

MINUTES
Buffalo Fiscal Stability Authority
January 31, 2007

The regular meeting of the Buffalo Fiscal Stability Authority (BFSA) was called to order at 1:12 PM on January 31, 2007, 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, Giambra, Giardino, Lipke, Norwood, Stenhouse & Townsend

Directors Absent (excused): Wilmers (present telephonically)

Staff Present: Johnson, Link, Lopardi, Miller, Mitchell & 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 BFSA budget modification, a review of the City's Capital Plan and an update on the Buffalo Municipal Housing Authority. Additionally, he noted that the meeting would include the reviewing and voting on two separate labor contracts. Following his opening statement, Chairman Lipke 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 07-01 to ratify the November 9, 2006 Board Meeting Minutes and to ratify resolutions numbered 06-66 thru 06-69.

Motion to approve by Colucci, second by Stenhouse, Vote 8-0 to take effect immediately

RESOLUTION NO. 07-01

APPROVING MINUTES AND RESOLUTIONS FROM NOVEMBER 9, 2006

BE IT RESOLVED that the Buffalo Fiscal Stability Authority approves the minutes of its meeting of November 9, 2006 and ratifies and affirms four resolutions numbered 06-66 through 06-69 that were approved on November 9, 2006.

This Resolution shall take effect immediately. Approved January 31, 2007

Chair Lipke took a moment to introduce newly appointed Director Wade S. Norwood to the Board.

Buffalo School District

Budget Modification

Chair Lipke introduced a budget modification involving the re-categorization of some grant funds regarding school health services in the current year budget. Executive Director Dorothy A. Johnson summarized the budget modification for the Board.

Motion by Townsend, second by Giardino, Vote 8-0 to take effect immediately.

RESOLUTION NO. 07 -02

MODIFICATION TO THE 2006-07 FINANCIAL PLAN TO RECOGNIZE A DECREASE IN THE GENERAL FUND BUDGET

WHEREAS, the School District has submitted to the Buffalo Fiscal Stability Authority (BFSA) a proposed budget modification for the current fiscal year, and WHEREAS, the modification would decrease the District's General Fund budget by \$5,300,000 to \$573,534,912, and

WHEREAS, the modification is due to the New York State Budget including additional funds for school health services which were originally included as part of the District's General Fund, and

WHEREAS, the District has been advised by New York State that the \$5,300,000 should be included in the District's Special Projects (Grants) Fund instead of in its General Fund, and

WHEREAS, the Board of Education approved the budget amendment on January 10, 2007, and

WHEREAS, the BFSA staff has studied the Plan modification and finds it reasonable and with no other substantive impact on the 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 General Fund budget as submitted to the Buffalo Fiscal Stability Authority on September 28, 2006. This resolution shall take effect immediately.

Labor Contract

Chair Lipke introduced the proposed collective bargaining agreement between the school district and the operating engineers' union. He invited Buffalo School Superintendent Dr. James Williams to summarize the contract for the Board.

Following Dr. Williams summary, Executive Director for Labor Relations Patricia A. Pancoe, Esq. utilized a slide presentation and provided further detail on the proposed contract.

Vice-Chair Townsend expressed gratitude for the hard work that the Superintendent and his staff did working on the contract.

RESOLUTION 07-03

APPROVAL OF COLLECTIVE BARGAINING AGREEMENT

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

WHEREAS, during the pendency of a wage freeze, the Authority may certify a collective bargaining agreement as an exception to the freeze if such agreement provides “an acceptable and appropriate contribution toward alleviating the fiscal crisis of the City”; and

WHEREAS, the Buffalo City School District (District), a named Covered Organization under the Act, and the International Union of Operating Engineers (IUOE), Local 409 (Union) have reached a settlement for a collective bargaining agreement, which has been ratified by the union membership and given legislative approval by the District’s Board of Education, and have submitted such agreement for review and for certification under Section 3858.2(C)(ii) of the Act; and

WHEREAS, the collective bargaining agreement provides for the terms and conditions of employment for the period from July 1, 2001 through June 30, 2010 and supersedes any other terms and conditions for that period, including any changes due to contract, arbitration, judgment or otherwise, now in effect or hereinafter existing; and

WHEREAS, the settlement has been reviewed and analyzed under the Authority’s guidelines and recommended framework for collective bargaining agreements;

NOW THEREFORE BE IT RESOLVED, that the BFSFA hereby finds that the collective bargaining agreement between the District and the Union provides an acceptable and appropriate contribution towards alleviating the fiscal crisis of the City because such agreement provides for permanent savings, reduces the cost of health care benefits, provides for an extended school day and reduces paid time off; and

