

MINUTES
BUFFALO FISCAL STABILITY AUTHORITY
WEDNESDAY, AUGUST 20, 2008

The following are minutes of the Buffalo Fiscal Stability Authority (BFSA) meeting held on Wednesday, August 20, 2008, at the Buffalo & Erie County Public Library's Central Branch.

Directors Present: Arthur, Brown, Collins [via proxy], Giardino, Johnstone, Kolkmeier, Mertz and Townsend

Directors Absent: Norwood [present telephonically]

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

Others Present: A.V. Buzard (BFSA Counsel with Harris Beach)

Opening Remarks

The regular meeting of the Buffalo Fiscal Stability Authority (BFSA) was called to order at 1:00 pm by Chair Paul J. Kolkmeier. The meeting was convened by a Notice of Meeting sent to the Board of Directors and announced to the public and press.

Chair Kolkmeier pointed out the emergency evacuation exits. He welcomed Mr. James Hornung who was attending on behalf of Erie County Executive Chris Collins, pursuant to §3853 of the BFSA Act.

He requested a roll call from Secretary Arthur. Finding a quorum present he called the meeting to order.

Approval of Minutes

Chair Kolkmeier directed the Board to BFSA's June 5 and July 2, 2008, meeting minutes and asked for a motion to approve.

Motion by Brown, second by Johnstone.

Chair Kolkmeier requested a change in the June 5, 2008, Minutes on page thirteen, paragraph two. It read as follows:

*“Chair Kolkmeier stated that the role of the BFSA is far more macro level than micro level. It is not the role of the Authority to get too involved in the **minutia** of the budget.”*

He requested that it read as follows:

*“Chair Kolkmeier stated that the role of the BFSA is far more macro level than micro level. It is not the role of the Authority to get too involved in the **details** of the budget.”*

Motion to accept the new language by Arthur, second by Townsend. Vote 8-0 to amend the language.

Motion by Arthur to approve the minutes, second by Townsend. Vote 8-0 to approve the minutes.

RESOLUTION NO. 08-31

APPROVING MINUTES AND RESOLUTIONS FROM JUNE 5, 2008 AND JULY 2, 2008

BE IT RESOLVED that the Buffalo Fiscal Stability Authority approves the minutes of its meetings of June 5, 2008, and July 2, 2008, and ratifies and affirms resolutions numbered 08-25 through 08-28 that were approved June 5, 2008 and resolutions numbered 08-29 through 08-30 that were approved July 2, 2008.

This resolution shall take effect immediately.

BFSA Issues

Vice-Chair Townsend summarized the actions of the Governance Committee which had met earlier in the day. The Committee recommended sending the following items to the full Board for approval:

- Procurement Policy;
- Prompt Payment Policy;
- Property Disposal Guidelines;
- Investment Guidelines;
- Code of Ethics; and
- Whistleblower Policy.

Motion to approve by Townsend, second by Brown. Approval 8-0.

RESOLUTION NO. 08 - 32

APPROVING PROCUREMENT POLICIES FOR CERTAIN CONTRACTS

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 professional assistance in performing its mission, 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, in order to comply with state law it was necessary for the BFSA to adopt Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts, and

WHEREAS, in Resolution 03-36 adopted October 7, 2003, the BFSA adopted procurement guidelines as required by law; and

WHEREAS, in order to further comply with State law, it is necessary for the BFSA to review the adopted procurement guidelines at least annually; and

WHEREAS, the BFSA Audit, Finance, & Budget Committee reviewed and approved the proposed procurement guidelines on August 20, 2008, and

WHEREAS, upon a review of the current procurement guidelines, the BFSA finds that amendments are not needed at this time,

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority hereby adopts the Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts that are attached to this resolution.

This resolution shall take effect immediately.

RESOLUTION NO. 08-33
READOPTING THE 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 approved by the State Legislature and signed into law by the Governor; and

WHEREAS, §2880 of the Public Authorities Law requires public authorities to promulgate rules and regulations detailing its prompt payment policy and to periodically review the same; and

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

WHEREAS, the BFSA adopted its prompt payment policy statement on September 28, 2006 by resolution 06-61; and

WHEREAS, the BFSA readopted its prompt payment policy statement on September 24, 2007 by resolution 07-45; and

WHEREAS, upon review of its current prompt payment policy statement finds that amendments are not needed at this time,

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby affirm its prompt payment policy statement.

This Resolution shall take effect immediately.

