

**MINUTES  
BUFFALO FISCAL STABILITY AUTHORITY  
MONDAY, NOVEMBER 7, 2007**

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The regular meeting of the Buffalo Fiscal Stability Authority (BFSA) was called to order at 1:14 pm on Wednesday, November 7, 2007, at the Buffalo & Erie County Public Library – Central Branch by Vice Chair Alair Townsend. The meeting was convened by a Notice of Meeting sent to the Directors and announced to the public and press.

**Directors Present:** Arthur, Brown, Giambra, Johnstone, Kolkmeier, Mertz and Townsend

**Directors Absent:** Giardino, Norwood

**Staff Present:** Kelly, Link, Miller, Mitchell, Mobley and Stefko

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**Opening Remarks**

Vice Chair Townsend called the meeting to order and pointed out the emergency evacuation exits. She welcomed new Board member Gail Johnstone and new Board Chair Paul Kolkmeier. She also noted the departure of Secretary/Treasurer Rev. Richard Stenhouse, and listed some of his contributions to BFSA before passing the meeting over to Chair Kolkmeier.

Chair Kolkmeier summarized the agenda issues to be addressed at the day's meeting, including City and covered organization issues, as well as issues relating to BFSA's operations and responsibilities as a New York State public authority. He also noted the contributions of his predecessor, former Chair Brian Lipke.

Following his opening statements, Chair Kolkmeier took roll call of Board Directors. Finding a quorum present, the meeting commenced.

**Approval of Minutes**

Chair Kolkmeier asked for a motion to ratify the minutes from the previous BFSA Board meeting, held September 24, 2007.

Acting Executive Director Dr. Joseph Stefko noted one minor edit to the September 24th meeting minutes – specifically, the vote count on Resolution 07-34 (approving the minutes from BFSA's August 8, 2007 meeting) should read 6-0 with Arthur abstaining, rather than 7-0.

Motion by Townsend, second by Mertz. Vote 6-0 (Johnstone abstains) to take effect immediately.

**RESOLUTION NO. 07-48  
APPROVING MINUTES AND RESOLUTIONS FROM SEPTEMBER 24, 2007**

BE IT RESOLVED that the Buffalo Fiscal Stability Authority approves the minutes of its meeting of September 24, 2007 and ratifies and affirms resolutions numbered 07-34 through 07-47 that were approved on September 24, 2007.

This Resolution shall take effect immediately.

Approved November 7, 2007

### **BFSA Issues**

#### ***Appointment Acting Executive Director***

Chair Kolkmeier reminded the Board that Ms. Dorothy A. Johnson stepped down as Executive Director of BFSA in October. At that time, in the capacity of Acting BFSA Chair, Vice Chair Townsend appointed Deputy Director Dr. Joseph Stefko to serve as Acting Executive Director until such time as a permanent replacement was identified. Chair Kolkmeier then introduced a resolution to formalize Dr. Stefko's appointment as Acting Executive Director until such time as a permanent replacement was named.

Arthur asked about the process by which the salary level of \$102,000 was arrived at for the position of Acting Executive Director.

Vice Chair Townsend addressed Arthur's question with details about how the process was structured and how the salary amount was arrived at. She referenced her discussions with all of the Board members and the Governor's staff to help determine the salary amount, which was less than the salary Ms. Johnson had been paid. She further indicated that Dr. Stefko has been doing the work of both Executive Director and Deputy Director since Ms. Johnson's departure.

Arthur then questioned Vice Chair Townsend as to why she cleared the new salary level with the Governor's office. He also questioned why the Deputy Director should be paid at a higher rate when the responsibility of filling in for the Executive Director should be a standard function of the Deputy role.

Vice Chair Townsend responded that there are many instances in which individuals receive higher-level "acting pay" when filling in at a higher title or grade. She further noted that the Acting Executive Director will be required to serve indefinitely, from October 11 until such point as the search process is completed and a permanent replacement identified. She also noted that she informed the Governor's office of the Acting Executive Director appointment and revised salary level as a courtesy, given the importance of the position.

Arthur then asked whether Dr. Stefko would revert back to his Deputy position if he were not named the permanent replacement. Chair Kolkmeier indicated that Dr. Stefko would revert back to the Deputy position and salary grade at that point.

Arthur then asked Chair Kolkmeier about the timing for searching for a permanent replacement. Chair Kolkmeier responded by saying that he would discuss that process and the time frame after the current resolution was voted on.

County Executive Giambra then addressed Arthur's questions, expressing concern about doing a national search and stating that Dr. Stefko has been a consummate professional in his work with BFSA, and his qualifications as well as his constant professionalism make him the ideal candidate for the permanent position. He further noted that Dr. Stefko should be made the permanent replacement for Ms. Johnson, and that a large-scale national search was not necessary.

Chair Kolkmeier then called the vote on this resolution.

Motion by Giambra, second by Townsend. Vote 6-1 (with Arthur dissenting) to take effect immediately.

**RESOLUTION NO. 07-49**  
**APPOINT ACTING EXECUTIVE DIRECTOR**

WHEREAS, Dorothy A. Johnson resigned as Executive Director of the Buffalo Fiscal Stability Authority ("BFSA") effective October 10, 2007; and

WHEREAS, Joseph V. Stefko, Ph.D. had been serving in the role of Deputy Director of BFSA.

NOW THEREFORE BE IT RESOLVED, that Joseph V. Stefko, Ph.D. is hereby appointed as Acting Executive Director of BFSA until such time as a permanent Executive Director is named.

BE IT FINALLY RESOLVED, that the salary rate for this position shall be \$102,000.

This resolution shall take effect immediately.

Approved November 7, 2007

Chair Kolkmeier then expressed an interest in creating an ad hoc search committee for the purpose of identifying the next permanent Executive Director of BFSA, nominating himself, Townsend and Norwood to serve on that search committee.

Mayor Brown indicated that he supported Dr. Stefko's consideration for appointment to the Executive Director position, saying that Dr. Stefko has been a positive member of the BFSA staff. Mayor Brown also noted that he would oppose a costly national search for a new Executive Director.