BE IT FURTHER RESOLVED, that the aforesaid collective bargaining agreement, which is to be effective through June 30, 2010, is hereby approved and certified as an exception to the BFSFA Wage Freeze Resolution (04-35), subject to the following conditions and limitations; and

BE IT FURTHER RESOLVED, that as long as the terms and conditions of employment for unit members covered by the collective bargaining agreement are not modified by any other contract, award or judgment not approved by the BFSFA, then this certification of an exception to the wage freeze shall apply to allow the collective bargaining agreement to be fully effective and enforceable according to its terms through June 30, 2010, and that the current Wage Freeze Resolution (04-35) or any further wage freeze shall be of no force and effect with respect to the terms and conditions of employment under the labor agreement until after June 30, 2010; and

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

BE IT FURTHER 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 agreements meeting the requirements of Section 3858.2(C)(ii) of the Act.

This resolution shall take effect immediately.

City of Buffalo***Labor Contract***

Chair Lipke introduced the proposed collective bargaining agreement between the Buffalo Firefighters Association (Local 282) and the City of Buffalo. Following this, he invited Mayor Brown to summarize the details of the labor contract.

Utilizing a Power-Point presentation, Mayor Brown provided a summary of the terms of the labor contract. Key points stressed in the presentation included that there would be no retro payment for personal service costs during the wage freeze, that the Union President signed the negotiated contract on January 22, 2007, the Common Council approved it on January 30, 2007 and that the Union membership had 14 calendar days from the Boards approval to act upon it.

Motion by Brown, second by Lipke, Vote 8-0 to take effect immediately.

RESOLUTION 07-04**APPROVAL OF COLLECTIVE BARGAINING AGREEMENT**

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

WHEREAS, pursuant to Section 3858.2(E), of the BFSA may approve or disapprove a collective bargaining agreement during a control period. The BFSA is required to promptly review a collective bargaining agreement that is submitted to it and shall disapprove any collective bargaining agreement that is not in compliance with The Financial Plan, and

WHEREAS, the City of Buffalo (City) and the Buffalo Professional Firefighters Association (Union) commenced negotiations in November 2006 and fully and completely bargained with respect to the terms and conditions of employment of union members, and

WHEREAS, on January 22, 2007, the Mayor and President of the Union signed an Agreement Amending the Collective Bargaining Agreement between the City of Buffalo and the Buffalo Professional Firefighters Association, and the City submitted such agreement with supporting materials to the BFSA for approval under Section 3858.2(E) of the Act, and

WHEREAS, the City has fully and promptly complied with all information requests of the BFSA, and

WHEREAS, the agreement provides for salary increases that are offset by savings in each year, more efficient staffing, restructuring of paid leave time, the elimination of the costly 901 health insurance plan and cosmetic rider, and requires all newly hired firefighters to live in the City of Buffalo, and

WHEREAS, the proposed agreement is in all respects in accordance with The Financial Plan and is in compliance with the draft guidelines established by the BFSA for review and approval of collective bargaining agreements, and

WHEREAS, the agreement provides for the terms and conditions of employment for the period from July 1, 2002 through June 30, 2012 and supersedes any other terms and conditions for that period, including any changes due to contract, Interest Arbitration, judgment or otherwise, now in effect or hereinafter existing, and

WHEREAS, on January 30, 2007, the agreement was approved by the Buffalo Common Council and

NOW, THEREFORE, be it RESOLVED, that the BFSA hereby finds that the agreement between the City of Buffalo and the Buffalo Professional Firefighters Association provides an acceptable and appropriate contribution towards alleviating the fiscal crisis of the City and provides no retroactive benefits, pay adjustments, or compensation; and be it further

RESOLVED, that the foregoing approval is subject to the full and final approval of the agreement by means of legislative approval by the Buffalo Common Council and ratification by the Union membership; and be it further

RESOLVED that the Wage Freeze Resolution of April 21, 2004 so far as it applies to the Buffalo Professional Firefighters Association is lifted in accordance with the terms of the Agreement but in all other respects remains in full force and effect; and be if further

RESOLVED, that the aforesaid agreement, which is to be effective from July 1, 2002 through June 30, 2012, is hereby approved, and

RESOLVED, that this Resolution shall become effective immediately upon approval.

Following the vote, Chair Lipke called a recess at 1:47 PM.