RESOLUTION NO. 08-34
REAFFIRMING PROPERTY DISPOSAL GUIDELINES

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, §2896 of the Public Authorities Law requires public authorities to adopt comprehensive guidelines which detail the authority’s operative policy on the disposal of personal property valued in excess of five thousand dollars; and

WHEREAS, the BFSA has developed and implemented property disposal guidelines to comply with this requirement; and

WHEREAS, the BFSA board approved the property disposal guidelines by resolution No. 06-69 on November 9, 2006, and

WHEREAS, the BFSA board readopted the property disposal guidelines by resolution No. 07-34 on September 24, 2007, and

WHEREAS, upon review of BFSA’s current property disposal guidelines finds that amendments are

not needed at this time;

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby affirm the attached property disposal guidelines as required by §2896 of the Public Authorities Law; and

BE IT FURTHER RESOLVED, that the Executive Director is affirmed as the “contracting officer” who shall be responsible for the disposition of property is hereby affirmed. This Resolution shall take effect immediately.

Approved August 20, 2008

**RESOLUTION NO. 08-35
APPROVING BFSA INVESTMENT GUIDELINES**

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, Section 2925 of the Public Authorities Law requires public authorities to develop investment guidelines that establish a set of basic procedures to meet investment objectives, assure that investment assets are adequately safeguarded and collateralized, establish and maintain a system of internal controls including adequate accounts and records which reflect investment transactions and provide for accurate reporting and evaluation of investments in conformance with generally accepted accounting principles; and

WHEREAS, Section 3854 of the Buffalo Fiscal Stability Act directs BFSA as to permissible investments of public funds not subject to provisions of contracts with bondholders; and

WHEREAS, in Resolution 04-02 adopted January 21, 2004, the BFSA adopted investment guidelines as required by law; and

WHEREAS, in order to further comply with State law, it is necessary for the BFSA to review the adopted Investment Guidelines at least annually; and

WHEREAS, the BFSA Audit, Finance, & Budget Committee reviewed and approved the proposed Investment Guidelines on August 20,, 2008, and

WHEREAS, upon a review of the current Investment Guidelines, the BFSA finds that amendments are not needed at this time,

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority hereby affirms the Investment Guidelines that are attached to this resolution.

This resolution shall take effect immediately.

**RESOLUTION NO. 08-36
ADOPTING A CODE OF ETHICS**

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

Organizations; and

WHEREAS, as a public authority, BFSFA is subject to regulation by the State of New York, whether in the form of State law, the Governor's Executive Orders or rules and regulations promulgated by the State Comptroller; and

WHEREAS, the Public Authorities Accountability Act of 2005 ("PAAA") establishes a wide range of duties and responsibilities for state and local public authorities to promote the highest standards of ethical practices by authority staff and members, and thereby to engender public confidence in their activities; and

WHEREAS, one such requirement is the adoption of a Code of Ethics, that at a minimum, reflects the standards set forth in Sections 73 and 74 of the Public Officers Law; and

WHEREAS, the BFSFA adopted a Code of Ethics by resolution 06-50 at its meeting on August 9, 2006; and

WHEREAS, the BFSFA amended and readopted a Code of Ethics by resolution 07-40 at its meeting on September 24, 2007; and

WHEREAS, upon review of BFSFA's current Code of Ethics finds that amendments are not needed at this time;

WHEREAS, the Governance Committee of the BFSFA, has reviewed the attached Code of Ethics and has recommended its adoption by the BFSFA Board;

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby adopt the attached Code of Ethics applicable to all BFSFA staff and Board Members to ensure the highest level of honesty, ethical conduct and public trust in all of the BFSFA's activities.

This Resolution shall take effect immediately.

RESOLUTION NO. 08-37
REVIEW AND APPROVAL OF WHISTLEBLOWER POLICY

WHEREAS, as a State public authority, the Buffalo Fiscal Stability Authority ("BFSFA") is subject to the provisions and requirements of the Public Authorities Accountability Act of 2005 ("PAAA"); and

WHEREAS, the PAAA requires that all public authorities "establish written policies and procedures on personnel including policies protecting employees from retaliation for disclosing information concerning acts of wrongdoing, misconduct, malfeasance, or other inappropriate behavior by an employee or board member of the authority, investments, travel, the acquisition of real property and the disposition of real and personal property and the procurement of goods and services"; and

WHEREAS, BFSFA already has established and adopted a Code of Ethics.

WHEREAS, BFSFA adopted a whistleblower policy on January 28, 2008

NOW, THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority hereby renews the following whistleblower policy:

It is the policy of BFSFA to encourage employees to report illegal or unethical practices. Employees who have a reason to believe or suspect that BFSFA, its agents, employees, Board members or contractors are acting illegally or engaging in unethical practices or acting in a manner contrary to applicable laws must report such activity. Broad categories of suspect conduct include, but are not limited to: violation of law or government regulations; violation of BFSFA policy; mismanagement; waste of BFSFA and/or taxpayer funds; abuse of BFSFA; and wrongful conduct. Some examples

include, but are not limited to: dishonest acts and/or fraudulent activity; harassment; discrimination; violation of controlled substance laws; embezzlement; theft; destruction; removal or concealment of property; alteration or falsification of paper or electronic documents; false claims and/or misrepresentation of facts; and inappropriate use of computer systems (including hacking, software piracy, viewing and/or sending unlawful or obscene emails or websites).

