MINUTES
BUFFALO FISCAL STABILITY AUTHORITY
WEDNESDAY, MAY 13, 2009

The following are minutes of the Buffalo Fiscal Stability Authority (BFSA) meeting held on Wednesday, May 13, 2009, in the Buffalo & Erie County Central Public Library.

Directors Present: Arthur, Brown (Penksa), Collins, Giardino, Johnstone, Kolkmeyer, Mertz & Mesiah

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

Opening Remarks

A meeting of the Buffalo Fiscal Stability Authority (BFSA) was called to order at 1:06 PM by Chair Paul J. Kolkmeyer. The meeting was convened by a "Notice of Meeting" sent to the Board of Directors and announced to the public and press.

He explained that Mayor Brown had designated the City's Commissioner of Administration, Finance, Policy and Urban Affairs, Ms. Janet Penksa, as his proxy [pursuant to §3852 of the Buffalo Fiscal Stability Act].

Chair Kolkmeyer welcomed Director Frank Mesiah to the meeting. Mr. Mesiah had been appointed by the Governor after a recommendation from the State Comptroller.

Chair Kolkmeyer welcomed all in attendance. He stated that the day's agenda contained several major issues; the meeting will likely be quite long. He summarized the meeting's agenda as follows:

- Staff's preliminary review of the City and covered organizations' budgets and four-year plans. The final presentations of the financial plans' approval will be required at the June Board meeting.
- The review of a collective bargaining agreement [CBA] between AFCSME Local 264 and the Buffalo Municipal Housing Authority [BMHA] and the review of the BMHA Capital budget, including discussion of funding provided by the federal stimulus package. Also, there will be a review of BMHA's third quarter report.
- Staff's preliminary review of the School District's [the District] budget and four-year plan along with the review of the third quarter report.
- A contract between the City of Buffalo [the City] and IBM along with a budget modification request to move designated fund balance to the general fund to cover judgments and claims.
- BFSA Issues – The Audit, Finance & Budget Committee had met earlier in the day and had passed a vote to send a resolution with a recommendation for approval to the full Board regarding the opening of new bank accounts for investment purposes.
- Finally, the Board will convene into an Executive Session to discuss legal matters, and receive a recommendation from the Executive Search Committee for a candidate for

BFSA's Executive Director, pursuant to the New York State Public Officers Law, Article 7, §105, "Conduct of Executive Sessions."

He requested that Secretary Arthur call roll. Finding a quorum present, the meeting commenced.

Approval of Minutes and Resolutions from March 18, 2009

Chair Kolkmeyer introduced a resolution to approve the minutes and resolutions from the March 18, 2009, Board Meeting.

Motion to approve by Johnstone, second by Arthur. Approval 8-0.

RESOLUTION NO. 09-11

APPROVING MINUTES AND RESOLUTIONS FROM MARCH 18, 2009

BE IT RESOLVED that the Buffalo Fiscal Stability Authority approves the minutes of its meeting on March 18, 2009, and ratifies and affirms resolutions numbered 09-04 through 09-10 that were approved March 18, 2009. This resolution shall take effect immediately.

BMHA Issues

AFSCME Local 264 CBA

Chair Kolkmeyer introduced a resolution to approve the CBA between AFSCME Local 264 and BMHA.

Motion to approve by Arthur, second by Mesiah.

He asked Principal Analyst Mike Kelly to provide the Board with the staff's analysis of the proposed CBA and BMHA officials to assist in answering any questions. Utilizing a slide show presentation, Mr. Kelly provided the following information:

INTRODUCTION

- On April 6th BMHA's Board of Commissioners unanimously approved a new CBA between BMHA and AFSCME Local 264. The union membership approved the proposed contract on March 27th. The Buffalo Common Council approved the agreement on May 12th.

- The agreement covers BMHA's blue and white-collar employees, as well as its managerial positions.

- Aside from the blue, white and managers covered, it has been past practice at BMHA to grant similar contract provisions to BMHA's exempt non-represented employees. BMHA's Board of Commissioners also approved similar compensation and benefit provisions to BMHA's exempt employees on April 6th.

- On a budgeted position basis, the agreement affects 228 total employees. When the approximately 23 exempt positions are factored in, a total of 251 BMHA employees are ultimately affected by this CBA.
- The previous CBA covered the period of July 1, 2000, to June 30, 2004. The proposed agreement covers the period of July 1, 2004, to June 30, 2011.

COMPENSATION PACKAGE CHANGES

- Employees will receive a 3 % salary increase retroactive to July 1, 2007.

- Employees will receive a $2,000 base salary increase retroactive to July 1, 2008, as well as a 3% salary increase retroactive to July 1, 2008.

- Employees will receive a 3 % increase on July 1, 2009, and a 3 % increase on July 1, 2010.

- In addition to these salary increases, a small number of certain position titles within the blue-collar, white-collar and managerial ranks will also receive additional "salary adjustments" as BMHA has labeled it [depicted below].

BMHA's Proposed Salary Increases for Local 264 Members: Budgeted FTE's						
Unit (budgeted/vacant)	**2007/08**	**7/1/2008**	**2008/09**	**5/13/2009**	**2009/10**	**2010/11**
Blue Collar (113/17)	3%	$2,000	3%		3%	3%
Blue Collar - Sup of Maintenance (9/1)	3%	$2,000	3%	$1,500	3%	3%
Total Blue Collar – 122/18						
White Collar (66/10)	3%	$2,000	3%		3%	3%
White Collar - Housing Aides (21/ 3) and Accounting titles (9/0)	3%	$2,000	3%	$4,000	3%	3%
Total White Collar 96/13						
Managerial (Housing Mgrs) (10/0)	3%	$2,000	3%	$5,000	3%	3%
Exempt (Asset Managers) (3/2)	3%	$2,000	3%	$5,000	3%	3%
Exempt (20/3)	3%	$2,000	3%	$4,000	3%	3%
Total Exempts – 23/5						
TOTAL Budgeted FTE's: 251/36						

- BMHA has eliminated a number of positions in recent years, and has reconfigured the duties of some of the remaining staff to better manage under the HUD required Asset

Management model. A few employees who are receiving these additional increases have taken on more responsibility and duties while maintaining their current titles.

