

MINUTES
Buffalo Fiscal Stability Authority
May 17, 2005

The regular meeting of the Buffalo Fiscal Stability Authority (BFSA) was called to order at 1:02 PM on May 17, 2005, at the Buffalo & Erie County Central Public Library by Mr. Brian Lipke, Chairman of the Board. The meeting was convened by a Notice of Meeting sent to the Directors by Chairman Lipke and announced to the public and press.

Directors Present: Giambra, Faso, Lipke, Masiello, McCall, Tobe, and Stenhouse

Directors Absent: Townsend (phone), and Wilmers

Staff Present: Johnson, McPherson, Miller, Mitchell, Stefko and Tocker

Opening Remarks:

Chairman Brian Lipke welcomed all attendees and cited emergency exit information. In his opening remarks, Mr. Lipke stated that the City had submitted the Four-year Financial Plan for the City, School District, Buffalo Municipal Housing Authority (BMHA) and Buffalo Urban Renewal Agency (BURA) to the BFSA and commended their respective staffs for their hard work. The collaboration between these entities and the BFSA has been a major factor in improving the fiscal outlook, which he hopes will continue with a new City administration. Chairman Lipke stressed that, along with financial issues, “quality of life” issues need to be addressed as well. While progress has been made, the fiscal crisis has not abated and further actions will be needed. He commended the Buffalo Board of Education for taking a tough action in passing a resolution to cover all District employees with a single health insurance carrier.

Following his opening remarks, Chairman Lipke asked Secretary Richard Tobe to do a roll call of the Directors. Finding a quorum present, the BFSA Board started the meeting.

Approve Minutes

The Directors voted to approve Resolution 05-39 to approve the minutes of the April 5, 2005 Board Meeting and to ratify resolutions numbered 05-27 – 05-38. Motion by Stenhouse, second by Giambra. Vote 7-0, to take effect immediately.

RESOLUTION NO. 05-39

APPROVING MINUTES AND RESOLUTIONS FROM APRIL 5, 2005

BE IT RESOLVED that the Buffalo Fiscal Stability Authority approves the minutes of its meeting of April 5, 2005 and ratifies and affirms twelve resolutions numbered 05-27 through 05-38 that were approved on April 5, 2005.

Review of Financial Plan:

Executive Director Dorothy Johnson briefed the Board on details of the Financial Plan with the use of a slide presentation titled “The Fiscal Crisis Continues”. Paper copies were provided to the

Directors. She explained that the proposed budget for the City of Buffalo shows the progress made during the last several fiscal years by the City to right-size and reengineer itself. However, that progress does not signal the end to the fiscal crisis. Serious threats remain to Buffalo's long-term fiscal stability.

Structural gaps continue to grow at an alarming rate, particularly within the School District. State aid has been used to close the City and School District's gaps. There are also alarmingly low levels of reserves for both entities. Director John Faso questioned why the School District's reserves were lower than the City's considering the size of its budget. It was explained that the District's reserve level is determined by statute.

The City's tax margin remains precariously low, shrinking even further with the proposed budget. Despite the growth of assessed values and the concomitant tax rate reductions, the City's tax levy remains the same.

In addition to fiscal challenges, the School District is facing academic under-performance along with the potential of further cuts. It remains unable to balance its budget without further cuts to the teaching workforce and programs.

Risks to the Financial Plan include an outstanding binding arbitration decision for City firefighters, which could cost the city over \$10M in additional recurring spending. Multiple lawsuits due to the wage freeze remain pending which could expose the City to significant amounts of back pay and additional recurring expenses in future years. Ms. Johnson stressed that the wage freeze is essential to balance the budgets for the City, School District, and other covered organizations.

Concerning other covered organizations, she noted that they continue to face acute fiscal/ quality of service challenges as well. The BMHA has eliminated its public safety department and dramatically cut maintenance costs due to cuts in federal funding. BURA continues to address its prior year deficit of \$5 million.