Any issues or concerns of this type should be brought to the Executive Director or Human Resource Officer. If the Executive Director or Human Resource Officer is involved in the complained of action, the employee may bring this matter to the Chair of the Board of Directors or the State Inspector General's Office. Any such communication will be strictly confidential. BFSA will not tolerate any form of retaliation against an employee for raising concerns about practices within BFSA.

This resolution shall take effect immediately.

BFSA Benchmark Study – Phase I ***Overview of the City of Buffalo***

Chair Kolkmeier introduced BFSA's comparative study of the City of Buffalo. The benchmarking study compares Buffalo with four New York State cities and three non-New York State cities. The purpose of the study is to further the Board's understanding on how the City's operations compare to its peers and to analyze the results. He asked Executive Director Bertha H. Mitchell to provide further detail.

Mrs. Mitchell explained that the BFSA staff had been instructed by the Board to conduct a study in a number of key areas. The purpose of this study is to get a better understanding of how Buffalo compares with its peer cities. Hopefully, this expanded knowledgebase will assist all stakeholders in assessing the relative strengths and weaknesses of Buffalo and help in making more informed decisions.

She made the following additional points:

- The study used a number of metrics including revenue, state assistance, spending, taxes, fund balance, personnel and OPEB.
- While the study mainly focuses on cities in New York State, BFSA includes a few cities outside of the State to gain a broader perspective. The cities examined are Albany, Buffalo, Rochester, Syracuse, Yonkers, Akron, OH, Pittsburgh, PA, and Springfield, MA. Both Pittsburgh and Springfield currently have a financial oversight board.
- The next comparative study will focus on the Buffalo School District.
- The study was constrained by the availability of data.

The Study City Comparison slide offers a high level overview of all the cities included in the benchmarking comparison. It is worth noting that some of the data is from the US Census Bureau and from the 2000 Census, so it is slightly dated at this point.

The population figures, square mileage and unemployment rates have been updated and more recent data.

Buffalo is the largest city from NYS that was looked at. However, Pittsburgh is bigger in terms of population and square mileage, while Akron, OH is smaller in population, but bigger in terms of area.

Albany, was the smallest city (population wise) included in the study.

Lastly, it should be pointed out that all of the cities included in the study are not used for every single comparison that will be shown here today. There are several reasons for this, including the availability of data and the differences in terms of how some of the cities budget for revenues and other categories.

This second slide presents the City sources of revenue for each of the city's general funds. While this slide shows the general fund moneys for these four cities, each city typically receives some level of revenue falling outside its general fund. These smaller pots of money typically are for specific purposes, such as police equipment, grants for certain positions within a department, and things of that nature.

(The general fund is the principal operating fund of a city, accounting for all financial resources not recorded in other funds)

This slide is similar to a dependency index, and from it, we can see that Buffalo receives 43 % of its operating revenue from the state. As a percent of revenue, Buffalo receives significantly more than the other cities compared in this study. In fact, Buffalo receives a full 14% more in its general fund revenue than Rochester or Syracuse, while Yonkers receives the least amount of state aid, at only 22% of its general fund revenue

(General Fund Revenue:

Buffalo - \$435.1m

Rochester - \$468.9m

Syracuse - \$287.1m

Yonkers - \$605.7m)

But on the other side of the comparison, it is interesting to note that Buffalo only receives 16% of its general fund revenue from sales tax, less than Rochester (28%) or Syracuse (21%), while Yonkers receives the least in sales tax revenue (10%).

The "All Other" category consists of other revenue sources which vary from city to city, but generally include things like: Federal dollars, grants, local income taxes, and other sources. Buffalo again, has the smallest percent of other revenue at 12%, while Rochester is at 16%, Syracuse 18% and Yonkers 20%.

(The "all other" disparity is the result of a personal income tax in Yonkers, additional county transfers in Rochester and Syracuse, as well as using parts of their fund balance as revenues for this fiscal year)

Lastly, Buffalo's Real Property Tax revenue is also smaller than the other cities as a percent of its general fund at 29%.

This next slide looks at historical state assistance to the Big Four cities in NYS. As you can see from the slide Buffalo has consistently received the largest amount in state assistance going back to 2005.

In 2005 Buffalo received \$143.2m and in 2009 Buffalo is expected to receive \$186.4m, a growth of 30% over this period.

However, while Buffalo has received the largest amount in state assistance, it has not experienced the

largest growth over this period. Yonkers aid has gone from \$78.8m in 2005 to \$135.5m in 2009, a growth of 72%, while Rochester's assistance has grown 63% over this period (Syracuse has grown by 37%).