Capital Budget

Chair Lipke reconvened the meeting at 1:53 PM. He introduced the City's 2007 Capital Budget and 2007-11 Capital Improvement Plan. He invited Ms. Johnson to provide further detail.

Ms. Johnson explained that this is the fourth capital budget that BFSA has reviewed since 2003. Further, the City continues to make progress on two key points: 1) reducing the amount of borrowing for items that should be "pay-as-you-go", and 2) developing a comprehensive five-year capital improvement plan.

Director Wilmers questioned whether tree trimming had been included in the capital improvement plan. Upon request from Mayor Brown, Buffalo Urban Renewal Agency President Timothy Wanamaker addressed the Board and explained that tree planting and removal had been capitalized but that tree trimming is expensed and not part of the capital budget.

At 2:02 PM Mayor Brown exited the proceedings.

At 2:04 PM Chair Lipke exited the proceedings.

In Chair Lipke's absence, Vice-Chair Townsend continued and requested a motion to approve the resolution.

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

RESOLUTION NO. 07 - 05

APPROVAL OF CITY OF BUFFALO 2007 CAPITAL IMPROVEMENT BUDGET

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 approve the City of Buffalo's four-year financial plan that encompasses the City of Buffalo, the Buffalo Public Schools and other covered organizations, and may include a capital budget, and

WHEREAS, the Charter of the City of Buffalo requires the Mayor to prepare and submit a capital budget and four year recommended capital improvement program after receiving a recommendation from the Citizens Planning Council ("CPC"), and

WHEREAS, after receiving CPC's recommendation, the Mayor submitted a capital budget to the Common Council for its consideration, and

WHEREAS, the Common Council has approved the Mayor's capital budget as amended, and

WHEREAS, there are sufficient revenues in the City of Buffalo's approved four-year financial plan to make the debt service payments required by this capital budget, and

WHEREAS, the BFSA imposed caveats on the approval of the 2005-2009 capital budget which must be satisfied prior to the approval of future capital budgets, and

WHEREAS, the City continues to propose bonding tree planting and removal as well as many short-term operating costs rather than paying for such normative expenditures through its operating budgets, and

WHEREAS, the City has successfully implemented a program for rescinding authorized but unissued debt, which currently stands at \$13.4 million

WHEREAS, the City has complied with BFSA's requirement that the City adopt a full five-year Capital Improvement Program,

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby approve the City of Buffalo 2007-2011 Capital Improvement Program Budget as submitted by the Mayor on January 17, 2007, with the following caveats prior to submitting the 2008-2012 Capital Improvement Program Budget:

That the City of Buffalo continue to reduce its use of capital borrowing for short-term operating expenses that are not supported by a long-term physical asset with the goal of eliminating the practice; and

That the City of Buffalo continue to rescind authorized but unissued debt whenever possible.

This resolution shall take effect immediately.

Buffalo Municipal Housing Authority

Ms. Johnson introduced three topics of discussion concerning BMHA including: 1) BMHA's compliance with the new HUD requirements, 2) the status of Marine Drive and, 3) the status of BMHA's budget modification. Following this summary, BMHA Interim Executive Director Gillian Brown, esq. addressed the Board and provided further detail on these subjects.

At 2:17 PM Chair Lipke returned to the proceedings.

At 2:19 PM Director Giambra exited the proceedings.

At 2:20 PM Director Brown returned to the proceedings.

Buffalo Fiscal Stability Authority

Budget Modification

Chair Lipke introduced a resolution to amend BFSAs operating budget for 2006-2007.

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

RESOLUTION 07-06

AMEND OPERATING BUDGET FOR BFSAs FOR 2006-2007

WHEREAS, the Buffalo Fiscal Stability Authority (the "BFSAs") was formed by Chapter 122 of the Laws of 2003 as amended by Chapter 86 of the Laws of 2004 to (1) oversee the City of Buffalo's budget, financial and capital plans, (2) issue bonds, notes or other obligations to achieve budgetary savings through debt restructuring, (3) finance short-term cash flow or capital needs and (4) if necessary, to develop financial plans on behalf of the City of Buffalo if it is unwilling or unable to take the required steps toward fiscal stability; and

WHEREAS, the BFSAs has revenues authorized under law comprising City and School District sales taxes and City State Aid and also has costs and expenses to operate and carry out its functions, including but not limited to paying the costs and expenses of its agents, employees and facilities hereof, reimbursement of costs incurred by Directors for actual and necessary expenses incurred in the performance of such Director's official duties, and otherwise to carry on and effectively carry out the obligations required by Chapter 122 of the Laws of 2003 as amended by Chapter 86 of the Laws of 2004; and

WHEREAS, the staff of the BFSA has carefully reviewed the revenues to be received and expenses and costs anticipated to be incurred in carrying out the duties and functions of the BFSA and has prepared a budget amendment (attached) based upon its reasonable assumptions of such revenues, costs and expenses; and

WHEREAS, changing circumstances can affect a fluid document like a budget and adjustments may be necessary from time to time to meet new assumptions regarding revenues, costs and expenses.

