses are scheduled to close and the number of fire personnel reduced; and

WHEREAS, the cost for the construction and expansion of firehouses is estimated to be \$6.53 million; and

WHEREAS, the State of New York, by action of the State Legislature and Governor, has appropriated and paid \$20 million in one-time resources (“spin-up” funds) to the City of Buffalo for use in re-engineering the delivery of its services; and

WHEREAS, the State Comptroller agreed with such use, in his *Budget Review – City of Buffalo*, delivered May 2003, stating, “The [“spin-up”] funds should be applied to re-engineering efforts and other initiatives to assist the City in bringing recurring expenses in line with recurring revenues”; and

WHEREAS, the spin-up funds provided by the State represent a one-time, non-recurring resource, the use of such funds for the one-time cost of firehouse construction represents a fiscally sound allocation of the City’s resources; and

WHEREAS, the suggested alternative resource for building firehouses is a capital bond sale, which would be more costly and add to the tax burden of City residents; and

WHEREAS, fiscal prudence demands, and the goal of reengineering in the City of Buffalo should be, provision of essential services as cost effectively and efficiently as possible; and

WHEREAS, the Buffalo Fiscal Stability Authority (“BFSA”) finds that the use of \$6.53 million of the remaining \$8.47 million in spin-up funds for the building of firehouses is appropriate as an immediate and necessary step to implement the Fire Initiative in the approved City financial plan; and

WHEREAS, the Common Council has approved a plan to use an interfund loan to be repaid by Bond Anticipation Notes to finance the Fire Initiative; and

WHEREAS, BFSA approval is required prior to the issuance of such Bond Anticipation Notes, and

WHEREAS, BFSA deems it imprudent to borrow for firehouse construction when an adequate reserve is available to fund the cost without the added taxpayer expense of interest costs; and

WHEREAS, failure to immediately encumber spin up funds for firehouse construction jeopardizes the City’s ability to move forward with the Fire Initiative and threatens the integrity of the BFSA-approved Four Year Financial Plan,

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority urges the City of Buffalo Common Council to reconsider using re-engineering funds to finance the Fire Initiative, or in the alternative, calls upon the Mayor of the City of Buffalo to prepare a modification of the Four Year Financial Plan to adjust for the loss of savings attributed to the removal of the Fire Initiative from the current Four Year Financial Plan.

Wicks Law Exemption

Director Faso urged that the City send a Home Rule message to the Western New York State Delegation requesting a Wick's Law exemption for the construction of the aforementioned firehouses.

City Demolition Process

Executive Director Dorothy Johnson updated the Board with the background detail surrounding the demolitions issue and called attention to a resolution that would require: all non-emergency demolition contracts to come to BFSA for formal review and approval, regardless of amount; and monthly reporting on demolition activity. She also noted that the resolution provided for a stronger response in the future, should BFSA's acts be disregarded. There was an extensive discussion of this topic.

Mayor Masiello cited the daily dialogue, communication and cooperation between most of the departments in City Hall and the BFSA. At the same time he accepted responsibility for the Department of Permit and Inspection Services' failure to get approval of contracts. He noted that this failure was not purposeful, that the City would not abrogate its responsibility in this regard and would cooperate fully going forward. Director Wilmers noted the lack of cooperation on behalf of the Commissioner of Permit & Inspection Services. In response, Commissioner McGurn noted that there had been confusion among his staff over exactly what BFSA required, but that he would provide all necessary information in the future.

Director Tobe noted that there were three contracts worth more than \$50,000 that were not submitted to BFSA immediately after the November Board meeting, as had been directed at that meeting and as he had expected, and that three additional new contracts worth more than \$50,000 were awarded subsequent to that Board meeting, without BFSA approval. He noted that there were some Board members who thought firmer action should be taken than that outlined in the proposed resolution. He noted that he hoped that passage of the resolution would resolve the issue and that no further questions would be raised about the Department's cooperation.

McGurn reiterated that the noncompliance was due to confusion on the part of his staff rather than an attempt to deceive the BFSA Board. He again urged quick action on the part of BFSA to approve the demolition contracts because he did not want to see the demolition process slowed down.