Arthur asked for clarification into how the search committee would operate and indicated that he would like to be kept informed on the process and sit in on any meetings. Chair Kolkmeier responded that the search committee would keep the full Board informed of its process.

Motion by Mertz, second by Johnstone. Vote 6-1 (with Giambra dissenting) to take effect immediately.

County Executive Giambra explained his dissenting vote by reiterating his call to forgo the search process and name Dr. Stefko the permanent Executive Director.

**RESOLUTION NO. 07-50  
FORMING A SEARCH COMMITTEE FOR THE PURPOSE OF IDENTIFYING A  
PERMANENT EXECUTIVE DIRECTOR OF THE BUFFALO FISCAL STABILITY  
AUTHORITY**

WHEREAS, Dorothy A. Johnson resigned as Executive Director of the Buffalo Fiscal Stability Authority (“BFSA”) effective October 10, 2007; and

WHEREAS, Joseph V. Stefko, Ph.D. has been serving in the role of Acting Executive Director of BFSA since Dorothy A. Johnson’s resignation; and

WHEREAS, it is imperative that BFSA identify a permanent Executive Director given the importance of this position in BFSA’s operations; and

WHEREAS, Chairman Paul Kolkmeier has proposed the creation of a search committee for the purpose of identifying a permanent Executive Director of BFSA.

NOW THEREFORE BE IT RESOLVED, that a search committee is hereby formed for this purpose; and

BE IT FURTHER RESOLVED, that the members of the search committee shall be Chairman Kolkmeier, Vice Chair Townsend and Director Wade Norwood.

This resolution shall take effect immediately.

Approved November 7, 2007

***Appointment of BFSA Secretary***

Chair Kolkmeier introduced a resolution to appoint Director Arthur as BFSA Secretary.

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

**RESOLUTION NO. 07-51  
APPOINTMENT OF BFSA SECRETARY**

WHEREAS, Chapter 122 of the Laws of 2003, as amended, that created the Buffalo Fiscal Stability Authority (“BFSA”) provides that the directors shall appoint officers and agents as may be required; and

WHEREAS, upon the expiration of Rev. Richard A. Stenhouse's term on the BFSA Board of Directors, it is necessary to appoint someone else as Secretary;

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby appoint George K. Arthur as Secretary to serve until the earlier of the expiration of his term as a director, his resignation, removal or death.

This resolution shall take effect immediately.

Approved November 7, 2007

***Appointment of BFSA Treasurer & Deputy Treasurer***

Chair Kolkmeier introduced a resolution to appoint Director Giardino as BFSA Treasurer and Director Mertz as BFSA Deputy Treasurer.

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

**RESOLUTION NO. 07-52**

**APPOINTMENT OF BFSA TREASURER/DEPUTY TREASURER**

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

WHEREAS, upon the expiration of Rev. Richard A. Stenhouse's term on the BFSA Board of Directors, it is necessary to appoint someone else as Treasurer; and

WHEREAS, a major duty of the Treasurer is to be a signatory on BFSA bank accounts and other official documents;

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby appoint John Giardino as Treasurer to serve until the earlier of the expiration of his term as a director, his resignation, removal or death; and

BE IT FURTHER RESOLVED, that the Buffalo Fiscal Stability Authority does hereby appoint Wayne Mertz as Deputy Treasurer to serve until the earlier of the expiration of his term as a director, his resignation, removal or death; and

BE IT FINALLY RESOLVED, that both Directors John Giardino and Wayne Mertz are hereby authorized to sign on behalf of the Buffalo Fiscal Stability Authority on all bank accounts maintained by the Authority as authorized by prior banking resolutions.

This resolution shall take effect immediately.

Approved November 7, 2007

*Appointment of FOIL Appeals Officer*

Chair Kolkmeier introduced a resolution to appoint Director Johnstone as BFSA FOIL Appeals Officer.

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

**RESOLUTION NO. 07-53**

**APPOINTMENT OF FREEDOM OF INFORMATION LAW APPEALS OFFICER**

WHEREAS, Chapter 122 of the Laws of 2003, as amended, that created the Buffalo Fiscal Stability Authority (“BFSA”) provides that the directors shall appoint officers and agents as may be required; and

WHEREAS, under the Freedom of Information Law (“FOIL”), every state agency must designate someone from whom records can be obtained and someone to hear appeals of records access requests in the event a request is denied; and

WHEREAS, pursuant to Resolution 06-02, the BFSA appointed Director Rev. Richard A. Stenhouse to be FOIL appeals officer; and

WHEREAS, with the expiration of Rev. Stenhouse’s term on the BFSA Board, the duties of FOIL appeals officer must be transferred to someone else.

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby appoint Gail Johnstone as Freedom of Information Law Appeals Officer to serve until the earlier of the expiration of his term as a director, his resignation, removal or death.

This resolution shall take effect immediately.

Approved November 7, 2007

*Reconstitute Governance Committee*

Chair Kolkmeier introduced a resolution to reconstitute the Governance Committee. He noted that traditionally, the Governance Committee has been comprised of the Chair, Vice Chair and Secretary. As such, he nominated himself, Director Townsend and Director Arthur as members.

Motion by Giambra, second by Johnstone. Vote 6-0 (Brown abstains) to take effect immediately.

**RESOLUTION NO. 07-54**

**RECONSTITUTE GOVERNANCE COMMITTEE**

WHEREAS, the Board of Directors (“Board”) of the Buffalo Fiscal Stability Authority (“BFSA”) approved Resolution No. 06-27 establishing a Governance Committee (“Committee”) on April 12, 2006; and

WHEREAS, the Committee was established because BFSA falls under the requirements of the Public Authorities Accountability Act of 2005, which has the stated purpose of ensuring greater efficiency, openness and accountability for public authorities within New York State; and

WHEREAS, the Public Authorities Accountability Act requires each state authority to establish a governance committee comprised of independent members; and

WHEREAS, the current composition of the Committee’s membership is pursuant to Resolution 06-27; and

WHEREAS, the composition of the Committee was previously the Board Chair, Board Vice Chair and Board Secretary/Treasurer; and

WHEREAS, there have been changes to the membership of the BFSA Board.

