

**MINUTES**  
**Buffalo Fiscal Stability Authority**  
**June 6, 2006**

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The regular meeting of the Buffalo Fiscal Stability Authority (BFSA) was called to order at 1:10 PM on June 6, 2006, at the Buffalo & Erie County Central Public Library by Mr. Brian J. 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:** Brown, Giambra, Giardino, Lipke, Stenhouse, Townsend & Wilmers

**Directors Absent (excused):** N/A

**Staff Present:** Johnson, McPherson, Miller, Mitchell, Mulawka, Solomon, Stefko and Tocker

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**Opening Remarks:**

Chairman Lipke began the meeting by welcoming all attendees, and by providing a review of the day's agenda. He explained that the primary topic to be discussed was the review of the City's proposed 2006-07 budget and four-year plan.

The Chair requested a roll call of the Directors. Secretary Stenhouse confirmed that there was a quorum present and the meeting commenced.

**Approval of Minutes**

The Directors voted to approve Resolution 06-39 to ratify the May 16, 2006 Board Meeting Minutes and to ratify resolutions numbered 06-33 through 06-38.

Motion by Giambra, second by Townsend, Vote 7-0 to take effect immediately

**RESOLUTION NO. 06 - 39**

APPROVING MINUTES AND RESOLUTIONS FROM MAY 16, 2006

BE IT RESOLVED that the Buffalo Fiscal Stability Authority approves the minutes of its meeting of May 16, 2006 and ratifies and affirms six resolutions numbered 06-33 through 06-38 that were approved on May 16, 2006.

**City of Buffalo**

***Review the Proposed 2006-07 Budget & 2006-09 Financial Plan***

BFSA Executive Director Dorothy Johnson addressed the Board utilizing a lengthy slide presentation. The slide presentation made the following points:

The City has proposed shifting \$12.2 million into "freeze accounts" where it may only be spent with BFSA authorization, and has proposed the following changes to the four-year plan:

- The removal of \$27 million in speculative revenue from the planned Seneca casino, and anticipated additional sales tax.
- The addition of actions including, the utilization of fund balance, reduction in capital outlay expenditure, workforce reduction through attrition, reduced fire overtime and a slight increase in property tax revenues.

Also included in Ms. Johnson's presentation, was information regarding the Buffalo Urban Renewal Agency (BURA) and Buffalo Municipal Housing Authority (BMHA).

- **BURA** - The 2006-07 total revenues are projected to be \$27 million, which is \$3.9 million less than in 2005-06. The prior years' deficit was approximately \$2.7 million.
- **BMHA** - The reserves are steadily being depleted, and it is difficult to project the budget because the United States Department of Housing and Urban Development (HUD) has not yet released what BMHA will receive in federal funding.

Ms. Johnson stressed the urgent need for structural changes within the City and the Covered Organizations. The potential savings are necessary to create fiscal stability. However, without substantive changes to New York State laws, the City will be continue to be dependant on increasing amounts of State Aid. Ms. Johnson noted the following as possible areas where savings could be gained:

- If City and School District employees contributed toward health insurance, at the same level as the average private sector employee, potential savings could be \$4.5 million and \$7.9 million, respectively.
- If City and School District employees contributed toward health insurance, at the same level as the average private sector retiree the potential savings could be \$7.2 million and \$9.8 million, respectively.
- Eliminated free elective cosmetic surgery could realize \$1 million in savings for City and School District
- Reducing paid sick leave to match private sector standards could mean \$8.7 million in savings for the City and \$8.9 million for the School District,
- Reducing all forms of paid leave; personal leave, holiday leave, vacation leave and "other leave", to match private sector standards, potential savings could be \$16.3 million for the City and \$12.7 million for the School District,

The presentation also discussed the following points:

- Firefighter and Police Officer Overtime: Overtime has increased significantly from 2004-2005; an increase of 5.4% and 1.5%, respectively.
- School Overtime – Eliminating overtime to administrators and professional staff would realize a savings of \$1.5 million.
- Summer Hours – Approximately 1,000 City and School employees leave work 30 minutes early during the summer months. Eliminating this practice would realize a savings of approximately 20,000 work hours, equaling approximately \$0.3 million for both the City and the School District.