Mayor Masiello also urged expeditious action on these contracts and stated that the City was in no way attempting to circumvent the process and will cooperate with the Board's request going forward.

Director Wilmers asked about the number of abandoned properties in the City (23,000 vacant units according to the 2000 census) and questioned the City's plan to address the problem. McGurn noted the difficulty in managing all the Department's responsibilities with his small staff of 16, but that the City was on course with its strategic plan. Wilmers challenged what appeared to be the City's apparent piecemeal approach.

County Executive Giambra questioned the emergency demolition process. Commissioner McGurn elaborated on the process in which a fire battalion chief or judge could authorize a demolition on an emergency basis, and that all such demolitions were competitively bid.

Chairman Lipke questioned how many years it would take to accomplish all demolitions currently identified. McGurn stated that it was unlikely the task could be accomplished, particularly since only block grant funds could be used for privately-owned properties that had been abandoned. He also expressed the hope that the State would take some action which would make it possible for the City to address these properties with its own bond proceeds.

The Directors voted to approve Resolution 05-05 to establish a new process for approving and monitoring contracts in the City of Buffalo. Motion by McCall second by Tobe. Vote 8-0 to take effect immediately

RESOLUTION NO. 05 – 05

ESTABLISH A NEW PROCESS FOR APPROVING AND MONITORING DEMOLITION CONTRACTS IN THE CITY OF BUFFALO

WHEREAS, Chapter 122 of the Laws of 2003 as amended by Chapter 86 of the Laws of 2004 (the Act) 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, in order to carry out the mission of the BFSA, the BFSA has determined to review contracts or other obligations in excess of \$50,000, though the BFSA Act provides no limitation for such items; and

WHEREAS, in the process of BFSA's review of the 2004 capital budget, the BFSA understood the City's Commissioner of the Department of Permit and Inspection Services to indicate that the City owned and was in a position to demolish 500 homes; and

WHEREAS, BFSA authorized the issuance of \$3.5 million in bonds to pay for demolition of 500 homes; and

WHEREAS, BFSA later found that in fact the City did not yet own nor was in a position to demolish 500 homes, and that its approval of \$3.5 million for demolition in the 2004

capital budget may have been excessive in light of the actual number of properties eligible for demolition; and

WHEREAS, the City's Commissioner of the Department of Permit and Inspection Services informed BFSA at the Authority's meeting of November 17, 2004 that certain service orders for the demolition of properties within the City, when "bulked" together, have on occasion exceeded \$50,000 in total to an individual vendor; and

WHEREAS, BFSA ordered the Commissioner of the Department of Permit and Inspection Services to submit the contracts mentioned on November 17, 2004, and all future contracts, whether bulked or individually, exceeding \$50,000 to a single vendor, for BFSA review and approval pursuant to the BFSA Act; and

WHEREAS, BFSA did not receive the requested information from the Commissioner of the Department of Permit and Inspection Services in a timely fashion after the November 17, 2004 meeting; and

WHEREAS, BFSA further encouraged compliance with the BFSA order through a letter to the Mayor and Commissioner of the Department of Permit and Inspection Services on December 7, 2004, requesting the information that had been originally requested at the November 17, 2004 meeting; and

WHEREAS, in response to still not yet having received any information, BFSA contacted the Mayor by telephone on January 6, 2005; and

WHEREAS, on January 13, 2005, the Commissioner of the Department of Permit and Inspection Services submitted to BFSA contract approval requests for six items in excess of \$50,000, three of which had been let subsequent to the November 17, 2004 meeting at which BFSA directed the Commissioner of the Department of Permit and Inspection Services to submit any future bulked demolition contracts in excess of \$50,000 for formal BFSA review and approval; and

WHEREAS, the City's current practice of processing demolition contracts on a property-by-property service order basis might be misconstrued to generally exempt them from the approval requirements BFSA applies to contracts of \$50,000 or more; and

WHEREAS, the process of demolitions is essential for reasons of safety and neighborhood redevelopment, and the cost of demolitions is a significant part of the annual capital budget;