If you look at the slide you'll notice two green boxes or areas atop of Buffalo's 2008 and 2009 state aide. These areas represent Buffalo's lag, or acknowledgement of state aid. By this I mean that for each year that the state increases its appropriation for Buffalo (typically through AIM), the city actually is given an increased appropriation, but does not acknowledge it in the year that it occurs.

When this happens, the state in fact gives the money to BFSAs, and BFSAs hold the money to the following year, when the city accepts or acknowledges the appropriation from the previous year.

For example: In 2009, Buffalo is actually budgeted to receive \$202.8m, but is only planning to acknowledge \$186.1m in this fiscal year. One reason for this, is Buffalo's conservative approach to budgeting its state aid.

(AIM can only be used for certain purposes, and by lagging it, in the following year it falls into the general fund and can be used more broadly)

In 2008, the city was appropriated \$169m (City's Adopted Budget – their acknowledgement), but in fact received far more through their AIM appropriation for the year.

So, if we look at this slide with the knowledge that Buffalo is lagging aid by one year, the city will have actually experienced total dollar growth of \$59.8m, or 42% growth since 2005.

I should point out that the \$202.8m is the state's budgeted assistance level for Buffalo in the current 2008-09 fiscal year, and with the current cuts proposed by the Governor, there is a real possibility that the \$202.8m in assistance to the city may be cut at some point.

On this slide the Aid and Incentives for Municipalities or AIM is compared on a per capita basis. This is yearly aid each city has typically received from the state in recent years.

As you can see, Buffalo receives the highest AIM per resident at \$622 per resident, while Albany receives the lowest AIM per capita at \$148 per resident. It is worth noting Rochester per capita AIM is \$444 dollars per resident, \$178 dollars per resident less than Buffalo.

(Albany is not part of the Big Four or Five, and is somewhat unique as the State Capital receiving other sources of revenue from the state that the other cities would not generally receive as they do not host the governmental capital of the state)

Buffalo 2009 AIM - \$13.9m (\$16.7m) or 169.0m total

Rochester 2009 AIM – \$10.9 or \$92.2

Syracuse 2009 AIM – \$6.2 or \$75.1

Albany 2009 AIM - \$1.4m or 13.7m

Yonkers 2009 AIM - \$5.4m or \$113.1m)

In this next area of study Buffalo again compares favorably against its peer cities. Buffalo has the lowest tax rate per \$1,000 in assessed value at \$18.83, while Albany has the highest tax rate per \$1,000 of assessed value at \$26.54 of the cities included in this comparison.

(These tax rates are for homestead properties, typically meaning one, two or three family residential properties)

(The tax rates for non-homestead properties are different and not included in this study. Non-homestead properties are all other properties)

For the next slide BFSA took a look at fund balance, and specifically, undesignated/unreserved fund balance both in terms of actual dollar amount and on a per capita basis.

This is an area Buffalo should really be commended for. The Administration's conservative budgeting practices have contributed to its comparatively large fund balance. From 2003 to 2007 Buffalo's fund balance grew by over \$67m dollars. Because of Buffalo comparatively large fund balance, the city is in a position to be able to weather a short term downturn at the state level, and as we are aware, this may be important during the immediate future.

Over this same period, both Rochester and Syracuse saw decreases in their fund balances, while Albany and Yonkers experienced some growth in their fund balance.

On this next slide we look at a couple of different areas, each equally important.

First, the slide looks at "Personal Services" spending as it compares to total general fund spending for each city.

So, after transfers are removed, Buffalo spends 81% of its general fund revenue on salary and benefits, more than Rochester (71%) or Syracuse (77%), but less than Yonkers (87%).

Secondly, the slide compares the level of general fund spending on activities other than salary and benefits. 19% of Buffalo's general fund revenue goes to these costs, which typically include service delivery, capital improvements and other spending initiatives.

As a comparison, Rochester spends 29% of its general fund revenues on items outside of salary and benefits.

Lastly, the slide presents the level of spending per capita, or per resident. This is another area Buffalo can be commended for during this era of belt-tightening, and doing more with less.

As you can see Buffalo's per capita expenditures equal \$1,210 per resident, the lowest total spending of the cities included in the study. Yonkers has the highest per capita spending at \$1,742 per resident, while Rochester has the second highest level of spending per capita at \$1,731 per resident.

Buffalo plans to spend \$532 less per resident than Yonkers for the current fiscal year.

On this slide the study takes a look at the number of city employees per 1,000 city residents for the sample, as well as the total number of employees for each city. It is worth noting that the numbers on this slide correspond to 2008-09 budgeted positions, and not actual totals as they exist today.

As you can see from the slide, Buffalo compares favorably in this category, with 9.55 employees per 1,000 city residents, the lowest number of employees per 1,000 residents for any of the cities in this

study.

