

BUFFALO FISCAL STABILITY AUTHORITY

Meeting Minutes

May 12, 2010

The following are the minutes of the meeting of the Buffalo Fiscal Stability Authority Board of Directors held on Wednesday, May 12, 2010, in the Buffalo & Erie County Central Public Library Auditorium. The meeting was called to order at 1:03 PM.

Board Present: Arthur, Brown, Collins, Johnstone, Messiah, Olsen and Townsend

Board Excused: Giardino, Floss

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

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

Opening Remarks

Chair Olsen called the meeting to order. He noted the meeting's agenda as follows:

- * Review of the comments provided at the BFSA's 2010 Public Forum, held May 10, 2010;
- * Consideration of a proposed contract between the City of Buffalo (the "City") and the Olmsted Parks Conservancy ("Olmsted");
- * Consideration of various City of Buffalo budget modifications;
- * Consideration of an agreement between the Buffalo Municipal Housing Authority (the "BMHA") and the non-represented employees of the BMHA;
- * Consideration of the BMHA's 2010-11 Capital Plan;
- * BFSA staff's preliminary, high-level review of the 2010-11 proposed budgets and four-year financial plans of the City and the Covered Organizations (the Buffalo School District or the "District", the BMHA, and the Buffalo Urban Renewal Agency ("BURA"));
- * BFSA staff's review of the City of Buffalo and the Covered Organizations' third quarter reports.

Chair Olsen informed the Board that the presentations of the budget and four-year financial plans will be a very high-level summary. Final review and approval of these plans will take place at the June Board meeting.

Chair Olsen announced that as a result of a suggestion submitted at the 2010 Public Forum by Marilyn Gallivan, a Buffalo resident, the BFSA will now consider adding a ten minute "Privilege of the Floor" period prior to the meetings' adjournments to discuss any items addressed at the meeting. The Privilege of the Floor will be extended to the public at the end of each meeting and provides an additional avenue for the public to communicate with the BFSA Board of Directors. Hearing no objections to the new format, Chair Olsen added the item to today's agenda and future agendas.

Roll Call of Directors

Following his opening remarks, Chair Olsen asked Secretary Arthur to call the roll of Directors.

Director Arthur called roll and confirmed that a quorum was present. The meeting commenced.

Approval of March 11, 2010 & March 22, 2010 Meeting Minutes

Chair Olsen introduced Resolution No. 10-10, "Approving Minutes from March 11, 2010 & March 22, 2010." He asked for a motion to approve.

Motion by Arthur, second by Townsend.

Director Arthur's motion to approve was made contingent on the following modification:

March 22, 2010 Meeting Minutes

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ORIGINAL LANGUAGE:

Board **Absent**: Giardino, Johnstone and Townsend

PROPOSED NEW LANGUAGE:

Board **Excused**: Giardino, Johnstone and Townsend

RESOLUTION NO. 10-10

APPROVING MINUTES FROM MARCH 11, 2010 & MARCH 22, 2010

BE IT RESOLVED that the Buffalo Fiscal Stability Authority approves the minutes of its meeting on March 11, 2010.

BE IT FURTHER RESOLVED that the Buffalo Fiscal Stability Authority ratifies and affirms resolutions 10-06 through 10-08 that were approved March 11, 2010.

BE IT FURTHER RESOLVED that the Buffalo Fiscal Stability Authority approves the minutes of its meeting on March 22, 2010.

BE IT FURTHER RESOLVED that the Buffalo Fiscal Stability Authority ratifies and affirms resolution 10-09 that was approved March 22, 2010.

This resolution shall take effect immediately.

Approved May 12, 2010

Approval 5-0 (as amended).

At 1:06 PM, County Executive Collins exited the proceedings.

2010-11 Public Forum [held May 10, 2010]

Chair Olsen stated that the BFSA Act requires the BFSA to solicit public comments on the upcoming budget and four-year plans of the City and the Covered Organizations within ten days upon receipt of these documents. Public input was solicited at the Public Forum held Monday, May 10, 2010. Additionally, BFSA's proposed budget and four-year plan were included for public commentary, though not a statutory requirement.

Chair Olsen thanked the BFSA's staff for their hard work, particularly Principal Analyst Bryce E. Link, emcee of the event. Additionally, he thanked Mr. Bryan Dettrey, a Ph.D. candidate from the Political Science Department at the State University of New York, University at Buffalo, who served as the independent note taker of the event, per the requirements of the BFSA Act.

Chair Olsen asked Mr. Link to address the Board and provide a summary of the event.

Mr. Link addressed the Board and provided the following summary:

Introduction

- * The Public Forum was attended by three members of the Board: Chair Olsen, Secretary Arthur and Director Johnstone.
- * All BFSA staff was present.
- * Five individuals attended; three provided commentary.
- * The final report will be submitted to BFSA by Friday May 14, 2010

Summary of Comments¹

- * Cost-saving measures will lead to greater efficiency and effectiveness in City operations.
- * The budget proposal is well thought out, does not rely upon financial gimmicks, and protects taxpayers.
- * The main theme in the Mayor's proposed budget is "holding the line" on property taxes.
- * There is concern over the way strategic planning and fiscal planning are lumped together in the budget. Strategic plans have a much longer time horizon whereas fiscal plans are for one-to-four years.
- * There seems to be a "disconnect" in the budgeting process as the shorter-term budgets do not take into consideration long-term plans.
- * The top education leadership positions in the City are filled by people from out-of-town. Promotion should come from within.
- * There is an under-utilization of State parks in the Niagara Corridor, which negatively impacts tourism and development.
- * A public comment period should be held before the budget is prepared so that the priorities of the City residents are known ahead of time.
- * Every public body should have a minimum of two meetings per year that are open to public commentary, or "privilege of the floor." Every member of the body should be required to attend these meetings.
- * If Mayor Brown feels that Buffalo no longer needs a control board, I would trust his integrity and intelligence about this.

Chair Olsen thanked Mr. Link for his summary. He noted that Director Johnstone had stated that it would be advantageous if the City were able to provide the proposed budget earlier so that there would be more time to review it, prior to BFSA's Public Forum. It may also be advantageous to have the City and the Covered Organizations provide a summary of the material at the Public Forum, or highlight some of the more salient points of the budgets for the public.

At 1:18 PM, Mayor Brown entered the proceedings.

¹ The 2010 Public Forum report was prepared by Mr. Dettrey and Mr. Link. It was submitted to the BFSA on May 13, 2010.

City Issues

Olmsted Parks Contract

Chair Olsen introduced the next item for BFSA Board consideration, being the proposed contract between the City of Buffalo and the Olmsted Parks Conservancy. He noted that there were a series of budget modifications next on the agenda, one of which pertains to an additional payment to Olmsted for \$300,000. This budget modification is related to the annual payment that is negotiated under this proposed contract with Olmsted, however will be considered separately as the budget modification was approved by the Common Council before the contract was approved.

Chair Olsen asked Executive Director Jeanette Mongold to review the terms of the proposed contract.

Ms. Mongold addressed the Board and provided the following summary:

Introduction

- * The Amendatory Agreement is dated and effective January 1, 2010.
- * The contract is in the second of three five-year option periods. This current option period expires June 30, 2014. The one remaining five-year option period will take the agreement through June 30, 2019.
- * The contract provides for an annual contribution from the City of \$1,000,000.
 - The annual contribution from the City is a fixed amount through December 31, 2012.
 - On January 1, 2013, an Escalation Clause takes effect. This clause allows the City and Olmsted to review the economics of the transaction and make adjustments accordingly.
- * There is a matching provision for private fundraising dollars. The City will match private donations made to Olmsted on a 2:1 ratio, capped at \$200,000. Whether this is a quarterly or annual cap is not clearly defined in the terms of the contract, which was an intentional omission by the City. There are outstanding questions related to timing of fundraising and potential overlap from one fiscal year to another, and as such the timing was excluded.

