

MINUTES  
Buffalo Fiscal Stability Authority  
Governance Committee Meeting

August 9, 2006

The regular meeting of the Buffalo Fiscal Stability Authority (BFSA) Governance Committee was called to order at 12:55 PM on August 9, 2006, at the Buffalo & Erie County Central Public Library. The meeting was convened with a Notice of Meeting sent to the Directors and announced to the public and the press.

Directors Present: Lipke and Stenhouse

Directors Absent (excused): Townsend

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

**Opening Statement**

BFSA Chairman Brian Lipke called the meeting to order, substituting for Vice Chair Alair Townsend, who formally heads the Committee.

**Open Issues**

BFSA Chief Counsel Darryl McPherson briefed the Committee regarding BFSA's reporting and accountability requirements, and Board member's responsibilities as required by the Public Authorities Accountability Act of 2005. Additionally, he provided a summary of the proposed BFSA Code of Ethics, which was provided to the Board in their briefing packets.

The Committee voted to send the Code of Ethics to the full Board for approval.

Motion to recommend approval of the Code of Ethics to the full BFSA Board made by Stenhouse, with a second by Lipke. Vote 2-0 to make the recommendation.

There being no further business, Chairman Lipke entertained a motion to adjourn, which was duly seconded. The meeting adjourned at 1:06 PM.

**MINUTES**  
**Buffalo Fiscal Stability Authority**  
**August 9, 2006**

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The regular meeting of the Buffalo Fiscal Stability Authority (BFSA) was called to order at 1:14 PM on August 9, 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 & Wilmers

**Directors Absent (excused):** Townsend

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

**Opening Remarks:**

Chairman Lipke welcomed attendees, and by provided a review of the day's agenda. Noting that the day's Agenda was large, he 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 06-46 to ratify the June 6, 2006 Board Meeting Minutes and to ratify resolutions numbered 06-39 through 06-45.

Motion by Wilmers, second by Giardino, Vote 6-0 to take effect immediately

**RESOLUTION NO. 06 - 46**

**APPROVING MINUTES AND RESOLUTIONS FROM JUNE 6, 2006**

BE IT RESOLVED that the Buffalo Fiscal Stability Authority approves the minutes of its meeting of June 6, 2006 and ratifies and affirms six resolutions numbered 06-39 through 06-45 that were approved on June 6, 2006.

**City of Buffalo**

***Ongoing Financial Plan Issues***

Chairman Lipke provided a brief overview of BFSA's mission, which he summed up as providing the City of Buffalo and the covered entities assistance to attain long-term fiscal stability. He noted that a large amount of cash savings over the last three years are due to this assistance; however, the City continues to struggle and long-term fiscal stability has not been secured. He praised the cooperative efforts of both the Masiello and Brown Administrations.

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

- The City of Buffalo's population continues to erode.

- Enrollment within the Buffalo Public School District (“the District”) has declined; exceeding the rate of decline of the general population.
- Buffalo decline in the 1990s is highlighted –
  - 18% of population aged 18 - 44 has moved away,
  - 20,000+ residential units lie vacant,
  - \$1.8 billion decrease in the value of real estate,
  - 26% of residents below the poverty line, and
- The City and District are ever more dependant on speculative State Aid, and budget gaps continue to widen putting the City and District at risk.
- Two-thirds of the City and District expenses are workforce costs.
- Workforce costs outpace cuts.
- Recent surveys show that municipal employees’ costs, particularly in benefits, far exceed local and national averages.
- Salaries of municipal employees also exceed local standards with the average police earnings in 2005 at more than \$70,000 while the average employed City resident made less than \$32,000. Analysis indicated that police salaries increased by more than \$9,000 prior to the wage freeze to an average \$59,277.

Mayor Byron Brown thanked BFSA staff for the analysis. He added the following points:

- The City of Buffalo has had \$50 million in new economic development from 2001-2005. There has been \$750 million in new economic development within the City in the last seven months alone.
- The current City Administration is addressing the population loss and is aggressively marketing the City to new college graduates and expatriates.
- While over-reliance on State Aid is a concern, the current Administration is very proud that it was a part of the effort to attain increased aid for the City.
- Referring to the slide which compared the average paid time off nationally, locally (private sector) and within the City/ School District, he stated that new procedures have been implemented to reduce the misuse of sick leave. He requested a comparison of how the City of Buffalo and the School District compare to other comparably-sized municipalities.

Secretary Richard Stenhouse specifically addressed the wage-freeze. In light of the negative comments made public recently by several leaders of area unions, he commented that angry rhetoric and “name-calling” are counter-productive. He supports the wage-freeze because there are insufficient resources to lift it. This support is not meant to imply that he is “anti-union” but rather pro-Buffalo. He concluded his statement by calling on the leaders of unions to work in step with the Administration to come up with new ideas that will lead to a lifting of the wage-freeze.

Director John Giardino stated that discussion of the wage-freeze has begun to dominate Board business. He agreed with Mr. Stenhouse’s sentiments and stressed the need for the Board to move beyond the issue of the wage-freeze and work on other issues as well. Director Robert Wilmers endorsed the sentiments of Rev. Stenhouse.

