

MINUTES
Buffalo Fiscal Stability Authority
Audit, Finance & Budget Committee

September 28, 2006

The regular meeting of the Buffalo Fiscal Stability Authority (BFSA) Audit, Finance & Budget Committee was called to order at 12:50pm on September 28, 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: Colucci, Townsend, and Stenhouse (Chairman)

Directors Absent (excused):

Staff Present: Johnson, McPherson, Mitchell, Mulawka and Stefko

Opening Statement

Secretary/Treasurer Richard Stenhouse called the meeting to order and invited John P. Schiavone of Lumsden & McCormick LLP, to provide a brief report on the BFSA audit for the 2005-06 fiscal year.

Open Issues

Mr. Schiavone stated that Lumsden & McCormick has declared the BFSA audit to be a “clean audit” and has bestowed the highest opinion, an unqualified opinion, on the 2005-06 BFSA financials. Lumsden & McCormick has not included a management letter because there were no issues that needed special attention.

Vice Chair Townsend asked Mr. Schiavone if there were any disagreements with BFSA management during the course of the audit. Mr. Schiavone replied that there were no problems and both Lumsden & McCormick and BFSA staff were comfortable with the audit outcome.

The Committee voted to send the 2006 Audit Report to the full Board for approval.

Motion to recommend approval of the 2006 Audit Report to the full BFSA Board made by Townsend with a second by Giardino. Vote 3-0 to make the recommendation.

There being no further business, Secretary/Treasurer Stenhouse entertained a motion to adjourn, which was duly seconded. The meeting adjourned at 1:10 pm.

MINUTES
Buffalo Fiscal Stability Authority
September 28, 2006

The regular meeting of the Buffalo Fiscal Stability Authority (BFSA) was called to order at 1:49 PM on September 28, 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, Colucci, Giardino, Lipke, Stenhouse & Townsend

Directors Absent (excused): Giambra & Wilmers

Staff Present: Johnson, McPherson, Miller, Mitchell, Mulawka & Stefko

Opening Remarks:

Chairman Lipke welcomed attendees, and provided a review of the day's agenda. He noted that the day's meeting included a review of the 2006 Annual Report and 2006 Audit. He noted that Buffalo's costs continue to escalate despite many efforts to control them. He called for reform of the State's Triborough amendment to help Buffalo be in control of its own financial future. Following his opening statement, Chairman Lipke requested a roll call of the Directors. Secretary Richard Stenhouse confirmed that there was a quorum present and the meeting commenced.

Approval of Minutes

The Directors voted to approve Resolution 06-57 to ratify the August 9, 2006 Board Meeting Minutes and to ratify resolutions numbered 06-46 thru 06-56. Mayor Byron Brown expressed his support for approving the minutes with one amendment. He wanted the Minutes corrected to reflect that he had stated, "There has been \$750 million in new economic development within the City in the last seven months alone", not \$7.5 million as it currently read.

Motion to approve with the revision by Brown, second by Giardino, Vote 6-0 to take effect immediately

RESOLUTION NO. 06 – 57

APPROVING MINUTES AND RESOLUTIONS FROM AUGUST 9, 2006

BE IT RESOLVED that the Buffalo Fiscal Stability Authority approves the minutes of its meeting of August 9, 2006, as amended, and ratifies and affirms eleven resolutions numbered 06-46 through 06-56 that were approved on August 9, 2006.

BFSA

Annual Report/Audit

Chairman Lipke introduced the 2006 Annual Report & Audit to the Board for approval. He explained that the reports conform to new State reporting requirements, as outlined in the Public Authorities Accountability Act of 2005 (PAA Act of 2005).

Utilizing a slide presentation Executive Director Dorothy Johnson addressed the Board. She reiterated that the 2006 Annual Report and Audit conform to the PAA Act of 2005, as well as the State Comptroller's regulations. The report includes information on BFSA operations, the annual audit, and the Authority's review of the Financial Plan of the City and its covered organizations. The audit report's approval was recommended by the Audit, Finance & Budget Committee, which immediately preceded the full Board meeting.