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority will now require all non-emergency demolition contracts to come before the Authority for formal review and approval, regardless of whether they exceed \$50,000 either individually or collectively, and that no such contract or service order award is legally authorized in the absence of BFSA approval; and

BE IT FURTHER RESOLVED, that the Buffalo Fiscal Stability Authority will now require the City's Commissioner of Permit and Inspection Services to submit, no later than one week after the end of each month, a monthly report on all demolitions, emergency and non-emergency in nature, detailing the number of demolitions completed, whether the demolitions were done on an emergency or non-emergency basis, the current balance of bond proceeds allocated to demolitions, and the number of bidders and amounts of bids that were submitted for each individual demolition bid or bid package; and

BE IT FURTHER RESOLVED, that all contracts for demolitions in the period July 3, 2003 through December 4, 2005, which collectively amount to \$50,000 or more and which have heretofore been illegally awarded without BFSA approval, are hereby validated as to legality; and

BE IT FINALLY RESOLVED, that any further disregard of the BFSA's resolutions or actions regarding contracts relating to demolitions will result in such contracts being determined to be invalid and not subject to payment by the City Comptroller, and any party authorizing such contracts or payments thereof in violation of such BFSA resolutions or actions shall be subject to the full exercise of BFSA's disciplinary powers, as defined in the Act.

Procurement Policy Issues

Johnson stated that the new City Charter (from 2000) provides for a Procurement Policy Board to create policies for the City and facilitate joint purchasing by the City, School District, BMHA and Sewer Authority. She reported that the City has not yet acted on this Charter requirement. Mayor Masiello responded that he has recently taken steps towards setting up this board. Gary Crosby, Chief Financial Officer of the Buffalo Public Schools spoke to the Schools' current procurement practices. Director Tobe asked that Crosby send a letter to the Board detailing the Schools' procurement policy and its process for approving qualified vendors. Mr. Crosby then detailed the District's progress relative to the single health insurance provider initiative. He mentioned that a new single plan would have substantially the same benefits for current employees and bring cost savings to the School District. Directors Faso and Giambra commented that the savings could be expected to be in the range between \$6 million and \$10 million. Chair Lipke concluded the discussion by requesting a full report from the School District on the single health insurance provider initiative for BFSA's February meeting.

Hiring Freeze Waiver Requests

Johnson stated that there were twenty-nine (29) hiring freeze requests granted since the last meeting under the expedited approval process. Chairman Baker and Vice Chair Townsend had been informed of the staff analysis of these contracts and subsequently approved the requests via e-mail.

Other Covered Organizations

BMHA

Johnson stressed the significant time and hard work that Housing Authority staff has put into the Financial Plan modification brought before the BFSA Board at the meeting. BMHA outlined four major initiatives to accomplish closing their gap: switching to a single health insurance provider; downsizing the workforce; upgrading to more energy efficient appliances; and signing up for energy savings contracts. Johnson explained that switching to a single health insurance provider was made possible by a caveat that no layoffs will occur until the end of the fiscal year, June 30, 2005.

The Directors voted to approve Resolution 05-06 to modify the 2004-05 BMHA budget and 2005-2008 financial plan. Motion by Wilmers second by Giambra. Vote 8-0 to take effect immediately.

RESOLUTION NO. 05-06

MODIFICATION TO THE 2004-2005 BMHA BUDGET AND 2005-2008 FINANCIAL PLAN TO USE ADDITIONAL RESERVE FUNDS TO COVER OPERATING EXPENDITURES IN THE CURRENT FISCAL YEAR AND TO REDUCE EXPENDITURES THEREAFTER

WHEREAS, on June 9, 2004, the Buffalo Fiscal Stability Authority (“BFSA”) acknowledged the submission of a balanced financial plan for fiscal year 2004-2005 by the Buffalo Municipal Housing Authority (“BMHA”) in BFSA Resolution No. 04-66, and

WHEREAS, on December 19, 2004 the Executive Director of the BMHA submitted a request for BFSA approval for a modification to their 2004-2005 Four-Year Financial Plan, and

