

**BUFFALO FISCAL STABILITY AUTHORITY**  
**Meeting Minutes**  
**Wednesday, December 9, 2009**

---

The following are the minutes from the meeting of the Buffalo Fiscal Stability Authority held on Wednesday, December 9, 2009, in the Buffalo & Erie County Central Public Library Auditorium.

**Board Present<sup>1</sup>:** Arthur, Brown, Collins, Floss, Johnstone, Messiah and Townsend

**Staff Present:** Kelly, Link, Miller, Mobley and Mongold

**Additionally Present:** Mr. A.V. Buzard, Esq., Outside Legal Counsel with Harris Beach, PLLC.

**Opening Remarks**

The Board meeting of the Buffalo Fiscal Stability Authority (the “BFSA”) was called to order at 1:07 p.m. by Acting Chair Townsend. She noted that the meeting would be lengthy as there were many issues on the agenda. Prior to a review of the meeting’s agenda, she welcomed the newly-appointed Director, Dr. Frederick Floss, to the Board. Director Floss had been appointed to fill former Director Mertz’s seat.

She summarized the meeting’s agenda as follows:

- \* The Buffalo Municipal Housing Authority (the “BMHA”) - A proposed collective bargaining agreement (“CBA”) between the BMHA and American Federation of County, State and Municipal Employees (“AFCSME”) Local 264 has been submitted for approval. BFSA staff will present some background information including a high-level review of the 2009 Audited Financial Statements, a review of the first quarter report, and the results of a benchmarking study that certain Board members had requested.
- \* Buffalo School District (the “District”) – Staff will provide a review of the 2009 Audited Financial Statements, a review of the first quarter results and a contract for pre-construction activities related to Phase V of the Joint Schools Construction Board (the “JSCB”) project.
- \* City of Buffalo (the “City”) – Staff will provide a high-level summary of the financial plan relative to the City’s retake of management of the parks from Erie County (the “County”). Additionally, staff will also review the first quarter operating results.
- \* Buffalo Urban Renewal Agency (“BURA”) – Staff will provide a review of BURA’s first quarter report.
- \* Executive Session –The Board will vote to adjourn into Executive Session to discuss legal matters (Pursuant to Section 7, §105 of the New York State Public Officer’s Law).
- \* BFSA business – Resolutions will be introduced to honor the services of former Chair Paul Kolkmeier and Director Wayne Mertz.

Acting-Chair Townsend apologized to the Board for the lateness of much of the material for Board’s review. She noted much of the needed material had not been received by the BFSA staff until “the eleventh hour,” thereby delaying the staff’s turnaround of said material.

---

<sup>1</sup> As of December 9, 2009, the BFSA board consisted of eight active members with one vacancy.

## **Roll Call**

Acting-Chair Townsend requested that Secretary Arthur call roll. He confirmed that a quorum was present; the meeting commenced.

## **Approval of Minutes from 09.30.2009 & 10.23.2009**

Acting-Chair Townsend introduced resolution 09-41, "Approving the Minutes from September 30 and October 23, 2009."

### **RESOLUTION NO. 09-41**

#### **APPROVING MINUTES FROM SEPTEMBER 30 & OCTOBER 23, 2009**

BE IT RESOLVED that the Buffalo Fiscal Stability Authority approves the minutes of its meeting on September 30, 2009, and ratifies and affirms resolutions 09-38 through 09-39 that were approved September 30, 2009.

BE IT FURTHER RESOLVED that the Buffalo Fiscal Stability Authority approves the minutes of its meeting on October 23, 2009, and ratifies and affirms resolution 09-40.

This resolution shall take effect immediately.

Motion by Arthur, second by Johnstone. Approval 7-0.

### **Buffalo Municipal Housing Authority** ***Review of 2009 Audited Financial Statements***

Acting-Chair Townsend introduced BMHA's 2009 Audited Financial Statements and asked Executive Director Jeanette Mongold to provide a brief review for the Board.

Utilizing a slide-show presentation, Ms. Mongold provided the following information:

#### **Summary**

- \* There was a "clean" audit opinion issued.
- \* BMHA implemented Other Post-Employment Benefit ("OPEB") reporting, the first year required for this organization.
- \* There were no material weaknesses identified over internal controls over financial report and no single audit findings reported.

#### **Statement of Revenues, Expenses, and Changes in Net Assets**

- \* The largest category for assets is "Capital Assets and Escrow Cash," as should be expected (\$118,094,000 in 2009 vs. \$121,687,000 in 2008).
- \* Overall, net assets increased just over \$1 million from 2008, a 0.8% increase.
- \* The largest change from 2008 to 2009 is reported in the "Operating Loss" category, growing from \$1,165,000 in 2008 to \$4,664,000 in 2009. This is largely attributed to this being the initial year of reporting OPEB liabilities.

### **Other Post Employment Obligations**

- \* The annual required contribution (the “ARC”) is \$3.2 million.
- \* The net OPEB obligation at June 30, 2009 is \$1.1 million, or \$3.2 million less the 2009 contributions of \$2.1 million.

Following the presentation, Acting-Chair Townsend asked if there were any questions regarding the presentation. Hearing none, she advanced the agenda.

### ***1<sup>st</sup> Quarter GAP report***

Acting-Chair Townsend asked Principal Analyst Mike Kelly to provide a review for the Board.

Utilizing a slide-show presentation, Mr. Kelly provided the following information:

### **BMHA Quarterly Report Update**

- \* At the end of the first quarter, BMHA appeared to be in good condition relative to their operating budget.
- \* Relative to the Asset-Based Management Project (“AMP”), revenues equal slightly above 25% at the end of the first quarter. Expenditures are running a little lower than budgeted and total approximately 20%.
- \* Central Office Operations – Central Office Operations are treated similarly to a stand alone AMP. Revenues total nearly 22% of budget. Expenditures total 21% of budgeted levels.
- \* BMHA continues with its redevelopment of the AD Price housing development. Currently Phase II is underway and will result in 94 units of senior housing.
- \* BMHA received approximately \$14 million in federal stimulus funds. Nearly \$500,000 has been obligated. BMHA expects that the majority of federal stimulus funding will go to bid in January and February 2010.

Following the presentation, Acting-Chair Townsend asked if there were any questions regarding the presentation. Hearing none, she advanced the agenda.

### ***Housing Authority Benchmarking Study***

Acting-Chair Townsend introduced the Housing Authority Benchmarking study. She noted that BMHA had brought a proposed CBA to the BFSA Board previously which had not been approved. In order to provide additional background information to assist the Board in evaluating the current iteration of the proposed CBA, BFSA staff was directed to perform a benchmarking study comparing the benefits provided amongst various public housing authorities.

She asked Mr. Kelly to provide a summary for the Board. Utilizing a slide-show presentation, he provided the following information:

### **Introduction**

- \* BFSA’s Board asked staff to research other housing authorities around the country to compare contract provisions, employee benefits and a few other housing authority metrics.
- \* BFSA staff looked at a total of nine housing authorities for this study.
- \* Similar to the comparative studies staff conducted on cities and school systems last year, there were

limitations. One limitation from this study was the availability of data from the housing authorities, as well as the willingness of housing authorities to participate.

- \* The information included in this study is for current operations housing authorities: the information reflects current collective bargaining agreements versus those that might be proposed.
- \* The housing authorities included in the study include:

- |              |            |             |
|--------------|------------|-------------|
| – Denver     | – Oakland  | – Buffalo   |
| – Houston    | – Seattle  | – Rochester |
| – Louisville | – St. Paul | – Syracuse  |

Director Arthur referred to the slide titled, “A Closer Look at the Housing Authorities” and asked, relative to the third column, “# of housing vouchers,” whether this included Section 8 vouchers. Mr. Kelly replied that it did and that Buffalo tends to issue fewer Section 8 vouchers than the other authorities examined in the study. Director Arthur stated that he had additional questions and requested further information following the meeting relative to the administration of the Section 8 vouchers as well as the role of the Belmont Shelter Corporation.

**Closer Look at the Housing Authorities**

| <b>Housing Authority</b> | <b>Selection Methodology</b> | <b>Federal Low Rent Units (“LRU”)</b> |
|--------------------------|------------------------------|---------------------------------------|
| Buffalo                  |                              | 4,295                                 |
| Rochester                |                              | 2,634                                 |
| Syracuse                 |                              | 2,345                                 |
| Denver                   |                              | 4,123                                 |
| Houston                  |                              | 3,898                                 |
| Louisville               |                              | 5,307                                 |
| Oakland                  |                              | 3,646                                 |
| Seattle                  |                              | 5,959                                 |
| St. Paul                 |                              | 4,249                                 |

- \* Note – Some housing authorities have additional units not captured in this study. For example, Buffalo’s housing authority has a state housing component that consists of several hundred housing units. Not all housing authorities have state housing units, BFSFA decided to focus only on the number of federal housing units.
- \* Buffalo has nearly 4,300 low rent units, while Seattle has over 5,900. Syracuse is a low mark of the study of 2,345 low rent units.
- \* In terms of actual units, Buffalo is in the middle of the pack. When just comparing housing vouchers, Buffalo is at the low end of the spectrum. On the “residents served side”, Buffalo is also at the low end of the study cities included.