NOW THEREFORE, BE IT RESOLVED, that the Directors of the Buffalo Fiscal Stability Authority do hereby approve an amendment to the 2006-2007 BFSA Operating Budget prepared by the BFSA Staff.

This resolution shall take effect immediately.

Independent Auditor

Chair Lipke introduced a resolution to approve the engagement of Lumsden and McCormick, LLP as BFSA's independent auditor.

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

RESOLUTION NO. 07- 07

APPROVE ENGAGEMENT OF LUMSDEN AND McCORMICK, LLP. AS INDEPENDENT AUDITOR

WHEREAS, the Buffalo Fiscal Stability Authority ("BFSA") was formed by Chapter 122 of the Laws of 2003 to "oversee the city's budget, financial and capital plans; to issue bonds, note and other obligations to achieve budgetary savings through debt restructuring; to finance short-term cash flow or capital needs; and if necessary, to develop financial plans on behalf of the city if the city is unwilling or unable to take the required steps toward fiscal stability;" and

WHEREAS, the BFSA receives the City's share of the County's sales tax and state aid revenue to pay for the expenses of the BFSA and debt service on the BFSA's bonds, notes and other obligations; and

WHEREAS, to the extent that those revenues exceed the needs of the BFSA, those funds are to be transferred to the City as soon as practicable; and

WHEREAS, the BFSA has issued a request for proposals in 2004 for an independent auditor to audit the BFSA's accounts as required by the Section 3871 of the BFSA Act; and

WHEREAS, the Audit, Finance and Budget Committee selected Lumsden & McCormick LLP as the firm most capable of carrying out the required duties;

WHEREAS, the firm of Lumsden & McCormick LLP has performed its duties as independent auditor in a satisfactory manner, and

WHEREAS, Lumsden and McCormick has expressed an interest to continue to provide auditing services to the Authority with fees virtually unchanged from the prior year,

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby engage the accounting firm of Lumsden & McCormick LLP. to provide accounting and auditing services to the BFSA. Such services shall be undertaken for such amounts and on such terms as agreed upon by the Chair, Vice Chair or Executive Director.

This Resolution shall take effect immediately.

Bond & Disclosure Counsel/ Financial Advisors/ Underwriters

A motion was made by Director Townsend to vote on resolutions 07-08,07-09 and 07-10 cumulatively. It was duly seconded by Director Giardino.

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

RESOLUTION NO. 07- 08

APPROVING ENGAGEMENT OF MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO, PC AS BOND AND DISCLOSURE COUNSEL

WHEREAS, the Buffalo Fiscal Stability Authority (“BFSA”) was formed by Chapter 122 of the Laws of 2003 to “oversee the city’s budget, financial and capital plans; to issue bonds, notes or other obligations to achieve budgetary savings through debt restructuring; to finance short-term cash flow or capital needs; and if necessary, to develop financial plans on behalf of the city if the city is unwilling or unable to take the required steps toward fiscal stability,”; and

WHEREAS, the BFSA requires and is empowered to retain advisors and counsel to assist in the performance of its duties; and

WHEREAS, the BFSA is a public authority of the state of New York and as such is governed by certain state laws that specify the method for the procurement of certain services; and

WHEREAS, the BFSA issued a request for proposals for bond and disclosure counsel services in November 2003; and

WHEREAS, a selection committee consisting of BFSA Directors and staff selected Mintz Levin Cohn Ferris Glovsky and Popeo, PC, as the firm most capable of carrying out the required duties; and

WHEREAS, the BFSA engaged the law firm of Mintz Levin Cohn Ferris Glovsky and Popeo, PC to provide such bond and disclosure counsel to the Authority on an as-needed basis as requested by the Chairman for a period of three years; and

WHEREAS, this firm has performed their duties to the full satisfaction of the BFSA, and have

expressed an interest in continuing their services for an additional year at the same or lower rates that those offered in the last year; and

WHEREAS, the BFSFA requires these services for the issuance of long-term and cash flow debt for the next twelve months and wishes to extend the engagements with the above firms.