WHEREAS, the modification that the Executive Director requests allows the BMHA to use \$1,992,362 in reserve funds to cover a deficit in operating expenditures, and

WHEREAS, the original 2004-2005 Four-Year Financial Plan called for the use of \$400,111 in reserve funds to cover the deficit in operating expenditures, and

WHEREAS, as part of the modification of the plan, BMHA is undertaking an internal restructuring that BMHA anticipates will result in a balanced budget without the use of reserve funds in 2005-2006, and thereafter, and

WHEREAS, with these modifications, the BMHA will maintain a balanced budget for the current fiscal year,

NOW THEREFORE BE IT RESOLVED THAT, the Buffalo Fiscal Stability Authority approves and certifies the Buffalo Municipal Housing Authority’s use of \$1,592,251 in additional reserve funds to cover operating expenditures that, along with other operational changes, will serve as modifications to the 2004-05 Budget, and

BE IT FURTHER RESOLVED THAT, the Buffalo Fiscal Stability Authority, hereby approves the BMHA 2005 – 2008 Financial Plan modification, including the additional revenue and expenditure reductions contained therein, as previously approved by the BMHA Board of Commissioners, and as requested in writing by the Executive Director of the BMHA, and

BE IT FINALLY RESOLVED THAT, to ensure compliance with the Four-Year Financial Plan, that no later than April 1, 2005, the Buffalo Municipal Housing Authority shall: send out lay-off notices to affected employees (to be effective July 1, 2005); and notify those BMHA employees whose jobs will be downgraded (effective July 1, 2005).

The Directors voted to approve Resolution 05-07 approving a memoranda of agreement for a single health insurance provider. Motion by Stenhouse second by Wilmers. Vote 8-0 to take effect immediately.

RESOLUTION NO. 05 - 07

APPROVE MEMORANDA OF AGREEMENT FOR SINGLE HEALTH INSURANCE PROVIDER

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 also permits the BFSA to review and approve or disapprove collective bargaining agreements binding or purporting to bind the City or any covered organization; and

WHEREAS, As part of a modification to the Buffalo Municipal Housing Authority (“BMHA”) portion of the City of Buffalo Four-Year Financial Plan for Fiscal Years Ending 2005 - 2008, the BMHA has negotiated with two of its collective bargaining units to move affected BMHA employees to a single health insurance provider; and

WHEREAS, to effectuate this plan, the BMHA and two of the collective bargaining units representing BMHA employees entered into Memoranda of Agreement; and

WHEREAS, while it is understood that these Agreements provide that there will be no layoffs of employees until June 30, 2005, layoffs will be possible (and may be expected) for these bargaining units after July 1, 2005 while maintaining a single health insurance provider;

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority approves each of the individual Memoranda of Agreement between the Buffalo Municipal Housing Authority and the collective bargaining units listed below that modify

health insurance coverage for BMHA employees and authorizes the Buffalo Municipal Housing Authority to enter into these agreements.

1. AFSCME Local 264
2. International Union of Operating Engineers, Local 17-17S

Director Tobe then noted that these circumstances warrant a hiring freeze.

The Directors voted to approve Resolution 05-08 ordering a hiring freeze on the Buffalo Municipal Housing Authority. Subject to changing an “or” to an “and” in the 2nd to last paragraph of the resolution. Motion by Wilmers second by McCall. Vote 8-0 to take effect immediately.

RESOLUTION NO. 05-08

HIRING FREEZE ORDERED ON BUFFALO MUNICIPAL HOUSING AUTHORITY

WHEREAS, Chapter 122 of the laws of 2003 as amended by Chapter 86 of the laws of 2004 (the “Act”) requires the City of Buffalo to submit a four-year financial plan to the Buffalo Fiscal Stability Authority (“BFSA”) annually, and when necessary, modifications to such financial plan, and

WHEREAS, in the BMHA’s first Four-Year Financial Plan, approved October 21, 2003, required the BMHA to use approximately \$1.1 million in reserve funds to cover a deficit, and

WHEREAS, by the end of the 2003-04 fiscal year, the deficit required the use of \$500,000 in reserves more than originally budgeted, and