NOW THEREFORE BE IT RESOLVED, in the interest of the ongoing operation and continued efficiency of the Committee, the Governance Committee is hereby reconstituted to include Board Chairman Paul Kolkmeier, Alair Townsend, and George Arthur.

BE IT FURTHER RESOLVED, that Director Townsend shall serve as Chair of the Committee.

This Resolution shall take effect immediately.

Approved November 7, 2007

***Reconstitute Audit, Finance and Budget Committee***

Chair Kolkmeier introduced a resolution to reconstitute the Audit, Finance and Budget Committee. He nominated BFSA Treasurer John Giardino to chair the Committee, and Directors Kolkmeier, Townsend and Mertz to sit on the Committee as members.

Motion by Johnstone, second by Mertz. Vote 6-0 (Brown abstains) to take effect immediately.

**RESOLUTION NO. 07-55  
RECONSTITUTE AUDIT, FINANCE AND BUDGET COMMITTEE**

WHEREAS, the Board of Directors (“Board”) of the Buffalo Fiscal Stability Authority (“BFSA”) approved Resolution No. 03-55 establishing an Audit, Finance and Budget Committee (“Committee”) on October 21, 2003; and

WHEREAS, the current composition of the Committee’s membership is pursuant to Resolution 07-32; and

WHEREAS, there have been changes to the membership of the BFSA Board.

NOW THEREFORE BE IT RESOLVED, in the interest of the ongoing operation and continued efficiency of the Committee, the Committee is hereby reconstituted to include Director John Giardino, who will serve as Chair of the Committee, and Directors Paul Kolkmeier, Alair Townsend and Wayne Mertz, who will serve as members of the Committee.

This Resolution shall take effect immediately.

Approved November 7, 2007

### **City Issues**

#### ***Budget Modification***

Chair Kolkmeier introduced a budget modification which had been submitted to BFSA by the City on October 24<sup>th</sup>. The modification to the City's 2007-08 budget and financial plan would provide for certain wage increases that had been frozen during the wage freeze.

Dr. Stefko noted that the modification provides for a 3.4 percent increase in Police Benevolent Association (PBA) members' pay for the current fiscal year, consistent with the lifting of the wage freeze. It would also provide for a 3.4 percent increase in 2008-09 and a final 3.4 percent increase in 2009-10, consistent with the suspended PBA contract. Total first year costs are expected to be \$2.33 million, growing to \$5.39 million in 2008-09 and \$8.73 million in 2009-10. The City plans to utilize a portion of its increase in State aid to offset the associated costs over the three years. Dr. Stefko noted that upon review, BFSA staff found the modification request reasonable and consistent with the provisions of the BFSA Act regarding the wage freeze and its lifting.

Mayor Brown indicated that the City was moving along the path of fiscal stability, while being responsible and in keeping with lifting of the wage freeze.

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

### **RESOLUTION NO. 07-56 APPROVAL OF CITY OF BUFFALO BUDGET AND FINANCIAL PLAN MODIFICATION**

WHEREAS, on October 24, 2007, the City of Buffalo ("City") submitted a budget modification request for the 2007-08 fiscal year to the Buffalo Fiscal Stability Authority ("BFSA"); and

WHEREAS, the proposed modification would serve to amend the budget originally approved by BFSA on June 5, 2007; and

WHEREAS, the modification addresses a multi-year change in the City's 2007-08 budget and four year financial plan; and

WHEREAS, the modification increases spending to accommodate certain Police Benevolent Association ("PBA") wage increases that had been suspended during the wage freeze that was imposed April 21, 2004 and lifted July 1, 2007; and

WHEREAS, the 2007-08 budget would increase by \$2.33 million to accommodate the first 3.4 percent salary increase that had been frozen; and

WHEREAS, the financial plan would increase by \$5.39 million in 2008-09 to accommodate the second 3.4 percent salary increase that had been frozen; and

WHEREAS, the financial plan would increase by \$8.73 million in 2009-10 to accommodate the third 3.4 percent salary increase that had been frozen; and

WHEREAS, the City is proposing to offset the costs of these increases through the use of available New York State Aid and Incentives to Municipalities ("AIM") funding; and

WHEREAS, the City's Common Council has approved the budget modification; and

WHEREAS, BFSA staff has reviewed the budget modification and determined that it complies with the requirements of the BFSA Act.

NOW THEREFORE BE IT RESOLVED THAT, the Buffalo Fiscal Stability Authority hereby determines that the City of Buffalo's proposed budget and financial plan modification is complete, complies with the standards set forth in Sections 3857 and 3858 of the Buffalo Fiscal Stability Authority Act, and is hereby approved.

This Resolution shall take effect immediately.

Approved November 7, 2007

***Proposed Short-Term Cash Flow Borrowing***

Chair Kolkmeier asked Dr. Stefko to summarize the proposed short-term cash flow borrowing for the Board.

Dr. Stefko explained that the City has regularly relied on a short-term borrowing in the first half of its fiscal year to address its cash flow needs. Its cash situation is largely driven by the amount of State aid that comes in later in the fiscal year, meaning that the City has to borrow money in the first half of the fiscal year, on a short-term basis, to bridge that gap. He also noted that the City's cash position encompasses both the City and School District, so the size of the cash flow borrowing takes into account the combined cash position of both entities.

Dr. Stefko pointed out that the City has made great strides in bringing down its annual cash needs. In 2003-04, the City required a cash flow borrowing of \$120 million. Since then, as a result of improved cash management, cost controls and a significant increase in State aid to both the City and the School District, the cash needs have been dramatically reduced.

Dr. Stefko continued by explaining that BFSA has received and reviewed cash flow forecasts for both the City and School District, on an individual basis and combined. The School District shows a deficit cash position for the months of November, December and January. And while the City's cash position is sufficient to bring the combined cash flow to balance for most of that period, the combined cash flow does fall below zero in the middle of December. The current proposed borrowing would not exceed \$20 million, just one-sixth of the cash need four years ago. The proposed transaction would be undertaken directly by the City as an unrated, competitively bid private placement of Revenue Anticipation Notes with a maturity not to exceed 125 days. As an unrated transaction, it would not require credit enhancement. The source of repayment is expected to be State aid to the School District, since the District is the entity that requires the cash flow assistance.