Mayor Brown asked for clarification whether the column, “Federal Low Rent Units (“LRU”)” included solely the number of public housing units or if it included other rental units wherein individuals rent using Section 8 vouchers. Mr. Kelly replied that he was correct; the LRU number included only public housing units.

**Budgeted vs. Filled Positions**

| <b>Housing Authority</b> | <b># of Residential Units</b> | <b># of Housing Vouchers</b> | <b># of Residents Served</b> | <b># of Employees</b> | <b># of Residents/Employee</b> |
|--------------------------|-------------------------------|------------------------------|------------------------------|-----------------------|--------------------------------|
| Buffalo                  | 4,295                         | 1,372                        | 10,874                       | 229 (F)/267 (B)       | 40.7                           |
| Rochester                | 2,450                         | 8,080                        | 38,000                       | 178 (F)/ N/A          | 213.5                          |
| Syracuse                 | 2,500                         | 3,000                        | 10,000                       | 220 (F)/ 220 (B)      | 45.5                           |
| Denver                   | 4,700                         | 5,300                        | 23,000                       | 235 (F)/ 237 (B)      | 97.0                           |
| Houston                  | 19,000                        | 15,000                       | 60,000                       | 212 (F)/ 212 (B)      | 283.0                          |
| Louisville               | 4,000                         | 9,400                        | 34,280                       | 287 (F)/ 300 (B)      | 114.3                          |
| Oakland                  | 3,308                         | 11,142                       | 33,571                       | 298 (F)/ 580 (B)      | 106.9                          |
| Seattle                  | 10,000                        | 4,000                        | 26,000                       | 572 (F)/ 580 (B)      | 44.8                           |
| St. Paul                 | 4,249                         | 4,000                        | 21,549                       | 224 (F)/ 280 (B)      | 93.7                           |

**F=FILLED B=BUDGETED**

**AVG. = 115.5**

- \* This table includes the number of budgeted and filled positions for each housing authority, as well as the number of residents compared to the number of employees for each housing authority.
- \* Some could view this as efficiency metric. Buffalo has about 41 residents for each employee while Rochester has about 213 residents for each employee. Syracuse registers in at about 45 residents for each authority employee.

Mayor Brown questioned the methodology used in determining the information. He stated that those residents receiving vouchers are not necessarily a “resident served” by the BMHA, since they could live in private-owned housing. Mr. Kelly replied that it was a valid point and explained for the audience’s edification that an individual who receives a voucher may go to a private rental entity for housing.

Acting-Chair Townsend directed Mr. Kelly to provide further information to the Board after the meeting regarding the number of residents served in public housing verses those served through the use of Section 8 vouchers in private rental units.

- \* The average number of residents per housing authority employee equals about 115 for the housing authorities included in this benchmarking study.

**HUD (Federal Housing and Urban Development) ABM Compliance**

- \* Note - ABM is a HUD requirement for housing authorities nationwide. The ABM model treats each individual housing development as its own separate entity, more of a business type approach versus the older management model that lumped all of the developments together centrally and pooled resources or funding.

- \* All but two of these authorities have successfully made the transition to ABM as follows: Oakland, California and St. Paul, Minnesota.
- \* St. Paul was identified as a high performing housing authority under the older management model and has been allowed additional time to fully comply with the new management model requirements. Oakland has faced some challenges, but is making progress and will transition to ABM in the near future.

### **Housing Authority Benefits and Salary increases**

#### Longevity payments

- \* Longevity payments reward employees for their years of service at different increments.
- \* Most authorities do not offer longevity payments. Buffalo, Rochester and Syracuse are notable exceptions.

#### Perfect attendance incentive pay

- \* Buffalo is the only housing authority that offers some form of perfect attendance incentive payment. These payments are made on a quarterly basis at BMHA.

#### Last CBA or Salary increases (annual percentage increases)

- \* Increases have ranged from 1.91% to 3.5% across the various housing authorities.
- \* Note – The Houston management model is somewhat different. They are the only housing authority included without some form of unionized employees. Houston largely contracts out its blue-collar work and therefore has few, if any blue-collar workers. They typically offer a 3.5% annual raise to their employees when the housing authority can afford it. Houston declined to offer salary increases in the current fiscal year due to economic conditions nationwide.

#### In-Lieu of Payment

- \* Some authorities offer an “in-lieu” payment in exchange for an employee not accepting health insurance through their employer. This saves the authority money as the in-lieu of payment is lesser than the cost of providing the health insurance. Buffalo and Rochester are the only two housing authorities that offer this type of benefit.

#### Dental Insurance Contribution Rates for Authorities

- \* BMHA employees must either contribute 100% of the costs of their dental insurance, or decline the insurance in year one. In year two and thereafter, BMHA covers 100% of the costs.
- \* The Oakland Housing Authority covers 100% of dental insurance for employees and their families.
- \* Rochester covers 50% of costs for its employees while Syracuse covers 75%.
- \* Denver, Louisville and Seattle either do not provide dental insurance for their employees or do not monetarily contribute toward the policy.

### **Comparisons – Summer Hours and Wash-up Time**

- \* Some authorities offer unique benefits such as “Summer Hours” and “Wash-Up Time.” Only BMHA offers both benefits.
- \* Rochester offers wash-up time to its blue-collar employees.
- \* Summer hours for BMHA employees run from July 1<sup>st</sup> to the first Monday in September. It allows for a thirty minute early release for white-collar and managerial employees (however, not blue-collar). This equates to 2½ lost work days annually, per employee. Over a thirty year career, this

equates to over 75 work days lost.

- \* Wash-up time affects BMHA's blue-collar workforce and includes a fifteen minute period of time to literally wash up; this benefit equates to seven days annually for each employee. Over a thirty year career, this equates to 210 work days.

### **Paid Days Off (10 year employee)**

- \* Paid days off includes vacation time, sick leave, personal days and paid holidays.
- \* In Buffalo's case, an employee with ten years experience would receive over 52 paid days off a year. A similar employee at Rochester's housing authority would receive 53 paid days off per year. Denver is at the lower end of the paid days off spectrum with 36 days.
- \* The average number of paid days off including Buffalo totals over 43 days off per year. In this case, Buffalo exceeds that amount by about 9 days.
- \* The Houston Housing Authority was excluded because their vacation time, sick time and personal leave time is somewhat different from the other included authorities. Houston provides all encompassing "paid-time-off (PTO)." An employee with ten years of experience at the Houston Housing Authority would receive 32 total days off including their holidays. Twenty of those days are PTO days that can be used for vacation, sick or personal days at the employee's discretion.

### **Health Insurance Contribution Rates – Active Employees**

- \* Out of the nine housing authorities that BFSA looked at, only Oakland and Buffalo do not require employee contributions for health insurance coverage. In Oakland and at the BMHA employees do not pay for his or her health insurance for either single or family plan insurance.
- \* Over time, BMHA has taken steps to lower the Authority's health insurance expenses. At one point, employees did make modest contributions. BMHA also switched to a single provider to decrease health insurance expenses (and no longer require retiree contributions).
- \* Employee contribution rates vary widely by the housing authorities included in this study. They are anywhere from 4% for single insurance coverage in St. Paul to 36% for both single and family coverage in Denver.
- \* In Louisville, if an employee opts for single coverage they contribute nothing towards their health care. If an employee elects family coverage, the employee would be required to contribute 32% towards their health insurance coverage.

### **Health Insurance Cost Comparison for Active Employees**

- \* For this analysis, the costs of single and family coverage were kept equal at the current BMHA rates (\$4,350 for single coverage; slightly more than \$12,101 for family coverage).
- \* The costs reflect the actual contribution rates for single and family coverage for each of the authorities.
- \* BFSA took a look at what the costs of providing health insurance to 100 employees would mean to each of these housing authorities. BFSA assumed 50 single covered employees and 50 family covered employees for each housing authority. Under this scenario, Buffalo and Oakland have the highest costs for health insurance, which reflects the fact that neither housing authority requires employee contributions for health insurance.
- \* Denver has the lowest costs, reflecting the 36% contribution rate for employees.
- \* The difference in costs between Buffalo and Oakland compared with Denver for 100 employees in this analysis is over \$297,000, so as you can see the difference in health insurance costs from those

housing authorities that require employee contributions to those that do not is significant.