Fees Retained by Olmsted

- * Olmsted retains the first \$500,000 of golf course and permit fees. Olmsted will retain 70% of fees above this threshold, with the City retaining the remaining 30%. The previous contract between the County and Olmsted had included a threshold of \$370,000 to be retained by Olmsted.
- * Fees collected from Marcy Casino will continue to be retained by Olmsted.
- * Funds from food concession contracts will be retained by Olmsted; no change noted from the previous contract
- * Fees collected from any new concessions (e.g., parking, transportation, amusements, etc...) will continue to be retained by Olmsted.

Director Arthur asked whether the fees retained by Olmsted were specifically from Marcy Casino or all of the Olmsted Parks. Ms. Mongold replied that the contract specified that fees collections were associated with all the Olmsted parks and parkways. Director Arthur expressed concern with this arrangement and asked for further elaboration on the topic.

The Olmsted Conservancy Chair-elect, Ms. Anne Joyce, addressed the Board. She stated that originally the contract specified that Olmsted would retain fees from concessions up to \$375,000. Olmsted is attempting to maximize “the ability for earned income.” Currently, Olmsted’s annual budget is in excess of \$3,000,000, of which \$1,000,000 of funding comes from the City. Olmsted will be raising the additional \$2,000,000 and “take some burden off of the taxpayers and increase our earned income to use to beautify the parks.”

Director Arthur asked for further explanation on the fees collected for “new concessions, parking, transportation, amusements, etc...” Ms. Joyce provided the following example: Olmsted currently offers lunch at the Parkside Launch. It would like to duplicate this service at some additional sites (e.g., Cazenovia Park, Martin Luther King Jr. Park) to provide a service to the park users as well as add new revenue streams. While not a lot of funds are raised this way, it is still advantageous to provide this service.

Director Arthur gave the example of a heavily attended event, the Annual Pine Grill Jazz Reunion, held at Martin Luther King, Jr. Park. He asked if it was the Olmsted's intention to retain parking fees from this type of event. Ms. Joyce replied that it was not the Olmsted's intention. Director Arthur gave his support for the contract's approval.

Mayor Brown added that the idea was to allow Olmsted to be more entrepreneurial and come up with new avenues for revenues. It will also benefit the City by providing more service to the taxpayers at the parks. Any existing event at a park will not be eligible for Olmsted to charge a fee. Any new event, concessions, rental, etc... that Olmsted creates, will be eligible.

Director Arthur commented that, in the past, Olmsted has not kept the parks open from 10 AM to 10 PM, contrary to the City's ordinance. For example, Shelter House located at Martin Luther King Jr. Park has not always been open when that Park is open. He sought confirmation that this would not occur under the new contract. Ms. Joyce replied that she would investigate the issue and confer with him after the meeting.

Director Arthur noted that a provision of the contract was a waiver of the "Living Wage" ordinance for employees. He sought clarification on this action.

Mayor Brown addressed the issue. He stated that there, "was a concern that, because the Conservancy was providing a public benefit to the residents of the City of Buffalo" the contract must comply with the Living Wage Ordinance. Olmsted expressed concern that providing this level of compensation would be cost-prohibitive to the affordability of the contract. They made a request to the Living Wage Commission to receive an exemption. The Living Wage Commission afforded a partial exemption, which was in turn communicated to the Buffalo Common Council. The intent is to provide an exemption over a longer period of time.

Ms. Joyce added that the exemption covers the seasonal employees. The full-time employees are currently compensated at the Living Wage Ordinance level or higher.

Director Arthur requested data on the levels of compensation for the Living Wage exempt employees. Ms. Joyce affirmed that this would be provided to him.

Mayor Brown added that the employees will indeed receive minimum wage. However, there are a number of individuals who have contacted the City, as well as Olmsted, expressing a desire to work in the parks voluntarily. He added that negotiations were "somewhat lengthy" and expressed gratitude to Ms. Joyce for "stepping in" and providing "a voice of reason" during the negotiations. She helped foster an agreement that was "win-win" for both Olmsted and the taxpayers in a way that was affordable.

Chair Olsen congratulated both parties and called the contract "a very good achievement."

Ms. Mongold concluded the summary of the contract with the following two points:

- * The City will retain permit fees for the use of athletic fields, events, special events, and activities.
- * The City will purchase approximately \$1,000,000 in new equipment to be assigned to the Olmsted Conservancy. Title and associated risks will be retained by the City.

Mayor Brown added that the contract at issue had just been approved by the Buffalo Common Council May 11, 2010.

Motion to approve by Townsend, second by Mesiah.

RESOLUTION NO. 10-11

APPROVE AMENDATORY AGREEMENT BETWEEN THE CITY OF BUFFALO AND THE BUFFALO OLMSTED PARKS CONSERVANCY

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

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

WHEREAS, on May 11, 2010, the Mayor of the City of Buffalo (the “City”) requested BFSA approval of an Amendatory Agreement proposed between the City with the Olmsted Parks Conservancy (“Olmsted”); and

WHEREAS, an agreement was entered into between the City and the County of Erie (the “County”) in 2004 where the County would manage the City’s park system; and

WHEREAS, the Conservancy originally entered into an agreement with the County dated and effective July 1, 2004 (the “2004 Agreement”) for the operation and maintenance of the City’s Olmsted parks; and

WHEREAS, the City assumed the 2004 Agreement effective December 31, 2009, the date the management of the parks was retaken by the City; and

WHEREAS, the City wishes to enter into an agreement with Olmsted to continue the operations and maintenance of the Olmsted parks to be dated and effective January 1, 2010; and

WHEREAS, the City Common Council approved said Amendatory Agreement on May 11, 2010, providing permission for the City of Buffalo to enter into with Olmsted; and

WHEREAS, the Common Council also approved an exemption to Olmsted from the City’s Living Wage Ordinance as permitted by City Charter and Code Section 96-13(H) (1) (c); and

WHEREAS, BFSA Staff has reviewed contract terms with the BFSA’s Board of Directors, and such terms have been deemed to be reasonable.

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority approves the Amendatory Agreement between the City and Olmsted as dated and effective January 1, 2010.

This resolution shall take effect immediately.

Vote 6-0 to approve.

Budget Modifications

Chair Olsen introduced the next agenda item for consideration, a series of City budget modifications per Mayor Brown’s request. He asked the Board to consider all resolutions cumulatively. He asked Ms. Mongold to provide a summary for the Board.

Ms. Mongold addressed the Board and provided the following summary:

Summary

- * The first budget modification involves additional grant revenues of \$32,490 for the Justice Assistance Stimulus Grant (the “JAG”) (maximum amount).
 - It will be used for remaining fiscal 2010 wages for five Camera Monitors.
 - Only actual eligible expenses that are incurred are reimbursable.
- * Second, \$200,000 of additional funds are needed for the purchase of a Mass Casualty Ambulance Bus.
 - Funding is requested from Reserved Fund Balance for Emergency Medical Services.
 - Funding is received on an annual basis from the Rural-Metro Services. Of the \$350,000 received annually, any unspent portion is reserved for.
 - Currently, there is approximately \$719,000 available in the reserve fund.
- * Thirdly, the City has received reimbursement in 2010 from the Restore NY program in the amount of \$2,061,579. The City is requesting approval to use these funds as follows:
 - \$300,000 - Colored Musician Club;
 - \$300,000 - Olmsted Conservancy;
 - \$325,000 - Additional payments for Injured-on-Duty employees;
 - \$275,000 - Additional VOIP;
 - \$335,000 - Building repairs;
 - \$500,000 - Demolitions.
 - There is a remaining positive variance of \$26,000.
- * The final modification involves reimbursement to the members of the PBA for healthcare contributions retained by the City.
 - The reimbursements are retroactive to July 1, 2004.
 - Resulting from an arbitration ruling.
 - A total amount of \$1,374,820 was paid in March 2010.
 - The funding source is identified as unreserved, designated fund balance (designated for various claims and litigation).
- * Material had been sent to the Directors for consideration of an additional budget modification, for a transfer to the Solid Waste & Recycling Refuse Fund. This item has been removed for consideration at this time, at the request of the City
- * The total budget modification is \$3.6 million.
- * The total revised budget, upon approval of the various budget modifications, will be \$454.7 million; the original budget included \$449.1 of total budgeted appropriations.