Dr. Stefko discussed the term of the borrowing by explaining that discussions between the City and the financial community in the past few weeks have indicated a low level of interest on a RAN borrowing of a shorter maturity. However, the City Comptroller's office has agreed that its invitation to bid will request bids for maturities of 60, 90 and 125 days. And if the City receives bids for the shorter maturities at acceptable rates, it will take the shorter maturity and pay the borrowing off more quickly. The City Comptroller's office has communicated with eight financial institutions to gauge interest in the transaction, and has narrowed the list of bidding institutions to three, and will solicit bids from those three institutions.

Dr. Stefko continued: BFSA has completed the past three annual cash flow borrowings for the City, and generated savings each time due to BFSA's higher credit rating. However, this borrowing is different. The fact that this would be a small, unrated transaction makes the cost differential (between the City doing it or BFSA doing it) negligible, since the City would not require any credit enhancement. Dr. Stefko concluded by pointing out that based on staff's analysis, it appears that the City's proposal is as cost efficient as possible, assuming the ultimate interest rate is consistent with market parameters on the date of pricing.

City Comptroller SanFilippo briefly addressed the issue, by pointing out that the size of cash flow borrowing has been substantially reduced. He also noted that this is an indication of the City's improving fiscal position.

Director Mertz asked Comptroller SanFilippo about the Comptroller's letter to BFSA, which compared the cost of this transaction if the City were to do the borrowing vs. if BFSA did the borrowing on the City's behalf. Mertz asked for further clarification as to the cost of issuance and interest rate used in the analysis. Comptroller SanFilippo responded that the numbers were based on the projected proposals received by the City for this borrowing. Mertz asked BFSA's Chief Financial Officer, Bertha Mitchell, to comment on the reasonableness of the Comptroller's numbers and analysis. Ms. Mitchell responded that given the structure of this particular unrated transaction, BFSA's costs would be very similar to what the City would pay.

Director Townsend pointed out that the Comptroller's analysis contained some "apples to oranges" comparison, and that a BFSA unrated private placement transaction would have very similar costs of issuance to the City's own transaction.

Mayor Brown addressed the issue, stating that he was pleased that the City was doing this borrowing. He pointed out that the City's borrowing on its own was one step in transitioning BFSA to advisory mode.

Director Mertz raised the idea of the City obtaining a "line of credit" from a financial institution. Comptroller SanFilippo responded by stating that section 30 of the Local Finance Law does not permit such a line of credit for cities. Chair Kolkmeier questioned whether that law had changed in recent years, since he thought the City had maintained a line of credit in previous years. Comptroller SanFilippo stated that he was unaware of Local Finance Law permitting lines of credit. Kolkmeier encouraged SanFilippo to review the law one more time to determine whether or not a line of credit was permitted. Rick Calipari of the Comptroller's office noted that the City's bond counsel has also advised that lines of credit are not permitted.

Chairman Kolkmeier introduced a resolution to move forward with the borrowing, with an amendment that requires the Comptroller's office and BFSA to ensure that a line of credit is not an option available to the City. During the interim time, the City will move forward with the proposed borrowing. Based on the Chairman's amendment, Dr. Joseph Stefko added a second resolve clause that the City Comptroller's Office will explore the line of credit option and report back to BFSA in one week and that the final terms of the borrowing would be subject to BFSA review and approval at the time of borrowing.

Motion to approve by Mertz, second by Arthur. Approved 7-0 to take effect immediately.

**RESOLUTION NO. 07-57**

**APPROVING SHORT-TERM BORROWING FOR THE CITY OF BUFFALO'S 2007-08 FISCAL YEAR CASH FLOW NEEDS IN AN AMOUNT NOT TO EXCEED OF \$20 MILLION**

WHEREAS, Section 3858 of Chapter 122 of the Laws of 2003 ("Chapter 122"), as amended, requires that the Buffalo Fiscal Stability Authority ("BFSA" or the "Authority") "shall, with respect to any proposed borrowing by or on behalf of the city or any covered organization on or after July first, two thousand three, review the terms of and comment, within thirty days after notification by the city or covered organization of a proposed borrowing, on the prudence of each proposed issuance of bonds or notes to be issued by the city or covered organization..."; and

WHEREAS, Chapter 122, as amended, further provides that "...no such borrowing shall be made unless first reviewed, commented upon and approved by the Authority"; and

WHEREAS, Chapter 122, as amended, permits BFSA to review and approve or disapprove contracts or other obligations of the City or any covered organization; and

WHEREAS, the City Comptroller has submitted to BFSA correspondence dated October 31, 2007, providing a “presentation for the city’s upcoming cash flow borrowing for fiscal year 2007-08”; and

WHEREAS, the City Comptroller’s correspondence notes how the City has demonstrated progress in reducing its annual cash flow borrowing needs, from \$120 million in 2003-04 to \$20 million in the current year; and

WHEREAS, the City Comptroller’s correspondence indicates a plan to borrow not more than \$20 million for a period of “no longer than approximately 125 days,” commencing at the “very end of November, 2007, with the debt being retired in early April, 2008”; and

WHEREAS, the City Comptroller is formally requesting BFSA approval for the City to pursue a cash flow program to meet the School District of Buffalo’s cash flow needs utilizing a private placement, competitive bid structure with a single financial institution, and that “the City does not expect to incur issuance expenses of more than \$50,000”; and

WHEREAS, the City Comptroller further notes that the transaction is expected to be unrated, and will not require credit enhancement; and

WHEREAS, the City Comptroller identifies the source of repayment as being “State Aid, including school assistance...”