Despite the challenges, significant progress has been made. All entities have trimmed their workforce since 2003. The City, School District, and BMHA have all moved to single health insurance carriers, saving \$7million, \$12 million, and \$0.6 million annually respectfully. With the assistance of the BFSAs, they have developed fiscal monitoring mechanisms, enhanced long-term budgetary planning (four-year financial plan), received \$27 million in deficit financing and \$1.8 million in refunded debt savings, and gained short-term relief through the wage freeze.

Secretary Tobe requested a summary of the City's and other Covered Organizations' views on the wage freeze. The City, School District and BMHA acknowledged that the wage freeze was necessary to balance their financial plans. Mr. Tobe noted none of the plans contained wage increases for personnel throughout the course of the four-year plan.

Chairman Lipke thanked Ms. Johnson for the overview. He commented that the City has done a good job building its reserves. He observed that healthcare costs are rising exponentially and is a concern not only for local municipalities, but also for the private sector as well.

Update on Wage Freeze Litigation:

Chief Counsel Darryl McPherson updated the Board on the status of the six lawsuits in which the BFSFA is currently involved. Ms. Johnson pointed out that the BFSFA budget for legal fees is \$250,000. Due to the numerous lawsuits, this will be exceeded this fiscal year. Funds to cover this expense will be diverted from other areas of the budget. This litigation against both the City and the BFSFA only serves to increase operational costs and prevent savings that could be used for future raises.

Contracts:

Update on interim approvals of City Contracts

Four contracts were approved on an emergency basis that exceeded the \$200,000 threshold. Based on staff analysis and recommendation, the Chairman and Vice Chair approved all items. Since they exceeded the \$200,000 threshold, full Board affirmation is required.

The Directors voted to approve Resolution 05-40 authorizing the City of Buffalo to enter into three contracts. Motion by Masiello, second by Stenhouse. Vote 7-0 to take effect immediately.

RESOLUTION NO. 05-40

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 (“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, the BFSFA will review contracts or other obligations in excess of \$50,000, but will require approval by the BFSFA 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 BFSFA; and

WHEREAS, Resolution No. 04-89 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 prior to the May 17, 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:

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|--|-----------------|
| 1. R. D. Murray Fire Apparatus – Purchase 5 fire engines & pumpers | \$1,422,276.00 |
| 2. R. D. Murray Fire Apparatus – Purchase 2 aerial fire platform fire trucks | \$1,325,788.00 |
| 3. NOCO Energy – Transport of natural gas | \$1,129,837.00 |
| 4. Erie County – District Heating | No cost to City |

Approval of City Contracts

The Directors voted to approve Resolution 05-41 authorizing the City of Buffalo to enter into three contracts. Motion by Giambra, second by Masiello. Vote 7-0 to take effect immediately.

RESOLUTION NO. 05-41

AUTHORIZE CITY OF BUFFALO TO ENTER INTO THREE 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 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 the contract and other obligations for approval at the May 17, 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 items; and

WHEREAS, BFSA Staff have reviewed such items and the RARF and recommend approval of such contracts; and

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

1. Destro & Brothers Concrete Co. – Genesee Street Reconstruction Project
\$42,500
2. C. Destro Development Co. – Plugging water and sewer lines at demo sites
\$253,440
3. Thomann Asphalt Paving – Repair to City pavements
\$411,592

Ms. Johnson noted that School District Labor Agreements originally on the agenda for approval would be considered at the next meeting in order to give staff more time to analyze them.

Approval of School District Capital Contracts

The Directors voted to approve Resolution 05-42 authorizing the School District to enter into four contracts. Motion by Stenhouse, second by McCall. Vote 7-0, to take effect immediately.