### **Buffalo School District**

### **Collective Bargaining Agreement**

Chairman Lipke introduced a collective bargaining agreement between the District and the Summer Food Service Workers union (Local 264). The contract provides for a 3 % wage increase, in exchange for workers ending the perfect attendance bonus. Chairman Lipke cited that this is a favorable agreement because it is within the constraints of the BFS Act. The agreement had been signed by the Superintendent, Dr. James Williams, and the AFSCME Local 264 President, Bill Travis, but noted that the Board of Education and the union membership had not yet had the opportunity to vote on it. In conclusion, Chairman Lipke stated that the benefits sufficiently exceeded the cost of the wage increases and was happy to support the approval of this agreement.

Director Wilmers asked for a clarification on the source of the funds for the workers' wages, which Ms. Johnson replied was federal food service funds.

County Executive Joel Giambra requested a clarification on how much the perfect attendance bonus had cost in the prior year. Ms. Johnson replied that the total payout has the potential to amount to \$11,000. Director Stenhouse personally thanked Local 264 President Travis for taking the step to work hand-in-hand with the School District and allow the wage-freeze to be lifted for these workers.

Motion by Stenhouse, second by Giardino, Vote 6-0 to take effect immediately

### **RESOLUTION NO. 06-47**

#### **APPROVAL OF COLLECTIVE BARGAINING AGREEMENT**

WHEREAS, as a result of the fiscal crisis facing Buffalo, and pursuant to the powers granted under the BFS Act, a wage freeze was enacted on April 21, 2004 and continues in effect; and

WHEREAS, the Act provides that an agreement which contains a deferral of wage or salary increases may be approved as an exception to the wage freeze if it serves to alleviate the fiscal crisis; and

WHEREAS, the Buffalo City School District, a named covered organization under the Act, negotiated a collective bargaining agreement with a unit of seasonal summer food service workers represented by AFSCME Local 264; and

WHEREAS, in 2005 and again in 2006, the collective bargaining agreement was disapproved by the BFS Act under the provisions of its wage freeze resolution; and

WHEREAS, the school district and union have negotiated a revised agreement which provides for a deferral of previously negotiated wage increases and the elimination of an agreed upon attendance bonus.

NOW, THEREFORE, BE IT RESOLVED, that the collective bargaining agreement between the Buffalo City School District and AFSCME Local 264 covering seasonal summer food service

workers meets the requirements of Section 3858(2)(c)(ii) of the Act by providing for a deferral of wage increases acceptable to the Authority, and it is hereby certified that the aforesaid collective bargaining agreement is an acceptable and appropriate contribution toward alleviating the fiscal crisis; and

BE IT FURTHER RESOLVED, that the aforesaid collective bargaining agreement is approved as an exception to the wage freeze resolution of April 21, 2004 and shall be deemed effective on this date with salary increases to be paid going forward without retroactivity, subject to Buffalo City School District approval and AFSCME Local 264 ratification; and

BE IT FURTHER RESOLVED, that any changes, amendments, modifications or successor agreements between these parties shall be subject to the further approval of the BFSA; and

BE IT FINALLY RESOLVED, that in all other respects, the wage freeze resolution of April 21, 2004 shall remain in full force and effect, subject to the right of the City and other non-exempt covered organizations to submit for approval deferral agreements meeting the requirements of Section 3858(2)(c)(ii) of the Act.

### **Proposed Budget Modification**

Ms. Johnson briefed the Board regarding a proposed budget modification for the District. The modification recasts its 2006-07 budget to assume nine months worth of savings (\$10.7 million) from the single carrier initiative.

Director Stenhouse inquired what the impact would be to the spending plan if the District loses the lawsuit opposing the single-carrier health insurer. Buffalo School District Chief Financial Officer Gary Crosby addressed the Board. He explained that a contingency plan is in place in the event that the District loses the lawsuit. Although difficult, resources may be diverted from certain areas to address the added cost of maintaining multiple health insurance carriers.

### **RESOLUTION NO. 06-48**

### **MODIFICATION TO THE 2006-2007 SPENDING PLAN TO RECOGNIZE SAVINGS FROM THE SINGLE HEALTH INSURANCE CARRIER INITIATIVE AND SCHOOL CLOSINGS.**

WHEREAS, in the School District's budget projected a \$16 million budget gap, caused by calculating a health insurance costs on a multi-carrier basis, and

WHEREAS, while the District currently utilized a single health insurance carrier, that position is threatened by legal actions taken against the District, and

WHEREAS, upon further review of the calendar, the District found that it could safely book savings from the single health insurance carrier, and

WHEREAS, in addition, savings from freezing positions, school closings and fewer retirements than anticipated provided additional funds to close the gap, and

WHEREAS, the BFSAs staff has studied the Plan modifications and finds them reasonable and sufficient to maintain a balanced financial plan,

NOW THEREFORE BE IT RESOLVED THAT, the Buffalo Fiscal Stability Authority approves the modification of the Buffalo City School District's 2006-07 budget as submitted to Buffalo Fiscal Stability Authority on June 30, 2006.