NOW THEREFORE BE IT RESOLVED, that the Authority approves the borrowing as proposed by the City Comptroller to address the City School District of Buffalo’s cash flow needs in the 2007-08 fiscal year, provided that (1) the aggregate amount of the borrowing shall not exceed \$20 million, and (ii) the Chair of BFSA, the Acting Executive Director or Chief Financial Officer of the Buffalo Fiscal Stability Authority shall approve the final terms and pricing of the borrowing in writing; and further

RESOLVED, that, as a condition of this borrowing, the City Comptroller’s Office shall explore the opportunity to establish a line of credit and report back to BFSA’s Chairman within one week; and further

RESOLVED, that the Authority authorizes the City to enter into necessary and appropriate contracts in connection with this borrowing; and further

RESOLVED, that the Chair, the Acting Executive Director and the Chief Financial Officer of the Buffalo Fiscal Stability Authority are hereby authorized and directed to execute and deliver any agreements, certificates, documents, papers or other written instrument, to make any changes, modifications or amendments as he or she deems necessary, to do all other things and to take all other actions necessary and appropriate in their judgment, to consummate the transaction contemplated by this Resolution.

This Resolution shall take effect immediately.

Approved November 7, 2007

***BFSA Contract Approval Process***

Dr. Stefko explained that in January 2005, BFSA adopted a new, more stringent contract approval process for demolition service contracts that came out of the Department of Permit and Inspection Services. That revised process was implemented in response to Board concerns over bidding procedures, as well as concerns over whether contracts valued in excess of \$50,000 were being properly submitted to BFSA for review, and the overall contract approval process requires. As a result, the Department of Permit and Inspection Services was required to submit all service contracts, no matter what their cost value, to BFSA for review and approval. Over the past two-and-a-half years, BFSA has reviewed every service contract entered into by the City's Department of Permit and Inspection Services, regardless of amount. The City has requested that BFSA consider revising the contract process to treat these contracts the same way as all other contract requests are handled (i.e. only items exceeding \$50,000 in total value be submitted for review and approval).

Dr. Stefko noted that the conditions leading to this more stringent contract process are no longer present in the Department of Permit and Inspection Services. This procedural change would help to expedite the City's demolition process.

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

**RESOLUTION NO. 07-58**

**AMEND BFSA CONTRACT APPROVAL PROCESS REGARDING DEPARTMENT OF ECONOMIC DEVELOPMENT, PERMIT AND INSPECTION SERVICES**

WHEREAS, Section 3858 (2) (H) of the Public Authorities Law provides that during a "control period" the BFSA "may review and approve or disapprove contracts or other obligations binding or purporting to bind the City...."; and

WHEREAS, the BFSA, by Resolution 03-14 that was adopted on August 13, 2003, stated that the BFSA would "review contracts or other obligations (of the City of Buffalo) in excess of \$50,000"; and

WHEREAS, on December 15, 2003 the BFSA adopted Resolution 03-78 regarding "Approving an Internal Approval Process For Contracts, Settlements Or Other Obligations Binding Or Purporting to Bind the City of Buffalo". This Resolution established a procedure for the approval of emergency matters during periods between BFSA meetings; and

WHEREAS, on January 26, 2005, the BFSA adopted Resolution 05-05 that "Established A New Process For Approving and Monitoring Demolition Contracts in the City of Buffalo"; and

WHEREAS, Resolution 05-05 made certain findings regarding the operations of the Department of Permit and Inspection Services and required "all non-emergency demolition contracts to come

before the Authority for formal review and approval, regardless of whether they exceed \$50,000 either individually or collectively....”; and

WHEREAS, The City of Buffalo in coordination with the State of New York has embarked upon a major effort to demolish a significant number of dilapidated, dangerous and blighted structures; and

WHEREAS, the City is engaged in a process to streamline and accelerate the demolition process to maximize the achievement of the goals of the City and State program; and

WHEREAS, the BFSAs recognizes the economies and efficiencies that exist when nearby properties are bid as packages and awarded as bulk demolition contracts; and

WHEREAS, the conditions that led to the adoption of Resolution 05-05 no longer exist; and

WHEREAS, the BFSAs finds that it is no longer necessary to treat demolition contracts in a different manner from other contracts of the City of Buffalo.

NOW THEREFORE BE IT RESOLVED, that Resolution 05-05 is repealed; and be it further

RESOLVED, that the Department of Economic Development, Permit and Inspection Services is authorized to award, after competitive bidding, bulk demolition contracts or service orders without prior approval of the BFSAs so long as the cost of the demolition of any single property included within the bulk bid does not exceed \$50,000; and be it further

RESOLVED, that the Department of Economic Development Permit and Inspection Services shall report to the BFSAs on a monthly basis all bulk contracts that it awards where the aggregate value of such bulk contract exceeds \$50,000.

This resolution shall take effect immediately.

Approved November 7, 2007

### ***Discussion of City's First Quarter Report***

Dr. Stefko reviewed the City's first quarter report, which was provided to BFSAs on October 31<sup>st</sup>. Overall, at the end of the first quarter, the City is still projecting a balanced budget for the current fiscal year. Both revenues and expenditures are up slightly from budget, but revenues are projecting higher than expenses, to the tune of a \$1.7 million projected positive year-end.

Dr. Stefko noted that, for the most part, City departments are currently running below their budgeted levels. Twelve departments are trending below budget, with the largest savings in departments such as Public Works (running \$400,000 under budget), Administration/Finance (\$173,000 under budget), Mayor/Executive (\$138,000 under budget) and Permits/Inspections (\$124,000 under budget). Cumulatively, the twelve departments that are below budget are producing about \$1.4 million in projected savings.

Savings are generally being driven by unfilled positions. The City's quarterly report shows strong position control, with a total of 196 unfilled positions at the end of the first quarter. The 196 vacant positions represent more than 7% of the budgeted workforce.

Only two City departments are currently projecting over budget, Police and Fire. And in both cases, overtime expenditures are the primary reason. A slide was shown illustrating the trend of overtime costs in the Police Department over the past three years. Year-to-date through the end of October, Police overtime totaled \$2.7 million. By comparison, at this point last fiscal year, it was \$1.6 million. And at this point two years ago, it was less than a million. Through the end of October, Police had already exhausted 52% of its total budgeted overtime. And extrapolating the year-to-date trend through the rest of the year would mean a total Police overtime expense of more than \$10 million, or more than \$14,000 per uniformed police officer on average.