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

RESOLUTION NO. 06-58

APPROVE AUDIT REPORT AND ANNUAL REPORT FOR FISCAL YEAR 2005 – 2006

WHEREAS, Chapter 122 of the Laws of 2003, as amended, requires the Buffalo Fiscal Stability Authority ("BFSA") to be subject to an annual financial audit performed by an independent certified accountant selected by the BFSA; and

WHEREAS, the accounting firm of Lumsden and McCormick, P.C. was selected and they have conducted an audit of the BFSA's accounts; and

WHEREAS, Lumsden and McCormick, P.C. have presented their Audit Report on BFSA's Financial Statements for Fiscal Year 2005-2006; and

WHEREAS, the Public Authorities Accountability Act of 2005 (specifically, Section 2800 of the Public Officers Law) requires state and local public authorities to file an annual report with the State, detailing its operations and activities and other budgetary and financial data; and

WHEREAS, this report must be certified as accurate by the Executive Director and the Chief Financial Officer of the BFSA; and

WHEREAS, much of this data and additional information is required by regulations promulgated by the State Comptroller; and

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby accept and approve the Lumsden and McCormick, P.C. Audit Report on BFSA's Financial Statements for Fiscal Year 2005-2006 and the BFSA's Annual Report for Fiscal Year 2005-2006 as prepared by the BFSA Staff; and

BE IT FURTHER RESOLVED, that the Executive Director is hereby authorized to release these Reports to the public and provide copies to the parties designated by Section 3871 of the BFSA Act and Section 2800 of the Public Authorities Law; and

BE IT FINALLY RESOLVED, that the Executive Director and the Chief Financial Officer are authorized to certify that financial statements filed with the above reports are accurate and correct.

Update City/ School District Financial Plan

Continuing with the presentation, Ms. Johnson presented slides with the following topics:

→ BFSA has been able to work with the City and its covered organizations, resulting in \$186 million in savings, maintenance of essential services, no tax increase since 2003 and a healthier fund balance. However, the fiscal crisis persists.

→ **“Future budget gaps continue to grow”**

Even with a balanced 2006-07 budget, the City and School District have projected significant budget gaps in future years.

→ **“Rapid rate of budget growth”**

Costs are rising faster than revenues. Most of these costs are driven by workforce related expenditures.

→ **“City reliance on State continues to grow”**

With an ever widening budget gap, the City is ever more dependent on State Aid. In light of the State’s own uncertain fiscal positioning, the dependence on State Aid places the City in a precarious position.

→ **“Economic trends show little sign of vigor”**

The City continues to lose population, particularly in the “young working adult” demographic. School enrollment has declined, poverty rates are among the highest in the nation, and tens of thousands of residential units lie vacant.

→ **“Gap-closing measures are speculative”**

The City’s Financial Plan has a strategy to close out-year spending gaps. These actions are considered “speculative” because they contain some risk. Chief among these are: new sales tax revenue, casino revenue, spending of fund balance, additional property tax revenues, and savings for IOD initiative.

→ **“Another example of a budgetary risk: Fire Overtime”**

Firefighter overtime has increased dramatically over the last two years. However, budget gaps projected assume less fire overtime. This is an additional risk because the projection assumed in the budget is contrary to the recent years’ trend.

→ **“We can’t cut our way to prosperity”**

The size of the City and School District has been reduced in recent years. Inversely, the cost of the remaining workforce has grown.

→ **“Buffalo can face the challenge in one of four ways:”**

- Unprecedented, ever-increasing levels of State-Aid,
- Reduced services,
- Higher local taxes, or
- Changes in the obsolete State laws that perpetuate antiquated, unaffordable and inefficient ways of running government.

Vice-Chair Alair Townsend commented that the slides on the City’s dependence on State Aid were very revealing. She requested comparisons of Buffalo’s reliance on State Aid as compared to other municipalities such as Rochester, Albany, and Syracuse.

Chairman Lipke offered a clarification on the City’s fund balance. The fund balance is largely “restricted” and not available for general expenditure. The City’s fund balance is approximately at the 10% threshold recommended by the State Comptroller.

Mayor Brown thanked the BFSAs staff for the presentation. He acknowledged that the City still faces many challenges but that many positive things are happening. For example, currently \$782 million dollars in private sector projects have been proposed or are “in the works” within the City. Additionally, he felt that the response to the annual “Buffalo Night in Washington, D.C.” was overwhelming.

Moving on, Chairman Lipke took a moment to welcome newly appointed Director Anthony J. Colucci, Jr. to the BFSAs Board. He invited Director Colucci to make an address.

Director Colucci thanked the Chair for the introduction. He conveyed his desire for the City of Buffalo to return to fiscal health. He called upon all parties to reject the politics of polarization, to build bridges and respond with theological love. He finds his work on the Board to be “pro-City”.