Ms. Mongold concluded her presentation.

Director Townsend asked a question relative to the PBA arbitration decision. She asked whether or not the employees had “paid zero (dollars) for their health insurance costs for five or six years?” Chair Olsen directed the question to Mr. A.V. Buzard, BFSAs’ legal counsel with Harris Beach, PLLC.

Mr. Buzard replied that in 2004, the City had effectively taken away the ability for police officers to choose their healthcare insurer and shifted to a single insurance carrier. The arbiter ruled that the City did not have the legal authority to act in this manner and when the City eliminated the officers’ right to choose, the City nullified the right to have officers contribute towards their health care.

Director Townsend asked if the arrangement had been similar to the situation wherein the Buffalo Board of Education had unilaterally shifted workers to a single provider while replicating all benefits once provided by several carriers at no additional cost to the user.

Mr. Buzard replied that he had only examine the arbiter’s legal decision and reiterated that the ruling was that, as the City did not have the authority to shift to a single health insurance carrier, it should not have collected contributions toward the health insurance and therefore incurred this as a liability to be repaid.

Director Townsend explained that, “City employees and retirees had been covered under a multiplicity of plans. A health insurer came forward and said that we can save the City and School District a lot of money if you insure them through us, and that any plan that an individual now has, he or she will receive no diminution of benefits, no increased co-pays, [and] no loss of cosmetic surgery if it is already included. It was designed to save the City money at no loss of benefits to employees. I understand [the arbiter’s ruling], but want the public to understand that this was not an unreasonable thing for the City and the School District to want to do. They were not hurting anybody and they were saving public dollars. At this time of fiscal stringency, to repay \$1.4 million to people for coverage [that they had received]” is not prudent; it saved the City money by design and was rational.”

Mayor Brown asked Mr. Buzard to comment on Director Townsend’s remarks. He replied that, “it is reasonable on both sides. The fact is that the City [by changing the provider] modified the collective bargaining agreement in 2004 without obtaining the consent of the union.”

Mayor Brown noted for the public record that he had not been Mayor at the time of this action.

Chair Olsen concurred with Director Townsend’s frustration noting that it is particularly frustrating due to the dire fiscal condition in the School District. The funds could be better spent educating students.

At 1:31 PM County Executive Collins reentered the proceedings.

Director Arthur noted that he would vote to approve the items with the exception of the \$300,000 payment for the Colored Musicians Club. The abstention is deemed prudent as he is an unpaid member of the Board of Directors for this entity.

Motion to approve by Brown, second by Johnstone.

RESOLUTION NO. 10-12

APPROVAL OF THE CITY OF BUFFALO’S BUDGET MODIFICATIONS TRANSFERRING FUNDS FROM MULTIPLE SOURCES FOR A VARIETY OF PURPOSES INCLUDING: FUNDING OF CERTAIN POLICE DEPARTMENT POSITIONS; ACQUISITION OF AN EMERGENCY VEHICLE; PROCEEDS TO BE MADE AVAILABLE TO VARIOUS ORGANIZATIONS IN THE CITY; INCREASES FOR VARIOUS OPERATIONAL EXPENDITURES INCLUDING INJURED-ON-DUTY PAYMENTS, VOIP TELEPHONES, AND DEMOLITIONS; AND REIMBURSEMENT TO POLICE BENEVOLENT ASSOCIATION MEMBERS FOR CERTAIN HEALTHCARE CONTRIBUTIONS

WHEREAS, on May 6, 2010, the City of Buffalo (the “City”) submitted a series of budget modifications for the 2009-2010 fiscal year to the Buffalo Fiscal Stability Authority (the “BFSA”) requesting BFSA approval; and

WHEREAS, the proposed modifications would amend the budget originally approved by the BFSA on June 10, 2009 and subsequently modified and approved on March 22, 2010; and

WHEREAS, the budget modifications affect the City’s 2009-10 previously approved Revised Budget and does not effect the remaining years of the four-year financial plan; and

WHEREAS, the City desires to use Justice Assistance Grant (JAG) proceeds available to the Police Department for wages to be paid for five (5) Camera Monitors, to be hired upon BFSA approval, for the remainder of the 2010 fiscal year; and

WHEREAS, the budget modification would recognize the additional revenue source in the amount of \$32,490 of JAG funding; and

WHEREAS, the City's JAG Program has sufficient resources available; and

WHEREAS, the City has requested a budget modification in the amount of \$200,000 to be used towards the purchase of a Mass Casualty Ambulance Bus which will cost a total of \$400,000; and

WHEREAS, the budget modification would transfer funding from Reserved Fund Balance for Emergency Medical Services in the amount of \$200,000 with the remaining funds previously budgeted for a Homeland Security Grant made to the Fire Department; and

WHEREAS, the Reserved Fund Balance for Emergency Medical Services along with the Homeland Security Grant in the Fire Department has sufficient resources available to pay for the Mass Casualty Ambulance Bus; and

WHEREAS, the City has requested a transfer from the General Fund in the amount of \$600,000 to be provided to the Colored Musicians Club (\$300,000) for Capital Improvements and the Olmsted Parks Conservancy (\$300,000) for payroll costs; and

WHEREAS, the City's General Fund has sufficient resources to pay for the grants to the Colored Musicians Club and the Olmsted Conservancy as a result of receiving a reimbursement for prior year expenditures related to the Restore New York program in the amount of \$2,061,579; and

WHEREAS, the City has requested additional budget modifications which include a \$325,000 increase to cover additional Injured-On-Duty payments, \$275,000 for additional VOIP telephones in the Department of Public Works, \$335,000 for numerous repairs to outside buildings and \$500,000 to conduct current year demolitions; and

WHEREAS, the City has sufficient resources to cover costs for these budget modifications from the reimbursement for prior year expenditures related to the Restore New York program; and

WHEREAS, an Arbitrator ruled that the City must repay members of the Police Benevolent Association (PBA) for healthcare contributions withheld by the City retroactive to July 1, 2004; and

WHEREAS, the City has sufficient resources to cover the \$1,374,820 PBA grievance in the City's Unreserved, Designated Fund Balance fund for various claims and litigation; and

WHEREAS, the City's Common Council previously approved certain of the above budget modifications totaling \$600,000 and the remaining budget modifications in the amount of \$3,042,320 on May 11, 2010; and

WHEREAS, the City has ensured BFSA that the series of budget modifications are fully funded and leave sufficient reserves in transfer lines to fund any unforeseen contingencies; and

WHEREAS, BFSA staff has reviewed the budget modifications and determined that they comply with the requirements of the BFSA Act.

NOW THEREFORE BE IT RESOLVED THAT, the Buffalo Fiscal Stability Authority hereby determines that the proposed budget modifications are complete and hereby approved.

This Resolution shall take effect immediately.

Vote to approve 7-0 on all items sans the funds transfer to the Colored Musicians Club. Vote to approve 6-0 on the funds transfer to the Colored Musicians Club (Arthur abstains).

Buffalo Municipal Housing Authority
BMHA Non-Represented Employees – Request for Contract Approval

Chair Olsen advanced the agenda to the next item for consideration: a contract between the BMHA and the non-represented employees. BFSA had approved a collective bargaining agreement between BMHA and the union in December 2009. BMHA management has reached an agreement with the non-represented employees. Chair Olsen noted the contract with the Operating Engineers remains outstanding. He asked Ms. Mongold to provide a summary for the Board.

Ms. Mongold addressed the Board and provided the following summary:

Introduction

- * The BMHA has reached an agreement with the non-represented employees;
- * It excludes the following positions:
 - Executive Director;
 - Deputy Executive Director;
 - General Counsel.
- * It includes twenty-four budgeted positions.