Dr. Stefko also noted that there have been steps taken to address the rate of overtime spending. And, for the first pay period in November, the overtime disbursement for Police was 38% less than the average of the first seven pay periods of the fiscal year. As a point of reference, Dr. Stefko noted the size of the City's uniformed police force has gotten smaller over this time frame.

Dr. Stefko continued by discussing overtime in the Fire Department. Year-to-date through the end of October, Fire overtime totaled \$3.3 million. By comparison, at this point last fiscal year, it was \$2.3 million. Through the end of October, Fire had already exhausted 50% of its total budgeted overtime. Again, carrying the year-to-date trend forward through the rest of the year would mean a total Fire overtime expense of more than \$10 million, or more than \$15,000 per firefighter on average. On the positive side, position control in the Fire Department has enabled the City to offset much of this cost. Regular salaries are running about \$3 million below budget as a result of vacant positions, helping to balance much of the overtime cost. As a point of reference, Dr. Stefko also noted that the size of the City's uniformed fire workforce has gotten smaller over this time frame.

Vice Chair Townsend asked about police overtime costs in the most recent pay period, and asked the Mayor whether specific efforts had been made to reduce those costs. Mayor Brown explained that certain special police operations have been scaled back to help bring overtime in line. He also cited minimum manpower levels as factors in overtime costs.

Vice Chair Townsend asked further about the injured-on-duty issue and its status. Mayor Brown indicated that more needed to be done and that the City is working with New York State to make improvements.

Director Mertz asked the Mayor whether additional staffing in police would affect overtime cost trends. Mayor Brown responded that raising the ranks of police and fire would reduce overtime. By July 2008 there will be approximately 100 additional police officers on the streets.

### **Buffalo Public Schools**

## ***First Quarter Report***

Chair Kolkmeier asked Dr. Stefko to summarize details of the School District's first quarter report. Dr. Stefko explained that the District is generally in balance and that no significant variances exist. He pointed out a couple of items: First, while every major revenue category is projecting balance, the District's Medicaid reimbursements may be subject to some fluctuation; second, on the expenditure side, the District is projecting about \$250,000 under budget due to vacancies. The overall District workforce is about 100 positions under budget; the general fund is over budget on staff and the grants fund is under budget on staff.

Vice Chair Townsend asked about actual enrollment for the School District and how it corresponds to what the District budgeted for this year. Dr. Stefko replied that the schools do an annual "BEDS" count in October, and asked the District CFO Gary Crosby to comment further on system wide enrollment. Mr. Crosby indicated that the school system has completed its initial BEDS count, and preliminary numbers are 35,800 students. Last year, the District was at 36,500. The District had budgeted for a stable enrollment.

Chair Kolkmeier asked if the City and School District financial plans had the lifting of the wage freeze built into their respective budgets. Dr. Stefko responded that the City and School District have built those costs into the financial plan. Chair Kolkmeier asked if anything had been budgeted to account for the pending lawsuit, and Dr. Stefko responded that it had not.

(At this point, Mayor Brown exited the proceedings.)

## **Buffalo Municipal Housing Authority**

### ***Budget Modification***

Chair Kolkmeier asked Dr. Stefko to summarize the proposed BMHA budget modification. Dr. Stefko explained that BMHA's Board of Commissioners has approved this budget modification, and the U.S. Department of Housing and Urban Development is expected to review/approve it later in November. There are four key changes:

1. BMHA's budget has been reformatted to comply with HUD's new requirement that housing authorities use what's called a project-based, or asset-based management approach. Under this project-based budgeting, housing authorities are now required to manage their finances on a development-by-development basis, as opposed to the former method whereby a single budget was prepared collectively for all developments. The new project-based budgeting process is considered a more accurate model for budgeting purposes, and BMHA has been working toward this new requirement for some time.
2. The budget modification increases revenues by 1.7 percent, or \$558,488, as a result of an increase in BMHA's subsidy from HUD.
3. As a result of the new budget format and the increased subsidy, certain expenditure lines are being adjusted as costs are recategorized.

4. And finally, per HUD requirements, the central office budget has been broken out from the federal operations budget and is now shown as a separate cost center.

Director Arthur asked for clarification as what “protective services” are in BMHA’s budget. BMHA Executive Director Dawn Sanders explained that protective services are typically investigators or added security services (the line was formerly to fund public safety officers). Arthur asked for additional backup information regarding this line in the budget, and Ms. Sanders agreed to provide such information through the BFSA staff.

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

#### **RESOLUTION NO. 07-59**

#### **APPROVAL OF BUFFALO MUNICIPAL HOUSING AUTHORITY REVISED BUDGET**

WHEREAS, on October 19, 2007, Buffalo Municipal Housing Authority (“BMHA”) Executive Director Dawn Sanders submitted a budget modification request for the 2007-08 fiscal year to the Buffalo Fiscal Stability Authority (“BFSA”); and

WHEREAS, the proposed modification would serve to amend the budget originally approved by BFSA on June 5, 2007; and

WHEREAS, the modification addresses two changes in BMHA’s 2007-08 budget; and

WHEREAS, the first change is that the U.S. Department of Housing and Urban Development (“HUD”) now requires housing authorities to use an “Asset Based Management” method of budgeting, showing finances on a development-by-development basis, with central office costs budgeted separately from the individual housing management groupings; and

WHEREAS, the second change involves a slight increase to the current-year HUD subsidy level of BMHA’s operations; and

WHEREAS, the BMHA Board of Commissioners has approved the revised budget and HUD is reviewing the revised budget; and

WHEREAS, BFSA staff has reviewed the budget modification, determined that it complies with the requirements of the BFSA Act.

NOW THEREFORE BE IT RESOLVED THAT, the Buffalo Fiscal Stability Authority determines that the Buffalo Municipal Housing Authority budget modification for 2007-08 is complete, complies with the standards set forth in Sections 3857 and 3858 of the Buffalo Fiscal Stability Authority Act, and is hereby approved.