**Buffalo Municipal Housing Authority  
Operating Budget/ Capital Budget Update**

Ms. Johnson, with Chief Financial Officer Bertha Mitchell, provided an update to the Board regarding the BMHA's Operating Budget and Capital Budget, which were recently approved by the United States Department of Housing and Urban Development.

Motion by Giambra, second by Wilmers. Vote 6-0 to take effect immediately.

**RESOLUTION NO. 06-49**

**APPROVAL OF BUFFALO MUNICIPAL HOUSING AUTHORITY 2006-2007  
CAPITAL BUDGET**

WHEREAS, the mission of the Buffalo Municipal Housing Authority ("BMHA") is to provide safe, decent and affordable public housing, which is of vital importance to a region such as Buffalo, and

WHEREAS, BMHA presented their capital budget to the United States Department of Housing and Urban Development ("HUD") for approval, which was granted by HUD in August 2006, and

WHEREAS, HUD approved a capital budget in the amount of \$9,851,884, which was a decrease of \$788,612 from what was approved for their capital program in the prior year, and

WHEREAS, HUD has also approved replacement factor grants in the amounts of \$828,488 and \$420,161, which must be used for redevelopment, and

WHEREAS, BMHA has two years to commit the funds and four years to spend them, and

WHEREAS, though BMHA is allowed by HUD to use up to 20% for operating purposes, BMHA elected to take only 8.2% of the 2006 funds and 9.6% of the 2007 funds, and

NOW THEREFORE BE IT RESOLVED THAT, the Buffalo Fiscal Stability Authority approves the Buffalo Municipal Housing Authority's 2006-2007 capital budget and replacement housing factor grants.

Chairman Lipke excused himself from the proceedings at 2:16 PM. Secretary Stenhouse assumed the role of Chair in his absence.

### **BFSA Code of Ethics**

BFSA Chief Counsel Darryl McPherson briefed the Board regarding the proposed BFSA Code of Ethics and issues related to the Public Authorities Accountability Act of 2005. The Code was recommended for approval by the Governance Committee immediately prior to the meeting.

Ms. Johnson added that BFSA has always followed the standards and principals outlined in the Code of Ethics, but it is necessary to formally adopt a code of ethics that at minimum, adheres to the standards set forth in Section 74 of the Public Officers Law.

Motion by Wilmers, second by Brown, Vote 5-0 to take effect immediately.

### **RESOLUTION NO. 06-50**

#### **ADOPTING A CODE OF ETHICS**

WHEREAS, Chapter 122 of the Laws of 2003, as amended, created the Buffalo Fiscal Stability Authority (“BFSA”) to provide financial oversight and budgetary control over the City of Buffalo and other Covered Organizations; and

WHEREAS, as a public authority, the BFSA is subject to regulation by the State of New York, either in the form of rules and regulations promulgated by the State Comptroller or legislation enacted by the State Legislature and signed by the Governor; and

WHEREAS, the Public Authorities Accountability Act of 2005 (“PAAA”) establishes a wide range of duties for state and local public authorities to promote the utmost in competence and public confidence in their activities; and

WHEREAS, one such requirement is the adoption of a Code of Ethics, that at a minimum, reflects the standards set forth in Section 74 of the Public Officers Law; and

WHEREAS, upon a review by the Governance Committee of the BFSA (also required by the PAAA), the attached Code of Ethics is hereby recommended to the full Board for approval; and

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby adopt a Code of Ethics for all BFSA employees and Directors to ensure the highest level of honesty, ethical conduct and public trust in all of the BFSA’s activities.

### **Cash Flow Bond Sale**

Ms. Johnson briefed the Board on the issuance of Bond Anticipation Notes (“BANs”), Series 2006A-1; the principal amount of up to \$65 million in anticipation of the issuance of the Series Three Bonds (limited to \$70 million). The notes are expected to be paid from City State Aid payments.

County Executive Giambra inquired about the underwriting process for the BANs. Ms. Johnson explained that the BANs are underwritten by Lehman Brothers, Inc. Lehman Brothers had successfully responded to a Request for Proposals (RFP) for underwriting services; a new RFP will be sent this fall to maintain a competitive bidding process.

Motion by Giambra, second by Wilmers, Vote 5-0 to take effect immediately.