- On the blue-collar side, nine positions will receive an additional $1,500 salary upgrade effective May 14th, upon BFSA approval. Nine out of 122 blue-collar employees will also receive this additional compensation increase.
- On the white-collar side, 30 positions out of 96 slots will receive a salary upgrade totaling $4,000.
- BMHA's managerial class employees (housing managers) - all ten positions would be in-line for a $5,000 salary upgrade.
- BMHA's Board of Directors also approved similar salary upgrades as BMHA's white-collar employees for approximately 21 of 26 exempt BMHA employees. This salary upgrade for the exempt positions would also total $4,000 on top of the other compensation increases.
- The Assistant Executive Director and head Legal Counsel would not receive salary upgrades.

HEALTH INSURANCE REFORMS

- The proposed CBA calls for all affected employees to move to the lower cost 204 health plan.
- All new hires will contribute 15% towards their health care coverage. The 15% contribution rate applies to both single and family coverage.
- BMHA will now have the ability to annually RFP [Request For Proposal] for a health insurance carrier provided that the level of service is the same.

- The vesting period to receive retiree health care would change. All new employees will now contribute to health insurance in retirement. Current employees with less than 10 years of service will also contribute. BMHA will now have a senior product option that retirees can be moved into at age 65.

- This CBA comes with a number of paid leave reforms as well. All employees will be giving up one personal leave day.

- New hires will now be able to earn up to twenty vacation days, as opposed to the previous twenty-five.

- The sick bank entitlement will be reduced to fifty days, down from ninety days.

ADDITIONAL REFORMS

- Salary steps will increase from five to seven.
- The probationary period will change to a period of no less than two months and no more than twelve.
- BMHA will now have a flexible scheduling option to cover evening meetings.
- Employees will now have to participate in a direct deposit payment system.

- BMHA will have additional flexibility in choosing candidates to fill positions, the ability to decide shifts and titles for phone room operators and the ability to change work schedules for managerial employees.
- BMHA will now determine emergency situations for employees.
- A number of outstanding lawsuits and grievances would be eliminated with the approval of this CBA.
- An $1,800 auto allowance for certain employees who used their personal cars for work would also be eliminated (35 total employees gave up).

Vice-Chair Townsend asked for clarification on the auto allowance. Mr. Kelly replied that, under the new CBA, the auto allowance would increase from $1,800 to $2,700 but would be available to a reduced number of employees.

STATIC BENEFITS

- The in lieu-of healthcare payment will increase from $60 to $100 a month for those that do not accept their health insurance coverage (family coverage) through their employment with BMHA.
- Employees would now receive a voucher for clothes and shoes instead of having work clothes issued by BMHA.
- Employees can sell back up to one week of vacation.
- Blue collar employees would still receive a paid 15 minute wash-up time at the end of the day.
- Both white-collar employees and managers would continue to receive summer hours; longevity pay will remain unchanged.
- Employees will continue to have thirteen paid holidays, a perfect attendance incentive by quarter and free dental/life insurance.
- The option to sell back sick days would be retained along with bereavement leave of up to five days.
- The educational reimbursement of up to $500 would be retained as well.

ADDITIONAL COSTS AND SAVINGS

BUFFALO MUNICIPAL HOUSING AUTHORITY
Local 264- Blue Collar, White Collar, Managerial Unit, & Non-Represented Exempt Employees
Analysis of Cost/Savings
($ thousands)
(Cost) / Savings

Salary & Benefits		*Current Year*	*Budget Year*	*OY 1*	*OY 2*	
	2007-2008	2008-2009	2009-2010	2010-2011	2011-12	**Total**
*Wage Increase through 2011 (All Upgrades reflected	($444)	($1,651)	($2,055)	($2,499)	($2,499)	($9,149)
Other Increases	$0	$0	($18)	($18)	($18)	($53)
Total Salary & Benefit Costs	**($444)**	**($1,651)**	**($2,073)**	**($2,516)**	**($2,516)**	**($9,201)**
Expected Savings						
Changes to Health Insurance	$0	$365	$657	$732	$806	$2,560
Personal Leave, Shift Flexibility, Elimination of OT	$0	$0	$93	$97	$97	$287
Legal Savings/Grievance settlements	$267	$249	$370	$374	$374	$1,635
New Steps			$108	$192	$283	$584
Consolidation of Job Functions/Elimination of Titles	$0	$0	$168	$173	$173	$515
Other Efficiencies	$0	$0	$162	$163	$164	$489
Total Expected Savings for term of contract	**$267**	**$614**	**$1,559**	**$1,732**	**$1,897**	**$6,069**
NET IMPACT OF UNION CONTRACT	**($177)**	**($1,038)**	**($514)**	**($785)**	**($619)**	**($3,132)**
Additional Adjustments & Reserves:	$91	$0	$0	$0	$0	$91

- The total salary and benefit costs of this contact are above what is currently budgeted for salary and benefits for the affected employees.
- Total salary and benefit costs for this CBA are estimated at $9.2 million.
- Total savings, as a result of the concessions are estimated at nearly $6.1 million.
- The net impact of the CBA including the use of reserves totals $3.04 million, after costs and savings are considered.

TOTAL COSTS FOR SALARIES & FRINGE BENEFITS

- In the current fiscal year, salaries and benefits total nearly $17.1 million after the new CBA is factored in. In the final year of the upcoming financial plan salaries and benefits total nearly $20.2 million.
- From the current year to the final year of the proposed financial plan, salary and benefits will have increased by $3.1 million dollars.
- BMHA has added an increase of 3% to years 2012 and 2013, which is speculative since the contract only goes through 2011.

Director Mertz asked if there was an OPEB calculation associated with the proposed CBA. Mr. Kelly stated that the BMHA had not yet tabulated their OPEB liability and would let the executive staff address the question following the completion of his presentation.