WHEREAS, the BMHA has \$6 million in reserves at the start of fiscal year 04-05, and

WHEREAS, the Buffalo Municipal Housing Authority, as part of the City of Buffalo’s Four-Year Financial Plan, submitted its Four-Year Financial Plan to the BFSA, which was approved as to compliance with the BFSA Act in Resolution 04-66 on June 9, 2004, and

WHEREAS, BMHA’s original 2004-05 budget contemplated using reserves to cover a deficit of \$400,000; however, preliminary forecasts, after accounting for announced decreases in United States Department of Housing and Urban Development (“HUD”) funding, show the need for further use of reserves of anywhere between \$2.0 million and \$2.4 million in the current fiscal year, and

WHEREAS, HUD has advised BMHA that a further use of reserves after the proposed use in fiscal year ending June, 2005 may put it into the “troubled housing authority” category which could trigger a HUD takeover of operations, and

WHEREAS, reports for the 4th quarter of 2004 and 1st quarter of 2005 actuals show salary expenditures trending upward in various departments, and

WHEREAS, Section 3858(2)(C) of the Act authorizes the BFSA during a control period to impose a hiring freeze 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 Act further provides that the BFSA may, to the extent it deems it necessary or desirable in order to accomplish the purposes of the Act including but not limited to the timely and satisfactory implementation of an approved financial plan, issue an order to the appropriate City official. Such order shall be binding upon the official to whom it is issued, and

NOW, THEREFORE BE IT RESOLVED, that the BFSA finds that the immediate imposition of a hiring freeze upon the Buffalo Municipal Housing Authority is essential to the maintenance of a balanced Four Year Financial Plan and is necessary to accomplish the purposes of the Act.

BE IT ORDERED that the Board of Commissioners and the Executive Director of the Buffalo Municipal Housing Authority shall immediately impose a hiring freeze on all positions in the Buffalo Municipal Housing Authority.

BE IT FURTHER ORDERED that the Executive Director may request that the hiring freeze be waived and a position may be filled on a case-by-case basis. In order to fill a position during the hiring freeze, the Executive Director must certify that the immediate filling of a position is necessary to protect the health or safety of the residents of the Buffalo Municipal Housing Authority, is required to comply with the local, state or federal law, will prevent the use of excessive overtime by BMHA employees or will produce revenue in excess of the costs of filling the position. The Chair and Vice Chair of the BFSA may approve the filling of one or more positions if they are satisfied that it is necessary and appropriate based upon a review of all the circumstances as prescribed in BFSA Resolution No. 04-89 except as follows: "The request must be in writing from the Executive Director and Board Chairman on behalf of the Housing Authority and signed by both. It must be completed in the standard hiring freeze waiver form and shall include all required authorizations prior to submission to BFSA along with any additional supporting information that may be required.

Upon meeting the above conditions, all hiring freeze waiver requests will be reviewed by BFSA Staff, who 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 BFSAs Board, but the written approval will be provided to all members of the BFSAs Board for their information. Matters referred to the entire BFSAs Board for their consideration will require an affirmative vote before being considered approved.”

BE IT FURTHER ORDERED that the Executive Director of the BMHA shall officially notify all Commissioners, Department Heads and any other employee of the Buffalo Municipal Housing Authority who has the authority to hire, that this ORDER imposing a hiring freeze has been issued by the Buffalo Fiscal Stability Authority and is in full force and effect.

BFSAs Directors then agreed that the hiring of BMHA’s new Executive Director will require BFSAs’s approval.

City Contracts and One Settlement

Since the November meeting, 13 contracts have been approved on an interim or emergency basis. Based on staff analysis, the Chair and Vice Chair approved all items. Four of the thirteen contracts exceeded \$200,000, and had been approved on an emergency basis; therefore these require full Board affirmation. In addition, 6 new contracts have been brought forward for Board approval. Based on staff analysis, they were all recommended for approval.