- Retirement Bonuses –Eliminating \$20,000 retirement bonuses could realize a savings of \$2 million.
- School Facilities Maintenance – Maintenance costs are 30% higher than the national average. Bringing this expense in line could save \$5 million.
- Class Size Overages – Eliminating this bonus could create a potential savings of \$1 million.

Ms. Johnson culminated the presentation with the following points:

The City and School District need greater management controls, including the ability to:

- Cap use of leave time,
- Manage workforce deployment,
- Subcontract where cost-effective,
- Extend the length of the school day,
- Enact computerized time and attendance, and
- Shift management positions out of bargaining units.

BFSA has calculated that there are potential annual savings of approximately \$38 million in the City and \$50.7 million in the School District, equivalent to approximately \$313 per City resident.

Chairman Lipke clarified that despite the wage-freeze, police officers and firefighters have had increases in gross pay due to the large increase in overtime. He strongly agreed that the City and School District need the ability to restructure employee compensation and greater management flexibility. However this would require significant changes to State law.

Director Robert Wilmers stressed that real savings are crucial and that opportunities for savings cannot be ignored because of the declining real estate values and the ongoing population decline, especially among younger citizens.

County Executive Joel Giambra stated that the systemic problems municipalities such as Buffalo face are evident, yet turnover within State government is minimal. He called upon public authorities such as BFSA, the Erie County Fiscal Stability Authority (ECFSA), and the Nassau County Interim Finance Authority (NIFA), to aggressively bring the critical issues facing municipalities to the top of discussion at the State level, especially during a gubernatorial election year.

Chairman Lipke requested that BFSA Chief Counsel Darryl McPherson develop a resolution for consideration at the next meeting, addressing the call for Albany to make substantive changes in State law.

Motion to approve the budget and four-year financial plan by Giambra, second by Wilmers. Vote 7-0 to be effective immediately.

**RESOLUTION NO. 06-40**

## APPROVAL OF CITY OF BUFFALO REVISED FOUR YEAR FINANCIAL PLAN

WHEREAS, Chapter 122 of the laws of 2003 as amended by Chapter 86 of the laws of 2004 requires the City of Buffalo to submit a four-year financial plan that includes the City of Buffalo, the Buffalo Public School District, the Buffalo Municipal Housing Authority (“BMHA”) and the Buffalo Urban Renewal Agency (“BURA”) and the Mayor’s proposed City budget to the Buffalo Fiscal Stability Authority (“BFSA”) not later than the date required for submission of the budget to the Common Council as set by the City Charter, and

WHEREAS, the City of Buffalo submitted a Four Year Financial Plan and proposed City budget on May 1, 2006 to the BFSA, and

WHEREAS, the BFSA engaged two University at Buffalo graduate students to seek public input and comment relating to the City’s and/or any covered entities financial plan, and.

WHEREAS, the students held an evening public comment session on Thursday, May 4, 2006, and

WHEREAS, the City of Buffalo, Buffalo Public Schools, the Buffalo Municipal Housing Authority and the Buffalo Urban Renewal Agency presented the Budget and Four Year Plan to the BFSA at a BFSA Board meeting on May 16, 2006, and

WHEREAS, the students presented a report to the BFSA at a Board meeting on May 16, 2006 reporting on the public comments received in connection with the public comment session held on May 4, 2006, and

WHEREAS, at the May 16 BFSA Board meeting, a number of questions were raised with respect to the role of increased expenditures in the Mayor’s Budget and the uncertainty of increased revenues in the Four-Year Financial Plan, and

WHEREAS, the Buffalo Common Council acted to modify and approve the proposed budget on May 18, 2006 and such modified and approved budget did not address the concerns raised by the BFSA on May 16, 2006, and

WHEREAS, in a submission dated May 24, 2006, the City of Buffalo revised its Four-Year Financial Plan (“Revised Buffalo Plan”) to reflect amendments made by the Common Council and to address issues raised by BFSA, and

WHEREAS, staff from the BFSA and the City of Buffalo have met to exchange views regarding the levels of risk for initiatives contained in the Revised Buffalo Plan and the increased spending level, and