Mr. Kelly informed the Board that BFSA's staff was asked to prepare a comparison of BMHA versus City salaries for select job titles. In presenting this information, Mr. Kelly noted that all salaries presented were at "step five" for the blue collar employees. This was an attempt to maintain an apples-to-apples comparison.

Vice Chair Townsend pointed out that on average, for the period 2001-2012, salaries for BMHA employees were 12% higher than City employees.

Mr. Kelly stated that BMHA was prepared to make their presentation and turned the meeting over to Chair Kolkmeyer.

Chair Kolkmeyer asked it there were additional questions.

Vice-Chair Townsend noted that between personal and sick leave, employees receive six weeks of paid leave aside from holiday and vacation.

County Executive Collins stated that the contract as proposed disrespects taxpayers. Erie County has recently successfully negotiated CBAs with zero retiree health benefits and will never again approve a contract that contains any retiree health benefits. The contact as submitted contains lavish retiree healthcare benefits which will be paid in the future by our "children and grandchildren." The 15% contribution from new employees is insufficient. The cash payments offered are being rolled into the base salary, which creates additional financial burdens for future generations.

Additionally, white-collar employees will receive larger base increases than blue-collar workers. This increase disrespects the blue-collar workers, by implying they are less important than white collar employees. The two year length is insufficient; contracts should be at least four years in length. He stated his intention to vote against the contract.

Director Mertz referenced the "Analysis of Cost/ Savings" slide which showed the source of the savings attributed to concessions agreed to by the union. He stated that assumed savings from legal costs or settlement costs that would be "eliminated" with approval of the CBA is a very weak argument when trying to justify the costs of any contract and BFSA staff should not be so reliant on this source of savings.

BFSA Executive Director Mitchell referring to the slide responded that the staff agreed that a large portion of the potential savings from the proposed contract were risky, and referenced the grievance/legal line as well as the savings arising from the ability of the BMHA to bid out on a yearly basis the health insurance provider. BFSA believes that the first year savings are assured but the BMHA's ability to get the same amount of savings on a yearly basis is speculative and could potentially have a major impact on the plan.

Chair Kolkmeyer asked BMHA executive staff to address the Board regarding the CBA.

BMHA Executive Director Dawn Sanders and Assistant Executive Director Modesto Candelario addressed the Board. Ms. Sanders utilized a slide show presentation which provided the following information:

- A summary of BMHA's housing portfolio;
- BMHA's leadership structure;
- BMHA's Asset Management hierarchy;
- BMHA's 2008 Resources management [$101.5 million];
- The potential subsidy loss for noncompliance with HUD's PBM Mandate;
- BMHA's operating revenues from 2004-2008;
- BMHA's staffing levels from 2004-2008;
- BMHA's operating revenues from 2004-2008;
- BMHA's operating revenues balances from 2004-2008;
- The risks to BMHA if the CBA is not passed; and
- The increase workforce cost impact for current revenues.

County Executive Collins asked for clarification regarding Project-Based Management and the potential loss of HUD subsidy. Mr. Candelario replied that HUD incentivizes the move to this management system though the subsidy. Without the changes, BMHA will not receive these funds. In order to convert to the new management system, BMHA will need management rights such as those provided by the proposed CBA.

Referring to the slide depicting staffing levels, Director Johnstone queried whether or not the number of employees would be reduced with the institution of new efficiencies. Ms. Sanders replied that the staffing level would remain constant; the efficiencies allow for work rule changes.

Vice-Chair Townsend asked whether or not the employees would be willing to convert to the new management system without the CBA ratified. Mr. Candelario stated that BMHA has been attempting to do this. There have been a number of grievances filed; the employees are not expected to comply with the new project-based management system without the approval of the CBA.

Director Johnstone echoed the County Executive's concern regarding the length of the contract. She asked what guidance was given by the Board of Commissioners regarding the structure of the CBA. Ms. Sanders responded that the Board had not given specific guidance regarding the length of the CBA. The Board asked the negotiation team to gain the ability to make the facilities work and to meet the spirit of " stop-loss." and will help in their ability to adjust when other directives come in from HUD.

Vice-Chair Townsend expressed her concern that the Board of Commissioners had not given more guidance regarding the negotiations. The Board has a fiduciary responsibility to maintain quality facilities, service levels and a responsibility toward the employees. She asked whether or not all of the facilities were in proper condition. Ms. Sanders stated that they are not currently in the best order. There is a great need for capital improvement funds and the BMHA is thankful that they are getting federal stimulus funding. They have been able to use grants and tax credit financing for some projects. The BMHA has about $100 million in capital needs but only gets $10 million a year from HUD and is always looking for additional funding for capital expenditures.

Director Mertz referred to the slide comparing the BMHA's versus the City's compensation for trades. He asked for an explanation why the same job titles for BMHA receive higher compensation that City titles. Mr. Candelario responded that the majority of the employees are receiving the same as they received at the City. The reason for the original disparity goes back to 2000 when BMHA privatized the Lakeview complex and gave the union an increase to obtain the concession. He also stated that the trades are on call for off hours duty, which he does not think the City staff has to do. They get overtime but have to be on call all the time.

Chair Kolkmeyer expressed his concern over the 27-28% and in some cases 30% pay increases associated with some of the staff covered by the proposed CBA. As contracts are submitted to BFSA for approval, the previously approved contact sets a standard for the next one. This large jump in compensation would raise expectations for future contacts and set a dangerous precedent. Additionally, it is juxtaposition to what is currently occurring in the private sector. Mr. Candelario stated that he thought the risk to BMHA for not getting the contract from the union posed a more serious problem and would require major changes to their title structure.

Director Johnstone followed Director Mertz's comments regarding the pay disparity between City and BMHA employees. She mentioned the increases to so many titles that are already higher than those doing the same work for the City such as accountants. Ms. Sanders responded that BMHA is serving as a training ground for other organizations and they tend to lose them once they are trained to other organizations that have higher salary scales. Ms. Sanders countered that it would be better to compare BMHA's salaries to other housing authority's compensation.