The Directors then spoke at length regarding some of the contractual items put forward for approval. Director Faso took issue with the City bonding the cost of tree trimming while holding on to land outside the City and County for the virtue of attempting to save the wilderness. Director Wilmers stated that it is a bad to capitalize tree trimming and removal. Chair Lipke stated that with all of the constraints facing the City, there needs to be a group effort to finding solutions. He then invited Common Council President Franczyk to provide some input into the issues raised by fellow board members.

Council President Franczyk addressed the water merger issue. He stated that at the time of the Board meeting there were not enough votes on the Common Council for approval to put the issue to public referendum. Regarding the use of re-engineering funds for firehouse construction, he noted his concerns that these moneys might be needed to cover the costs of a possible adverse decision in one of the many ongoing labor lawsuits or arbitration. Lastly he addressed the sale of City property in Perrysburg by stating that he was unsure if the dollar amount offered was the best price and detailed his concerns with the property’s proper maintenance and stewardship.

Director Faso expressed his concern with the elected officials focusing their efforts on areas outside the City of Buffalo.

Commissioner of Administration and Finance Dr. James Milroy updated the Board with the details surrounding the water merger and the timeline within which action is needed, stressing the urgency for immediate action, and how the merger could result in savings for City water customers.

The Directors voted to approve Resolution 05-09 affirming authorization of the City of Buffalo to enter into four contracts. Motion by Masiello second by Stenhouse. Vote 8-0 to take effect immediately.

RESOLUTION NO. 05 - 09

AFFIRM AUTHORIZATION OF THE CITY OF BUFFALO TO ENTER INTO FOUR 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 or other obligations in excess of \$50,000, though the BFSA Act provides no limitation for contracts or obligations; and

WHEREAS, the BFSA will review contracts or other obligations in excess of \$50,000, but will require approval by the BFSA Board when the contract or other obligation is valued at \$200,000 or more; 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. 04-89 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, City officials have submitted items for emergency approval prior to the January 26, 2005 BFSA meeting, and have signed the BFSA 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 four (4) contracts as listed below:

- | | |
|---|--------------|
| 1. Schneck’s Tree Removal Inc. – citywide tree trimming | \$230,494.00 |
| 2. Manko Construction Services – citywide tree removal | \$371,563.00 |

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|---|----------------|
| 3. Receipt of Weed & Seed Year 3 grant funds | \$500,000.00 |
| 4. Receipt of Urban Area Security Initiative Year 2 grant funds | \$3,061,970.00 |

The Directors voted to approve Resolution 05-10 authorizing the City of Buffalo to enter into six contracts. Motion by Stenhouse second by Giambra. Vote 8-0 to take effect immediately.

RESOLUTION NO. 05 - 10

AUTHORIZE CITY OF BUFFALO TO ENTER INTO SIX CONTRACTS 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 BFSA will review contracts or other obligations in excess of \$50,000, but will require approval by the full BFSA Board when the contract or other obligation is valued at \$200,000 or more; and

WHEREAS, the Mayor and other City officials have submitted 6 contracts or obligations for approval at the January 26, 2005 BFSA meeting, and have signed the BFSA Remittance Approval Request Form (“RARF”) in which they indicate that there are sufficient funds available for such item; and

WHEREAS, BFSA Staff have reviewed such items and the RARF and recommend approval of six (6) such contracts or other obligations; and

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority approve and authorize the City of Buffalo to enter into six (6) contracts and obligations as listed below:

- | | |
|---|-------------|
| 1. Carmina & Wood PC – architectural/engineering services Elmwood Firehouse | \$114,000 |
| 2. Nussbaumer & Clarke Inc. – engineering consultant Cazenovia slope walls | \$107,177 |
| 3. O’Connell Electric Co. Inc. – citywide streetlight foundation repair | \$119,714 |
| 4. Destro & Brothers Concrete – Sycamore/Walden traffic signal project | \$1,000,319 |

- | | |
|---|-------------|
| 5. Destro & Brothers Concrete – Fillmore traffic signal project | \$1,045,807 |
| 6. Local Law Enforcement Block Grant – Year 9 | \$268,722 |

Police Benevolent Association Settlement

Johnson updated the Board with the background surrounding this negotiated settlement between the City and the Police Benevolent Association. County Executive Giambra spoke of his reservations regarding this issue. Matt VanVessem, the attorney handling the matter for the City, stated that based on the Arbitrator’s opinion it was in the City’s best interest to settle than otherwise risk an adverse decision that could lead to an even greater liability.