NOW THEREFORE, BE IT RESOLVED, that the BFSFA engage the law firm of Mintz Levin Cohn Ferris Glovsky and Popeo, PC, respectfully to provide such bond and disclosure counsel to the Authority on an as-needed basis as requested by the Chairman. Such services shall be undertaken for such amounts and on such terms as agreed upon by the Chairman, Vice Chairman or Executive Director.

This resolution shall take effect immediately.

RESOLUTION NO. 07- 09

APPROVING ENGAGEMENT OF PUBLIC FINANCIAL MANAGEMENT AS FINANCIAL ADVISORS

WHEREAS, the Buffalo Fiscal Stability Authority (“BFSFA”) was formed by Chapter 122 of the Laws of 2003 to “oversee the city’s budget, financial and capital plans; to issue bonds, notes or other obligations to achieve budgetary savings through debt restructuring; to finance short-term cash flow or capital needs; and if necessary, to develop financial plans on behalf of the city if the city is unwilling or unable to take the required steps toward fiscal stability,”; and

WHEREAS, the BFSFA requires and is empowered to retain advisors and counsel to assist in the performance of its duties; and

WHEREAS, the BFSFA is a public authority of the state of New York and as such is governed by certain state laws that specify the method for the procurement of certain services; and

WHEREAS, the BFSFA issued a request for proposals for financial advisor in November 2003; and

WHEREAS, a selection committee consisting of BFSFA Directors and staff selected Public Financial as the firm most capable of carrying out the required duties; and

WHEREAS, the BFSFA engaged the financial advisor firm Public Financial Management to provide financial advisory services to the Authority on an as-needed basis as requested by the Chairman for a period of three years; and

WHEREAS, the firm has performed their duties to the full satisfaction of the BFSFA, and have expressed an interest in continuing their services for an additional year at the same or lower rates that those offered in the last year; and

WHEREAS, the BFSFA requires these services for the issuance of long-term and cash flow debt for

the next twelve months and wishes to extend the engagements with the above firms;

NOW THEREFORE BE IT RESOLVED, that the BFSFA engage the financial advisor firm of Public Financial to provide financial advisory and managing underwriter services to the Authority on an as-needed basis as requested by the Chairman. Such services shall be undertaken for such amounts and on such terms as agreed upon by the Chairman, Vice Chairman or Executive Director.

This resolution shall take effect immediately.

RESOLUTION NO. 07- 10

APPROVING ENGAGEMENT OF LEHMAN BROTHERS AS SENIOR MANAGING UNDERWRITERS

WHEREAS, the Buffalo Fiscal Stability Authority (“BFSFA”) was formed by Chapter 122 of the Laws of 2003 to “oversee the city’s budget, financial and capital plans; to issue bonds, notes or other obligations to achieve budgetary savings through debt restructuring; to finance short-term cash flow or capital needs; and if necessary, to develop financial plans on behalf of the city if the city is unwilling or unable to take the required steps toward fiscal stability,”; and

WHEREAS, the BFSFA requires and is empowered to retain advisors and counsel to assist in the performance of its duties; and

WHEREAS, the BFSFA is a public authority of the state of New York and as such is governed by certain state laws that specify the method for the procurement of certain services; and

WHEREAS, the BFSFA issued a request for proposals for underwriter services in November 2003; and

WHEREAS, a selection committee consisting of BFSFA Directors and staff selected Lehman Brothers as the firm most capable of carrying out the required duties; and

WHEREAS, the BFSFA engaged the law firm Lehman Brothers to provide managing underwriter services to the Authority on an as-needed basis as requested by the Chairman for a period of three years; and

WHEREAS, this firm has performed their duties to the full satisfaction of the BFSFA, and have expressed an interest in continuing their services for an additional year at the same or lower rates that those offered in the last year; and

WHEREAS, the BFSFA requires these services for the issuance of long-term and cash flow debt for the next twelve months and wishes to extend the engagements with the above firms.

NOW THEREFORE BE IT RESOLVED, that the BFSFA engage the investment bank of Lehman Brothers to provide managing underwriter services to the Authority on an as-needed basis as

requested by the Chairman. Such services shall be undertaken for such amounts and on such terms as agreed upon by the Chairman, Vice Chairman or Executive Director. This resolution shall take effect immediately.

Closing Remarks

Chairman Lipke thanked all who attended the meeting. Having no further business, Mayor Brown made a motion to adjourn, which was duly seconded unanimously. The meeting adjourned at 2:20 PM.