Director Mertz expressed grave concern over the following two issues:

1. The contact will give an 18% increase over a six week period to a number of staff members; while the market in general is taking pay cuts;
2. The contact contains "healthcare for life" after as little as five years, which is unheard of in the private sector and is leading companies into bankruptcy. People who pay the taxes are losing their jobs because of health insurance issues; Mr. Candelario stated that they would not have a contract if they asked for no health insurance for retirees, even if it only covered new hires;

Director Arthur stated that the BMHA submitted a balanced budget and four-year plan to BFSA, which includes the costs of the proposed CBA. The proposed CBA is affordable under the budget. Additionally, as Mr. Candelario had previously stated, the last contract expired in 2004 and the proposed contract is not a two year pact but a seven year pact, retroactive to the last five years. In regards to the pay disparity between the City and BMHA job titles, it may very well be that City employees are underpaid and they should pay their employees more. The contact as submitted is a good contract; he expressed that he would vote to approve the contract. We always find a way of not paying the poor more money.

County Executive countered that not having a negotiated contract for a long length of time as is the case here grants management with more leverage to negotiate a "taxpayer friendly" contract. By approving a contract which includes any level of retiree healthcare, the BMHA is discarding their negotiating leverage. BMHA should go back to the negotiating table and state that no contact will ever be approved with any level of retiree healthcare for new hires. Go back to the drawing board and be more aggressive in your stance in the negotiating table.

Ms. Sanders argued that the short life of the contract to its expiration gets them another opportunity to get more concessions from the union.

Director Townsend asked Ms. Mitchell to comment on the adequacy of the reserves. Ms Mitchell stated that the plan appears balanced and shows a small amount of reserves approximately $200,000 but there is little flexibility in the numbers. The assumption behind the plan, which were mentioned earlier in the meeting, are risky and anything that goes against them in their operations would eat into that number relatively quickly. Mr. Candelario argued that they are setting up replacement reserves of approximately $400,000 for unforeseen capital issues. He also stated that the new positions required for the stimulus funding work will be part of the current vacancies.

Chair Kolkmeyer called the issue to vote. He asked Director Arthur to conduct a roll call of the vote. The roll to approve was as follows: Arthur – yes; Brown – yes; Collins – no; Johnstone – no; Kolkmeyer – no; Mertz – no; Mesiah – yes; Townsend – no.

Vote to Approve 3-5. The resolution did not carry.

Chair Kolkmeyer cited that, upon the recommendation of legal counsel, a motion to disapprove the CBA will be entertained.

Director Arthur stated that the action was not needed as the item had been defeated.

Mr. Buzard, BFSA's legal counsel from Harris Beach, PLLC gave his advice that the resolution was prudent as it can help in the future if there was any litigation regarding the contract. With respect to Article 78 proceedings, it is important to pass a disapproval resolution to list the reasons for the disapproval.

Director Arthur stated that the resolution could not be considered at the current time because it had not been physically submitted to all members of the Board.

Chair Kolkmeyer recommended tabling the issue for the moment and directed staff to type up the resolution to be distributed later in the meeting.

Capital Improvement Plan/Federal Stimulus

At the behest of Chair Kolkmeyer, Ms. Mitchell provided a summary of BMHA's Capital Improvement Plan. She provided the following information:

- BMHA is requesting approval of its 2009-2010 capital grant and related budget disbursement plan. The capital budget includes $14.5 million in Federal stimulus funds. BFSA staff recommends approval.
- The HUD capital grant includes some funds considered replacement housing funds and will be used for redevelopment in combination with some of the stimulus funding.
- Under HUD policy BMHA has two years to commit and four years to spend the grants for any one year. HUD also approves individual projects expected to be covered by the grants. If major changes in these plans become necessary, BMHA must first seek HUD approval. The Stimulus grant pieces must be obligated 100% in the first year and spent down 60% between years 1 and 2 and completely spent by year 3 while the regular HUD grants gets to be committed in the first two years but they have four years to disburse. A list of proposed projects is attached to the write up.

Motion to approve by Mertz, second by Johnstone.

RESOLUTION NO. 09-12

APPROVAL OF BUFFALO MUNICIPAL HOUSING AUTHORITY 2009-2010 CAPITAL BUDGET

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

WHEREAS, BMHA presented their capital budget to the United States Department of Housing and Urban Development ("HUD") for approval, and

WHEREAS, HUD approved a capital budget in the amount of $10,129,351, which is a decrease of $220,182 from what was approved for their capital program in the prior year, and

WHEREAS, BMHA is also the recipient of a $14,510,364 grant from the United States Federal Government Economic Stimulus Program for improvements and redevelopment of BMHA housing stock; and

WHEREAS, BMHA has developed a list of improvements to its housing stock to be completed with the use of the capital funds, and

HEREAS, BMHA in accordance with HUD and other federal regulations, must commit these funds within two years and spend them within four years,

NOW THEREFORE BE IT RESOLVED THAT, the Buffalo Fiscal Stability Authority approves the Buffalo Municipal Housing Authority's 2009-2010 capital budget and Federal Stimulus Program grants.

Proposed BMHA Budget & Four-Year Financial Plan

At the behest of Chair Kolkmeyer, Comptroller Greta Mobley provided an overview of the BMHA Budget & Four-Year Financial Plan. Utilizing a slide-show presentation, she provided the following:

- BMHA has submitted balanced budgets for years 2010 through 2013. Revenues are budgeted to increase from $33.9 million in 2010 to $35.8 million in 2013, while expenditures come in at $32.6 million in 2010 and $35.8 million in 2013.
- Expenses track at approximately 96% of revenues over this period. The excess of revenues over expenses are $1.3 million in 2010, increase to $1.5 million for 2011 and 2012 and drop to $0.8 million in 2013. The BMHA has included 3% salary increases for years 2012 and 2013 even though these years are not included in the current CBA.
- Salaries Benefits and Other Costs in the 2010 budget at $18.5 million reflect an 8.3% increase over the previous budget of $17.0 million due mainly to the collective bargaining agreement. The out years 2011, 2012 and 2013 reflect 3% increases.
- The major contributor to revenue is the Operating Subsidy, which is an allocation from HUD. In 2010 this line item is budgeted at $20.7 million or approximately 60% of the $33.9 million total. The second largest contribution comes from Dwelling Rental Income, which at $9.1 million is about 26% of total revenue.
- Major cost factors are Administrative, Ordinary Maintenance and Utilities. Administrative costs are incurred at the Central Office and Asset Management costs centers and reflect the oversight, management and administration of the managed projects or AMPS as well as oversight of the capital budget activities. 2010 budget Administrative Costs at $10.5 million are about 32% of total expenditures of $32.6 million.
- Ordinary Maintenance costs, which include AMP preparation and refurbishment, are budgeted at $9.2 million or 28% of total costs. Ordinary Maintenance costs are expected to grow moderately over the course of the plan, to $9.7 million in 2013. BMHA has

plans to allocate part of the stimulus funds for investments which will include items that might be classified as maintenance thus offsetting some of the budget funds that would have been required.
- Utilities are budgeted at $8.8 million in 2010 or approximately 27% of total 2010 budgeted costs. They are expected to increase to $9.1 million in 2011, $9.3 million in 2012 and $9.5 million in 2013. BMHA is reaping the benefits of its Energy Performance Contract Program which to date have yielded savings that exceeded projected savings by 26%.

Chair Kolkmeyer informed the Board of the necessity for a revised budget and four year plan due to the vote to reject the collective bargaining agreement.

<u>School District</u>
Proposed 2010 Budget & Four-Year Plan

At the behest of Chair Kolkmeyer, Senior Analyst Bryce Link addressed the Board. He utilized a slide-show presentation and provided the following information:

The District's 2009-10 Proposed Revenue
- All Funds = $914.8 million;
- 47% from Foundation Aid,
- 19% from Other State Aid,
- 13% from Grants,
- 5% from the use of reserves.

Vice-Chair Townsend asked if the total amount of aid was 68% or greater. Mr. Link responded that it was about 80% in total with additional aid found in other categories.

The District's 2009-10 Proposed Spending
- All Funds = $914.8 million
- 44% General Fund Workforce
- 22% General Fund Other
- 13% Grants
- 10% Debt Service
- 8% Charter School Payments
- 3% Food Service.

General Fund: Employee/Retiree Compensation & Benefits (without steps reserve)
- 53% General Funds Workforce
- 47% All Other

General Fund: Employee/Retiree Compensation & Benefits (with steps reserve)
- 60% General Funds Workforce
- 40% All Other

State Aid & Categorical Grants by Year

- $405.4 million in 2003-04
- $623.2 million in 2010-11 and relative flat thought the four-year plan

All Funds Budgeted Expenditures by Year
- $631.81 in 2003-04
- Up to $914.78 in 2009-10.

Enrollment since 2003-04
- Steady decline in enrollment from 41,101 in 2003-04 to a projected 31,720 in 2012-13.

Baseline Gaps from the Last Four-Year Plan

- Year One of the plan is balanced
- The structural gap increases in year 2 thru year 4 up to $40 million.

Baseline Gaps from the Current Four-Year Plan
- The structural gap increases to $142 million in year 4 of the financial plan.

Proposed Gap Closing Measures
- Use of Reserves
- Elimination of Staff
- School Closures
- Other Actions

Budget & Four-Year Plan Risks
- NYS economic climate,
- Use of one-shot Federal Stimulus funds by NYS,
- Potential negative consequences from loss in “steps” litigation,
- New funding sources will need to be identified for any CBAs,
- Increased financial pressure due to enrollment losses and increased charter school enrollment,
- OPEB liabilities.

Vice-Chair Townsend expressed her concerns regarding the growing structural gap.

Ms. Penksa commented that the City has maintained the same level of revenue for the District while reducing the property tax levy. Therefore, the District is now receiving a larger percentage of the tax levy than in prior years.

Chair Kolkmeyer noted that in other cities across the State other municipalities are contributing a greater and greater portion of their property tax levy to fill budgetary gaps.

Director Mesiah expressed his frustration that, historically, the State Legislature would allocate funds to school districts by way of the various municipalities. However, the funds would not always be made available to the districts but instead be intercepted for other uses. The current economic crisis is a result of private industry and entities "cooking the books." The school districts bear the brunt of this crisis. The people who cause the problem are trying to make the schools responsible, while they are not responsible. The Charter School system receive millions of dollars which could be allocated to public schools; public schools are expected to operate without these funds.

Director Arthur requested a future report regarding the current status of the Joint Schools Construction Project. Ms. Mitchell replied that it has already been slated for the June 10th Board meeting.

Chair Kolkmeyer thanked Mr. Link for his presentation and moved the agenda forward.

3rd Quarter Update

Chair Kolkmeyer stated that the District's 3rd Quarter Update had been provided in the board book material. Hearing no questions or comments on the material, he advanced the agenda forward.

City Issues

Proposed 2010 Budget & Four-Year Plan

At the behest of Chair Kolkmeyer, Mr. Kelly provided a summary of the City's Proposed 2010 Budget and Four-Year Plan. Using a slide-show presentation, he provided the following information:

- The current summary is from a "high level" and does not necessarily "drill down" into the "nuts and bolts" of the City's budget because of the time limitations. The June meeting will provide a more in-depth look.
- The City's financial plan is presented as balanced and does not include any surpluses or deficits from the 2009-10 fiscal year through the 2012-13 fiscal year. The City does take some measures to close what otherwise would be operating deficits close to $50 million in the aggregate over the course of the financial plan.
- The 2009-2010 budget of $449.1 million, which includes transfers to the School District, Refuse Fund and for Debt Service represents a 3.2% increase over last year's total budget of $435 million.
- When compared with current forecasts for FY 08-09 which incorporate modifications approved over the last 12 months, the budget is pretty close to the anticipated spending for this current year.
- State revenue totals 43% or nearly $195 million. City revenue sources total 38% or $170.1 million. County revenue another 16.1% or $72.3 million. Other revenues total a little over 2.5% or $11.7 million. Revenue growth is minimal over the period of the financial plan when excluding the use of restricted AIM.