This Resolution shall take effect immediately.

Approved November 7, 2007

### ***Discussion of First Quarter Report***

(At this point, Mayor Brown returned to the proceedings.)

Chair Kolkmeier asked Dr. Stefko to summarize BMHA's first quarter report. Dr. Stefko explained that BMHA's budget remains in balance after the first quarter, with revenues outpacing expenditures in both its asset management projects budget and its central office budget. He noted that going forward, one of the expenditure areas that will bear monitoring is tenant services. This is a roughly \$600,000 budget line, which underwrites costs for residents and development facilities such as transportation. BMHA has expended 55% of it through the first quarter, so the pace of spending in that line will need to be monitored going forward.

Dr. Stefko also noted that through the first quarter, BMHA had spent about 14% of its utility budget. The next several months of weather will drive BMHA's utility costs higher.

### **Buffalo Urban Renewal Agency**

#### ***Discussion of First Quarter Report***

Chair Kolkmeier asked Dr. Stefko to summarize BURA's first quarter budget. Dr. Stefko explained that BURA continues to project budgetary balance for the full year. In the first quarter, it had used about 29% of its budgeted grant resources – it pulls down these grants as it expends them. And its operating / administrative costs were on target, with 25% of budgeted levels expended in the first quarter.

### **City and School District Contract Items**

Dr. Stefko briefly summarized two contractual matters for approval. The first item, for the School District, is a contract regarding Title I grant obligations (workshops and teacher training) for \$262,073. The second item, for the City, is a contract with Johnson Controls for \$3.3 million for the purchase of sixty surveillance cameras to be located throughout the City. The contract amount was the lowest of eight bids and the City plans to utilize efficiency grant funds for this contract.

The two contracts were taken together

Motion by Mertz, second by Arthur. Vote 7-0 to take effect immediately.

### **RESOLUTION NO. 07-60**

#### **AUTHORIZE BUFFALO SCHOOL BOARD TO ENTER INTO A CONTRACT**

WHEREAS, Chapter 122 of the laws of 2003 permits the Buffalo Fiscal Stability Authority ("BFSA") to review or approve or disapprove contracts or other obligations binding or purporting to bind the City of Buffalo or any covered organization.

WHEREAS, Chapter 122 of the laws of 2003 permits the BFSA to review and approve or disapprove the terms of any proposed settlement of claims against the City or any covered organization including the Buffalo School Board in excess of \$50,000.

WHEREAS, in order to carry out the mission of the BFSA, 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, James A. Williams, the Superintendent of Schools submitted a letter dated October 23, 2007 in which he seeks approval of a contract for receipt and use of Title I Funds; and

WHEREAS, BFSA staff have reviewed and recommend approval of said contract,

NOW THEREFORE BE IT RESOLVED, that the BFSA authorizes the School District to enter into one (1) contract as listed below:

1. Title I Schools-Parent Education/Involvement Programs \$ 262,073.00

This resolution shall take effect immediately.

Approved November 7, 2007

**RESOLUTION NO. 07-61**

**AUTHORIZE CITY OF BUFFALO TO ENTER INTO A CONTRACT**

WHEREAS, Chapter 122 of the laws of 2003 permits the Buffalo Fiscal Stability Authority (“BFSA”) to review or approve or disapprove contracts or other obligations binding or purporting to bind the City of Buffalo (“City”) or any covered organization.

WHEREAS, Chapter 122 of the laws of 2003 permits the BFSA to review and approve or disapprove the terms of any proposed settlement of claims against the City or any covered organization including the Buffalo School Board in excess of \$50,000.

WHEREAS, in order to carry out the mission of the BFSA, 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 City submitted a letter dated November 5, 2007 in which they seek approval of a contract for the purchase of sixty surveillance Cameras; and

WHEREAS, BFSA staff have reviewed and recommend approval of said contract,

NOW THEREFORE BE IT RESOLVED, that the BFSA authorizes the City to enter into one (1) contract as listed below:

1. Purchase of Sixty Surveillance Cameras \$ 3,036,215.00

This resolution shall take effect immediately.

Approved November 7, 2007

### **BFSA Issues**

#### ***Professional services contract for OPEB liability***

Chair Kolkmeier asked Dr. Stefko to summarize a proposed professional service contract. Dr. Stefko explained that the first item was a contract for BFSA concerning the Authority's Other Post Employee Benefit (OPEB) costs. As a government entity, BFSA is required to include this liability amount in this year's financial statements. On the advice of BFSA's outside independent auditor, staff solicited bids from two actuarial firms to perform this service. One firm (Milliman) completed the City's analysis; the other (AON) completed the School District's analysis. Milliman was the lowest bidder, so staff recommends entering into a contract with Milliman to perform this analysis. The cost would be \$3,000 for the initial OPEB valuation.

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

### **RESOLUTION NO. 07-62**

#### **AUTHORIZE BFSA CONTRACT WITH MILLIMAN INC. TO COMPLETE REQUIRED ANALYSIS OF OTHER POST-EMPLOYMENT BENEFIT (OPEB) LIABILITY**

WHEREAS, Chapter 122 of the Laws of 2003, as amended, created the Buffalo Fiscal Stability Authority ("BFSA") as a corporate governmental agency and instrumentality of the State constituting a public benefit corporation; and

WHEREAS, as a public entity, BFSA is subject to the accounting regulations promulgated by the Government Accounting Standards Board ("GASB"), in the same way the City of Buffalo is; and

WHEREAS, pursuant to GASB ruling No. 45, public entities are now required to include in their annual statements a calculation of the cost of other post-employment benefits, generally referred to as "OPEB" costs; and

WHEREAS, these calculations are completed and provided in a manner similar to those already in effect for the private sector; and

WHEREAS, pursuant to GASB ruling No. 45, BFSA is required to include this calculation in its 2007-08 annual statements; and

WHEREAS, BFSA's independent outside auditors have recommended that BFSA hire an actuarial consultant to perform this work; and

WHEREAS, BFSA requested price quotes from two consultants: Milliman Inc, which is the City of Buffalo's GASB 45 consultant, and AON, which is the Buffalo School District's actuarial consultant; and

WHEREAS, Milliman Inc.'s bid was the lowest price of the two firms, with a quoted fee of \$3,000 for the initial valuation and \$1,000 for adjustments in 2009 and 2010.