## **RESOLUTION NO. 06-51**

### **RESOLUTION CONCERNING STATE ENVIRONMENTAL QUALITY REVIEW ACT MATTERS IN CONNECTION WITH THE AUTHORIZATION, SALE AND ISSUANCE OF BOND ANTICIPATION NOTES, SERIES 2006A-1**

WHEREAS, the Buffalo Fiscal Stability Authority Act, incorporated in chapter 122 of the laws of 2003, as amended from time to time (the “Act”), authorizes the Buffalo Fiscal Stability Authority (the “Authority”) to issue bonds and notes for the purpose of financing Financeable Costs, as defined in the Act and to make the proceeds thereof available to the City of Buffalo (the “City”); and

WHEREAS, the Act authorizes the Authority to enter into appropriate and necessary contracts with its bondholders and others to provide for the issuance thereof, and the Directors of the Authority intend to provide from time to time for the authorization, issuance and sale of its bond anticipation notes (the “Notes”); and

WHEREAS, the proceeds of such series of Notes (the “Series 2006A-1 Notes”) will be used to finance Financeable Costs under the Act, which may include but are not limited to (i) refunding, repayment or restructuring of certain outstanding indebtedness of the City; (ii) cash flow needs of the City; (iii) capital projects; (iv) operating costs of the City; and (v) the costs of issuance of such series of Bonds; and

WHEREAS, the Authority is required under the State Environmental Quality Review Act, as amended (“SEQRA”), to complete environmental reviews in connection with its activities, including the issuance of its bonds and notes from time to time or the expenditure of the proceeds thereof:

NOW, THEREFORE, the Authority hereby adopts the following resolutions:

#### I. Authorized Officers

RESOLVED, that each of the Chairperson, the Vice Chairperson, the Executive Director, the Chief Financial Officer, the Chief Counsel, the Treasurer and the Corporate Secretary of the Authority, and any other person duly authorized to act in such capacity, is designated an “Authorized Officer” for the purposes of the following resolutions; and further

#### II. SEQRA Findings and Delegation

RESOLVED, that the issuance of the Series 2006A-1 Notes in order to finance Financeable Costs under the Act, which may include but are not limited to (i) refunding, repayment or restructuring of certain outstanding indebtedness of the City; (ii) cash flow needs of the City; (iii) capital projects; (iv) operating costs of the City; and (v) the costs of issuance of such series of Notes in each case, except clause (iii), constitutes a “Type II” action under SEQRA and, accordingly, no further action or review is required to be made with respect to the issuance of bonds and notes and the application of the proceeds for such purposes; and further

RESOLVED, that no proceeds of the Series 2006A-1 Notes shall be applied with respect to any Financeable Cost unless and until an Authorized Officer has taken all necessary action pursuant to the delegation in the following clause in order to comply with the requirements of SEQRA with respect to such Financeable Cost; and further

RESOLVED, that the Authorized Officers are each hereby authorized and directed to take any and all actions necessary to comply with the requirements of SEQRA prior to the disbursement of proceeds of the Series 2006A-1 Notes with respect to each Financeable Cost; and provided, further, that such Authorized Officers may, to the extent permitted by law, rely upon information supplied by and representations and findings of authorized representatives of the City in connection therewith; and further

RESOLVED, that the Authorized Officers are each hereby authorized and directed to take any and all actions necessary to comply with the requirements of SEQRA with respect to any Financeable Costs to be financed with the proceeds of any future series of Notes; and provided, further, that such Authorized Officers may, to the extent permitted by law, rely upon information supplied by and representations and findings of authorized representatives of the City in connection therewith; and further

RESOLVED, that the Authorized Officers are each hereby authorized and directed to approve and execute such documents or certifications and take such other actions, in the name of the Authority and on its behalf, as he or she may reasonably deem necessary or appropriate to carry out the foregoing resolutions (including without limitation the making of any findings and the preparation of any assessment forms required by SEQRA), and that all such actions heretofore taken in connection with the Series 2006A-1 Notes by any Authorized Officer, or his or her designee, are hereby ratified and approved.

Motion by Giambra, second by Brown, Vote 5-0 to take effect immediately.

## **RESOLUTION NO. 06-52**

### **RESOLUTION CONCERNING THE AUTHORIZATION, SALE AND ISSUANCE OF SALES TAX AND STATE AID SECURED BONDS, SERIES THREE AND BOND ANTICIPATION NOTES, SERIES 2006A-1**

WHEREAS, the Buffalo Fiscal Stability Authority Act, incorporated in chapter 122 of the laws of 2003, as amended from time to time (the “Act”) authorizes the Buffalo Fiscal Stability Authority (the “Authority”) to issue bonds and notes for the purpose of financing Financeable

Costs, as defined in the Act and to make the proceeds thereof available to the City of Buffalo (the “City”); and

WHEREAS, the Authority is authorized by the Act, upon submission by the City to the Authority of an approved declaration of need in accordance with the Act, to enter into agreements, in the Authority’s discretion, providing for the financing of Financeable Costs by the Authority and to issue its bonds, notes, or other obligations therefor; and

WHEREAS, the Act authorizes the Authority to enter into appropriate and necessary contracts with its bondholders and others to provide for the issuance thereof, and the Directors of the Authority hereby intend to provide for the authorization, issuance and sale of a series of its sales tax and state aid secured bonds (the “Bonds”) and a series of bond anticipation notes in anticipation of such Bonds (such series of bond anticipation notes, including any renewals thereof, the “Notes”) through the approval of appropriate documentation, including, without limitation, the approval of the Ninth Supplemental Indenture (as such term is defined below), the authorization of the issuance of such series of Bonds and the issuance, sale and delivery of such series of Bonds, and the preparation, negotiation and approval of appropriate documents in connection therewith; and