Albany has the highest number of employees per 1,000 residents at 14.15, while Rochester is also near the top at 13.47 employees per 1,000 residents.

In looking at the total number of “full time equivalent” employees, we see that Buffalo has 2,636 positions budgeted for the current fiscal year, and it’s worth noting that Rochester has 2,893 FTE’s budgeted for the current fiscal year.

This next slide looks at the number of uniform police officers per 1,000 city residents. On this index, Buffalo is near the middle of the pack at 3.03 sworn officers per 1,000 city residents.

Akron, OH, a larger city area wise than Buffalo, has the lowest number of police officers per 1,000 city residents at 1.72, while Springfield, MA has the highest number of police officers per 1,000 city residents at 3.83 sworn officers.

I should point out, that indexes like this are not always the best way to determine how many police officers are needed in a city, as each city is unique and has its own set of characteristics and circumstances that should factor into determining the correct number of police officers necessary for that particular city.

This slide looks at the number of uniform firefighters per 1,000 city residents. On this index, Buffalo is near the top of the study sample with 2.6 sworn firefighters per 1,000 city residents.

Again, Akron, OH, has the lowest number of firefighters per 1,000 city residents at 1.18, while only Syracuse and Albany have more firefighters per 1,000 city residents than Buffalo, at 2.72 uniform firefighters per 1,000 city residents.

Similar to determining how many police officers are needed in a city, indexes such as these are merely number comparisons and do not take into account the unique characteristics and circumstances that each city is made up of.

A more in depth analysis comparing departmental expenditures and headcounts will be done at a later meeting.

The last comparison included for today’s presentation looks at Other Post Employee Benefits or OPEB obligations for some of the sample cities on a per capita basis.

Buffalo has the highest OPEB obligation out of these cities at \$3,423 per resident, while Pittsburgh has the lowest OPEB obligation at \$1,000 per resident.

In the past BFSA has had presentations including strategies for lowering OPEB obligations, including restructuring benefits for former, current and future employees.

As you can see from today’s presentation, Buffalo compares favorably in some areas and unfavorably in other areas. While continued improvement is certainly obtainable, the administration should be commended for their progress to date.

Lastly, just so the Buffalo Public Schools do not feel left out, a similar comparison study will be presented to the board at a future meeting.

With that, I'll turn the meeting back over to Chair Paul Kolkmeier.

Upon completion of the presentation, Chair Kolkmeier asked the Board to respond and offer feedback.

Director Arthur asked what the purpose of the presentation was. Mr. Kelly responded that the goal of the presentation is to expand the knowledge base for all stakeholders including the elected officials and the BFSA Board. The comparative study was initiated upon a directive from the Board.

Director Arthur expressed that:

- What is the purpose of this information
- The information presented is not “new”;
- It is missing valuable information. A metric not included within the study is the percentage of property that is exempt from taxes within all of the cities examined;
- The issue with excessive overtime may be that the workforce levels are too low;
- The report should be sent to the City Comptroller for his feedback on the issue;
- The study is a waste of time. All school systems are dependent due to the State Constitution and do not have taxing right.

Vice-Chair Townsend responded to the notion that the presentation did not have value. As Budget Director for the City of New York, she frequently requested similar data. One can learn from what other entities are doing. She stated that while the information may be old to some, it is useful to have it all together for a comparison. Of the study cities, the percentage of persons in Buffalo in poverty was the highest, the per capita income the lowest and the level of education was the lowest. Conversely, the OPEB liability was the highest. It is a positive step that the Mayor is addressing OPEB liabilities with new collective bargaining agreements. She would like to see State Aid numbers on a per capita basis.

Mr. Arthur noted that Syracuse had a higher poverty rate than Buffalo as per the study.

Mayor Brown stated that all of the cities in the study are dependent on State Aid. Rochester and Yonkers have seen an increase in aid that surpasses the percentage increase for Buffalo. State Aid is not a bad thing. While fiscal restraint is important, State Aid is essential and is obtained after a very competitive process and we should aggressively compete for State Aid.

He continued that Buffalo has held the line over the last three years on the residential and commercial property tax rates. Buffalo has the lowest rate among all study cities and that has been done by design. Additionally, Buffalo has the lowest number of police officers per citizen within the City and the Administration is concerned about this. While the police force is “ahead of the curve” in crime reduction, the workforce could need to be expanded to curtail excessive use of overtime and maintain the high level of performance. Additionally, Yonkers has a large source of other revenue to supplement expenditures. The Board should examine where these revenues are derived from to gauge whether the City can access similar streams of revenue.

Director Johnstone noted that the current discussion was very substantive and it is a result of the data that has been presented and further proof of the value of the effort. The newly presented material allows the Board to remain abreast of topical issues so that directors can be savvier as to questions to ask and make smart, informed decisions.