Buffalo Municipal Housing Authority

Budget Modification

Ms. Johnson introduced a budget modification for the Buffalo Municipal Housing Authority (BMHA). She stated that BMHA submitted its revised budget and 2007-10 four-year financial plan, as requested by BFSAs at the June board meeting. The federal operations budget is based on the new HUD project-based asset management funding formula and assumes BMHA will be certified as fully compliant with the requirements by the new deadline of April 1, 2007. Noting that both the BMHA Board of Commissioners and United States Department of Housing and Urban Development (HUD) have approved the BMHA budget, Ms. Johnson recommended approval of the budget modification.

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

RESOLUTION NO. 06 - 59

APPROVAL OF BUFFALO MUNICIPAL HOUSING AUTHORITY REVISED BUDGET AND FOUR YEAR FINANCIAL PLAN

WHEREAS, Chapter 122 of the laws of 2003, as amended, 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 and the Mayor’s proposed City budget to the Buffalo Fiscal Stability Authority (“BFSAs”) 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 BFSAs, 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 BFSAs at a BFSAs Board meeting on May 16, 2006, and

WHEREAS, BFSA determined that BMHA's Plan would need to be revised once it received additional information from the United States Department of Housing and Urban Development (HUD), and conditionally approved the BMHA Budget in Resolution No. 06-40, and

WHEREAS, HUD and BMHA have approved the revised budget and four year financial plan, and

WHEREAS, BFSA staff has reviewed the Revised Budget and Four Year Plan for the BMHA and reported that it complies with the requirements of the BFSA Act and recommends that the BFSA approve the plan,

NOW THEREFORE BE IT RESOLVED THAT, the Buffalo Fiscal Stability Authority determines that the Buffalo Municipal Housing Authority Revised Budget and 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.

Ms. Johnson also noted BFSA concerns with Marine Drive which is part of BMHA's State portfolio. The management team is being replaced and the development has payable of \$1.2 million due primarily to the City of Buffalo.

BFSA Administrative Matters

Appointment of Records Management Officer

Ms. Johnson stated that BFSA Senior Analyst Robert M. Tocker had served as the Authority's Records Management Officer (RMO). Mr. Tocker has now resigned from the staff of the BFSA, necessitating the appointment of a new RMO (pursuant to Section 57.19 of the Arts and Cultural Affairs Law). BFSA recommends that Executive Assistant/Office Manager Nathan D. Miller be appointed as the new RMO.

Motion by Townsend, second by Colucci. Vote 6-0 to take effect immediately

RESOLUTION NO. 06 – 60

APPOINTMENT OF RECORDS MANAGEMENT OFFICER

WHEREAS, Chapter 122 of the Laws of 2003, as amended, which created the Buffalo Fiscal Stability Authority ("BFSA") provides that the directors shall appoint officers and agents as it may require; and

WHEREAS, the BFSA is a local government under Article 57-A of the Arts and Cultural Affairs Law ("A&CAL") and Section 57.19 of the A&CAL requires local governments to promote the management of records and requires that each local government designate a records management officer ("RMO") to coordinate the development of its own records management program; and

WHEREAS, the New York State Archives Office has advised that the BFSA is eligible for grants and other records management services upon the appointment of an RMO and the adoption of a records retention and disposition schedule; and

WHEREAS, the BFSA employed Robert M. Tocker, Senior Analyst, who dealt directly with the BFSA's records storage material and was appointed Records Management Officer in Resolution No. 04-49; and

WHEREAS, Mr. Tocker has resigned from the staff of the BFSA; and

WHEREAS, it is recommended that Nathan D. Miller, BFSA's Executive Assistant/Office Manager, be appointed to replace Mr. Tocker, as Mr. Miller has also been involved in State approved records management training,

NOW THEREFORE BE IT RESOLVED, that Nathan D. Miller is hereby designated as the Records Management Officer for the Buffalo Fiscal Stability Authority until such time as his resignation, removal or death.

Approval of Prompt Payment Policy Statement

Ms. Johnson explained that Section 2880 of the Public Authorities Law requires public authorities to disseminate rules and regulations detailing its prompt payment policy. BFSA has developed and implemented a prompt payment policy statement to comply with this requirement.

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

RESOLUTION NO. 06 - 61.

ADOPTING A PROMPT PAYMENT POLICY STATEMENT

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, Section 2880 of the Public Authorities Law requires public authorities to promulgate rules and regulations detailing its prompt payment policy; and

WHEREAS, the BFSA has developed and implemented a prompt payment policy statement to comply with this requirement; and

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby adopt the attached prompt payment policy statement as required by Section 2880 of the Public Authorities Law.

Director Stenhouse temporarily excused himself from the proceedings.