WHEREAS, the proceeds of such series of Notes will be used to finance Financeable Costs under the Act, which may include but are not limited to (i) refunding, repayment or restructuring of certain outstanding indebtedness of the City; (ii) cash flow needs of the City; (iii) capital projects; (iv) operating costs of the City; and (v) the costs of issuance of such series of Notes; and

WHEREAS, the Authority is required to obtain the written approval of the State Comptroller for the sale of the Notes and the terms thereof if such sale be a private sale to other than the State Comptroller; and

WHEREAS, the Authority will obtain the required approval of the State Comptroller prior to the delivery of the Notes; and

WHEREAS, the Authority has previously caused to be executed and delivered an indenture entitled “Indenture between Buffalo Fiscal Stability Authority and The Bank of New York, as Trustee, dated as of June 1, 2004” (the “General Indenture”), authorizing the issuance of one or more series of Bonds or notes, including bond anticipation notes, for the purposes set forth therein and containing certain other terms, restrictions and covenants with respect to such Bonds or notes and the security pledged to the payment thereof; and

WHEREAS, the Authority has caused to be prepared a form of supplemental indenture entitled “Ninth Supplemental Indenture between Buffalo Fiscal Stability Authority and The Bank of New York, as Trustee Authorizing Up To \$70,000,000 Buffalo Fiscal Stability Authority Sales Tax and State Aid Secured Bonds, Series Three and Up To \$65,000,000 Buffalo Fiscal Stability Authority Bond Anticipation Notes, 2006A-1, dated as of September 1, 2006” (the “Ninth Supplemental Indenture”), pursuant to which the Authority will authorize the issuance of the Sales Tax and State Aid Secured Bonds, Series Three (the “Series Three Bonds”) and the Notes,

initially bearing the designation “Bond Anticipation Notes, Series 2006A-1,” subject to renewal thereof (the General Indenture, as amended and supplemented, including by the Ninth Supplemental Indenture, being hereinafter collectively referred to as the “Indenture”); and

WHEREAS, the Authority has previously caused to be executed and delivered a financing agreement dated as of June 1, 2004 (the “Financing Agreement”), by and between the Authority and the City, pursuant to which the City has made certain agreements and covenants relating to the issuance of Bonds or notes by the Authority, and has agreed to the pledge of said covenants to the Trustee on behalf of the Bondholders; and

WHEREAS, pursuant to the Act and the Financing Agreement, the City has requested and has submitted an approved Declaration of Need in accordance with the Financing Agreement in form satisfactory to the Authority that the Authority undertake this financing through the issuance of the Notes for the purpose of financing the cash flow needs of the City at lower cost than the City could finance such cash flow needs on its own; and

WHEREAS, the Authority has caused to be prepared a form of a Preliminary Offering Circular (the “Preliminary Offering Circular”), relating to the Notes; and

WHEREAS, officers and employees of the Authority will participate in revisions to the Preliminary Offering Circular and the preparation of a final Offering Circular to be used in connection with the issuance and sale of the Notes (the “Offering Circular”) and have negotiated the Contract of Purchase therefor (the “Purchase Contract”); and

WHEREAS, the Authority has caused to be prepared a Buffalo Fiscal Stability Authority Bond Anticipation Notes, Series 2006A-1 Continuing Disclosure Agreement (the “Continuing Disclosure Agreement”) between the Authority and the Trustee in order to assist the Underwriter (as defined below) in complying with the requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission (the “SEC”) under the Securities Exchange Act of 1934, as amended:

NOW, THEREFORE, the Authority, hereby adopts the following resolutions:

I. Ninth Supplemental Indenture

RESOLVED, that the form of Ninth Supplemental Indenture presented to this meeting, a copy of which shall be annexed to this resolution as Exhibit A, is hereby approved, and any Authorized Officer is hereby authorized to execute and deliver the Ninth Supplemental Indenture in substantially such form with such changes thereto prior to the issuance and delivery of the Notes or the Series Three Bonds (which may be issued in one or more series or subseries) as may be approved by the Authorized Officer subject to the terms referred to in items VII and IX below; and further

II. Declaration of Need

RESOLVED, that pursuant to the Act and the Financing Agreement, the City has requested the Authority to undertake this financing and has submitted a Declaration of Need in substantially the form set forth in the Financing Agreement and any Authorized Officer is hereby authorized to execute and deliver an acceptance of said Declaration of Need consistent with this resolution; and further

### III. Preliminary Offering Circular

RESOLVED, that the Preliminary Offering Circular of the Authority in substantially the form presented to this meeting, a copy of which shall be annexed to this resolution as Exhibit B, is hereby approved for use in marketing the Notes with such changes as an Authorized Officer may approve; and further