WHEREAS, the Mayor's Revised Budget dated May 24, 2006 established freeze accounts under BFSAs control for the following items to address the rate of increased expenditures in the adopted budget:

1. \$8.5 million in capital outlay spending
2. \$1.7 million in elimination of funded vacancies
3. \$1.3 million in utility savings
4. \$0.7 million in fire overtime savings and

WHEREAS, the Revised Four Year Plan for the City of Buffalo established a range of alternative actions and strategies, should anticipated revenues in the Four Year Plan fail to materialize, as follows:

1. Use of additional fund balance
2. Reduction of capital outlay spending
3. Workforce attrition
4. Not filling funded vacancies
5. A new firefighter class to generate overtime savings
6. A small increase in revenue assumptions due to new development and

WHEREAS BFSAs has received a Certificate from the Mayor that indicates that the budget submitted with the Complete Plan is consistent with the City of Buffalo's Revised Four Year Financial Plan and that the City of Buffalo operations within that budget are feasible as required by Section 3857(2)(a) of the Public Authorities Law, and

WHEREAS, BFSAs determined that the Buffalo School District and BURA had provided Plans that substantially comply with the BFSAs Act, while BMHA's Plan will need to be revised once it receives additional information from the United States Department of Housing and Urban Development (HUD), and

WHEREAS, notwithstanding the risks and increases therein, the Revised Buffalo Plan was a balanced document; and

WHEREAS, BFSAs staff has reviewed the Revised Budget and Four Year Plan for the City of Buffalo dated May 24, 2006 and reported that it complies with the requirements of the BFSAs Act and recommends that the BFSAs approve the plan, despite its ongoing concern with the rate of growth in expenditures,

NOW THEREFORE BE IT RESOLVED THAT, the Buffalo Fiscal Stability Authority determines that the City of Buffalo Four Year Financial Plan is complete, complies with the standards set forth in Sections 3857 and 3858 of the Buffalo Fiscal Stability Authority Act, and is hereby approved.

AND BE IT FURTHER RESOLVED THAT, the Buffalo Fiscal Stability Authority hereby certifies the revenue estimates in the Financial Plan Modification submitted to the

BFSA by the City on May 24, 2006 and those submitted separately by the School District and other Covered Organizations.

AND BE IT FURTHER RESOLVED THAT, funds set aside in the freeze adjustment accounts for utilities, fire overtime, capital outlay and personal services shall require written Buffalo Fiscal Stability Authority authorization prior to their use.

AND BE IT FURTHER RESOLVED THAT, the Buffalo Municipal Housing Authority budget and financial plan is approved conditionally as the BMHA Board of Commissioners has not yet approved the budget and financial plan that has been submitted to the United States Department of Housing and Urban Development, which, similarly, has not approved the plan. As a result, the amount of anticipated subsidy has not yet been determined by HUD. Therefore, the BMHA budget and financial plan, as hereby conditionally approved shall be reviewed for potential modification at the next Buffalo Fiscal Stability Authority meeting.

AND BE IT FURTHER RESOLVED THAT, the hiring freeze imposed on December 10, 2003 in Resolution No. 03-70 on the City and on January 21, 2005 in Resolution No. 05-08 on the Buffalo Municipal Housing Authority and the wage freeze imposed on April 21, 2004 in Resolution No. 04-35 are essential to the maintenance of a balanced budget and four-year financial plan as proposed, adopted and modified by the City, and as such, shall continue to be in effect.

AND BE IT FINALLY RESOLVED THAT, notwithstanding the dollar figures presented in the 2006-2007 Budget, no wage or salary adjustments shall be deemed authorized until acknowledged and approved separately by the Buffalo Fiscal Stability Authority.

***National Grid - Prior Years' Account Balance***

Ms. Johnson explained that the City of Buffalo Comptroller's Office had submitted a letter June 2, 2006 providing additional explanation of the prior years' arrears. She noted that the letter sufficiently explained the National Grid error.

At this point in the meeting, Director Giambra was excused (2:25 PM)

**Intern Hiring Freeze Waivers**

***Mayor of Buffalo***

The Board voted to amend the hiring freeze ordered on the City of Buffalo to allow for certain hires; specifically summer interns hired by the Mayor.