Director Mertz noted that opportunities seemed to be relatively small looking at revenues coming from sales taxes and other revenues but the risk on State Aid is large as challenges to the State may have a large impact. Fund Balance is strong and the Administration and the Control Board should be commended. Fund balance equates to about \$275 per resident. The future OPEB liability is daunting equating to \$3,423 per resident.

Director Arthur questioned why Syracuse's OPEB liability was not included in the study. Also, why was Pittsburgh's OPEB liability included. Mr. Kelly stated that Syracuse had not yet finalized the data and therefore it could not be included in the study. Pittsburgh's OPEB liability was included because the city is a "rust-belt" former industrial center that has had massive population loss similar to Buffalo. It is also under the oversight of a State-appointed financial board. Mrs. Mitchell added that it was an effort to show what other states are doing in this area.

Mayor Brown urged caution when comparing Buffalo with an out-of-state city. Pennsylvania has a more favorable to the City form of government and differing state law which do not have the same types of constraints in agreements.

Director Townsend responded cities and state laws are all different and "apples-to-apples" comparisons between cities from other States are impacted by a variety of state laws. Differences are not only caused by state laws but also by past contractual provisions. However, it is still worthwhile to examine the data, and going forward with these studies, BFSA needs to continue to examine out-of-state cities.

Mrs. Mitchell noted that Buffalo is ahead of the rest of the State in acknowledging the fiscal problems earlier. The other cities have not taken the necessary steps and their numbers seem to indicate they have not yet acknowledged the looming threats.

Mr. Arthur requested that the study be forwarded to the City Comptroller for his review.

Police and Fire Department Overtime Updates

Mrs. Mitchell stated that the BFSA staff and the City's Administration have been working together to find ways to control the growth in overtime spending for these two departments. The first three pay periods for police and two pay periods for fire in fiscal year 2009 have seen higher than projected costs. She asked Senior Analyst Bryce Link to provide a summary for the Board.

Mr. Link provided a summary for the Board, aided by a PowerPoint presentation.

Director Johnstone requested that staff provide some analysis at the next meeting relative to Police staffing levels comparative to overtime costs. Mr. Kolkmeier commented that the analysis for police headcount may be helpful but may not be as relevant in fire where the numbers are already among the higher relative levels.

Director Townsend stated that the per officer average overtime cost is about \$13,000 for police and \$18,000 per firefighter. We must recognize that overtime is never given out evenly. In other states overtime is not part of pension calculation.

Chair Kolkmeier stated that this has been a constant concern of the Board and requested that the Administration submit some information of the actions taken to curtail these costs.

Mayor Brown requested that Commissioner of Administration, Finance, Policy and Urban Affairs, Ms. Janet Penske address the Board relative to this issue.

Director Mertz noted that Police Overtime has tripled over the last three years. His private company has a consistent 4.5% to 5.5% rate of overtime annually. Mr. Link stated that minimum manning requirements help drive the high allotment of overtime, coupled with the number of individuals on IOD [Injured on Duty] that limits the number of available bodies to man these positions. Mayor Brown commented that the City will need to work with the State on IOD issues. The administration has made a conscious effort to use overtime for public safety issues but is attempting to buy back some of the management rights that were given away in earlier years that tend to increase overtime. But the City is interested in reducing overtime where it is controllable and where there is no public safety payout.

Ms. Penksa made the following points:

- Overtime costs are a large concern of the Administration.
- Department heads are required to explain in detail at CitiStat meetings the reasons for a $5\% \leq$ variance in overtime over that budgeted.
- There is a new overtime policy since the beginning of the fiscal year which requires the variance reporting, thus making everybody aware of the overtime situation. Overtime is being reviewed at Citistat and scrutinized for improvement.

Ms. Penksa asked that Police Commissioner H. McCarthy Gipson address the Board relative to this issue. He made the following points:

- Overtime projections for the first few pay periods reflect the number of special events taking place during this period coupled with the larger than normal amount of employee vacations. If you project from the summer numbers you end up with an unrealistic figure because overtime declines as the year progresses. New officers' training is a one-shot expense that also has driven overtime costs but will eventually reduce the amount of overtime as the class hits the streets. Some overtime will be refunded from grants.
- Civilian positions have a large vacancy rate which also drives overtime above budget.
- The department is currently preparing a bi-weekly report on overtime by category and will start preparing an in-depth analysis of where overtime is being used to give real-time feedback on overtime costs.
- There are some areas where revenue is derived from policing activities that are not being reflected as an offset to overtime.
- The department is in a good position to have overtime costs below that which is forecast by BFSA at the end of the fiscal year.

Director Johnstone suggested that issues be discussed in joint working session so that there are no discrepancies in the numbers.