- \* Note – Rochester requires employees to contribute 25% for both single and family coverage. This difference translates into over \$200,000.
- \* Over time these differences compound and translate into real costs drivers for the authorities at the low end of the contribution spectrum versus those that would save significant resources by requiring employee contributions year-in and year-out. Further, with health insurance costs increasing every year at around 8%, the potential consequences for these housing authorities is substantial.

### **Health Insurance Cost Comparison for Retired Employees**

- \* Buffalo and Oakland are the only two housing authorities that do not require retired employees to contribute to their health insurance for either single or family coverage. In Buffalo's case, this arrangement is for the current contract which expired in 2004 and does not fully reflect the proposed contract to be reviewed later.
- \* Contribution rates for retiree health insurance for each of the housing authorities vary widely. Denver, Houston and Seattle do not pay any portion of their retired employees' health insurance costs, while Louisville will pay 100% for the former employee's costs, but requires a 32% contribution for dependents. St. Paul's is similar in this regard, in that they'll cover 96% for retirees, but will not pay any portion of the costs for dependents.
- \* Rochester will pay up to \$175 a month for retirees' health insurance for retirees ages 55 to 64 and then requires retirees to switch to Medicare at age 65.

### **OPEB Liability Comparison**

- \* These long term obligations reflect the costs of providing health insurance in retirement for current and former employees.
- \* BMHA's OPEB obligation is estimated to be approximately \$53,000,000, while Oakland's is about \$73 million.
- \* Most of the housing authorities have a very small to zero OPEB obligations. This fact is largely a reflection of whether a housing authority offers employees free or heavily subsidized health insurance in retirement.
- \* Note - OPEB information was not available for all nine housing authorities.

Mr. Kelly concluded his presentation. Acting-Chair Townsend thanked the staff for their work and asked if any Director had any further questions regarding the information presented.

Mayor Brown commended the staff for the hard work put into the presentation. He asked whether the vouchers issued by other housing authorities generate revenue. Mr. Kelly replied that he was uncertain and deferred to BMHA for clarification. Mayor Brown replied that the question could be addressed after the meeting and stated that if other housing authorities do generate revenue in this fashion, it would be something that BMHA should examine.

Acting-Chair Townsend additionally requested more data on the relatively low usage of vouchers by BMHA compared to other housing authorities. She noted that, along with Mr. Kelly, staff Principal Analyst Bryce Link had contributed to the work of the benchmarking study.

## ***Proposed Collective Bargaining Agreement***

Acting-Chair Townsend introduced the proposed CBA between the BMHA and AFCSME Local 264. Prior to the staff presentation, she asked the BMHA representatives present to introduce themselves to the Board and make a presentation about the proposed CBA.

BMHA Executive Director Dawn Sanders & Assistant Executive Director Modesto Candelario addressed the Board. Utilizing a slide-show presentation, they provided the following information:

### **Contract Highlights**

#### **Status Quo – Lack of Control and Flexibility**

- \* Vacation Schedule Limitations;
- \* Overtime Required;
- \* No Accountability for Property;
- \* Performance;
- \* Restricted Clerical Duties;
- \* Employee Schedule Limitations.

#### **Proposed Contract - More Flexibility & Control**

- \* Vacation Limits Put In Place, Subject to Management Approval;
- \* Ability to Flex Schedules;
- \* Job Responsibilities Expanded;
- \* Clerical Job Responsibilities Expanded;
- \* Management Provided the Right to Change Schedules & Eliminate Shifts.

#### **Status Quo - Employee Benefits**

- \* 6 Personal Days;
- \* 25 Maximum Vacation Days;
- \* Multiple Premium Health Insurance Plan;
- \* 0% Contribution to Active Health Ins;
- \* 0% Contribution to Retiree Health Ins;
- \* Unable to Change Health Ins. Carrier;
- \* Retirees Can Change Health Coverage From Single to Family;
- \* Health Insurance to Retirees after only working 6 months for the BMHA.

#### **Proposed Contract - Employee Benefits**

- \* 5 Personal Days (All Employees);
- \* Reduced to 20 (equivalent savings of 65 days in the first 16 yrs. plus 5 days thereafter for New Hires);
- \* Single Plan at a Reduced Cost to BMHA;
- \* 15% Contribution;
- \* Up to 25% Contribution;
- \* Able to Change Health Insurance Carrier with Equal Benefit and Lower Cost;
- \* Retirees can not Add Dependents;
- \* All Employees Must Work at Least 10 years (new hires 15 years) to be Eligible for Retiree Health Insurance;

### **Operations Prior to Implementation of PBM (Project-Based Management)**

- \* Prior to implementation, there were more managerial layers and positions.
- \* After the implementation, the following were eliminated: the Assistant Director of Management and the Senior Manager under the Director of Management, the Deputy Director for Technical Operations and the Assistant Director of O & M under the Director for Technical Operations, and the Maintenance Supervisors and Labor Supervisors under the four Assistant Supervisors of Maintenance.
- \* Total Cost Savings of \$874,638 per year not including OPEB cost.

## **Why an additional salary upgrade to Property Manager and Housing Aides?**

Property Manager Additional Duties (under new CBA) include:

- \* Accountable for the overall performance of their development;
- \* Supervision of maintenance staff;
- \* Coordinate and implement marketing campaign for development;
- \* Monitor site budgets and make recommendations;
- \* Handles maintenance related issues;
- \* Procurement of goods and services;
- \* Coordinate operational contracts;
- \* Prioritize capital projects;
- \* Coordinate site payroll;
- \* Attend evening meetings using flex schedule.

Housing Aide Additional Duties (under new CBA) include:

- \* Complete requisitions and input payroll;
- \* Process applications for housing & interview prospective tenants;
- \* Clearly defined duties to eliminate grievances related to job duties;
- \* Elimination of Occupancy Specialist and other higher paid specialized titles;
- \* Assist in the review of policies and regulations.

## **How has the BMHA managed Other Post-employment Benefit (OPEB) in the past?**

- \* Since FYE 2005, the OPEB cost per employee has increased from just over \$8,000 to just over \$10,000 per employee per year in FYE 2010.
- \* The average health insurance premium increase per year has been 10%.
- \* This has been controlled somewhat with an average cost increase of 5% per employee.

## **How does the proposed CBA address the future cost of Other Post Employment Benefit (OPEB)?**

- \* The proposed CBA provides for a lower benefit and lower cost plan.
- \* The proposed CBA calls for increased retiree contributions.
- \* The proposed CBA allows retirees to enroll in a senior product.
- \* The proposed CBA requires future retirees to purchase Medicare part B (currently being grieved by the union).
- \* The proposed CBA does not allow retirees to add dependents.
- \* Staffing levels have decreased by 30% since 2004, thereby reducing OPEB cost.
- \* A \$1,959,420 Board approved designated reserve to pay for OPEB.

## **Can the BMHA afford the proposed CBA?**

- \* The last four years have shown a budgetary surplus.
- \* FYE 2009 surplus of \$3.3 million includes a \$1,416,000 accrued retroactive payroll for the proposed CBA.
- \* Board approved designated reserves:
  - \$980,750 for equipment replacement;
  - \$980,750 for safety and security (cameras, lighting, etc.);
  - \$1,176,900 for cycle maintenance.

Ms. Sanders addressed the earlier question relating to “brick-and-mortar” public housing versus a voucher-based subsidy in private rental units and stated that there is a national debate ongoing arguing which system is the more beneficial. Buffalo was “on the forefront” of public housing and therefore has many physical housing units. BMHA has actively sought to place residents throughout the community using vouchers whenever possible, a reflection of the shifting modern approach to housing.

Acting Chair Townsend asked for confirmation that the current contract does not apply to exempt employees and that a proposed agreement covering these employees will be submitted to the BFSA early in 2010. Ms. Sanders confirmed this.

Acting Chair Townsend thanked Ms. Sanders and Mr. Candelario for the presentation and noted a marked progress. She asked Ms. Mongold to present the BFSA staff analysis. Utilizing a slide-show presentation, she gave the following information:

**CBA with Local 264**  
**Introduction**

- \* Affects 114 budgeted blue-collar employees;
- \* Affects 95 white-collar employees;
- \* Affects 10 budgeted managerial employees (219 total affected);
- \* Exempt non-represented employees are not affected;
- \* The previous agreement covered the period of July 1, 2000, to June 30, 2004;
- \* The proposed CBA covers the period of July 1, 2004, through June 30, 2011.