The Directors voted to approve Resolution 05-11 authorizing the City of Buffalo to enter into a negotiated settlement with the Police Benevolent Association. Motion by Masiello second by Stenhouse. Vote 7-1 to take effect immediately. Giambra voted in the negative.

RESOLUTION NO. 05 - 11

APPROVE CITY OF BUFFALO TO ENTER INTO A NEGOTIATED SETTLEMENT WITH THE POLICE BENEVOLENT ASSOCIATION

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 settle an outstanding grievance may be reviewed pursuant to Section 3858 (2)(L) of the BFSA Act; and

WHEREAS, the City has submitted a negotiated settlement for consideration at the December 15, 2004 BFSA meeting; and

WHEREAS, the settlement with the Police Benevolent Association limits a larger liability and secures the retirement of two patrol inspectors; and

WHEREAS, the City has demonstrated that there are sufficient funds to pay the costs associated with implementing the agreement and that the agreement is in accordance with the approved financial plan; and

WHEREAS, BFSA Staff have reviewed the terms of the agreement and recommends approval of the negotiated settlement;

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority approve and authorize the City of Buffalo to enter into a negotiated settlement as listed below:

Police Benevolent Association – Patrol inspector shift changes MOU \$200,000

School Contracts and One Settlement

Since the November Board Meeting, 10 contracts had been approved on an interim or emergency basis by Chair Baker and Vice Chair Townsend, based on the recommendation of staff. Five of the ten contracts exceeded the \$200,000 threshold and were recommended for affirmation at the Board meeting. The Board was asked to vote on eight new contracts and one settlement.

The Directors voted to approve Resolution 05-12 affirming authorization of the School District to enter into five contracts listed in Resolution 05-12. Motion by Stenhouse second by Wilmers. Vote 8-0 to take effect immediately.

RESOLUTION NO. 05 - 12

AFFIRM AUTHORIZATION OF THE BUFFALO SCHOOL DISTRICT 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 (“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, the BFSA will review contracts or other obligations in excess of \$50,000, but will require approval by the full BFSA Board when the contract or other obligation is valued at \$200,000 or more; 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. 04-89 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 five contracts for emergency approval prior to the January 26, 2005 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 five (5) contracts as listed below:

- | | |
|---|----------------|
| 1. Erie I BOCES – computer service system | \$2,000,000.00 |
| 2. Apple Computers, Alternative Information Systems & IBM –
computer hardware | \$650,000.00 |
| 3. UB Center for Applied Technologies – NCLB services | \$447,199.00 |
| 4. UB Center for Applied Technologies &
Niagara Falls City School District – NCLB services | \$1,890,332.00 |
| 5. Various vendors – professional development for SINI schools | \$324,377.00 |

Of the twelve new contracts which had been submitted by the School District, eight were recommended by staff for action at the Board meeting. (The others remain under staff review, and may be approved on an interim basis.)

The Directors voted to approve Resolution 05-13 authorizing the School District to enter into eight contracts. Motion by Wilmers second by Giambra. Vote 7-0 to take effect immediately. Stenhouse abstained.

RESOLUTION NO. 05 – 13

AUTHORIZE THE BUFFALO SCHOOL DISTRICT TO ENTER INTO EIGHT 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 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 such items; and

WHEREAS, the BFSA will review contracts or other obligations in excess of \$50,000, but will require approval by the full BFSA Board when the contract or obligation is valued at \$200,000 or more; and

WHEREAS, School District officials submitted correspondence to BFSA in which they seek the approval of contracts, 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 eight contracts; and

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

1. Ratification of State approved vendors for No Child Left Behind services \$1,503,264
2. NCLB services – Bethel African Methodist Episcopal Church ***
3. NCLB services – Buffalo Hearing and Speech Center ***
4. NCLB services – Beyond the Bell ***
5. NCLB services – First Hand Learning ***
6. NCLB services – St. Phillips Community Center Inc. ***
7. Thomsand Consulting Services – Medicaid reimbursement monitor \$220,000
8. Title II, Part D competitive grant project \$137,500

*** These items are paid out of the total NCLB budget identified in Item #1.

Director McCall was then excused from the meeting.

