BUFFALO FISCAL STABILITY AUTHORITY
Meeting Minutes - November 3, 2010

The following are the minutes of the Buffalo Fiscal Stability Authority ("BFSA" or the "Authority") meeting of the Board of Directors held on Wednesday, November 3, 2010, in the Buffalo & Erie County Central Public Library auditorium. The meeting was called to order at 1:03 PM.

Board Present: Arthur, Brown [proxy], Collins, Floss, Giardino, Johnstone, Olsen and Townsend

Board Absent: Mesiah

Staff Present: Link, Miller, Mobley and Mongold

Opening Remarks

Chair Olsen called the meeting to order. He noted that the meeting's agenda included the following:

- A review of a request from Mayor Byron W. Brown to approve various projects funded with New York State efficiency grant monies;
- A review of various appointments of BFSA staff to various roles as required by New York State law;
- Approval of a 2011 public meetings' schedule;
- A high-level "worst case scenario" analysis of the four-year plans of both the City of Buffalo (the "City") and the Buffalo School District (the "District") to estimate the impact on the financial plans for unsettled collective bargaining agreements and other potential changes to revenue and expenditure projections. The presentation will encompass information relative to the District's health insurance costs;
- A review of a resolution to honor the contributions of former staff Principal Analyst, Mr. Michael Kelly who had recently resigned from the BFSA; and
- Privilege of the Floor: an opportunity for attending members of the public to comment on any matter discussed at the day's meeting.

Director Arthur called a roll of the attending Directors. He found a quorum present and the meeting commenced.

Approval of the Minutes

Chair Olsen advanced the agenda to the first item for consideration: Review of the meeting minutes from the September 29, 2010 and October 18, 2010, board meetings.

Vice-Chair Townsend offered a motion to approve Resolution No. 10-44, "Approving Minutes from September 29, 2010 and October 18, 2010." Director Floss seconded the motion.

RESOLUTION NO. 10-44
APPROVING MINUTES FROM SEPTEMBER 29, 2010 & OCTOBER 18, 2010

BE IT RESOLVED that the Buffalo Fiscal Stability Authority approves the minutes of its meeting on September 29, 2010.

BE IT FURTHER RESOLVED that the Buffalo Fiscal Stability Authority ratifies and affirms resolutions 10-37 through 10-43 that were approved on September 29, 2010.

BE IT FURTHER RESOLVED that the Buffalo Fiscal Stability Authority approves the minutes from the Special Meeting of the Board held on October 18, 2010.

This resolution shall take effect immediately.

The Board voted 9-0 to approve the resolution.

City Issues
Efficiency Grant Request

Chair Olsen advanced the agenda to the next item for consideration: Mayor Brown's request to approve the use of efficiency grant funding for various projects. He noted that BFSA is required to approve the use of all efficiency grant funds for all planned projects to determine if they meet the State purpose of the funds for reimbursement with efficiency grant monies. He asked Executive Director Jeanette Mongold to summarize the request.

Ms. Mongold provided the following information:

- The City of Buffalo is required to submit to BFSA for approval a plan which details reoccurring savings through efficiencies stemming from innovations and reengineering for the release of funds;
- The Mayor requested the approval of several projects which include deployment of VOIP (Voice Over Internet Protocols) systems at various City buildings, centralized vehicle management system, fuel-dispensing pumps, an asset and property management system, and an automated time and attendance system. The sum of the projects is $3.2 million.
- The original grant allocation was for a three-year period and totaled $25.0 million.
    - The first allocation was in 2006-2007 for $10 million. This entire balance has been previously approved with projects approved by the BFSA Board. The remaining allocation was reduced by New York State last year $4.9 million, leaving a revised total allocation of $20.1 million.
- This commitment of the $3.2 million will exhaust the remainder of the funds allocated by New York State. By approving the use of the funds now the possibility of the funds being further reduced will be reduced.
- The projects and initiatives meet the guidelines set forth for the use of the funds. BFSA staff recommends approval of the projects.

Ms. Mongold concluded her summary.

Director Arthur offered a motion to approve Resolution No. 10-45, "Approval of Efficiency Incentive Grant Requests." Vice-Chair Townsend seconded the motion.

RESOLUTION NO. 10-45
APPROVAL OF EFFICIENCY INCENTIVE GRANT REQUESTS

WHEREAS, in 2006, New York State amended the Buffalo Fiscal Stability Authority Act (the "Act") to include Section 3857-A, which provides for Efficiency Incentive Grants to the City of Buffalo (the "City"); and

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

WHEREAS, New York State has informed the Buffalo Fiscal Stability Authority ("BFSA") that three million two hundred thousand dollars ($3,200,000) in total Efficiency Incentive Grants will be made available to the BFSA, for City use; and

WHEREAS, New York State previously reduced appropriations for both the City's 2007-08 and 2008-09 Efficiency Incentive Grant allocations, leaving the City with three million two hundred thousand dollars ($3,200,000) remaining in Efficiency Incentive Grants for City use in fiscal year 2010-11; and