Terms

- * There is no wage increase from 07/01/2004-06/30/2007 (during the period of the BFSA imposed wage freeze);
- * Retroactive wage increases effective as follows:
 - 3% wage increase would be effective 07/01/2007;
 - \$2,000 upgrade & 3% wage increase effective 07/01/2008;
 - 3% wage increase effective on 07/01/2009;
 - 3% wage increase effective this upcoming July 1, 2010;
- * All other provisions of the White-Collar Union contract apply;
- * The total cost is estimated at \$613,000, as follows:
 - \$447,000 through 06/30/2010;
 - Remainder in FY 2011 (\$166,000)
- * The agreement terminates June 30, 2011.

Ms. Mongold concluded her presentation.

Director Townsend asked if there were any concessions from the non-represented employees (i.e. removal of days off, healthcare concessions, etc...). Additionally, she asked if the chief funding source for the employees was from federal funds. Ms. Mongold replied that their salary increases were partly offset through the change to a single insurance carrier. Paid leave time was restructured. There was an increase in the number of salary steps. She deferred to the BMHA Executive Director or Deputy Executive Director for further specificity.

Director Townsend declined this offer. She stated that the salary increases each year from July 1, 2007, through July 1, 2010, are large, especially given the current economic climate. Many individuals in the private sector are not only not receiving salary increases, but also receiving salary cuts. The concessions are positive; the agreement is “relatively generous.”

Motion to approve by Brown, second by Johnstone.

RESOLUTION 10-13

APPROVAL OF THE OBLIGATION OF THE BUFFALO MUNICIPAL HOUSING AUTHORITY FOR THE WAGE AND BENEFIT PACKAGE PROVIDED TO NON-REPRESENTED EMPLOYEES

WHEREAS, Chapter 122 of the Laws of 2003, Section 3858(H) requires that during a control period the Buffalo Fiscal Stability Authority (“BFSA”) may review approve or disapprove any contracts or other obligations binding or purporting to bind the City of Buffalo (“City”) and the Covered Organizations; and

WHEREAS, management of the Buffalo Municipal Housing Authority (the “BMHA”) has reached an agreement for the Wage and Benefit Package with non-represented employees; and

WHEREAS, the non-represented employees have not received a pay increase since June 30, 2003; and

WHEREAS, past precedent has established a standard that the non-represented employees be provided similar compensation increases and changes to benefits as those received by the members of the Local 264 White Collar employee group; and

WHEREAS, the BFSA approved a collective bargaining agreement between the BMHA and Local 264, whose members include the White Collar employee group, on December 9, 2009; and

WHEREAS, the BMHA submitted the details of the Wage and Benefit Package for non-represented employees 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, and health insurance contributions in retirement for new employees; and

WHEREAS, the proposed agreement is in all respects in accordance with the approved 2010-2013 financial plan, and also is in compliance with the draft guidelines established by the BFSA for review and approval of obligations; and

WHEREAS, the Wage and Benefit Package for non-represented employees was approved by the Buffalo Common Council on April 27, 2010.

NOW, THEREFORE, BE IT RESOLVED, that the BFSA does hereby approve the Wage and Benefit Package between the BMHA and the non-represented employees of the BMHA, which is to be effective for the period from July 1, 2004 through June 30, 2011.

This Resolution shall take effect immediately.

Vote to approve 7-0.

BMHA Capital Budget

Chair Olsen advanced the agenda to the next item for consideration: BMHA’s Capital Budget Plan. He asked Principal Analyst Mike Kelly to provide a summary for the Board.

Mr. Kelly provided the following summary for the Board:

Introduction

- * BMHA has requested approval of its 2010-2011 Capital Fund Program and related budget disbursement plan.
- * Unlike last year, the Capital Fund Program does not include federal stimulus funds. Federal stimulus funds were authorized as part of the 2009-2010 Capital Fund Program but not for the 2010-2011 Capital Fund Program.
- * BMHA’s 2010-2011 Capital Fund Program includes over \$10 million in spending and is typically used for capital improvements such as new roofing, new doors, and upgrades to lighting, elevator improvements, alarm systems, sewer repairs and heating/cooling systems.

2010-2011 BMHA Capital Fund Program Spending

- * Spending breaks down as follows:
 - 65% of the funds will be used for projected related improvement to the housing that BMHA manages for its residents.
 - The remaining 35% will be used for non-project spending such as home office operations, management and administration.
- * Annual project related spending compares as follows:
 - 64.7% of total spending in FY 2004;
 - 60.7% of total spending in FY 2005;
 - 73.6% of total spending in FY 2006;
 - 70.9% of total spending in FY 2007;
 - 72.2% of total spending in FY 2008;
 - 77.7% of total spending in FY 2009;
 - 65.0 % of total spending in FY 2010.
- * Proposed related spending is roughly average when compared with historic data.
- * Proposed related spending is down from last year largely due to the lack of federal stimulus funding available in the prior year.
- * BMHA has made some important improvements to its housing stock which is older and in need of updates.

Mr. Kelly concluded his presentation.

Chair Olsen canvassed for any Directors’ questions or comments. Hearing none, he asked for a motion to move the item.

Motion by Mesiah, second by Arthur.

RESOLUTION NO. 10-14

APPROVAL OF BUFFALO MUNICIPAL HOUSING AUTHORITY 2010-2011 CAPITAL FUND PROGRAM

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 the region, and

WHEREAS, BMHA presented their Capital Fund Program budget to the United States Department of Housing and Urban Development (“HUD”) for approval, and

WHEREAS, HUD authorized an estimated Capital Fund Program in the amount of \$10,129,351, which is the same amount received and approved for BMHA’s Capital Fund Program in the prior year, and

WHEREAS, HUD will approve BMHA's PHA Plan for 2010 by June 30, 2010, and subsequently release the actual amount of BMHA's Capital Fund Program in August 2010; and

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

WHEREAS, BMHA must, in accordance with HUD and other federal regulations, 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 2010-2011 Capital Fund Program.

This Resolution shall take effect immediately.

Vote to approve 7-0.

Review of Proposed 2010-11 Budget & Four-Year Financial Plan
City of Buffalo

Chair Olsen advanced the agenda to the next item for consideration: review of the proposed 2010-11 budgets and four-year financial plans. He asked Mr. Kelly to summarize the initial findings related to the City of Buffalo's budget.

Mr. Kelly noted that the overview would be high-level as the material had just been received. A more detailed overview will be provided at the June 9, 2010 Board Meeting. He thanked the Mayor and the Mayor's staff for the assistance provided. He offered the following summary:

Introduction

- * The City's financial plan as presented is balanced. In order to be in balance the City had to undertake a series of gap closing measures, which will be discussed during the presentation.
- * Overall, the financial plan presents deficits totaling \$57.74 million dollars. In 2010-11, the upcoming fiscal year, the City utilizes \$12.2 million of unreserved, undesignated fund balance to eliminate the gap and balance the budget.
- * The use of fund balance to pay for recurring expenditures is not the best use of reserves. The City also plans to utilize a total of \$24.8 million in unreserved, undesignated fund balance in the out years of the financial plan.
- * The 2010-11 budget totals \$460.6 million, including transfers to the School District, Refuse Fund and for Debt Service, and represents a 2.6% increase over last year's total adopted budget of \$449.1 million.
- * When compared with current forecasts for FY 2009-10 which incorporate modifications approved over the last twelve months, the proposed budget is closer to how the current fiscal year is anticipated to finish.

City 2010-11 Proposed Revenue (Total Budget = \$460.6 million)

- * State revenue totals 41% or over \$190 million dollars.
- * City revenue sources total 38% or nearly \$171 million.
- * County revenue is another 16% or \$71.5 million.
- * All other revenue totals a little over 6% or \$28 million.
- * Revenue growth is minimal over the period of the financial plan when excluding the use of restricted AIM funds.
- * When transfers are removed from the budget, the operating budget totals \$355.2 million, an increase from \$346 million, and includes an overall increase in the tax levy equivalent to \$1.9 million.