- When transfers are removed from the budget, the net of transfers budget totals $346 million up from $333.9 million and includes a reduction on the tax levy equivalent to $1.2 million.
- The City proposes spending of $449.1 million during the 2010 fiscal year. Fringe benefits costs totaling $107.1 million make up the largest expenditure, while transfers total another $103.1 million, police $80.1 million, fire nearly $56.3 million, public works another nearly $27.7 million. All other funding including utilities equaling another $74.8 million. Compared to the flat revenues in the plan, expenditures grow to $471.7 million by 2013.
- The City's expenses are 82% employee related after transfers, and up from 81% in last year's proposed budget. All other spending equals just 18% of expenditures.
- Since last fiscal year, salary and benefits have increased by $13.3 million or nearly 5%.
- Since the 2005-06 fiscal year, salary and benefit costs have increased $54.9 million dollars or 24 percent. All the growth in expenditures from the 2010 budget through 2013 comes from increases in the cost of personal services as other lines such as supplies, services and capital outlays are either held flat or decrease.
- In the upcoming fiscal year the City is forecasting AIM at slightly over $169.0 million, an increase of 13.9 million over 2008-09 levels.
- In the out years of the financial plan, the City has held its AIM revenue forecasts flat, as future State aid remains uncertain. However, the City uses a total of nearly $16.7 million in 2011 and 2012 in restricted AIM, currently being held by BFSA to avoid an increase in property tax or the use of fund balance to cover operating gaps.

Director Mertz asked whether the forecasted AIM of $169.0 million includes federal stimulus monies. Mr. Kelly replied that it did not. The bulk of the federal stimulus funds will come through BURA and is project specific.

- The total by year since 2003-04 is up through the proposed 2009-10 fiscal year. Over this period, spending has increased $66.2 million or 17.3 percent. Spending for this upcoming fiscal year is expected to increase by $14.1 million and by an additional $22.6 million by 2013.

- In 2003-04, the City had a high of nearly 2,790 employees, while for the proposed fiscal year, staffing is budgeted at 2,591 employees, down 10 positions from fiscal year 2008-09.

Risks

- The City plans to tap $28.3 million in unreserved undesignated fund balance for recurring costs over the 2012 and 2013 plan years. The use of $28.3 million in fund balance equals 48% of the City's current undesignated unreserved fund balance.
- Additionally, the City plans to use $16.7 million in unrestricted AIM funds in 2011 and 2012 to either avoid increases in property taxes or further use of fund balance. These AIM funds, if used for such purposes will not be available for other need areas of City operations, such as demolitions or efficiency projects.
- Capital outlays, supplies and services are all being cuts to levels that may not be

sustainable for City operations over the course of the financial plan.

- Overtime costs for fire are budgeted to decrease by 16%, while annual increases have averaged over 42% since 04-05.
- Overtime costs for police are expected to increase by only $400,000, and like fire, annual average increases have been in the neighborhood of 36 percent.
- The future of state aid increases remains uncertain over the years of the financial plan and the City has not included any increases.
- Personnel costs continue to increase, and this budget has very little room for new CBA's or potential arbitration awards.
- Other Post Employee Benefits continue to loom large and daunting and will have a significant negative impact on the City's future financial picture.

Chair Kolkmeyer thanked Mr. Kelly for his presentation; he asked the Board if there were any comments regarding the material.

Vice-Chair Townsend noted that the budget and four-year plans are balanced but not "structurally balanced." The use of undesignated fund balances and AIM funds are used to close gaps instead of other efficiencies. In the past, BFSA has been able to approve CBAs because there were funds available. This may not be the case in the future for other CBAs.

Chair Kolkmeyer added his concern that continued revenue growth will be difficult in the near future due to the economic crisis. The Board has been on the path to morph into an advisory period next year. However, there is fear that the Board would have to return to a control period.

Ms. Penksa stated that the City is very careful with State funds. The City has been able to create a "rainy-day fund," some of which is used in this financial plan.

Chair Kolkmeyer stated that the City is to be commended for its budgeting. However, BFSA oversees the District whose financial picture is not as optimistic.

Director Mertz added that the OPEB liability is not currently fully funded. This creates an ongoing liability which will need to be addressed sooner-or-later.

3rd Quarter Update

Chair Kolkmeyer stated that the Board book included a summary of the City's 3rd quarter update and asked if anyone had any questions or comments. Hearing none, he advanced the agenda.

City Contract with IBM

Chair Kolkmeyer asked Mr. Kelly to review a contract approval request submitted by the City.

Mr. Kelly provided the following information:

- The City recently submitted a change order for approval totaling $428,453 dollars for a contract with IBM tied to upgrading the City's phone system to a modern VoIP system.

- During the course of BFSA's review several questions were raised, chiefly among them, the City request for approval after the work was previously authorized and secondly the amount of the change order.
- BFSA approved the City's use of Efficiency Incentive Grants (including the VoIP) for this project in March of 2007. At that time BFSA approved the use of $1.55 million for the VoIP project;
- On February 21, 2008, BFSA approved the original IBM contract in the amount of $1,103,000.
- The change order was submitted to BFSA on April 16, 2009 (for $428,453, which has not been approved as of today).
- Finally, I would note that the expenditures for IBM total $1,531,453 from the two contracts. This amount is about $20,000 less than what was authorized by BFSA for this project through the Efficiency Grant Process.
- Lastly, I should note that VOIP stands for "Voice Over Internet Protocol."

Motion to approve by Johnstone, second by Mertz.

Director Arthur expressed his displeasure that the work had started and was completed without any authorization by BFSA. Also, it is not known whether or not the bidding system has been properly followed.