RESOLUTION NO 05-42

AUTHORIZE THE BUFFALO SCHOOL DISTRICT 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 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 four contracts; and

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

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|--|-------------|
| 1. Erie I BOCES – Federal E-Rate Program, Year 8 | \$1,050,000 |
| 2. All State Development Inc – Refinish floors at City Honors | \$239,700 |
| 3. LP Ciminelli Inc – Update JSCB strategic plan for Phase III | \$750,000 |
| 4. CIR Electric – Install public address and clock system | \$642,000 |

BMHA Energy Performance Contract

BFSA Chief Financial Officer Bertha Mitchell briefed the Board on the BMHA energy performance contract for use at Kenfield and Langfield developments. Using a slide presentation, she detailed that Siemens Building Technologies, Inc. had successfully bid through a Request for Proposal process. The projected cost is \$16,668,005 with \$6,468,264 in funding from the BMHA Capital Fund and \$10,199,741 from a 12-year tax-exempt lease from M&T. She stated that the New York State Energy Research and Development Authority (NYSERDA) and the United States Department of Housing and Urban Development (HUD) were offering significant incentives for the project. NYSERDA is offering a 400 basis points (4%) buy-down of the interest rate on \$5 million of the municipal lease and \$3.3 million in grants. HUD incentives include freezing the rolling 3-year average of actual utility costs for 12 years so the BMHA can keep any savings obtained from energy conservation. Outdoor construction should be completed in the next few months while total project completion is targeted for completion in March 2006.

The Directors voted to approve Resolution 05-43 authorizing the BMHA to enter into the energy performance contract and municipal lease. Motion by Giambra, second by Stenhouse. Vote 7-0, to take effect immediately.

RESOLUTION NO 05-43

AUTHORIZE BUFFALO MUNICIPAL HOUSING AUTHORITY TO ENTER INTO TWO 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, Gillian Brown, Interim Executive Director of the Buffalo Municipal Housing Authority seeks the approval of two contracts; and

WHEREAS, BFSA staff have reviewed the terms and recommend approval of the contracts,

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

1. Siemens Building Technologies, Inc. – energy performance contract \$16,668,005
2. M & T Bank – tax exempt municipal lease \$10,199,741

Report on Public Forum

Chairman Lipke introduced the topic of the Public Forum, held by the University at Buffalo Institute for Local Governance and Regional Growth on May 7, 2005, at the Buffalo Convention Center. He thanked for all of their hard work facilitating the Public Forum. Rachel Teaman, a representative of the Institute, briefed the Board.

The Institute had been commissioned by the BFSA to conduct the annual Public Forum, as mandated in the BFSA Act, to give the public the opportunity to comment on the City's proposed Four-year Financial Plan. A report created by the Institute contains a summary of all comments submitted in writing or given in-person at the May 7 Forum.

While publicity within the City was extensive, there was relatively little participation with only sixteen individuals submitting feedback.

Treasurer H. Carl McCall questioned the cost/benefit of the Forum, considering it drew such a small response with a cost around \$10,000. He suggested that, instead of an annual Public Forum, the BFSA such consider holding an open Board Meeting instead, where the public would be able to offer input. Ms. Teaman felt the BFSA could conclude that the population has come to accept the role of the BFSA and is generally satisfied with its performance.

Chairman Lipke took a moment to clarify two issues raised by members of the public during the Forum. The first was the perception that no BFSA Directors were present during the Forum; the second was that the BFSA did not appreciate the job done by the Buffalo Fire and Police Departments. There were several members of the BFSA Board of Directors on hand at the Forum, including himself. The BFSA has never made any comment nor taken any action to suggest that it does not value the commitment and the quality of services offered by the Fire and Police Departments. In fact, it places a very high value on the quality of services provided by these vital institutions.

Secretary Tobe thanked the Institute for their excellent work with the Public Forum. He expressed his concern with the lack of participation by the public. He felt the Forum suffered by being held so soon after the release of the City's budget because the public did not have enough time to read and digest the material.

Ms. Johnson noted that the BFSA is statutorily bound by the Act to engage an entity to hold a public forum and receive a report on the public input ten days after the release of the City's Financial Plan.

Closing Remarks

Chairman Lipke thanked all who attended the meeting. Having no further business, Chairman Lipke made a motion to adjourn, which was duly seconded unanimously. The meeting adjourned at 2:17 PM.