City 2010-11 Proposed Spending (Total Budget = \$460.6 million)

- * The City proposes spending of \$460.6 million during the 2011 fiscal year.
- * The City's budgeted fringe benefits costs total \$119 million and make up the largest expenditure. Transfers, including to the District, total another \$105.3 million, police totals \$79.5 million, fire totals \$56.2 million, public works totals another nearly \$27.5 million, and all other funding (including utilities) totals another \$73.1 million.
- * Compared to the relatively flat revenues in the plan, expenditures grow to \$481.8 million by 2014.

Employee Costs are 85% of Budget (Salaries & Benefits = \$300.6 million)

- * The City's expenses are now nearly 85% employee-related, excluding transfers, an increase from 82% in last year's proposed budget.
- * All other spending equals just 15% of expenditures.
- * Total salary and benefit costs are expected to total over \$300 million in 2010-11.

City Historical Salary Costs

- * Since 2006, salary expenses in the City have increased \$38.1 million or 26.5%.

City Historical Fringe Benefit Costs

- * Since 2006 fringe benefits have increased by \$31.2 million or 35.5%.

Average Cost per City Employees (Salary & Benefits vs. Budgeted Positions)

- * In 2006, the average employee compensation expense was \$93,255 per budgeted employee.
- * In 2011 that expense is expected to grow to \$115,813.
- * In that time the average compensation for a City employee increased nearly \$22,558 or over 24%.

Director Townsend asked for clarification. She noted that it appeared that the average fringe benefit cost per employee in fiscal year 2011 was nearly \$40,000 while the average salary cost was \$70,000. Mr. Kelly confirmed this and noted that it was derived by taking the aggregate costs of both salaries and benefits and dividing them by the number of budgeted positions. Actual employee costs will have a wide variance, depending on the position.

State Aid (General City Revenue)

(Only Aid & Incentives for Municipalities ("AIM") funds were considered)

- * State Aid has continued to increase for the City of Buffalo through 2009-10.
- * In the upcoming 2010-11 fiscal year, State Aid is not expected to increase.
- * In the upcoming fiscal year the City is forecasting AIM of \$165.66 million, a decrease of \$3.34 million over 2009-10 levels. The forecast is inclusive of the Governor's recommended budget, which further decreased City revenues by \$1.7 million in addition to the \$1.7 million decrease in December 2009.
- * **Note:** New York State has yet to adopt a budget. Assistance to the City for 2010-11 has not yet been finalized.
- * 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 restricted AIM of \$6.9 million in 2012, 2013 and 2014 currently being held by BFSAs, to balance the plan as described by the City in the financial plan.

City Budgeted Spending by Year (FY2004-2011)

- * From fiscal year 2004-2011, spending has increased \$77.7 million or 20.3 percent.
- * Spending for this upcoming fiscal year is expected to increase by \$11.5 million and by an additional \$21.3 million by 2014.

Budgeted City Workforce (FY2004-2011)

- * In fiscal year 2004, the City had a high of nearly 2,790 employees.
- * In the proposed fiscal year, staffing is budgeted at 2,596 employees, a net increase of four positions from the current fiscal year.

City of Buffalo Four-Year Financial Plan – Structural Gaps

- * Structural imbalance is apparent. Expenditures continue to grow quicker than revenues.
- * By 2014, revenues are expected to total approximately \$473.1 million while total expenditures are expected to total \$481.8 million, a gap of almost \$9 million.
- * The City has devised a series of gap closing measures, as follows:
 - The use of fund balance;
 - Service and workforce reengineering;
 - Offsite time and attendance improvement initiatives; and
 - Asset and property management plans.

City of Buffalo Budget & Four-Year Financial Plan - Considerations

- * The financial plan is generally more risky than the last two plans.
 - **Example:** The City plans to use \$37 million in unreserved, undesignated fund balance for recurring costs over the life of the financial plan. The use of \$37 million in fund balance is nearly 77% of the City's current undesignated, unreserved fund balance. The four-year gap totals \$57.7 million.
- * The City plans to use \$6.9 million in restricted AIM funds in 2012, 2013 and 2014 to balance its financial plan. These AIM funds, if used for such purposes, will not be available for other areas of need in City operations such as demolitions or efficiency projects.
- * Capital outlays, supplies and services remain at levels that may not be sustainable for City operations over the course of the financial plan.
- * Overtime costs for fire and police are not budgeted to increase from 2009-10 levels. Historically, overtime costs have grown fairly substantially on an annual basis.
- * 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. This budget has very little room for new CBA's or potential arbitration awards.
- * Other Postemployment Benefits ("OPEB") continue to loom large and could have a significantly negative impact on the City's future financial picture.

Mr. Kelly concluded his summary.

Director Townsend expressed deep concern that, "we have a structural budget gap [that] I expect will get worse. The City of Buffalo has enjoyed a tremendous growth in State aid. It is the single most important factor, along with the savings from the wage freeze that accounts for the City's improved fiscal picture. Looking at the State budget gaps is a very scary thing." The State is currently facing a \$9 billion budget gap. That baseline gap expands to \$20 billion by fiscal year 2014. She added, "76% of State spending is on Medicaid, School Aid and other Local Aid. It seems inevitable that there will be further cuts in State aid beyond those proposed by Governor Patterson for this fiscal year." Yet, "the City of Buffalo's financial plan assumes a flat line." Assuming that further reductions in State aid are very possible, the question must be asked of where funds will come from to make up for this shortfall.

Director Townsend continued that the City anticipates tax revenues to grow by \$7.9 million through the financial plan. Fringe benefits, representing health insurance for current and retired employees and pensions, will grow "by almost \$17 million. That is why I get so exercised - when it was possible for employees to get the same health care benefits that they were already getting and save the City money [it wasn't allowed]. The unions challenged that, and the City [will have to spend] money that it does not have." Additionally, the use of undesignated, unreserved funds and AIM funds is worrisome. It assumes no raises for firefighters through a resolved collective bargaining agreement. Historically, resolved CBAs have yielded a \$5,000 baseline increase per firefighter.

Director Townsend added that members of the BFSAs have looked very closely at fringe benefits. She added, "It is wonderful to have City employees whose total compensation totals \$120,000 with \$40,000 in fringe benefits. It is not affordable though and therefore not fair to City taxpayers, few of whom enjoy these levels of benefits."

“One question I have here for the Mayor is: What is your strategy on fringe benefits and for things that you can’t control, such as pensions? Are you lobbying actively in Albany?”

Mayor Brown replied that Director Townsend “makes a very compelling case and has asked some persuasive questions. Albany imposed a control board. They imposed a wage freeze, and since I’ve been in office since 2006, almost every action we have taken [has led us to] be sued by our labor unions. In the writing of the legislation that established the control board and the freezing of wages, there are numerous weaknesses and deficiencies in how that statute has been written. There is not the strength in Albany to tighten those weaknesses and deficiencies because, if they did, they would incur the wrath of the unions.”

Mayor Brown added, “They don’t have the strength in Albany to do what is necessary for us to move along the path of intelligent strategy. On one hand we tout the benefits of the wage freeze. Yet I have to deal with people everyday that are enraged that their wages had been frozen. They are suing, trying to get back every penny of wages that have been frozen.”

Director Townsend questioned whether all of the bargaining unions affected by the wage freeze are involved in litigation against the City for the wage freeze. She noted that there have been several legal victories upholding the validity of the wage freeze.

Mayor Brown responded that the largest unions are involved in litigation against the City. He added, “One labor leader told me that he won’t ‘sit down’ with you or negotiate a contract until you give me all of the money that I was supposed to get under the previous Administration. So it is a very difficult position. The former Governor, Governor Spitzer, had offered to come in and meet with the labor unions and talk about the financial difficulty of the State and other issues. That meeting never happened. Our strategy has been to try to explain to our labor unions the difficult position that the City is in and to try to do things that save dollars and make us more efficient so that we can give them fair raises that are affordable for our taxpayers. Some of the unions could care less about affordability to taxpayers. That is the reality [of the situation].”

Director Townsend asked what the current population of the City is. She asked how many people work for the City and for the School District.

Mayor Brown replied that the population was roughly 285,000 people and that the workforce was roughly 2,400 individuals for the City and nearly 5,000 for the District.