Acting Director of Management Information Systems Raj Mehta addressed the Board. He stated that the original RFP included a clause stating that any costs above and beyond the scope of the contract would be the responsibility of the City. The City and IBM knew that there would be additional costs, but the exact amount was unknown until the 'heavy lifting' began and IBM was able to complete a thorough assessment of the City's phone/IT infrastructure prior to implementation of the VoIP system and the 311 Call Center. IBM, when conducting the work realized that the "switches" in City Hall needed to be upgraded to be able to function as a true call center, and that they received a significant discount from "Cisco Systems" for the necessary equipment upgrades that made their pricing the best possibility the City could expect. Compared to the other vendors, IBM would have been the lowest when it came to equipment costs since they receive a 51 percent discount compared to other vendors who only averaged 10-20 percent discounts on equipment.

The BFSA Change Order process was not followed since the Acting Director (Mr. Mehta) took the project over mid-way through the work. He continued moving the project forward, not realizing that the additional costs would need to be approved by BFSA, prior to the work being conducted. He explained that it was an oversight, and that he was not aware of the contract approval policy for change orders, and had assumed that since the original contract stated that their may be additional costs that the City would be liable for, that he had authority to move the project forward.

Director Arthur stated that he will vote in favor of the contract but again expressed that contract work will need to come to BFSA prior to the execution of the contract.

Chair Kolkmeyer called the issue to vote.

Approval 8-0.

RESOLUTION NO. 09-13

AUTHORIZE CITY OF BUFFALO TO ENTER INTO A CONTRACT WITH IBM

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 contracts or other obligations binding or purporting to bind the City or any covered organization; and

WHEREAS, Chapter 122 of the Laws of 2003 as amended by Chapter 86 of the Laws of 2004 permits the BFSA to review and approve or disapprove the terms of any proposed settlement of claims against the City or any covered organization in excess of $50,000.00; and

WHEREAS, in order to carry out the mission of the BFSA, the BFSA will review contracts or other obligations in excess of $50,000, though the BFSA Act provides no limitation for contracts or obligations; and

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

WHEREAS, the Mayor and other City officials submitted a contract or obligation for approval on April 16, 2009 to BFSA, and have signed the BFSA Remittance Approval Request Form ("RARF") in which they indicate that there are sufficient funds available for such item; and

WHEREAS, BFSA Staff have reviewed such items and the RARF and recommend approval of this contract or obligation; and

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority approve and authorize the City of Buffalo to enter into a contract and obligation as listed below:

1. IBM – work associated with implementation of the VoIP Contract

This Resolution shall take effect immediately.

Budget Modification Request – Legal Claims

Chair Kolkmeyer stated that the City is requesting approval of a budget modification to move funds from designated fund balance to the general fund to pay a number of judgments and claims. He asked Ms. Mitchell to summarize the request.

Ms. Mitchell stated that modification would transfer $4,946,000 from the unreserved designated for judgments and claims fund balance to the City' general fund, per a request from the City's law department.

Motion to approve by Penksa second by Arthur. Approval 8-0.

RESOLUTION NO. 09-14

APPROVAL OF CITY OF BUFFALO BUDGET MODIFICATION FOR TRANSFER FROM THE CITY'S UNRESERVED DESIGNATED FUND BALANCE TO THE GENERAL FUND TO PAY VARIOUS JUDGMENTS AND CLAIMS

WHEREAS, on May 8, 2009 the City of Buffalo ("City") submitted a budget modification request for the 2008-2009 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 as modified subsequently; and

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

WHEREAS, the City's Law Department has determined the need of $4,946,000 for payment and settlement of legal judgments and claims against the City of Buffalo, and

WHEREAS, the modification would transfer $4,946,000 from the unreserved designated for judgments and claims fund balance to the City' general fund; 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 proposed budget modification is complete and is hereby approved.

This Resolution shall take effect immediately.

BURA Issues
Proposed 2010 Budget & Four-Year Plan

Chair Kolkmeyer asked Mr. Kelly to provide information regarding BURA's proposed 2010 Budget & Four-Year Plan. Utilizing a slide-show presentation, he provided the following information:

- The Buffalo Urban Renewal Agency administers the City's HUD formula grant programs.

- The major grant programs are the Community Development Block Grant Program, known as CDBG, HOME (Investment Partnership Program) Program (to fund a wide range of activities that build, buy, and/or rehabilitate affordable housing for rent or homeownership or provide direct rental assistance to low-income people), ESG, Emergency Shelter and Grant Program (The Emergency Shelter Grants program provides homeless persons with basic shelter and essential supportive services, HOPWA, Housing Opportunities for Persons with AIDS.

- Additionally BURA can receive smaller pots of funding from various sources including the State and City. The proposed budget includes a number of new revenue sources mainly originating from the federal stimulus.

- These funds include programs such as Homeless Prevention and Rapid Re-Housing under the ESG program, Block-By-Block Grant funding under the NYS Affordable Housing Corporation and Neighborhood Stabilization.

- For the 2009-10 fiscal year, BURA's funding or revenue totals $27.8 million, an increase of approximately $3.6 million (OR –nearly 15%).

- CDBG again makes up the largest portion of BURA's revenue, followed by the HOME program.

- For the upcoming fiscal year, BURA will spend the bulk of its grant revenue on program expenditures (things like public or human services, bricks and mortar projects, housing, rehabilitation, and demolitions, etc.). Last year, BURA spent 83% of its funding on program expenditures.

- BFSA does not have BURA's most up to date budget, as the funding presented in the budget and four-year plan has changed based on HUD's very recent release of grant revenues for the 2009 program year, which for the most part corresponds to BURA's 2009-10 budget cycle. BFSA expects a revised budget from BURA in the near future.

- Last year, 17% of BURA's spending went towards Administration and Planning (things like studies, salaries, grantee oversight, etc.), and BFSA expects that for the upcoming fiscal year, that spending on Administration and Planning will be similar to 2008-09.

- BURA's spending (and revenues) has generally declined on a yearly basis in recent years, but you should note the increases for the proposed budget year in 2009-10. As noted, BURA anticipates a 15% increase in revenues for the upcoming fiscal year, so one could reasonably expect a 15% increase in expenditures for 2009-10 as well.

- The increases in revenues are largely tied to the federal stimulus and it is unclear if these revenues will continue going forward. BURA's 4 year plan keeps revenues flat for 2011, before dipping slightly in 2012, and again decreasing in 2013 to levels similar to what was seen in the 2009 fiscal year.