**Specifics**

- \* 3% pay increase, retroactive to July 1, 2007;
- \* \$2,000 base salary increase with an additional 3% increase July 1, 2008;
- \* 3% increase July 1, 2009;
- \* Certain titles receive either \$1,000, \$1,200 or \$2,200 in addition at time of CBA approval;
- \* 3% Increase July 1, 2010;
- \* 2009 Salary Upgrades due to additional job responsibilities:
  - Blue Collar: Assistant Superintendents \$1,000 (May 2009 \$1,500);
  - White Collar: Housing Aides \$1,200 (May 2009 \$4,000);
  - Managerial: Housing Managers \$2,200 (May 2009 \$5,000);

\* BMHA's Proposed Salary Increases for Local 264 Members: Budgeted FTE's;

| Unit (budgeted/ vacant)                            | 2007/08 | 7/1/2008 | 2008/09 | 2009/10 | 12/9/2009 | 2010/11 |
|--|---------|----------|---------|---------|-----------|---------|
| Blue Collar (104/8)                                | 3%      | \$2,000  | 3%      | 3%      |           | 3%      |
| Blue Collar – Asst Superintendents of Maint (10/0) | 3%      | \$2,000  | 3%      | 3%      | \$1,000   | 3%      |
| Total Blue Collar – 114/8                          |         |          |         |         |           |         |
| White Collar (68/13)                               | 3%      | \$2,000  | 3%      | 3%      |           | 3%      |
| White Collar - Housing Aides (27/3)                | 3%      | \$2,000  | 3%      | 3%      | \$1,200   | 3%      |
| Total White Collar – 95/16                         |         |          |         |         |           |         |
| Managerial (Housing Mgrs) (10/0)                   | 3%      | \$2,000  | 3%      | 3%      | \$2,200   | 3%      |
| TOTAL Budgeted FTE's: 219/24                       |         |          |         |         |           |         |



- \* BMHA will have the ability to select from top 5 in seniority to fill vacancies;
- \* BMHA will now have the ability to decide shifts/titles for phone room operations;
- \* BMHA will have the ability to change work schedules for certain employees;
- \* BMHA will determine special emergencies for authority;
- \* Elimination of outstanding lawsuit(s) and grievances, with the exception of the lawsuit related to Medicare Part B;
- \* “On call pay” for Assistant Superintendent Of Maintenance will be eliminated;
- \* New employees must now live in City during employment with BMHA;
- \* Employees will now receive a clothing and shoe voucher instead of being issued items.

**Additional Benefits (Summary of Existing Benefits)**

- \* Auto allowance increased from \$150/month to \$225/month (approximately 37 employees);
- \* Payments in-lieu of health insurance are increased from \$60 to \$100/month family;
  - \$720 to \$1,200 annually
- \* Employees can sell back up to 1 week of vacation annually;
- \* Blue-collar employees continue to receive 15 min. wash up time;
- \* White-collar/management/exempts continue to receive summer hour schedule;
- \* Shift differential pay of \$.75/hr. for 2nd shift;
- \* Longevity payments continue;
- \* 13 paid holidays annually;
- \* Perfect attendance/sick leave incentive pay paid based on quarterly attendance;
- \* Life insurance for employees/families paid by BMHA;
- \* Dental insurance paid by BMHA;
- \* Sick leave sell back option (up to 180 days at 1/3 ratio);
- \* Remaining sick leave days can be applied to additional service credit for NYS retirement;
- \* Bereavement leave up to 5 days;
- \* Educational reimbursement up to \$500 per semester.

**Cost Comparison of May 2009 vs. October 2009 CBA’s**

**Scenario 1: Through end of contract (June 30, 2011)**

Proposed May 2009 CBA: Total net cost of \$1,801,044 - \$2,920,672

Proposed October 2009 CBA: Total net cost of \$1,445,421 - \$2,447,129

DIFFERENCE:

Low Range \$(355,623)

High Range \$(473,633)

**Scenario 2: Through end of financial plan, all terms remain constant, no salary increases after 6/30/11**

Proposed May 2009 CBA: Total net cost of \$3,545,447 - \$5,257,388

Proposed May October 2009 CBA: Total net cost of \$2,962,662 - \$4,484,184

DIFFERENCE:

Low Range \$(582,785)

High Range \$(773,204)

**Scenario 3: Through end of financial plan (June 30, 2013), all terms remain constant, 3% salary increases after 6/30/11**

Proposed May 2009 CBA: Total net cost of \$3,963,102 - \$5,675,742

Proposed October 2009 CBA: Total net cost of \$3,957,421 - \$5,492,567

DIFFERENCE:

Low Range \$(5,681)

High Range \$(183,175)

**Median Salary per Employee Group**

| Prepared by BFSa Staff   |       |             |         |         |         |         |         |         |            |
|--|-------|-------------|---------|---------|---------|---------|---------|---------|------------|
| Buffalo Municipal Housing Authority: Collective Bargaining Agreement with AFSCME Local 264 |       |             |         |         |         |         |         |         |            |
| Median Salary Per Employee Group   |       |             |         |         |         |         |         |         |            |
| MEDIAN   | #     | Base Salary | 2007-08 | 2008-09 | 2009-10 | 2010-11 | 4-Year  | 7-Year  | 7/1/2007-- |
|  | FTE's | \$          | \$      | \$      | \$      | \$      | Average | Average | 12/9/2009  |
| Blues  | 114   | 32,740      | 33,722  | 36,794  | 37,898  | 39,035  |         |         |            |
|  |       |             | 982     | 3,072   | 1,104   | 1,137   | 1,574   | 899     | 1,719      |
|  |       |             | 3.0%    | 9.1%    | 3.0%    | 3.0%    | 4.5%    | 2.6%    | 5.0%       |
| Whites   | 95    | 35,712      | 36,783  | 39,947  | 42,345  | 43,616  |         |         |            |
|  |       |             | 1,071   | 3,164   | 2,398   | 1,270   | 1,976   | 1,129   | 2,211      |
|  |       |             | 3.0%    | 8.6%    | 6.0%    | 3.0%    | 5.2%    | 2.9%    | 5.9%       |
| Management   | 10    | 49,764      | 51,258  | 54,856  | 58,700  | 60,461  |         |         |            |
|  |       |             | 1,494   | 3,598   | 3,845   | 1,761   | 2,674   | 1,528   | 2,979      |
|  |       |             | 3.0%    | 7.0%    | 7.0%    | 3.0%    | 5.0%    | 2.9%    | 5.7%       |
| Total FTE's  | 219   |             |         |         |         |         | 4.9%    | 2.8%    | 5.5%       |

Director Johnstone noted that there are significant improvements in the contract, specifically in addressing OPEB as well as in the area of managerial rights.

**RESOLUTION 09-42**  
**APPROVAL OF COLLECTIVE BARGAINING AGREEMENT**

WHEREAS, Chapter 122 of the Laws of 2003, Section 3858(2)(e), requires that during a control period the Buffalo Fiscal Stability Authority (“BFSA”) shall approve or disapprove any collective bargaining agreements binding or purporting to bind the City of Buffalo (“City”) and the Covered Organizations; and

WHEREAS, the BFSA is required to promptly review a collective bargaining agreement that is submitted to it and shall disapprove any collective bargaining agreement that is not in compliance with the approved financial plan; and

WHEREAS, based on a requirement of the Department of Housing and Development (HUD), the major funder of the Buffalo Municipal Housing Authority (“BMHA”), the BMHA changed its management model from a centralized management to a project management model; and

WHEREAS, the project management model requires some employees to assume new duties and responsibilities; and

WHEREAS, the BFSA did not approve the previous collective bargaining agreement presented to its Board of Directors on June 5<sup>th</sup>, 2009 and required the BMHA to return to negotiations with AFSCME local 264; and

WHEREAS, the BMHA and AFSCME Local 264 recommenced negotiations and fully and completely bargained with respect to the terms and conditions of employment of union members; and

WHEREAS, on October 21, 2009, the members of Local 264 approved the new Agreement Amending the Collective Bargaining Agreement between the BMHA and Local 264; and

WHEREAS, the BMHA submitted such agreement with supporting materials to the BFSA for approval under Section 3858(2)(e) of the Act, and has fully and promptly complied with all information requests of the BFSA; and

WHEREAS, the agreement provides for salary increases that are partially offset by savings in each year through changes to health insurance, restructuring of paid leave time, increasing the number of salary steps, transition to the lower cost 204 health insurance plan, health insurance contributions in retirement for new employees; and

WHEREAS, the agreement also provides for additional salary increases to certain titles in recognition of certain job consolidations and increased level of duties and responsibilities attached to their employment; and

WHEREAS, employees holding those titles acknowledge that certain salary increases are a result of their acceptance of those additional duties and responsibilities and the elimination of certain titles; and

WHEREAS, the consolidation of duties and responsibilities reduces the need fill certain titles; and

WHEREAS, the proposed agreement is in all respects in accordance with the approved 2010-2013 financial plan, is in compliance with the draft guidelines established by the BFSA for review and approval of collective bargaining agreements; and WHEREAS, the agreement provides for the terms and conditions of employment for the period from July 1, 2004 through June 30, 2011 and supersedes any other terms and conditions for that period, including any changes due to contract, interest arbitration, judgment or otherwise, now in effect or hereinafter existing; and

WHEREAS, the BMHA will pay for the increased costs of this collective bargaining agreement through the use of preexisting savings in the current budget and four-year financial plan; and

WHEREAS, all Local 264 litigation against the BMHA and BFSA concerning the wage freeze will be withdrawn and discontinued; and

WHEREAS, on October 28, 2009, the agreement was approved by the Buffalo Common Council.