Director Townsend opined that perhaps the Mayor needs more taxpayers who understand the dire straits of the financial situation to explain it to their friends and neighbors and help the Mayor in his efforts toward more taxpayer friendly compensation packages.

Mayor Brown replied that the City does need help explaining that because “Labor leaders are allowed to get on TV and lie. The media doesn’t question it; they don’t correct it. I remember at my State of the City address, the president of the firefighters’ union marched around outside of the Convention Center saying that I had denied ‘death benefits’ to firefighters and their families which was untrue: it was a responsible action of the City Comptroller who did not want to incur liability for paying for alcohol expenses. Yet that labor leader said that it was me and, even when documentation was shown to prove that it wasn’t me, that leader was still allowed [to make these assertions in the media. As] the members of this Board know, we offered the firefighters union contracts in 2007 and 2008. Everybody on this Board was not happy with these contracts; it was a real struggle to get those contracts through. Some of the members of this Board thought that the contracts were too rich. Those contracts were fairly negotiated, in good faith, with the elected union representatives of the firefighters union and each time those contracts were voted down by the rank-and-file. Now, I have yet another union president, the current president, saying that I will not negotiate with the firefighters in good faith. This is absolute total nonsense. I have said on numerous occasions that I will sit down anytime and at anyplace if he wants to honestly, fairly and reasonably negotiate a contract but I doubt that that is really his intent.”

Mayor Brown added, "This is a toxic labor environment. The level of unreasonableness of the leadership of some of these unions who are directing people down this path is very problematic." Members of the rank-and-file want to be reasonable and negotiate a new deal but do not have the ability to "break with" the leadership of some of these unions who make the decisions not to negotiate. He added, "We have tried to be fair. We have tried to be honest. We have tried to do what is affordable for the taxpayers but the leadership of some of these labor unions could care less about that."

Director Townsend noted the difficult position the Mayor has in negotiating. She added, "Since Albany is not likely to give you much more money perhaps they can be helpful in giving you relief in the pension area, in workforce rules, etc."

Mayor Brown thanked Director Townsend. He lamented that pension reform is unlikely as the State's leadership has been unsuccessful getting a budget passed, less any structural reforms.

Chair Olsen noted that, "it is easy to look at this four-year plan and see prospective problems. It is certainly impossible to predict the financial viability of the State four years in advance. It gives rise to a very difficult transition period for this Authority. Without a doubt, the City has been able to 'remain in the black' through very responsible budgeting, the wage freeze, and the additional State aid. The budget picture for the schools is cataclysmic; it is hard to treat it as balanced even though it can be balanced on the books." He added, "It is very important that as we progress inevitably toward a more advisory status that we remain closely connected in terms of communication. It seems that it will be very difficult to maintain an advisory status for very long given the realities of the School District."

Mr. Buzard offered the Board a minor clarification regarding the status of litigation. He noted, "The major lawsuit that is looming will likely be argued in the Court of Appeals in the fall. [A loss of the lawsuit] would not restore wages lost or taken away by the wage freeze. There would be a massive imposition on the City because each of the employees would be deemed to have moved forward" on their respective salary steps up to three steps. There is currently no pending litigation for retroactive payments for wages lost during the freeze, only to move employees to a salary step they would have been at had their been no freeze at all.

Mayor Brown noted that, "It is the strategic desire to get back every penny lost and then some. If the State does not [address this] through statute then labor negotiations are impossible."

Buffalo School District

Chair Olsen advanced the agenda to the next item for consideration: an overview of the School District's 2011 Budget and Four-Year Financial Plan. He asked Mr. Link to provide a summary of the material for the Board.

Mr. Link addressed the Board and provided the following summary:

Introduction

- * The School District's budget is based on the Governor's Executive Budget. The State is currently over forty days late adopting the FY 2011 budget.
- * Any variance between the Governor's Executive Budget and the final adopted budget could have an adverse affect on the District.

School District's 2010-11 Proposed Revenue (All Funds=\$924.4 million)

- * Foundation Aid – 44%
- * Other State Aid – 21%
- * Grants – 13%
- * Property Tax – 8%
- * Use of Reserves – 5%
- * Sales Tax – 4%
- * Food Service 2%
- * Other General Fund – 2%

School District's 2010-11 Proposed Spending (All Funds=\$966.5 million)

- * General Fund Workforce - 52%
- * General Fund (Other) – 15%
- * Grants – 12%
- * Debt Service – 11%
- * Charter School Payments – 8%
- * Food Service – 2%

Structural Deficit – \$31.5 million/year

- * Employee and Retiree Benefits - \$15 million or 47%
- * Salary Steps - \$6.5 million or 21%
- * Charter School Payments - \$6 million or 19%
- * Other Operating Expenses - \$4 million or 13%

Buffalo Public School District: 2011 Budget & Four-Year Financial Plan

- * 2010-11 Baseline Deficit - \$40.6 million
- * 2011-12 Baseline Deficit - \$49.6 million
- * 2012-13 Baseline Deficit - \$70.6 million
- * 2013-14 Baseline Deficit - \$83.8 million
- * 4-Year Impact - \$244.6 million Baseline Deficit (before the use of reserves)
- * 4-Year Impact - \$201.9 million Baseline Deficit (after the use of reserves)

Health Insurance Costs (Employee & Retiree)

- * Fiscal Year 2005-06 - \$54.4 million
- * Fiscal Year 2013-14 - \$144.8 million
- * Increase of 166% from fiscal year 2006 to fiscal year 2014

Director Townsend asked if it was an accurate statement to say that once someone has retired there is no way to affect his or her retirement package. Mr. Link confirmed this. The only exceptions would be if it were specifically defined in the contract at the time of retirement or if the retiree agreed individually to alter the terms of the health insurance coverage with the School District.

Health Insurance Costs (Employee & Retiree)

- * Retiree healthcare costs exceed active employee healthcare costs by approximately 30%. The variance widens in the out years of the financial plan as the number of retired employees-to-active employees increases.

District Fringe Benefits

- * Includes health insurance as well as “all other” benefits including: Social Security payments, contributions to the retirement system and termination pay
- * Health insurance benefits have increased from \$54.4 million in fiscal year 2005-06 to \$104.2 million for 2010-11, which is an increase of 92 percent or close to \$50 million in five-years.
- * All other benefits have increased from \$47.5 million in fiscal year 2005-06 to \$59.9 million.
- * The increase is relatively inelastic from fiscal year 2005-06 to 2009-10. There is a sharp increase in the 2010-11 fiscal year due to an adjustment in State-mandated pension costs.

District Compensation

- * Fiscal year 2005-06 - \$185.8 million
- * Fiscal year 2010-11 - \$332.3 million

General Fund: District Employees

- * Fiscal year 2005-06 – 3,504 employees
- * Fiscal year 2007-08 – 4,531 employees (Roughly 800 of these were due to the reclassification of positions)
- * Fiscal year 2010-11 – 4,604 employees

Director Townsend noted that school enrollment has declined conversely to the number of employees.

General Fund: Average Active Employee Compensation

- * Fiscal year 2005-06 – \$53,037 in salary; \$20,831 in benefit compensation = \$73,868 in total compensation
- * Fiscal year 2010-11 – \$72,172 in salary; \$22,779 in benefit compensation = \$94,951 in total compensation

General Fund: Employee/Retiree Compensation & Benefits (with “Steps” Reserve)

- * General Fund Workforce = 60%
- * All Other = 40%

State Aid & Categorical Grants by Year

- * Fiscal year 2003-04 – \$405.4 million
- * State aid growth becomes more inelastic in the out years of the financial plan as follows:
 - Fiscal year 2011-12 – \$644.6 million (projected)
 - Fiscal year 2012-13 – \$653.3 million (projected)
 - Fiscal year 2013-14 – \$667.5 million (projected)

Director Townsend asked for the data source on the projected levels of State Aid. Mr. Link replied that the projected levels of State Aid are from the Governor’s proposed budget. The increases are more moderate than in prior years.