- An on-going issue that BFSA has been monitoring BURA's continued efforts to pay down a prior year deficit. The deficit now stands at approximately $250,000 and should be retired over the course of the proposed financial plan.

- This deficit resulted from past practices where BURA expended more grant money than was allocated, and while many of the costs were valid – the practice of spending money you do not have is not an acceptable practice (This happened because BURA disbursed funding by drawing down future grant funds ahead of time).

- Lastly, BURA faces some degree of risk with its budget and four-year plan.

- Chief among the risks is the result of HUD's recent monitoring of the City's CDBG program. The monitoring resulted in 19 findings and 2 concerns, and while BURA has responded to some of the matters HUD raised, BURA anticipates having to pay back over $392,000 in indirect costs. BFSA plans to monitor this situation closely.

- While additional revenue is always welcome, BURA's funding comes with heavy administrative requirements, and BURA will have to carefully manage the additional program spending for compliance with federal regulations. Failure to do so, could result in the need to pay back funding.

- The previously mentioned deficit remains on BURA's books, and any new collective bargaining agreement could put financial pressure on BURA's limited resources (CSEA local 815 – about 55 covered employees, 60 total, 4 vacancies)

- Overall, though, BURA is in fairly good financial shape headed into the 2009-10 fiscal year.

Director Arthur asked if BURA was eliminating funding for lead remediation. Director of Administration and Finance Ms. Carla Kosmerl addressed the Board. She stated that the funding is expiring for this; BURA will apply again for lead reduction activities and plans to fund such projects going forward, as there is substantial need.

Director Mertz asked what BURA's loan portfolio was like. Ms. Kosmerl replied that BURA targets low to moderate income individuals.

3rd Quarter Report

Chair Kolkmeyer stated that the Board had received a summary of BURA's 3rd quarter report. He asked if anyone had any questions or comments. Hearing none, he advanced the agenda.

BFSA Issues

Discussion on Opening Additional Bank Accounts

Chair Kolkmeyer stated that the Audit, Finance and Budget Committee had met earlier in the day and had passed a motion to recommend to the full Board the opening of additional bank accounts. He asked Director Mertz to provide addition information.

Director Mertz noted that most of Directors had attended the earlier Committee meeting. He briefly explained that staff had recommended the opening of additional bank accounts for the purposes of investing funds.

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

Resolution No. 09-15

AUTHORIZE THE OPENING OF DEPOSIT AND BROKERAGE ACCOUNTS AT M&T BANK AND AUTHORIZED SIGNATURES AND SIGNING RESTRICTIONS FOR SUCH ACCOUNTS

WHEREAS, the Legislature of the State of New York, pursuant to Chapter 122 of the Laws of 2003 as amended by Chapter 86 of the Laws of 2004 authorizes the Buffalo Fiscal Stability Authority ("BFSA") to invest any funds held in reserve, or sinking funds, or any funds not required for immediate use; and

WHEREAS, BFSA maintains depository account and money market account with HSBC BANK, USA, as a means of optimizing returns on funds that are held in reserve or are not of immediate use: and

WHEREAS, from time to time is required to bid out the investment of funds and buy for cash short term securities as authorized in the Investment Guidelines; and

WHEREAS, BFSA in order to continue to pursue the most competitive rates for such funds described above and efficiently carry out the requirements of the BFSA Act, finds it necessary to establish an additional banking relationship and open depository and brokerage accounts: and

WHEREAS, BFSA designates M&T Bank (the "Bank") as a bank, in addition to HSBC, USA, and Bank of New York Mellon for depository, investment and brokerage accounts, and

WHERAS, the establishment of a relationship with and the opening of accounts at the Bank will enable the Bank to prepare and deliver to BFSA monthly and annual statements identifying such flow of funds.

WHEREAS, the opening of the new accounts would be done with the same signatories and restrictions approved for all other BFSA accounts; and

NOW THEREFORE, BE IT RESOLVED, that BFSA establishes a relationship with and opens the depository, investment and brokerage accounts at the M&T Bank; and

BE IT FURTHER RESOLVED, that in connection with the signing of checks, drafts, funds transfers or other order for the payment of money issued in the name and on behalf of BFSA against any funds deposited in the Accounts, the following restrictions will apply to all transactions:

1. The Chair, Vice Chair, Director John Giardino, Director Wayne Mertz and the Treasurer, are each authorized as a sole signer for any payment up to and including $25,000; and

2. Two of the above-listed signatories of the BFSA are required to jointly sign for any payment over $25,000.

This resolution shall take effect immediately.

Legal Review/ Update & Update on Executive Director Search

Chair Kolkmeyer stated that the Board will now review legal matters as well as personnel matters regarding the Executive Director Search. Upon the advice of counsel, he recommended convening into Executive Session, pursuant to the New York State Public Officers Law, Article 7, §105, "Conduct of Executive Sessions."

Motion by Arthur, seconded unanimously. Vote 8-0 to convene into Executive Session.

Executive Session, BFSA
Wednesday, May 13, 2009, 3:43 pm

Directors Present: ***Arthur, Penksa (Mayor Brown), Collins, Johnstone, Kolkmeyer, Mertz, Mesiah and Townsend***.

Others Present: ***A. Vincent Buzard, (BFSA Counsel with Harris Beach).***

The Board voted to convene in Executive Session at 3:43 pm to receive a status report on pending litigation and the Executive Director search process. After a very detailed discussion on both subjects the Board voted to return to the regular meeting at 4:19pm.

<u>Closing Remarks</u>

Chair Kolkmeyer stated that the Executive Session had concluded. He stated that the Board had been briefed regarding litigation matters. Additionally, the Board was close to making a decision regarding the selection of a new Executive Director.

The resolution to disapprove the CBA had not been typed up as previously requested due to technical issues. It will be tabled and submitted in the June 10, 2009, meeting.

Chair Kolkmeyer requested a motion to adjourn. Motion to adjourn by Arthur, seconded unanimously. Vote 8-0 to adjourn the meeting at 4:25 PM.