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority hereby authorizes the Chairman and Executive Director to engage BFSA in a contract with Milliman Inc. for the purpose of completing the actuarial calculations of BFSA's OPEB liability at the amounts noted above.

This resolution shall take effect immediately.

Approved November 7, 2007

***Recognition of Reverend Richard Stenhouse & Dorothy A. Johnson***

Chair Kolkmeier invited Vice Chair Townsend to present two resolutions to the Board, recognizing former Director Stenhouse and former Executive Director Dorothy A. Johnson.

Vice Chair Townsend summarized the resolution for Rev. Stenhouse, and acknowledged his service to BFSA. Mayor Brown acknowledged Stenhouse's service and wise counsel to the Board.

Vice Chair Townsend summarized the resolution for Ms. Johnson, and acknowledged her service as BFSA's first Executive Director. Townsend noted that Ms. Johnson was a past president of the Government Finance Officers Association and a highly qualified professional who did an outstanding job in her role as Executive Director, getting the organization off the ground and running at a high level. She noted that Ms. Johnson had put together an exemplary staff and did a wonderful job.

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

**RESOLUTION NO. 07-63  
HONORING FORMER BFSA DIRECTOR REV. RICHARD A. STENHOUSE**

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 assist in the restoration of fiscal stability in the City of Buffalo; and

WHEREAS, Governor Pataki appointed Rev. Richard A. Stenhouse, Pastor of Bethel African Methodist Episcopal Church, as a Director of the Authority on March 6, 2004, to fill the seat vacated by Director Ronald M. Pirtle; and

WHEREAS, Rev. Stenhouse is a respected leader in Buffalo's faith community, having started his pastoral ministry in 1982 at Bethel AME Church in Lackawanna, later assuming the pastorate of Bethel AME Church in Norwalk, Connecticut, and finally being appointed to the pastorate of historic Bethel AME Church in Buffalo, the City's oldest African American church, in 1997; and

WHEREAS, Rev. Stenhouse's dedicated service on the Authority complements a lifetime of commitment to the Buffalo community and its residents, including his work as a leader of the Jeremiah Partnership; Executive Director of Bethel Head Start, the largest Head Start program in Western New York; and the Bethel Community Development Corporation; and

WHEREAS, Rev. Stenhouse's commitment to the BFSA Board, and the trust and confidence placed in him by his fellow Board members, is evidenced by his appointment and service as Board Secretary since January 25, 2006, and as Board Treasurer since May 16, 2006; and

WHEREAS, after more than three years of tireless and dedicated service on the BFSA Board, Rev. Stenhouse's term has expired; and

WHEREAS, despite the end of his term on the BFSA Board, Rev. Stenhouse's innumerable contributions to BFSA and the community will endure.

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby honor and appreciate Rev. Richard A. Stenhouse for his significant and outstanding contributions to the Buffalo Fiscal Stability Authority, and to the betterment of the City of Buffalo, its citizens and the Western New York Community.

This resolution shall take effect immediately.

Approved November 7, 2007

**RESOLUTION NO. 07-64**

**HONORING FORMER BFSA EXECUTIVE DIRECTOR DOROTHY A. JOHNSON**

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 assist in the restoration of fiscal stability in the City of Buffalo; and

WHEREAS, on August 6, 2003, and pursuant to Resolution 03-04, the BFSA Board of Directors voted unanimously to appoint Dorothy A. Johnson as the first Executive Director of the Buffalo Fiscal Stability Authority, noting her to be "highly qualified for the position of Executive Director, possessing unique training and experiences..."; and

WHEREAS, prior to her directorship at BFSA, Ms. Johnson served the State of New York Division of the budget for fourteen years, ultimately as principal budget examiner responsible for advising the Governor on local government issues in the State budget and developing recommendations on municipal aid, and performing with such distinction that she received the New York State Division of the Budget Director's "Outstanding Employee Award"; and

WHEREAS, during her tenure as Executive Director, BFSA assisted the City of Buffalo and its covered organizations in enhancing their financial reserves, reducing their annual debt costs, enhancing its credit rating and realizing more than \$230 million in savings; and

WHEREAS, Ms. Johnson's commitment to Buffalo and the Western New York community transcended her work with BFSA to include Board positions with the Everywoman Opportunity Center and the State University of New York College at Fredonia's School of Business Advisory Council; and

WHEREAS, Ms. Johnson's municipal finance experience and expertise was recognized by her peers throughout the state when she was elected President of the New York State Government Finance Officers Association in 2004; and

WHEREAS, after more than four years of tireless and dedicated service to BFSA, Ms. Johnson has chosen to step down from the position of Executive Director and return to Albany to be closer to her family, especially her children and grandchildren; and

WHEREAS, despite her resignation from BFSA, Ms. Johnson's innumerable contributions to BFSA and the community will endure.

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby honor and appreciate Dorothy A. Johnson for her significant and outstanding contributions to the Buffalo Fiscal Stability Authority.

This resolution shall take effect immediately.

Approved November 7, 2007

Vice Chair Townsend acknowledged that this was County Executive Giambra's last BFSA meeting, and wished him the very best.

Director Arthur asked about pending lawsuits and if a meeting could be scheduled for Board members to get a full understanding of all the current lawsuits. Chair Kolkmeier indicated that a briefing could be arranged, but that the Board would likely need to convene an Executive Session for discussion of those litigation matters.

Director Arthur then asked, in light of Dorothy Johnson's recent departure from BFSA, if she had received any "golden parachute." Vice Chair Townsend responded that Ms. Johnson is not leaving with any such package, and that she would be eligible only for her earned unused time

off. Dr. Stefko added that Ms. Johnson was eligible to receive vacation pay for her unused days, but declined that payout.

**Closing Remarks**

There being no further business, Chair Kolkmeier called the meeting to an end. The meeting adjourned at 2:38 pm.