NOW, THEREFORE, BE IT RESOLVED, that the BFSA does hereby approve the aforementioned agreement between the BMHA and Local 264, which is to be effective for the period from July 1, 2004 through June 30, 2011, provided that any vacancies in the titles of Occupancy Specialist and Assistant Occupancy Specialist are eliminated and that as vacancies occur in these titles the titles also eliminated.

Motion to approve by Arthur, second by Mesiah. Approval 7-0.

### **Buffalo School District**

#### ***JSCB Phase V Design & Development***

Acting Chair Townsend reordered the agenda and introduced the issue of the JSCB Phase V design and development. She stated that the District had submitted a contract for the design and development for the JSCB Phase V project. A summary of the contract had been prepared and submitted to the Board. She asked Ms. Mongold to provide an overview of the contract.

Utilizing a slide-show presentation, Ms. Mongold provided the following information:

#### **JSCB – Master Design & Construction Agreement for Phase V**

##### **Summary**

- \* Purpose: the performance of pre-construction services;
- \* Defined as the schematic design of the schools and the actual design and preparation of plans and specifications;
- \* Must be performed prior to NYSED (“New York State Department of Education”) approval and funding approval;
- \* Significant to the Phase V process as allows for a seamless transition from Phase IV;
- \* Seven schools to be reconstructed (district-wide technology and energy savings component);
- \* Total request is \$10,200,000 (\$6,000,000 advanced by District, \$4,200,000 advanced from JSCB Local Share);
- \* Upon NYSED approval and bonding, these accounts are reimbursed.
- \* There is the risk that NYSED will not approve Phase V, which means the \$10.2 million would not be reimbursed. This is consistent with other phases.

- \* Another risk is the reduction of State Aid due to the state's current fiscal crisis.
- \* The final risk is the Maximum Cost Allowance (MCA) determination, which could place Phase V in jeopardy. The MCA is not established when final contracts are signed. There is a three month lag, which creates a disconnect and a significant reduction in MCA would have serious consequences for the project.

Acting Chair Townsend thanked Ms. Mongold for the summary. She noted that District Superintendent Dr. James A. Williams was in attendance and invited him to address the Board regarding the issue.

Dr. Williams accepted the invitation and provided the following:

- \* The timing of the project approval is very important. The District submits the fiscal structure of the project to NYSED for approval and then to the JSCB. Following approval from these entities, approval is required by the Buffalo Board of Education and lastly BFSA. If the process is not expedited properly, the project can be delayed extensively or, with respect to the State's fiscal crisis, not at all.
- \* Governor Patterson approved the funding for Phase III of the project after advocacy by the Mayor and the "Western New York Delegation."
- \* Further, the timing of the funding is critical for those contracted to do the construction work, as the scope of the project is extensive and the various entities have invested considerable resources prior to payment.
- \* By 2013 (the anticipated end year of the project), the District will have 48 newly renovated facilities.
- \* Relative to Director Arthur's call for a public hearing on the Phase V issue - it is a good idea following the approval and will highlight the good work done by the Mayor, the District, and the JSCB in setting and meeting the goals established for the project.

Director Arthur asked for confirmation that the Superintendent endorsed a public hearing on the matter. Dr. Williams confirmed that he endorsed it, following approval of the project.

Acting Chair Townsend sought clarification whether Dr. Williams was endorsing a public hearing on the issue by the JSCB. He agreed and stated that it would serve to highlight the good work completed by the various entities.

Director Arthur stated that the public hearing will also highlight areas where benchmarks have not been met as well, specifically in the use of minority-owned and women-owned businesses. The scope and goals of the project are beneficial to the community; the facilitation of the program has failed to meet workforce quotas mandated by the contract. Additionally, some of the construction designs have been lacking.

Acting Chair Townsend requested a motion to approve the Resolution 09-43, "Approving the Master Design and Construction Agreement of Phase V of the Buffalo Public Schools Reconstruction Program."

**RESOLUTION NO. 09-43  
APPROVING THE MASTER DESIGN AND CONSTRUCTION AGREEMENT OF PHASE V  
OF THE BUFFALO PUBLIC SCHOOLS RECONSTRUCTION PROGRAM**

WHEREAS, the Buffalo City School District ("the District"), in cooperation with the City of Buffalo

(“the City”) and the Joint Schools Construction Board (“the JSCB”) has undertaken a comprehensive program to redevelop the educational facilities (“the Program”), has substantially completed Phases I and II, and is nearing completion of Phase III of the Program and has commenced Phase IV of the Program; and

WHEREAS, the State Legislature, by Chapter 605 of the Laws of 2000, as amended by Chapter 59 of the laws of 2003, Chapter 421 of the Laws of 2004, Chapter 283 of the Laws of 2006, Chapter 403, 492 and 497 of the Laws of 2008, and Chapter 209 of the Laws 2009 (collectively, “the Buffalo Schools Redevelopment Act”) has authorized the financing of Phases I, II, III and IV of the Program through the issuance of bonds and notes by the Erie County Industrial Development Agency (“ECIDA”) that, during the existence of a Control Period (as defined in the Buffalo Fiscal Stability Authority Act (the “BFSA Act”), is subject to review and approval by the Buffalo Fiscal Stability Authority (the “Authority”); and

WHEREAS, pursuant to a Comprehensive Program Packaging and Development Services Provider Agreement (the “PPDS Agreement”), dated June 5, 2002 between LPCIMINELLI, INC. (the “Program Provider”) and the JSCB, the Program Provider has undertaken the comprehensive development and redevelopment of the facilities of the Buffalo Public Schools over a ten-year period; and

WHEREAS, the District and Program Provider have identified seven additional school facilities to be redeveloped and the general scope of the work to be completed in such facilities so as to constitute Phase V of the Program, along with a District-wide technology component and energy savings component of the program; and

WHEREAS, pursuant to ARTICLE VIII of the PPDS Agreement, the Program Provider and the JSCB desire to execute this Master Design and Construction Agreement relating to Phase V in order to proceed with the design and construction work; and

WHEREAS, the parties hereto intend that the Master Design and Construction Agreement and the Supplement shall serve as and be deemed to be the fifth (5th) addendum to and part of the PPDS Agreement as contemplated therein; and

WHEREAS, the scope of projects to be completed in Phase V has been expressly authorized by the Buffalo Schools Redevelopment Act and is subject to the approval of the New York State Commissioner of Education; and

WHEREAS, the Program Provider, with the consent and approval of the District, has retained Cannon Design to perform all of the strategic planning and preliminary design services for the Project, and the District, in consultation with Program Provider, has selected the Architects of Record and based on such selection, the Program Provider has retained such Architects of Record to prepare under the supervision of the Program Provider and in consultation with the District, the plans and specifications for submission to State Education Department; and

WHEREAS, in recognition of the joint control of the Architects of Record afforded to the District and Program Provider during the Pre-Construction Phase, the District and Program Provider acknowledge and agree that the District will advance up to \$6,000,000 of fees and expenses for the Architects of Record in the Pre-Construction Phase; and

WHEREAS, after the \$6,000,000 from the District is exhausted, any additional fees and expenses of the Architects of Record for pre-construction work shall be paid out of dollars on deposit in the Local Share Fund, up to but not exceeding \$4,200,000; and

WHEREAS, Section 3858(2)(h) of the Public Authorities Law provides that the Authority “may review and approve or disapprove contracts or other obligations binding or purporting to bind the city or any covered organization;” and

WHEREAS, the District has notified the Authority that it is ready to commence the next phase of the Program with the Program Provider and to implement the Master Design and Construction Agreement for Phase V; and

NOW, THEREFORE IT IS RESOLVED, that the Authority approves the proposed Master Design and Construction Agreement between the JSCB and Program Provider, with approval further conditioned upon the State Education Department’s approval of the plans and specifications for the Program; and further

RESOLVED, that the Authority authorizes the City, the District and the JSCB to enter into necessary and appropriate contracts in connection with Phase V of the Master Design and Construction Agreement; and further

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

Motion by Brown, second by Mesiah. Vote 7-0 to approve.