BFSA Funding Price Waterhouse Coopers Study

Ms. Johnson stated that, after an open Request for Proposal process that produced three responses, a committee of BFSA Directors, staff and volunteers concluded that Price Waterhouse Coopers was the most qualified vendor to conduct a study that will examine the financial impact of charter schools on the finances of the Buffalo City School District.

Motion by Colucci, second by Townsend, Vote 5-0 to take effect immediately

RESOLUTION NO. 06 – 62**ENGAGE PRICE WATERHOUSE COOPERS TO CONDUCT A CHARTER SCHOOL STUDY**

WHEREAS, Chapter 122 of the Laws of 2003, as amended, authorizes the Buffalo Fiscal Stability Authority (“BFSA”) to do all things necessary or convenient to carry out its purposes; and

WHEREAS, the Directors of the BFSA desire to have a study conducted that will examine the financial impact of charter schools on the finances of the Buffalo City School District; and

WHEREAS, after an open Request for Proposal process that produced three responses, a committee of BFSA Directors, Staff and volunteers concluded that Price Waterhouse Coopers was the most qualified to conduct this study; and

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby engage the services of Price Waterhouse Coopers to conduct a study that will examine the financial impact of charter schools on the finances of the Buffalo City School District at a cost not to exceed \$60,000.00.

Director Stenhouse returned to the proceedings.

Approval of Contracts

It was decided to take action on City, BURA and School District contracts together. The BFSA Board collectively voted to approve the contract resolutions 06–63 through 06–65. Rev. Stenhouse abstained on the vote for Resolution 06-65. Motion to approve Resolutions No. 06-63, 6-64 and 06-65 by Colucci, second by Giardino. Vote 6-0 to take effect immediately (vote 5-0 on Resolution No. 06-65).

RESOLUTION NO. 06-63**AUTHORIZE THE CITY OF BUFFALO TO ENTER INTO EIGHT 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 contracts for approval at the September 28, 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 eight (8) contracts and/or obligations as listed below:

- | | |
|---|----------------|
| 1. Dept. of Homeland Security – Urban Area Security Initiative grant | \$1,449,990.00 |
| 2. Department of Justice – BE-SAFE domestic violence grant | \$766,150.00 |
| 3. NYS Division of Criminal Justice Services – Operation Impact grant | \$660,982.00 |
| 4. Department of Justice – Justice Assistance Grant (JAG) | \$287,519.00 |
| 5. NYS Motor Vehicle Theft & Insurance Fraud Prevention grant | \$249,930.00 |
| 6. Destro Brothers – Asphalt change order | \$204,000.00 |
| 7. Scott Lawn & Yard – MLK Park Improvements | \$400,000.00 |
| 8. Di Donato Associates – Erie Canal Harbor Streets | \$364,514.00 |

RESOLUTION NO. 06-64

AUTHORIZE BUFFALO URBAN RENEWAL AGENCY TO ENTER INTO TWO CONTACTS

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 September 28, 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. New Opportunities Community Housing Development Corp. – Homeownership Zone Phase 2 | \$3,498,404.00 |
| 2. Community Partnerships Initiative – (eight vendors listed below) | \$400,000.00 |
| <ul style="list-style-type: none"> Black Rock Riverside Neighborhood Housing Services Ellicott District Community Development Corporation Fillmore Leroy Area Residents (FLARE) HomeFront (with Lovejoy District Neighborhood Resources Services) Lt. Col. Matt Urban Center Neighborhood Housing Services of South Buffalo University Heights West Side Neighborhood Housing Services | |

RESOLUTION NO. 06-65

AUTHORIZE THE BUFFALO SCHOOL DISTRICT TO ENTER INTO FOUR CONTACTS

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 BFSFA 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 BFSFA, the BFSFA will review contracts or other obligations in excess of \$50,000, though the BFSFA Act provides no limitation for such items; and

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

WHEREAS, School District officials submitted correspondence to BFSFA in which they seek the approval of contracts, together with signed BFSFA Remittance Approval Request Forms (“RARF”) in which they indicate that there are sufficient funds available for such contracts; and

WHEREAS, BFSFA Staff have reviewed all 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 (4) contracts as listed below:

- | | |
|---|----------------|
| 1. No Child Left Behind – 2006-07 School Year (56 vendor contracts) | \$2,935,737.00 |
| 2. Miller Enterprises – science lab equipment | \$234,080.00 |
| 3. Institute for Student Achievement – small learning communities model | \$269,178.00 |
| 4. Baer & Associates – JSCB Phase III schematics | \$210,000.00 |

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 2:44 PM.