Chair Olsen noted that expecting percentage increases in State Aid as seen in years past would be “wishful thinking” given the State’s fiscal outlook.

All Funds Budgeted Expenditures by Year (2003-04 to Present)

- * Fiscal year 2003-04 - \$631.81 million
- * Fiscal year 2010-11 - \$966.48 million

Buffalo Public Schools Enrollment since 2003-04

- * Fiscal year 2003-04 – 41,101
- * Fiscal year 2010-11 – 33,492
- * Fiscal year 2011-12 – 32,925 (projected)
- * Fiscal year 2012-13 – 32,360 (projected)
- * Fiscal year 2013-14 – 32,074 (projected)
- * Major factors in declining enrollment are: population loss and student transfers to Charter Schools

Director Mesiah asked what the enrollment number was for City Charter Schools. He asked how much money is transferred from the District to the Charter School for each transfer. Additionally, he asked how much money was returned to the District if the child returned.

School District Chief Financial Officer, Ms. Barbara Smith, addressed the Board. She replied that Charter School enrollment is approximately 7,100 for the upcoming school year. The amount of funds transferred from the District to the Charter School is \$10,500 per student. When a child returns from a Charter School back to the District, a pro-rated amount of that \$10,500 accompanies the child.

Mr. Link added that Charter Schools can be more selective of which students they allow into the schools. Students with special needs require additional funds; Charter Schools may have a disproportionately low percentage of students with special needs, adding fiscal stress on the District.

Director Mesiah lamented that, in years past, magnet schools were heralded as an utopist solution to education. Both the State and Federal governments provided a high level of funding; they subsequently fared well. However, when public dollars were diminished, the schools no longer maintained their high level of education. The current situation of funding for Charter Schools parallels the issues with magnet schools. Charter Schools draw needed funds from the public schools through a flawed funding formula. Additionally, Charter Schools may not be evaluated properly to decide if they are fulfilling their mandate.

County Executive Collins asked how much the School District gives Charter Schools for a transferred child. Mr. Link replied that it was approximately \$10,500. County Executive Collins noted that, for every \$10,500 transferred from the District for a charter school enrollee, the State compensates the District roughly \$18,000. He opined that the District therefore receives, “roughly \$8,000 in State aid for every student that doesn’t go to school [in the Buffalo School District].”

Mr. Link replied that the point had merit. However, not all of the State Aid received is “free-and clear” but rather designated as part of the State’s Joint Schools Construction program, the aim of which is for capital improvements to facilities; or used to fund legacy costs such as retiree health insurance.

County Executive Collins replied that the School District currently received about \$18,000 per student in State Aid. When a child transfers to a charter school, they only transfer about \$10,000, a net of roughly \$8,000 retained by the District. He queried whether or not this was an accurate assessment.

Ms. Smith replied that it was not an accurate portrayal. She stated that the District only receives base Foundation Aid for students. She added, “This is the only aid which is ‘free and clear’ to educate students in a manner that we see fit. It is \$2,000 less than we send to Charter Schools.” All other aid such as transportation aid for busing students is outside of available funding which can be used for educating students.

County Executive Collins stated, “I think that you are being very manipulative in your numbers. I merely asked a simple ‘thirty thousand foot’ question. How much State Aid do you get for every kid? I think the answer is about \$18 grand.”

Ms. Smith countered that the \$18,000 State Aid per student includes Charter School students. Further, the District receives more aid because it provides services such as transportation that Charter Schools do not have to pay for.

County Executive Collins expressed, “the Buffalo Public School system gets \$18,000 for every kid. They happen to send \$10,000 over to the Charter School. And [the District] covers some other expenses for them. I’m saying that you are making money on every kid in the Charter School and you are being very selective in this argument. I’ll leave it that you get \$18,000 for every kid and you give \$10,000 for every kid that you send to the Charter School and provide some transportation.”

Ms. Smith replied that transportation services were not the only service provided by the District to the Charter Schools. County Executive Collins requested a breakout of all services provided by the District to charters along with the associated costs. He reiterated his assertion that the District has a positive variance for every child enrolled in a charter school versus a District school. He opined that, if students were educated 100% in Charter Schools rather than Public Schools, the deficits discussed earlier in the meeting may not exist.

Director Mesiah added that, if the District is to provide detail on where funds are spent by the District for charter school services, he’d like data on how much funds are spend on students with special needs as well. The Charter Schools “do not have the same issues that you see in some of the public schools. They seem to have a [process] wherein they can ‘weed out’ those students with severe problems.”

County Executive Collins suggested that BFSAs should perhaps also compare salary and benefit costs for charter schoolteachers and administrators versus their counterparts in the public school system. He added, “We should also ask for the average class size in both. Let’s look at the test scores. I agree with [Director Mesiah] that if you look at your budget and ‘peeled off’ any [associated costs for special needs students] and did an ‘apples-to-apples’

comparison, I am fairly confident that the City Public School system is making money on every kid that goes to a charter school.”

Director Johnstone added, “I always get worried on this Board when an argument to the City and the Covered Organizations makes us forget our charge. We have so much work to do within our charter that an analysis of the relative benefits of Charter Schools versus public schools or Olmsted versus non-Olmsted. I question what we should be focusing on, given our statutory role. I think that we should be very careful at this point in time to do what we are statutorily mandated to do before we start adding to our agenda things that are not statutorily within our rights.”

Director Townsend concurred with this point.

Mr. Link continued his summary to the Board.

Baseline Gaps in Current 4-Year Plan

- * \$245 million gap through the Four-Year Financial Plan

Buffalo Public Schools Budget and Four-Year Plan Considerations

- * NYS economic climate is a risk to future State Aid and related revenues;
- * Potential negative consequences from loss in “steps” litigation;
- * New funding sources will need to be identified for any new collective bargaining agreements;
- * Increased financial pressure due to enrollment losses and increases in charter school enrollment;
- * OPEB liabilities will impact financial picture in the out years of the plan.

Review of Third Quarter Reports

Buffalo School District

Mr. Link offered the following summary of the District’s third quarter report:

Summary

- * The District is projecting \$3.3 million surplus after the third quarter due to lower than projected expenditures;
- * Fringe benefit are projecting \$1.5 million under budget;
- * Compensation costs are projected to be under budget by \$1.4 million;
- * Savings include 79 staff vacancies, lower transportation and utility costs, totaling a savings of \$400 thousand;

Risks

- * Risks still facing the District in the current fiscal year include:
 - The annual growth of OPEB; and
 - The State Aid lag of \$26 million from March to June.

Mr. Link concluded his presentation for the Board.

Chair Olsen thanked Mr. Link for his presentation. He noted that the District’s budget was “balanced on paper. Any increase in State Aid is speculative at best and highly unlikely. There may be serious questions about paying outstanding obligations without legal action. So much of the cost of this is legally solid and difficult to change. [OPEB] costs will continue to go up. To say that the District’s budget is in balance is a difficult conclusion to make. Ultimately, in order to keep the budget in balance, there may be the devastating effect of layoffs since virtually all of the expenses are personnel. Setting aside the merits of various ‘apples-to-oranges’ comparisons, this particular ‘apple’ is in a lot of trouble. The picture is much less rosy than it appears to be; it is a real crisis.”

Buffalo Municipal Housing Authority

Chair Olsen advanced the agenda to the next item for consideration; an overview of BMHA’s proposed 2010-11 Budget and Four-Year Financial Plan. He asked BFSA Comptroller, Ms. Margreta Mobley, to provide a summary for the Board.

Ms. Mobley provided the following summary:

Summary

- * Total operating revenue increases from \$36.1 million in fiscal year 2009 to \$37.4 million in fiscal year 2014 (projected), a 6.6% increase over the four-year financial plan.
- * Expenses increase from \$31.7 million in fiscal year 2009 to \$36.1 million in fiscal year 2014 (projected), an increase of 5.2% over the four-year financial plan.
- * Total salaries and benefits increases from \$15.7 million in fiscal year 2009 to \$18.4 million (projected) in fiscal year 2014.
- * These increases are due to the settlement of contracts and CBAs.
- * Although salaries and benefits increase slightly over the four-year plan, they constitute a smaller percentage of total expenditures (49.2% in fiscal year 2014).