### **Buffalo School District**

#### ***Review of the 2009 Audited Financial Statements***

Acting-Chair Townsend asked Mr. Link to summarize the District’s 2009 Audited Financial Statements for the Board. Utilizing a slide-show presentation, he provided the following information:

#### **Introduction**

- \* The financial statements were a “clean” audit option;
- \* There were no material weaknesses identified over internal control over financial reporting;
- \* There were no findings or questioned costs over federal awards.

#### **General Fund Highlights (in ‘000’s)**

- \* Unreserved, undesignated fund balance of \$42,586 (6.4% of expenditures);
- \* Total fund balance of \$169,888 (25.3% of expenditures).

## **General Fund Operating Surplus**

Total Surplus of \$119,318 consisting of:

- \* \$28,807 – Appropriated Fund Balance;
- \* \$35,576 – Wage Freeze Contingency;
- \* \$16,718 – Single Carrier Health Insurance;
- \* \$4,798 – Charter Schools;
- \* \$4,172 – Utility Savings;
- \* Vacancies – lower than expected salaries, as follows:
  - \$7,137 positions;
  - \$2,528 retirement contributions;
  - \$1,239 related payroll taxes.
- \* Note – Similar results should not be expected in future years.

### **City of Buffalo**

#### ***Contract with P&J Construction***

Acting-Chair Townsend stated that she had a question relative to a change order in a contract between the City of Buffalo and P&J Construction. The contract was for sidewalk paving; the change order was an increase \$226,000, up to over \$900,000 and was due to “unforeseen conditions and a change in the scope of the project.”

Mayor Brown noted the presence of Commissioner of Public Works, Parks & Streets, Mr. Steven Stepniak as well as City Engineer Mr. Peter Merlo. He asked both gentlemen to address the Board relative to the question.

Mr. Stepniak stated that there is considerable damage done to the sidewalks throughout the year, specifically from tree roots. Mr. Merlo helped establish the amount needed for the year based on the amount allocated for repair in the capital budget. During the course of the year, the City had received a high volume of “311” complaints regarding the conditions of the sidewalks necessitating the need to allocate additional funds for sidewalk repairs. These substandard conditions create a liability for the City and need to be addressed expeditiously when the funds are available.

Further, the change order will not pay P&J Construction more money for the same amount of work; the amount of repair work has been proportionately increased.

Director Arthur asked for clarification that, when a contract is awarded to a company following a successful RFP bid, whether any additional work required by the same company that is responsible for the work. Additionally, he asked what the length of the contract was. Mr. Stepniak confirmed that the company originally awarded the contract was responsible for the addition work and added that the change order was only required because the scope of the project had been expanded. The length of the contract was for one year and a RFP will be sent out, as done previously.

Acting Chair Townsend thanked Mr. Stepniak and Mr. Merlo for their comments.

#### ***City Parks Financial Presentation***

Acting Chair Townsend stated that the BFSAs staff had prepared a high level summary of the estimated

costs of the planned takeover of the park's system management from Erie County. She asked Ms. Mongold to present the summary.

Utilizing a slide-show presentation, Ms. Mongold provided the following information:

**Buffalo Parks Budget**

- \* Duration: January 1, 2010 to June 30, 2010;
- \* Total budgeted Parks Expenditures = \$2.54 million;
- \* The City will add fifty full-time staff & seasonal employees;
- \* Forty-nine of these fifty will be transferred from the County;
- \* The one additional position will be the newly created position of Deputy Commissioner of Parks and Recreation;
- \* Funding for the Olmsted Conservancy will be available.

| <b>Budget</b>            |                    |
|--------------------------|--------------------|
| <b>Personal Services</b> | \$1,993,308        |
| <b>Utilities</b>         | \$5,000            |
| <b>Supplies</b>          | \$177,575          |
| <b>Services</b>          | \$105,100          |
| <b>Capital</b>           | \$0                |
| <b>Other</b>             | \$259,271          |
| <b>Total</b>             | <b>\$2,540,254</b> |

**Other**

- \* \$300,000 to be used from the Department of Public Works capital outlay budget for “start up” costs (equipment to be transferred back to the City);
- \* In 2004, the City maintained a parks staff of 85 full time employees (excluding seasonal);
- \* The intent is to remain within the confines of the \$6.0 million as included in the four year financial plan.

**Olmsted Conservancy funding is unclear**

- \* Olmsted Conservancy staff:
  - Twenty four full-time/ two part-time;
  - Thirteen seasonals (work year round depending on funding);
  - 110 seasonals who work from late March thru mid-November;
- \* In 2009, the County provided \$1.8 million in funding (\$450,000 of which is in-kind services).

Ms. Mongold concluded the presentation.

Acting Chair Townsend noted that both the Board and the staff had received many calls from “interested and worried parties” regarding the fate of the parks. She stated, “At our September Board meeting, we had a staff presentation on the proposed takeover by the City from the County on the operation of the City’s parks. The Mayor indicated his confidence that the management of the parks by the City will be superior to the current management. Board members stated their concern about whether

the arrangement will be cost-effective. The City's budget is very tight, the recession is sharply limiting revenue growth and the huge budget gaps facing the State may well mean cuts in State Aid—or at least no growth in State Aid. These factors mean that now, more than ever, the City needs to spend its limited resources to get the most “bang for the buck”. That it is providing the highest level of service at the lowest cost to its residents.”

She continued, “The ensuing discussion revealed that there were many questions about the turnover and its cost-effectiveness, including at least the following:

1. What will be the role of the Olmsted Conservancy in the new arrangement? The Conservancy has directly funded twenty-four full time employees and numerous seasonal employees in addition to successfully enlisting volunteers to help in tree planting and cleanup. The Conservancy raises substantial private funds to augment its efforts to keep the parks in good condition, including \$8 million in private funding to match dollar for dollar all government revenue over the last five years, including over \$1 million in donations from the Olmsted Trustees alone.
2. If the Conservancy is not involved in the future, how will the City compensate for the loss of these twenty-four employees, other volunteers and contributed funds? The City is set to take over the parks in a mere three weeks on January 1<sup>st</sup>, but the role of the Conservancy has not been resolved.
3. The County assigns parks-maintenance duties to some welfare-to-work recipients. How many such workers are there, and how many full-time workers does this translate into?
4. Will such workers be available to the City when it manages the parks?”

She continued, “Until those issues are resolved, there is no way to know what will be the total staffing devoted to the parks going forward compared to now and therefore whether it is reasonable to assume that, in fact, services will be improved or even held constant, let alone provided in the most cost-effective way. The Board asked for detailed financial and staffing information. The Mayor indicated that this information would be forthcoming. I followed up with a letter to the Mayor on October 29<sup>th</sup> asking, among other things, for a comparison of costs and personnel of all types devoted to the parks under County management and proposed costs and personnel of all types to be deployed under City management.”

She continued, “We have received some information but not what was ordered, in part because there have been no fruitful discussions about the continuing role of the Conservancy. So we find ourselves watching passively as a significant change is about to take place, one that will affect one of the “crown jewels” of this City—its parks system. I think the citizens of Buffalo have a right to feel anxious as well, not knowing important details about how their parks will be managed. I would only say that, in the fullness of time, everyone will be able to judge how well the arrangement is working, and if, in fact, they are getting the bang for the buck and the superior system they were promised.”

Director Johnstone stated, “The parks are one of the few assets available freely to everybody in the City. It is very important that we think about 250,000 people and what these decisions are having in relation to them. I think it is difficult for us to know if this is on-track or operating with a better outcome as the Mayor believes or whether the outcome will be worse because this is being done “behind closed doors” in secrecy. We have had no facts to share. I can not remember any major public decision in my thirty some years in Buffalo of act being so secretive but has so many implications at stake – and it is about to happen without public review, without public comment and without the public even understanding the facts. If this is a good thing for the City, the facts should be able to be shared.

The secrecy I really find very appalling and disturbing. [This is] clouding my view and its prospects and is certainly confirming my review of the process.”