Director Mertz requested a report documenting the number of hours paid for but not worked (holiday, sick, etc.)

Mayor Brown asked Fire Department Commissioner Michael Lombardo to address the issue of Fire overtime for the Board. Mr. Lombardo made the following points:

- Last year overtime was roughly \$1.6 million over budget.
- The Department's workforce has been significantly cut since 2001, per MMA recommendations.
- Since September 11, 2001, fire companies across the country have been asked to do much more.
- The fire budget is 3.9% lower than it was in 2001
- The number of vacancies is excessive (32) and IOD (78) which drives high overtime costs and the department has no list to hire from

- Overtime has been cut in every possible area except for firefighting services where minimum manning is required..
- The high increase of sick time over the last few years has been driving overtime costs and is allowed by the terms of the contract. People who violate the home confinement rule for sick time are penalized.
- Like the Police Department, the time of the year is peak vacation time which also drives overtime.

Mr. Mertz asked if there were other statistics that should be included and Mrs. Mitchell stated that they are looking into it.

Mayor Brown noted that BFSA's staff will be meeting with the City's Finance staff to ensure that all parties are "looking at the same numbers the same way." The Administration is researching doing "lateral transfers" to bring in trained police and fire personnel from other municipalities to help address staffing shortages.

BURA Issues

Request for Release of AIM funds held by BFSA

Chair Kolkmeier introduced a request for the release of AIM funds currently held by BFSA of \$4,650,000 from the 2006-07 AIM funds. The intent of the disbursement is to fund the property tax approved by BFSA for the current budget. Also requested were an approval of a modification to the 2008-09 budget and the release of AIM funds totaling \$3,120,946 which will be used for asbestos removal and demolitions of certain vacant properties.

Mrs. Mitchell elaborated with the following points:

- The \$4.7 million in AIM funds are the Funds from 2006-07 and are restricted to two purposes
 - 1) To maintain, minimize, or reduce the real property tax burden, or
 - 2) For initiatives to permanently reduce or minimize the cost of City Government.
- By utilizing these funds, the Administration has been able to reduce the burden of the real property tax on its residents, and has reduced the use of the City's constitutional taxing capacity from 87% down to 82%.
- BFSA approved the use of AIM funds for this purpose when we approved the adopted budget, and at this time the Board needs to approve the draw down of the 2006-07 AIM funds to the City.
- The second piece is a total \$3,120,946; with 95 percent of the funds, \$2.9 million, being drawn down from the remaining 2006-07 AIM Funds. The remaining balance, \$205,844, will be drawn down from the 2007-08 AIM funds.
- The next \$3.1 million will be used for demolitions and asbestos abatement to approximately 500 structures within the City of Buffalo. The demolitions will be targeted for economic development by creating development ready sites, as well removing blighted structures that have posed a risk to the communities. These buildings have been costly for the city to maintain and secure, and by removing them the City is eliminating maintenance problems, potential risks as well as opening up space for future development.

Motion to approve by Arthur, second by Brown. Vote 8-0 to approve.

RESOLUTION NO. 08-38

APPROVAL OF CITY OF BUFFALO BUDGET MODIFICATION FOR DEMOLITION AND ASBESTOS ABATEMENT

WHEREAS, on August 8, 2008, the City of Buffalo (“City”) submitted a budget modification request for the 2008-09 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, 2008; and

WHEREAS, the modification addresses a single-year change in the City’s 2008-09 budget and four year financial plan; and

WHEREAS, the modification would utilize the 2006-07 and 2007-08 New York State Aid and Incentives for Municipalities (“AIM”) funds; and

WHEREAS, in providing increased AIM funding to the City in 2006-07, New York State restricted its use for the following purposes: 1) To maintain, minimize or reduce the real property tax burden, or 2) for initiatives to permanently reduce or minimize the cost of City government; and

WHEREAS, of this AIM funding provided to the City in 2006-07, approximately \$2.9 million remains unencumbered at the present time;

WHEREAS, the City is proposing to utilize and draw down the remaining fund balance in the amount of \$2,915,102 for demolitions and asbestos abatement; and

WHEREAS, in providing increased AIM funding to the City in 2007-08, New York State restricted its use for the following purposes: 1) To maintain, minimize or reduce the real property tax burden; 2) To support investments in technology or other efficiency and productivity initiatives that permanently minimize or reduce the municipality’s operating expenses; 3) To support economic development or infrastructure investments that are necessary to achieve economic revitalization and generate growth in the municipality’s real property tax base; and/or 4) To minimize or prevent reductions in City services; and

WHEREAS, the City has previously allocated these funds, totaling \$12.8 million, into the “Grow Buffalo Trust Fund” to support economic development initiatives; and

WHEREAS, the proposed modification would draw down \$205,844 in these funds as the City of Buffalo continues it’s comprehensive demolition strategy of vacant and dangerous structures for City-wide demolitions and asbestos abatement; and

WHEREAS, the City’s Common Council has approved the budget modification, on June 24, 2008; 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 proposed budget 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.