### IV. Offering Circular

RESOLVED, that any Authorized Officer is authorized to execute and deliver, on behalf of the Authority, the Offering Circular, with such changes to the Preliminary Offering Circular as may be approved by an Authorized Officer, said execution being conclusive evidence of such approval, and any amendments or supplements thereto which may be necessary or desirable; and any Authorized Officer is further hereby authorized and directed to execute the same on behalf of the Authority, as well as any certificates necessary in connection therewith to allow the Underwriter to comply with SEC rules; and further

### V. Purchase Contract

RESOLVED, that the Purchase Contract by and among the Authority and the Underwriter, in substantially the form presented to this meeting, a copy of which shall be annexed to this resolution as Exhibit C, is hereby approved with such changes as an Authorized Officer may approve, and any Authorized Officer is hereby authorized and directed to execute the same on behalf of the Authority; and further

### VI. Continuing Disclosure Agreement

RESOLVED, that the Continuing Disclosure Agreement presented to this meeting, a copy of which shall be annexed to this resolution as Exhibit D, is hereby approved, and any Authorized Officer is hereby authorized to execute and deliver the Continuing Disclosure Agreement in substantially such form as is so approved with such changes therein as the Authorized Officer executing the same may approve, such approval to be evidenced by such Authorized Officer's execution thereof, and further

### VII. Terms of Notes

RESOLVED, that there is hereby delegated to any Authorized Officer of the Authority, subject to the limitations, if any, contained in the Indenture, the power with respect to the Notes to determine and carry out the following:

- (a) The principal amount of the Notes to be issued in an aggregate total principal amount up to \$65,000,000;
- (b) The date or dates, maturity date or dates and principal amount of each maturity of the Notes; provided, however, that the Notes shall mature no later than eighteen months after their date of issuance;
- (c) Provisions for the renewal of the Notes consistent with the Indenture; provided that any renewal notes shall mature no later than five years from the date of initial issuance of the Notes;
- (d) The interest rate or rates of the Notes (including a zero interest rate), the date from which interest on the Notes shall accrue and the interest payment dates, if any, therefor; provided, however, that the true interest cost of the Notes (as determined by an Authorized Officer of the Authority, which determination shall be conclusive) shall not exceed 4.50% per annum, and the true net interest cost of any renewal of such Notes as so determined shall not exceed eight percent (8%) per annum;
- (e) Additional provisions for the sale or exchange of the Notes and for the delivery thereof not otherwise set forth herein;
- (f) Directions for the (i) application of the proceeds of the Notes and (ii) investment of the proceeds of the Notes not in conflict with the provisions hereof,
- (g) Any other provisions deemed necessary or advisable by an Authorized Officer of the Authority, not in conflict with the provisions hereof or of the Indenture, including, without limitation, incorporating a credit facility or other form of credit enhancement or amending the pledge of collateral (other than the pledge of the Series Three Bonds) securing the Notes or changes to address rating agency considerations, in each case to the extent that an Authorized Officer of the Authority determines that such changes would be in the best interest of the Authority; and further

#### VIII. Issuance and Sale of the Notes

RESOLVED, that the Authority shall issue, award, sell and deliver the Notes to the Underwriter upon the terms and conditions set forth in the Purchase Contract at a purchase price of not less than ninety-five percent (95%) of the aggregate original principal amount (issuance value) of the Notes to be sold and shall apply the proceeds thereof in accordance with the provisions of the Indenture and certain other certificates to be delivered upon issuance of the Notes; and further

#### IX. Terms of Series Three Bonds

RESOLVED, that there is hereby delegated to any Authorized Officer of the Authority, subject to the limitations, if any, contained in the Indenture, the power with respect to the Series Three Bonds to determine and carry out the following:

- (a) The principal amount of the Series Three Bonds to be issued in an aggregate total principal amount up to \$70,000,000;
- (b) The date or dates, maturity date or dates and principal amount of each series and maturity of the Series Three Bonds, the amount and date of each sinking fund installment, if any, and which Series Three Bonds, if any, are serial bonds or term bonds; provided, however, that the Series Three Bonds shall mature no later than ten years from their date of issuance;
- (c) The interest rate or rates of each series of the Series Three Bonds (including a zero interest rate), the dates from which interest on each series of the Series Three Bonds shall accrue, the interest payment dates, if any, therefor and the interest rate mode or modes thereof; provided, however, that the true interest cost of the Series Three Bonds (as determined by an Authorized Officer of the Authority, which determination shall be conclusive) shall not exceed 8% per annum;
- (d) The redemption price or redemption prices, if any, and the redemption terms, if any, for each series of the Series Three Bonds; provided; however, that the redemption price of any Series Three Bond subject to redemption at the election of the Authority or in accordance with the General Indenture shall not be greater than one hundred three percent (103%) of the principal amount of the Series Three Bonds or portion thereof to be redeemed, plus accrued interest thereon to the date of redemption;
- (e) Additional provisions for the sale or exchange of the Series Three Bonds and for the delivery thereof not otherwise set forth herein, including, but not limited to, provisions for the negotiated sale thereof and preparation and approval of the Series Three Bond Instruments, as defined and provided for in Section 4.03 of the form of the Ninth Supplemental Indenture;
- (f) Directions for the application of the proceeds of the Series Three Bonds and investment thereof not in conflict with the provisions hereof,
- (g) Any other provisions deemed necessary or advisable by an Authorized Officer of the Authority, not in conflict with the provisions hereof or of the Indenture, including, without limitation, changing the designation of the Series Three Bonds, incorporating bond insurance or other form of credit enhancement or changes to address rating agency considerations, in each case to the extent that an Authorized Officer of the Authority determines that such changes would be in the best interest of the Authority; and further