Mayor Brown responded to Director Johnstone’s comments and stated, “When any contract is negotiated by any public body whether it is the federal government, a state government, or a local government, it is done in private, so it is absolutely incorrect to say that this is being done in secrecy. It is quite clear that the parks are coming back to the City of Buffalo. In the 2004 agreement that County Executive Christopher Collins and I inherited from the former County Executive and the former Mayor, the contract required the unions to be a part of the negotiations. So, as a requirement of that contract that we did not sign, we have been negotiating not only with the Conservancy but with the unions.”

He continued, “Any time you make contract negotiations public, that can have an adverse effect to the public. It can adversely affect the taxpayers of this community. It can even result in some things that you are trying to accomplish not being done what-so-ever. People keep dismissing the role that the unions must play in this process with this agreement coming back to the City. We have had very positive negotiations with the unions which I will not go into publically. Those negotiations will enable us to do some very positive things in the parks. We also feel that it would be inappropriate for me and others in this government to try to negotiate this agreement out in public as other entities have been trying to do. With any contract the City has with any vendor, with any not-for-profit group, there is a negotiation. There are items in the City Charter which need to be followed and must be observed. Just because a particular contractor might not want to follow the laws and the rules that we have set up doesn’t mean that we can ignore them as the duly elected government to do that work. I understand the community’s concerns. We have gone over these concerns with them, but it would not be prudent, it would not be wise for us to air these negotiations in public. If the negotiations were aired in public, it could have a very detrimental impact on the operation of the parks in the City of Buffalo.”

He continued, “Now, the Olmsted parks are six parks, very significant parks. They are a “crown jewel.” They are not only enjoyed by City residents; they are enjoyed by County residents. When you look at all of the public spaces that these parks’ systems constitute, parks, playgrounds, recreation centers, parkways, it is 201 spaces. We have to be concerned with the six spaces which are a “crown jewel” and are nationally and internationally know, but we have to be concerned with the other spaces as well – the 195 other spaces that must be maintained. What we have provided to the Board is a plan to transfer 49 employees from the County back to the City. There is no financial impact of the transfer. It is in our budget; it is in our four-year plan. We also are creating the position of a Deputy Commissioner that would report to our Public Works Commissioner [who] would be responsible for the management of our public parks. This position is being funded by the elimination of another position that is already budgeted and funded. Executive Director Mongold mentioned the \$300,000 that we are using for start-up. We have proposed transferring another \$904,077 throughout the remainder of this fiscal year to also fund our start-up (tools, equipment and supplies) that would make it possible for us to operate the parks. One of the things that we have done working with the County: under the old agreement, the City was providing \$1.8 million to the County for the operation of our entire parks system. To improve the delivery of services the citizens were receiving, because the County Executive was not happy with the level of services being delivered, I was not happy with the delivery of service, and we heard from many citizens throughout the City of Buffalo, who, with the exception of some of the Olmsted parks, were also not happy with the service they were receiving in their parks, playground and their recreational centers. Working cooperatively with the County, the City significantly increased its contribution to the parks system to \$6 million from \$1.8 million. Now, for the balance of our fiscal year, we plan to operate the parks with the remaining \$2.5 million and, in the next fiscal year, our plan is to operate the parks with \$6 million.”

He concluded, "So, I have a resolution that I would like to have distributed to the Board that will give us the ability, with Council approval, to have the money that we have requested to transfer the forty-nine employees and to transfer the \$904,000 which is already in our budget and financial plan approved by this body because, if this approval does not take place, that could result in an interruption in parks' service in the City of Buffalo. Now, some of you will say, "We should have gotten this previously." I wish that I could have given it to you previously. But, when you are negotiating with unions and other entities, the negotiations take as long as they take, and you can't set arbitrary timetables for when those negotiations should be completed. So, I have prepared a resolution which I would like considered at today's meeting."

BFSA Comptroller Margreta Mobley distributed a resolution to the Board titled, "Authorizing the Reinstatement of Parks and Recreation Positions," per Mayor Brown's request.

Acting Chair Townsend stated that it was her understanding that, as there is no impact to the current budget or four-year plan, no resolution was required.

Mayor Brown replied that an approval of the transfer of the money was required to fund the positions.

Motion by Arthur to approve, second by Mesiah.

Director Johnstone asked for legal counsel whether the resolution was required.

BFSA's outside counsel, Mr. A.V. Buzard of Harris Beach, PLLC, addressed the Board. He stated that he was unsure as he had just received the document and had not reviewed it.

Director Johnstone stated, "We are all just looking at this now. Appropriately, we should all abstain until we have time to review [the resolution]."

Acting Chair Townsend noted that the language of the resolution stated, "WHEREAS, a modification to the City Budget or Four-Year Financial Plan is not required under the terms of either of these resolutions."

Mr. Buzard asked Mayor Brown whether the Buffalo Common Council (the "Council") had approved a similar resolution yet. Mayor Brown replied that they had not and noted that he had previously stated that it was, "pending the approval of the Common Council."

Mr. Buzard stated that the procedure had typically been to act after the Common Council had.

Director Arthur interjected that, "the "meat" is in the "resolved" section of the resolution. If we look at the last page of the resolution, it states that we are authorizing the reinstatement of the parks' positions only upon and after the approval by the Common Council. In essence, we are memorializing the Council that we are in agreement with the transfer of the positions into the City parks' positions."

Acting Chair Townsend stated, "I feel like this is a way to make the BFSA and its individual members appear like we bless this transition. I am not sure that this is true. It had always been presented that [BFSA] had no role in this because it is in the budget. I am very uncomfortable voting on this until I know, if it is actually required and, if it is not actually required, I do not want to appear to bless this."

Mayor Brown stated, "My view is that, if this is not approved, there will not be positions to transfer by

December 31, 2009.”

Acting Chair Townsend asked for a representative from the City’s Corporation Counsel to address the Board.

Director of Administration & Finance Donna Estrich addressed the Board. She stated that the resolution was deemed necessary as the funding for the positions is currently in the budget, the actual positions are not.

Director Arthur noted that the issue of the Olmsted Conservancy was not at issue at the moment. The first step is the actual transfer of operations from the County system to the City system. The role of the Conservancy will be addressed after this action. Ms. Estrich added that there was concern about the timeliness of BFSA Board approval for this request. If the City administration waited until after the Common Council approved the positions, it would have to wait until February 10, 2010 to receive BFSA Board approval, as this is the next scheduled meeting of the BFSA.

Director Johnstone expressed her discomfort with approving material that had just been received and therefore, did not have adequate time to be reviewed. She stated that passing such a resolution could mean that BFSA was acting “extra-legally.” She addressed this issue to Mr. Buzard.

Mr. Buzard stated that the issue at hand was whether adding the positions required a budget modification. If the positions are already budgeted, then “this approval is not required.”

Acting Chair Townsend stated that the positions were indeed already listed in the budget; BFSA had received a staffing report earlier from the City showing the positions as already filled.

Director Johnstone stated, “There is so much confusion right now that I do not see how any one of us can vote responsibly, so I will be abstaining.”

Mayor Brown stated that, “to transfer the parks back to the City, we’ve had to negotiate with the unions. The Blue-Collar Union, Local 264, these employees which would be transferred back to operate the parks, these negotiations have moved along well [to the point] where we can now provide to you the transfer of these employees. It does not affect our four-year plan; it does not affect our City budget. But because these are new positions, and the Control Board has asked us for the ability to approve new positions, we believe that this action is required and required to be taken today, or we could find ourselves in a position where we can’t operate the parks when the City takes them back over.”

Acting Chair Townsend stated, “We can not operate in this fashion when the terms under the law are not clear. If you would like to press for a vote you may but you will have at least two abstentions.”

Mayor Brown replied, “We would like to press for a vote because we have presented a resolution, it has been duly moved and seconded and I think that a vote is in order.”

Acting Chair Townsend requested a roll call vote.

Director Floss asked, “Before you call the roll of the votes, is this essentially the first stage of the take back of the parks? Will you be coming back to us with additional resolutions? Is this strictly limited to one item before us today?”

Mayor Brown replied, “This is the first stage in the process. We will be coming back to this body with all other information on what we have to do to continue the process of taking over the parks. We have presented this to the Council, it has been filed with the Council, and it has been tabled for Council

review. The Council knows the timeframe that we are dealing with.”

Director Arthur called a roll of the votes, which were as follows: Arthur (aye), Brown (aye), Collins (aye), Giardino (absent), Johnstone (abstain), Floss (aye), Mesiah (aye), and Townsend (abstain).