The Directors voted to approve Resolution 05-14 authorizing the School District to settle one claim. Motion by Faso second by Giambra. Vote 7-0 to take effect immediately.

RESOLUTION NO. 05 - 14

SETTLEMENT OF ONE CLAIM

WHEREAS Chapter 122 of the laws of 2003 permits the Buffalo Fiscal Stability Authority (“BFSA”) to review and approve or disapprove the terms of any proposed settlement of claims against the City of Buffalo 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 School District has submitted an item for approval at the January 26, 2005 BFSA meeting, and has signed the BFSA Remittance Approval Request Form (“RARF”) in which it indicates that there are sufficient funds available for the item; and

WHEREAS, BFSA Staff have reviewed the information and the RARF and recommend approval of the claim; and

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby authorize the School District to settle the matter of the jury verdict/claim Lamel Battey v. Buffalo Board of Education for the amount of \$1,235,000 and the release of any claim for interest on the verdict.

Closing Remarks

Chairman Lipke noted that he heard of four savings opportunities that unfolded during the meeting:

- Single Health Insurance Provider Insurance for the Schools
- Sale of the City property in Perrysburg, NY
- Merging of Buffalo’s and Erie County’s water systems
- Firehouse Funding with State reengineering monies

Chairman Lipke thanked Thomas E. Baker, BFSA’s 1st Chairman for his leadership, time and efforts, and there being no further business, Chair Lipke motioned to adjourn with Resolution 05-15, which was duly seconded unanimously. The meeting adjourned at 3:58 p.m.

RESOLUTION NO. 05 - 15

HONORING THOMAS E. BAKER, BFSA’S FIRST CHAIRMAN

WHEREAS, on July 3, 2003, New York State Governor George Pataki signed into law Chapter 122 of the Laws of 2003, also known as the Buffalo Fiscal Stability Authority Act, which created the Buffalo Fiscal Stability Authority (“BFSA”) to have a broad range of financial control and oversight power with respect to the City of Buffalo’s finances and the finances of any non-exempt covered organizations; and

WHEREAS, the Governor appointed and designated Thomas E. Baker, the President of the John R. Oishei Foundation as Director and Chairman of the Authority on August 1, 2003; and

WHEREAS, Chairman Baker displayed strong leadership right from the start, setting a pragmatic and authoritative tone for the BFSA’s meetings; and

WHEREAS, Chairman Baker presided over eighteen meetings of the BFSA, given numerous speeches and attended various meetings, in a tireless effort to promote the mission of the BFSA to help restore long-term fiscal stability to the City of Buffalo; and

WHEREAS, during his tenure as Chairman, Mr. Baker oversaw the implementation of two Four-Year Financial Plans, designed to identify future budget shortfalls and gap closing strategies; and

WHEREAS, Mr. Baker led the way in facilitating the historic consolidation of the City's Parks function with the Erie County Parks and Recreation Department, generating \$3.4 million in savings and encouraged the City of Buffalo and its covered organizations to utilize a single health insurance carrier, which saved \$6 million in 2004-05 without sacrificing employee benefits; and

WHEREAS, with some regret, Mr. Baker has resigned as Chairman to continue his good works with the Oishei Foundation and to enjoy time with his family; and

WHEREAS, the accomplishments of Mr. Baker are too vast to recite, yet he should be credited for building a professional organization, led by Dorothy A. Johnson as Executive Director, that will continue in the tradition he has established;

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby adjourn its meeting of January 26, 2005 in honor and appreciation of Chairman Thomas E. Baker for his invaluable contribution and commitment to this region, the City of Buffalo and its covered organizations and the Buffalo Fiscal Stability Authority.

*Alair Townsend wanted it to be known that her vote was in the affirmative on all resolutions listed herein, though her physical absence precluded it from being tallied in the official record.