#### X. Authorized Officers

RESOLVED, that each of the Chairperson, the Vice Chairperson, the Executive Director, the Chief Financial Officer, the Chief Counsel, the Treasurer and the Corporate Secretary of the Authority, and any person duly authorized to act in such capacity, is designated an “Authorized Officer” for the purposes of the foregoing resolutions; and further

#### XI. Appointment of Underwriter

RESOLVED, that the firm of Lehman Brothers Inc. is hereby appointed as senior managing underwriter for the financings authorized by this resolution.

## XII. Negotiated Sale

RESOLVED, that the use of a negotiated underwriting in connection with the sale of the Notes, renewal notes and the Series Three Bonds is found to be appropriate.

## XIII. Appointment of Bond Counsel

RESOLVED, that the law firm of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. is hereby appointed bond counsel for the Notes, renewal notes and the Series Three Bonds; and further

## XIV. Further Action

RESOLVED, that the Authorized Officers or their designee(s) are each hereby authorized and directed to approve and execute such documents or certifications (including certifications as to the federal tax status of interest on the Notes, any renewals thereof and the Series Three Bonds), make such payments and take such other actions, in the name of the Authority and on its behalf, as he or she may reasonably deem necessary or appropriate to carry out the foregoing resolutions, including without limitation the execution, sale and delivery of the Notes, renewal notes and Series Three Bonds, any amendment to the Financing Agreement deemed necessary or convenient in carrying out the intent of this resolution, and that all such actions heretofore taken in connection with the Notes, renewal notes and Series Three Bonds by any Authorized Officer, or his or her designee, are hereby ratified and approved.

EXHIBIT A - NINTH SUPPLEMENTAL INDENTURE

EXHIBIT B - PRELIMINARY OFFERING CIRCULAR

EXHIBIT C - PURCHASE CONTRACT

EXHIBIT D - CONTINUING DISCLOSURE AGREEMENT

Mayor Brown temporarily excused himself from the meeting.

Chairman Lipke reentered and reassumed the duties of Chair at 2:28 PM.

## **Contracts**

### **Approval of School District Contracts**

The Directors voted to approve Resolution 06-53 authorizing the Buffalo School District to enter into six contracts. County Executive Giambra asked the staff to look into alternatives to utilizing registered nurses in the school buildings. Director Wilmers felt the number of bids received was low given the invitations to bid that were sent out. He had hoped the process was changing to encourage more bids. Motion by Giambra, second by Wilmers. Vote 5-0 to take effect immediately.

**RESOLUTION NO. 06-53****AUTHORIZE THE BUFFALO SCHOOL DISTRICT TO ENTER INTO SIX 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 six contracts; and

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

- |  |                 |
|--|-----------------|
| 1. BOCES – technology services   | \$942,618.00    |
| 2. Boulevard Produce – 2006-07 fruits and vegetables   | \$300,000.00    |
| 3. Depew Milk, Upstate Farms, Wendt Dairy – juice and dairy products   | \$1,696,592.00  |
| 4. Smurfit-Stone, Preferred packaging, Form Plastics, Complete Packaging and Chudy Paper – school lunch packaging supplies | \$288,199.00    |
| 5. Kaleida Health Services – 2006-07 school nurses   | \$4,240,000.00  |
| 6. LP Ciminelli - JSCB Phase II change order   | \$18,896,250.00 |

Mayor Brown returned to his seat.

**Approval of BURA Contracts**

The Directors voted to approve Resolution 06-54 authorizing BURA to enter into seven contracts. In recognition of Rev. Stenhouse’s need to abstain from voting on item #2 of

Resolution 06-54, County Executive Giambra moved to separate out Item #2. Wilmers seconded with the consent of the Board. Motion to approve Resolution No. 06-54, items #1; 3-7 of the resolution by Giambra, second by Wilmers, Vote 6-0 to take effect immediately.

Motion to approve item #2 of Resolution 06-54 - Motion by Giambra, second by Wilmers. Vote 5-0 to take effect immediately (Stenhouse abstains).