RECEIVED DEC 09 2009

**BUFFALO FISCAL STABILITY AUTHORITY**  
**RESOLUTION NO.**

**AUTHORIZING THE RE-INSTatement OF PARKS AND RECREATION**  
**POSITIONS**

WHEREAS, in June 2008, the Erie County Executive informed the City of Buffalo of the County's intention to terminate the 2004 City-County Inter-municipal Parks Agreement;

WHEREAS, prior to the termination date in June 2009, the City and County agreed to extend the 2005 Inter-municipal Agreement until December 30, 2009;

WHEREAS, as part of this extension, the City increased its contribution to the city park system by \$4.2 million, from \$1.8 to \$6 million;

WHEREAS, this enabled an increase in park and playground maintenance, including a higher frequency of grass cutting this past season;

WHEREAS, the transfer of management and operations of City Parks from the County requires that the City comply with specific laws and legal agreements;

WHEREAS, under New York Civil Service Law Section 70, the City of Buffalo is required to offer transfer of employment to County employees substantially engaged in the operation of the City Parks as long as the City of Buffalo created the same position as part of its operations;

WHEREAS, a resolution is before the Buffalo Common Council to approve the salary ordinances so that 49 workers transferring from the County, many of which are former City employees, can be assured all rights and privileges in their new association as City employees on December 31, 2009;

WHEREAS, a separate resolution is also before the Buffalo Common Council to transfer \$904,077 to cover additional expenses for the parks system through the remainder of the current fiscal year;

WHEREAS, an additional separate resolution is also before the Buffalo Common Council to create the position of Deputy Commissioner of Parks and Recreation to be funded by the elimination of an existing funded position;

WHEREAS, a modification to the City Budget or Four-Year Financial Plan is not required under the terms of either of these resolutions;

NOW THEREFORE BE RESOLVED, the BFSA authorizes the re-instatement of City parks positions transferred from the County and the creation of the position of Deputy Commissioner of Parks and Recreation contingent upon the approval of the Buffalo Common Council.

This resolution shall take effect immediately.

Approved December 9, 2009

---

George K. Arthur,  
Secretary

Approval 5-0 (2 abstentions).

### **City of Buffalo/ Buffalo Urban Renewal Agency**

#### ***1<sup>st</sup> Quarter Report***

Acting Chair Townsend noted that the Board had received 1<sup>st</sup> Quarter Report summaries from the staff regarding the City of Buffalo, the Buffalo Urban Renewal Agency (“BURA”) and the BMHA. She sought and received agreement to dispense with the staff presentations for these summaries.

#### **BFSA Issues**

Acting Chair Townsend noted that the three remaining issues were two resolutions to honor former BFSA Board and an Executive Session to discuss legal issues.

Director Arthur asked counsel whether or not BFSA had received copies of the resignation letter from former Chair Kolkmeier or former Director Mertz. The Governor’s appointment office should have sent staff a notice of the which would serve as an Authority record. If it has not been received, a request should be made to the appointment office for such material.

Acting Chair Townsend agreed to have this issue researched.

#### ***Honoring Former Chair Paul J. Kolkmeier/ Former Director Wayne Mertz***

Acting Chair Townsend introduced a resolution titled, “Honoring Former BFSA Chair Paul J. Kolkmeier,” as well as a resolution titled, “Honoring Former BFSA Director Wayne Mertz.” She noted that there is more responsibility for a Chair of the Board versus a Director on the Board. Former Chair Kolkmeier is a Buffalo-area resident and was therefore more accessible to the media. He “did a wonderful job under often difficult circumstances and dealt with issues in the most civic minded way possible. The resolution expresses our gratitude and does the same to Wayne Mertz. Wayne Mertz memorialized the term “OPEB” for all of us. We will never, ever forget it.”

Acting Chair Townsend asks for a motion to approve the two resolutions.

**RESOLUTION NO. 09-45**  
**HONORING FORMER BFSA CHAIR PAUL J. KOLKMEYER**

WHEREAS, on July 3, 2003, New York State Governor George Pataki signed into law Chapter 122 of the Laws of 2003, also known as the Buffalo Fiscal Stability Authority Act, which created the Buffalo Fiscal Stability Authority (“BFSA”) to assist in the restoration of fiscal stability in the City of Buffalo and within its covered organizations; and

WHEREAS, Governor Spitzer appointed Paul J. Kolkmeier as BFSA’s third Chairman on October 25, 2007, replacing Brian J. Lipke; and

WHEREAS, Mr. Kolkmeier presided over a seamless transition and provided a steady hand to ensure Buffalo’s fiscal health continued to improve; and

WHEREAS, during his tenure as Chairman, Mr. Kolkmeier oversaw the adoption of two financial plans which contributed to the City’s ability to significantly increase its unreserved/undesignated fund balance and establish a significant rainy day fund, as well as reach affordable collective bargaining agreements with numerous employee groups; and

WHEREAS, after two years of effectively leading BFSA, Mr. Kolkmeier has resigned as Chairman in order to more fully focus on his business, Priam Enterprises, LLC, which continues its steady growth; and

WHEREAS, Mr. Kolkmeier has been tireless in working to promote the mission of BFSA to help restore long-term fiscal stability to the City of Buffalo and its covered organizations; and

WHEREAS, despite his resignation from the BFSA Board, Mr. Kolkmeier’s contributions to BFSA and the community will endure.

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby honor and appreciate Paul J. Kolkmeier for his outstanding contributions to the Buffalo Fiscal Stability Authority, and to the betterment of the City of Buffalo, its citizens and the Western New York community.

**RESOLUTION NO. 09-46**  
**HONORING FORMER BFSA DIRECTOR WAYNE MERTZ**

WHEREAS, on July 3, 2003, New York State Governor George Pataki signed into law Chapter 122 of the Laws of 2003, also known as the Buffalo Fiscal Stability Authority Act, which created the Buffalo Fiscal Stability Authority (“BFSA”) to assist in the restoration of fiscal stability in the City of Buffalo and within its covered organizations; and

WHEREAS, Governor Spitzer appointed Wayne Mertz as a Director of the BFSA on August 9, 2007, replacing and charged with fulfilling Brian J. Lipke’s term; and

WHEREAS, Mr. Mertz participated and acted in the capacity of vice-chair of the Audit, Finance and Budget Committee during his tenure and provided a steady hand to ensure Buffalo's fiscal health continued to improve; and

WHEREAS, during his tenure as a Director, Mr. Mertz was involved with the adoption of two financial plans which contributed to the City's ability to significantly increase its unreserved/undesignated fund balance and establish a significant rainy day fund, as well as reach affordable collective bargaining agreements with numerous employee groups, bringing an experienced hand to the table in regards to labor-negotiations and employee benefits; and

WHEREAS, after two years of effectively participating as a Director of the BFSA and bringing a business savvy eye to the Board concerning issues facing the City of Buffalo, Mr. Mertz has completed the term he was appointed to and will be able return his focus to his business interests; and

WHEREAS, Mr. Mertz has been tireless in working to promote the mission of BFSA to help restore long-term fiscal stability to the City of Buffalo and its covered organizations; and

WHEREAS, despite his departure from the BFSA Board, Mr. Mertz's contributions to BFSA and the community will endure.

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby honor and appreciate Wayne Mertz for his outstanding contributions to the Buffalo Fiscal Stability Authority, and to the betterment of the City of Buffalo, its citizens and the Western New York community.

Motion by Brown, second by Arthur. Vote 7-0 to approve.

### ***Executive Session***

Acting Chair Townsend ask for a motion for the Board to adjourn into executive session to discuss legal matters, pursuant to the New York State Public Officers Law, §105, "Conduct of Executive Sessions."

Motion by Arthur, second by Mesiah. Vote 7-0 to exit into Executive Session at 3:16 PM

---

---

**Executive Session  
December 9, 2009**

**Board Present<sup>2</sup>:** Arthur, Brown, Collins, Floss, Johnstone, Messiah and Townsend

**Staff Present:** Kelly, Mobley and Mongold

**Additionally Present:** Mr. A.V. Buzard, Esq., Outside Legal Counsel with Harris Beach, PLLC

The Board met in Executive Session to discuss various legal issues. The meeting adjourned at 3:25 PM.

---

***Exit from Executive Session***

At 3:30 PM, the Board exited from Executive Session.

Motion to exit Executive Session by Arthur, second by Townsend. Approval 7-0 to exit executive session.

**Adjournment**

Director Arthur offered a motion to adjourn the meeting that was seconded unanimously. The meeting adjourned at 3:34 PM.

---

<sup>2</sup> As of December 9, 2009, the BFSAs board consisted of eight active members and had one vacancy.