Request for Approval of project to be funded by NYS Efficiency Grants

Chair Kolkmeier stated that the Mayor had also requested the approval of various projects totaling \$5,500,000 which will be funded by New York State Efficiency Grants. Mr. Kelly began his presentation on the City’s Efficiency Grant spending plan, and was quickly interrupted upon the call of

a vote for ratification without seeing the complete presentation.

Motion by Arthur, second by Mertz. Vote 8-0 to approve

RESOLUTION NO. 08 -39

APPROVAL OF EFFICIENCY INCENTIVE GRANT REQUESTS

WHEREAS, in 2006, New York State amended the Buffalo Fiscal Stability Authority Act (“Act”) to add in a new Section 3857-A, which provides for Efficiency Incentive Grants to the City of Buffalo (“City”), and

WHEREAS, according to Section 3857-A of the Act, the City “shall develop and submit to the Authority a plan for achieving recurring savings through innovations and reengineering,” and

WHEREAS, New York State has informed the Buffalo Fiscal Stability Authority (“BFSA”) that eleven million seven hundred forty-six thousand dollars (\$11,746,000) in 2007-08 Efficiency Incentive Grants will be made available to the BFSA, for City use, and

WHEREAS, the City has submitted to the BFSA a plan to utilize five million five hundred thousand dollars (\$5,500,000) in Efficiency Incentive Grant monies, and

WHEREAS, BFSA staff has studied the City’s Efficiency Incentive Grant proposals and finds them reasonable initiatives toward achieving efficiencies, increasing revenues or enhancing the delivery of certain City services,

NOW THEREFORE, Be it

RESOLVED, that the Buffalo Fiscal Stability Authority hereby approves the City of Buffalo’s request for \$5,500,000 in Efficiency Incentive Grants to fund the following initiatives in the following amounts:

Surveillance Cameras	\$2,000,000
Demolitions	\$1,000,000
City Hall Generator	\$1,000,000
Salt Storage Facility	\$600,000
MUNIS Financial Package upgrades	\$500,000
Vacant/Distressed Property Support System	\$400,000

BURA Settlement

Chair Kolkmeier stated that BURA is requesting approval of a settlement of legal action between Civil Service Employees Association, BURA, BFSA and others totaling \$78,197.37. Under the terms of the settlement agreement, all of the claims in the complaint will be discontinued and dismissed with prejudice. Settlement talks have been ongoing for an extended period and have resulted in an agreement which has been signed on behalf of CSEA and BURA.

Motion by Johnstone, second by Mertz. Vote 8-0 to approve.

RESOLUTION NO. 08-40

APPROVE SETTLEMENT OF LEGAL ACTION BETWEEN CIVIL SERVICE EMPLOYEES ASSOCIATION, LOCAL 1000, AFSCME, AFLCIO VERSUS BUFFALO URBAN RENEWAL AGENCY, BUFFALO FISCAL STABILITY AUTHORITY, ET. AL.

WHEREAS, Chapter 122 of the Laws of 2003 as amended by Chapter 86 of the Laws of 2004 permits the Buffalo Fiscal Stability Authority (“BFSA”) to review and approve or disapprove any collective bargaining agreement binding or purporting to bind the City or any covered organization; and

WHEREAS, negotiated settlements between the City or any covered organization and a collective bargaining unit that settle an outstanding claim may be reviewed pursuant to Section 3858 (2)(L) of the BFSA Act; and

WHEREAS, The Buffalo Urban Renewal Agency (“BURA”) has submitted a negotiated settlement for consideration to the Buffalo Fiscal Stability Authority on August 12, 2008, for consideration and approval at the August 20, 2008 BFSA meeting; and

WHEREAS, according to the settlement with the Civil Service Employees Association, Local 1000, AFSCME, AFLCIO all claims against BURA and BFSA in the complaint will be discontinued and dismissed with prejudice; and

WHEREAS, the settlement agreement will limit any further liability and associated costs; and

WHEREAS, BURA has demonstrated that there are sufficient funds to pay the costs associated with the settlement agreement and is in accordance with the approved financial plan; and

WHEREAS, BURA will use \$78,197.37 in Year 32 Community Development Block Grant funds to pay the full costs associated with this settlement; and

WHEREAS, BFSA Staff have reviewed the terms of the agreement and recommends approval of the negotiated settlement; and

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority approve and authorize BURA to enter into a negotiated settlement at a cost of \$78,197.37.

Closing Remarks

Chair Kolkmeier requested a motion to adjourn. Motion to adjourn by Arthur, seconded unanimously. The meeting adjourned at 3:45 pm.