## **RESOLUTION 06-54**

### **AUTHORIZE BUFFALO URBAN RENEWAL AGENCY TO ENTER INTO SEVEN 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 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 Buffalo Urban Renewal Agency officials have submitted contracts for approval at the August 9, 2006 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; and

WHEREAS, BFSA Staff have reviewed the contracts 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 Buffalo Urban Renewal Agency to enter into contracts as listed below:

1. Metro Community Development Corporation and Delevan Grider Community Center - senior recreational programming \$82,000
2. Buffalo Economic Renaissance Corporation – Jefferson Marketplace \$125,000
3. Buffalo Economic Renaissance Corporation – Commercial Area Revitalization Effort (CARE) \$618,000

4. Buffalo Economic Renaissance Corporation – Empire Zone Program  
\$50,000
5. Buffalo Economic Renaissance Corporation – Sign & Storefront Program  
\$49,830
6. Buffalo Economic Renaissance Corporation – CARE, Commercial Lending Program  
(administrative) \$674,535
7. Buffalo Economic Renaissance Corporation – Commercial Lending Program  
\$1,625,000

### **HONOR FORMER BOARD MEMBERS**

The Board presented Resolution 06-55 and Resolution 6-56 to honor former Board members H. Carl McCall and John Faso. Versions of these resolutions will be sent to the gentlemen in honor of their service. Motion by Wilmers, second by Brown to honor H. Carl McCall. Vote 6-0 to take effect immediately.

### **RESOLUTION 06-55**

#### **HONORING H. CARL McCALL, BFSA’s FIRST TREASURER**

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, in 1975 Mr. McCall was elected to the first of two terms representing the 28<sup>th</sup> District of the New York State Senate, which he left in 1979 upon his appointment by President Jimmy Carter as Ambassador to the United Nations; and

WHEREAS, Mr. McCall has served as President of the New York City Board of Education from 1991-93, Commissioner of the New York State Division of Human Rights from 1983-1985, Commissioner of the Port Authority of New York and New Jersey, Vice President of Citicorp/Citibank from 1985-93, and was elected to the board of the New York Stock Exchange in 1999, examples of Mr. McCall’s astute comprehension of the many complex policy and financial issues of the private and public sectors; and

WHEREAS, in 1993 Mr. McCall was elected by the New York State Legislature to fill the unexpired term of office for State Comptroller, and in 1994 he was elected to the first of two terms in this position by the citizens of New York State, a capacity in which Mr. McCall was the sole trustee responsible for investing the state and local government pension fund valued over \$110 billion; and

WHEREAS, upon the recommendation of the Comptroller, the Governor appointed H. Carl McCall a Director of the BFSA in August of 2003; and

WHEREAS, Mr. McCall was designated to serve as Treasurer for the BFSA and the head of the Audit, Budget and Finance Committee; and

WHEREAS, though Mr. McCall has resigned from the BFSA Board, his distinguished experience and knowledge greatly contributed to enhancing fiscal stability in the City of Buffalo;

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby honor and extend its gratitude for the service of H. Carl McCall for his role with the Buffalo Fiscal Stability Authority and to the citizens of the City of Buffalo.

Motion by Wilmers, second by Giardino to honor John J. Faso. Vote 6-0 to take effect immediately.

## **RESOLUTION 06-56**

### **HONORING BFSA DIRECTOR JOHN J. FASO**

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 John J. Faso as a Director of the Authority, which he has actively served since the first meeting in July 2003; and

WHEREAS, in 1986, Mr. Faso was elected to his first of eight terms two-year terms representing the 102<sup>nd</sup> District in the New York State Assembly; and

WHEREAS, Mr. Faso was asked in 1994 to serve on the Governor’s budget transition team, where he devised an unprecedented reduction in spending to close a \$5 billion dollar deficit, an achievement that stands as a testament to Mr. Faso’s discerning insight into public budgets; and

WHEREAS, Mr. Faso was appointed as ranking Minority member of the Ways and Means Committee by then Minority Leader Clarence Rappelyea, where his propensity to reduce spending and cultivate job growth led his colleagues to elect Mr. Faso as Assembly Minority Leader in 1998; and

WHEREAS, Mr. Faso’s experience in the State Assembly and vast expertise on fiscal matters has been a valuable asset in shaping the Authority; and

WHEREAS, while Mr. Faso has chosen to resign from the BFSA Board in order to run for the Office of Governor of New York State, his contributions to the maturation of the BFSA will endure.

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby honor and appreciate John J. Faso for his outstanding contribution to the growth and development of the Buffalo Fiscal Stability Authority, and to the betterment of the City of Buffalo and its citizens.

**Closing Remarks**

County Executive Giambra wanted to know what process was in place to utilize \$28 million (\$18 million to the County; \$10 million to the City) from New York State to be used as incentive grants to reduce the cost of government. He felt there should be a dialogue between the two major governments in Buffalo. Chairman Lipke noted that that the BFSA is tasked to work on the City of Buffalo. Mayor Brown volunteered that the Buffalo Sewer Authority was examining the takeover of Sewer District No. 6, but not Information Technologies. Mr. Giambra suggested putting something on the agenda to bring together the two fiscal stability authorities, the City and the County. Director Wilmers felt the role of the BFSA was to make sure the City's finances were in order, not to determine how the City and the County are run. While he would suggest that economies of scale should be investigated, that is a dialogue to be had between the two chief executive officers.

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 2:40 PM.