Motion by Townsend, second by Brown. Vote 6-0 to be effective immediately.

**RESOLUTION NO. 06-41**

**AMEND HIRING FREEZE ORDERED ON CITY OF BUFFALO FOR CERTAIN HIRES**

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 BFSA Act 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 BFSA Act 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 Financial Plan and was necessary to accomplish the purposes of the BFSA Act and to ensure the timely and satisfactory implementation of the 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, the Mayor has requested an exemption for short-term summer hires, commonly known as interns, who are funded from the Mayor’s discretionary spending line, which also includes funding lobbyists and consultants; and

WHEREAS, given the short summer season for interns and their minimal budgetary impact, the time and resources to continually process requests to hire interns pursuant to the waiver process outlined in Resolution No. 04-89 could be considered a poor allocation of resources;

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority hereby authorizes the Mayor to hire interns for his Summer Internship Program in an amount not to exceed \$58,000, and that any expenditure for interns beyond the budgeted allocation requires separate approval by the Buffalo Fiscal Stability Authority.

***Common Council of Buffalo***

The Board voted to amend the hiring freeze ordered on the City of Buffalo to allow certain hires; specifically summer interns hired by the Common Council.

Motion by Townsend, second by Brown. Vote 6-0 to be effective immediately.

**RESOLUTION NO. 06-42**

**AMEND HIRING FREEZE ORDERED ON CITY OF BUFFALO FOR CERTAIN HIRES**

WHEREAS, Chapter 122 of the Laws of 2003, as amended, 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 BFSA Act 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 BFSA Act 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 ensure 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, among the exemptions granted to the hiring freeze are numerous short-term part-time hires engaged by the Common Council, commonly known as interns, who are funded from a Council discretionary spending line, which also includes funding for travel and auto allowances and is limited to \$15,000 for each Councilmember; and

WHEREAS, given the high turnover of interns and their minimal budgetary impact, the time and resources to process a request to hire an intern pursuant to the waiver process outlined in Resolution No. 04-89 could be considered a poor allocation of resources;

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority hereby authorizes the Common Council to hire interns within the individual budget lines of the Councilmembers, not to exceed \$15,000, and that any expenditure for interns beyond the budgeted allocation requires separate approval by the Buffalo Fiscal Stability Authority.

### **Contracts**

The Board agreed to approve the City and School District contracts collectively. The BFSA Board voted to approve the contract resolutions 06-43 and 06-44. Ms. Johnson noted that contracts numbered 11, 20, 21 and 22 on Resolution 06-44 would be removed from consideration on this resolution.

Motion by Stenhouse, second by Townsend. Vote 6-0, except on Resolution No. 06-44 with Director Wilmers abstaining, to be effective immediately.



**RESOLUTION NO. 06-43****AUTHORIZE CITY OF BUFFALO TO ENTER INTO FOUR CONTRACTS AND/OR OBLIGATIONS**

WHEREAS, Chapter 122 of the Laws of 2003, as amended, 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, 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 limit on 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 contracts or other obligations are valued at \$200,000 or more; and

WHEREAS, the Mayor and other City officials have submitted a contract for approval at the June 6, 2006 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 the contracts; and

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority approve and authorize the City of Buffalo to enter into four (4) contracts and/or obligations as listed below:

- |   |                |
|---|----------------|
| 1. Destro and Brother’s Concrete – Resurfacing City Pavements- 2006 | \$2,736,837.00 |
| 2. Concentra – IOD case manager                                     | \$500,000.00   |
| 3. C. Destro Development – splash pad modifications                 | \$233,404.00   |
| 4. Managed Care Network – IOD case manager change order             | \$25,925.00    |

**RESOLUTION NO. 06-44****AUTHORIZE THE BUFFALO SCHOOL DISTRICT TO ENTER INTO ~~TWENTY-THREE~~ NINETEEN CONTRACTS**

WHEREAS, Chapter 122 of the Laws of 2003, as amended, 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, 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 all contracts and the RARF and recommend approval of twenty-four contracts; and

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority approve and authorize the Buffalo School District to enter into ~~twenty three (23)~~ nineteen (19) contracts as listed below:

- |   |                         |
|---|-------------------------|
| 1. Alternative Information Systems – purchase of tablet computers                           | \$600,000.00            |
| 2. Depew Dairy, Foxy Delivery and CD&L Delivery – summer food delivery                      | \$212,519.00            |
| 3. Frey Electric Construction – electrical replacements                                     | \$418,000.00            |
| 4. Optimal Therapy Associates & Associated Physical Therapy – therapy services              | \$2,600,000.00          |
| 5. Buffalo State College & Canisius College – teacher recruitment & retention               | \$261,000.00            |
| 6. Buffalo Hotel Supply – food service equipment  | \$987,020.00            |
| 7. Drescher & Malecki, CPAs – internal auditor  | \$83,600.00             |
| 8. Westminster Community Charter School – foreign language grant                            | \$70,094.00             |
| 9. John W. Danforth Company – fuel tank and boiler repair/replacement                       | \$300,000.00            |
| 10. Apple Computer – purchase of eMac computers   | \$79,394.00             |
| <del>11. Dell Computer &amp; Alternative Information Systems – computers and printers</del> | <del>\$239,119.00</del> |
| 12. SRA-McGraw Hill – reading instruction materials   | \$742,420.00            |

13. MUNIC, Inc. – software and licensing	\$149,635.00
14. Sopris West Educational Service – language instruction materials	\$926,862.00
15. Sopris West Educational Service – language instruction materials	\$144,667.00
16. Sysco Food Services & East Side Entrees – summer food commodities	\$117,595.00
17. Various vendors – purchase of USDA approved food commodities	\$716,376.00
18. 70 West Chippewa Corporation - Emerson School lease payment	\$1,227,535.00
19. Emerson School of Hospitality – lease amendment for expansion	\$189,680.00
<del>20. Swan Group Limited Partnership – Middle College Program lease payment</del>	<del>—————</del>
	<del>\$460,000.00</del>
<del>21. Buffalo State College – Campus West/College Learning Lab lease payment</del>	<del>—————</del>
	<del>\$881,227.00</del>
<del>22. D’Youville College – DaVinci High School lease payment</del>	<del>—————</del>
	<del>\$1,058,419.00</del>
23. Boyd & Robinson v. Board of Education – legal settlement	\$180,000.00

### ***School District Labor Contract***

After briefly explaining the AFSCME Local 264 food service workers contract terms, Ms. Johnson stated that BFSFA staff has recommended that the Board disapprove this agreement. She stressed that the wage-freeze can be lifted on a union-by-union basis but there needs to be meaningful changes in contracts which help to alleviate the fiscal crisis, as mandated by the Buffalo Fiscal Stability Authority Act. The Directors, regrettably, voted to disapprove the School District labor agreement with AFSCME Local 264.

Motion by Townsend, second by Wilmers. Vote 6-0 to be effective immediately.

### **RESOLUTION NO. 06-45**

DISAPPROVING THE SCHOOL DISTRICT LABOR AGREEMENT WITH LOCAL 264

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

WHEREAS, the School District has submitted to the Buffalo Fiscal Stability Authority (“BFSFA”) a collective bargaining agreement between the School District and Local 264, the labor organization representing summer food service workers employed by the School District; and

WHEREAS, the Agreement for seasonal laborers formalizes terms with the District over the use of these employees where no previous agreement existed; and

WHEREAS, the Agreement provides an increase in the wage rate paid to workers in the summer food service program; and

WHEREAS, to provide a wage or salary increase without an acceptable deferment and contribution to alleviating the fiscal crisis would be a violation of the wage freeze enacted by the BFSA in Resolution No. 04-35 on April 22, 2004;

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby disapprove the Memorandum of Understanding between Local 264 and the School District for the Summer Food Service Program.

**Closing Remarks**

Chairman Lipke thanked all who attended the meeting. He noted that, effective June 5, 2006, Director John Faso had offered his resignation to the Governor. Mr. Faso had been one of the original members to the Board and recognized his contributions to the City and wished him continued success in his endeavors.

Having no further business, Chairman Lipke made a motion to adjourn, which was duly seconded unanimously. The meeting adjourned at 2:42 PM.