2011 Budget Revenue

- * Operating subsidy is \$20.1 million, or 61% of budgeted revenue.
- * Total revenue is \$85.4 million.

2011 Budget Expenses

- * Maintenance and administrative expenses account for 57% of total expenses.
- * Other general expenses are also significant at 16% of total cost (OPEB, insurance costs, workers compensation, etc...).

Ms. Mobley concluded her summary.

Buffalo Urban Renewal Agency

Chair Olsen advanced the agenda to the next item for consideration; an overview of BURA's proposed 2010-11 Budget and Four-Year Financial Plan. He asked Mr. Kelly to provide a summary for the Board.

Mr. Kelly provided the following summary:

Introduction

- * BURA administers the City's HUD formula grant programs.
- * The major grant programs are the Community Development Block Grant Program ("CDBG"), HOME (Investment Partnership Program) Program, Emergency Shelter and Grant Program ("ESG"), Housing Opportunities for Persons with AIDS ("HOPWA").
- * Additionally BURA can receive smaller pots of funding from various sources including the State and City.
- * The proposed budget includes revenue sources mainly originating from the federal stimulus, which was seen in the 2009-10 BURA budget. However, much of the federal stimulus funding did not have to be spent in the year that it was allocated. Hence, these funds are budgeted for the 2010-11 fiscal year.
- * These funds include programs such as Homeless Prevention and Rapid Re-Housing under the ESG program, the Block-By-Block Grant funding under the NYS Affordable Housing Corporation and the Neighborhood Stabilization Program.
- * In the 2010-11 fiscal year BURA's funding or revenue totals \$31.1 million, an increase of approximately \$1.8 million (nearly 6.3%).
- * CDBG again makes up the largest portion of BURA's revenue, followed by the HOME program.
- * In the upcoming fiscal year, BURA will spend the bulk of its grant revenue on program expenditures.
- * In 2010-11 BURA plans to spend 87% of its funding on program expenditures and 13% on Administration and Planning costs.

Spending & Revenues

- * BURA's spending (and revenues) has been increasing for the last two years in contrast from previous trends, which saw cuts in funding.
- * The increases in revenues are largely tied to the federal stimulus.
- * BURA's four-year plan reduces revenues in 2012, as well as in 2013 and 2014. Altogether, by 2014 BURA anticipates that funding will be reduced by about \$5.4 million.

Deficit

- * BFSA continues to monitor BURA's efforts to pay down a prior year deficit. The deficit now stands at approximately \$250,000. BURA plans to continue paying off this deficit.
- * Note: The deficit has not changed since being reported at this level in December 2008.
- * The deficit resulted from past practices where BURA expended more grant money than was allocated. While many of the costs were valid – the practice of spending money you do not have is not acceptable.

Risks

- * BURA faces some degree of risk with its budget and four-year plan.
- * BURA continues to repay old Section 108 Loans which are in default.
- * BURA currently owes \$6.02 in principal to fully repay previous Section 8 Loans and the repayment of these loans with the available CDBG funds means less CDBG funds for actual improvement projects.
- * Lower funding is anticipated in the out-years of the financial plan.
- * BURA's funding comes with heavy administrative requirements. 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. Any new collective bargaining agreement could put financial pressure on BURA's limited resources.

Mr. Kelly concluded his presentation and thanked the staff and leadership at BURA and the City Administration who have worked closely with the U.S. Housing and Urban Development Agency ("HUD") to clear findings and concerns related to HUD's monitoring of the CDBG program.

Review of Third Quarter Reports

City of Buffalo

Chair Olsen advanced the agenda to the next item for consideration: a review of the third quarter reports. He asked Mr. Kelly to summarize the City of Buffalo's third quarter report.

Mr. Kelly provided the following summary:

Introduction

- * Both budgeted revenues and expenditures total \$449.1 million.
- * Projected revenues total \$473.9 million. Projected expenditures total \$470.9 million.
- * Overall the City is projecting a positive surplus of \$3 million.

Personnel

- * Vacancies currently total 119 or 4.6% of the City's workforce.

Risks

- * In December, the State cut AIM to the City by \$1.7 million and the Executive Budget proposal recommended an additional \$1.7 million State Aid reduction to the City.
- * However, the State has yet to adopt a budget for the upcoming fiscal year, so the additional State aid reduction may or may not eventually become part of the State's budget. State Aid may be the biggest risk currently facing the City.

- * Additionally, the City plans to transfer \$15.8 million to the Refuse Fund to pay off the fund's current outstanding balance. One risk with this transfer is that there is no plan to restructure operations within the Refuse Fund and a similar scenario could play out in a year or two.
- * General Charges spending for the City is currently projecting \$10.9 million over budget and largely tied to a salary adjustment for unsettled union agreements (\$8.5 million) and higher fringe benefit costs. If other areas of general charges spending should spike for some reason, the City's fiscal year ending performance could be negatively affected.

Mr. Kelly concluded his presentation.

Buffalo Municipal Housing Authority

Chair Olsen advanced the agenda to the next item for consideration. He asked Ms. Mobley to summarize BMHA's third quarter report.

Ms. Mobley provided the following summary:

Revenue & Expenditures

- * Total revenue is \$3.7 million (63.9% of budget).
- * Total expenses are \$3.5 million (64.1% of budget).
- * The major component is Central Office Cost Center ("COCC") Maintenance Fees. This is currently \$1.7 million, or 75.5% of budget.
- * COCC expenditures are mainly driven by Administrative Costs, currently \$2.9 million or 83% of budget.

Asset Management Programs ("AMPs")

- * Total revenue is \$23.2 million.
 - Net subsidy of \$15 million or 66%.
 - Net dwelling income of \$6.9 million or 30%.
- * Total expenses are \$21.1 million.
 - Maintenance costs totaling \$6.2 million or 30%.
- * Utility costs totaling \$5.3 million or 26%. Total expenses are \$21.1 million.

Ms. Mobley concluded her comments.

Buffalo Urban Renewal Agency

Chair Olsen advanced the agenda to the next item for consideration. He asked Mr. Kelly to summarize BURA's third quarter report.

Mr. Kelly provided the following summary:

Introduction

- * BURA revenues total \$16.7 million or 57.1% of budgeted levels after the third quarter, while program related expenditures total \$14 million or over 56% as of March 31, 2010.
- * When administrative and planning costs are added, total expenditures also equal \$16.7 million or slightly over 57% of budgeted levels.
- * BURA operations, which generally include salaries and benefits, total over \$2.3 million or 53% of budgeted levels at the end of the third quarter.
- * Both revenue receipt and spending are down at this point during the fiscal year for BURA. In large part, this is the result of BURA receiving late HUD approval of its Annual Action Plan and subsequently starting program year spending behind schedule.
- * BURA fully expects that funding will finish at or near budgeted levels by the end of the current fiscal year.
- * Positively, BURA had all findings and concerns related to HUD's monitoring of BURA's CDBG program cleared earlier this year.

- * One concern to note for the Directors is that BURA continues to repay defaulted Section 8 Loans and owes a total of \$6.02 million in principal (before interest). While the loans are guaranteed with CDBG funds and are being paid off with these funds, the use of CDBG to repay bad loans means there are less CDBG funds for projects like economic development and public improvements.

Mr. Kelly concluded his presentation.

Mayor Brown asked when the default occurred on the Section 8 loans. Mr. Kelly replied that the majority were prior to the current Administration.

Privilege of the Floor

Chair Olsen extended the Privilege of the Floor to any attending member of the public who wished to comments.

Ms. Marilyn Gallivan addressed the Board and thanked the Board for the opportunity. She stressed the importance of public bodies listening to the comments and concerns of the public.

Adjournment

Chair Olsen asked for a motion to adjourn the meeting.

Motion to adjourn by Arthur, second by Townsend.

The meeting adjourned at 3:02 PM.