WHEREAS, in the current fiscal year the City has requested to utilize the remaining one million seven hundred thirty thousand dollars ($1,730,000) in 2007-08 Efficiency Incentive Grant funds; and

WHEREAS, in the current fiscal year the City has requested to utilize the remaining one million four hundred seventy thousand dollars ($1,470,000) in 2008-09 Efficiency Incentive Grant funds; and

WHEREAS, the City has submitted to the BFSA a plan to utilize the remaining three million two hundred thousand dollars ($3,200,000) in both 2007-08 and 2008-09 Efficiency Incentive Grant monies for various automations and upgrades to assist in improvements to increase management control and oversight; and

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

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority hereby approves the City of Buffalo's request for $3,200,000 in Efficiency Incentive Grants to fund the following initiatives in the following amounts:

Continuation of VOIP deployment to all City owned buildings	$925,000
Asset and property management review/planning	$865,000
Automated time and attendance system	$850,000
Centralized vehicle management system	$240,000
Fuel tracking system	$200,000
Replacement of fuel dispensing pumps	$120,000

This resolution shall take effect immediately.

The Board voted 9-0 to approve the resolution.

<u>Financial Issues</u>
Fiscal Outlook Presentation for the City of Buffalo

Chair Olsen advanced the agenda to the next item for consideration: a presentation on the fiscal outlook of the City of Buffalo. He noted that the Board had requested the BFSA staff to prepare a high level financial analysis of the City and District's four-year financial plans with specific focus on the District's financial situation. The analysis encompasses various scenarios in order to assist in understanding the potential impact that unsettled labor contracts could have on the City and District. Given the issue of the potential advisory status of the BFSA, it is extremely important to "get a handle" on the prospective financial future of the City and District.

He asked Ms. Mongold to provide a summary of the analysis to the Board.

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

Introduction
The scenario presented is a possibility, not a certainty. It assumes that all current benefits provided remain static. It also assumes 3% annual raises for employees of both the City and the District.

City of Buffalo 2010-11 Adopted Budget and Four-Year Financial Plan (General Fund)

- Over the four years of the plan there is a planned use of unreserved fund balance of $37 million, close to 75% of available fund balance. The remaining operating deficit of $18.9 million is expected to be closed through reengineering initiatives brought forth by the Mayor and his Administration.

City of Buffalo Estimated Changes to Budgeted Revenues
Changes have occurred at the state level which has led to a slight reduction in budgeted revenues.

- Changes in State law have allowed the State of New York to defer the unreimbursed Medicaid monies by the Federal Government to the local level. This has led to a State Aid reduction of $1.1 million.
- Recent sales tax projections received from the New York State Comptroller have indicated a reduction in funds equivalent to $1.1 million per year. This estimate is based on recent projections by the New York State Comptroller correlated to current, 2010, census estimates.

County Executive asked for further explanation regarding the $1.1 million reduction in annual sales tax. He asked for clarification of how sales tax revenues were disseminated to the City. Ms. Mongold explained that it was a one-time reset based on the recent US Census count, is an estimate of the actual reduction, and will occur annually. Sales tax dollars are received by the County which in turn passes along the appropriate portion to the City.

City of Buffalo Estimated Changes to Budgeted Expenditures
The beginning budgeted expenditures are derived from the adopted four-year plan. All salaries have remained frozen during the four-year plan as approved by the Board this past June.

- The loss of the "Wage & Steps Litigation" would cost the City an estimated $30 million in fiscal year 2010-11. This $30 million would increase the salary for police and fire. Assuming a conservative 3% rate of increase annually for these expenditures, the estimated increased cost would be $34.7 million in fiscal year 2011-12 to $44.5 million in fiscal year 2013-14.
- Using the 3% annual increase in salaries for all other labor groups, the increase salary cost would be $1.4 million in fiscal year 2011-12 to $5.9 million in fiscal year 2013-14. All other labor groups, except one, will have expired contracts as of the end of the current fiscal year. The increases presented here result in an additional $81 million in expenses, for a total of $541 million projected expenditures by fiscal year 2014.
- FICA and pension costs add an estimated $2.8 million and $4.0 million respectively in fiscal year 2011-12. FICA and pension costs add an estimate, $3.9 million and $5.6 million respectively in fiscal year 2013-14.

Revised Revenues and Expenditures
The presentation provides the revised revenues and revised expenditures to depict the revised budget deficit over the four-year plan.

- The combined budgetary gap is $249.5 million over the four year period.
- After the planned use of fund balance, other operating gap closing measures, and other accrued resources, the revised budgetary operating loss is $164 million over the span of the four-year plan.

Increased Costs vs. Available Resources

- The total impact on the 2011-14 four year financial plan is -$163.8 million.
- Available resources include:
    - Fund Balance (06/30/2010) - $51.2 million less the $37.0 million planned use = $14.2 million in undesignated, unreserved fund balance;
    - "Rainy-Day" Fund (06/30/2009) - $33.6 million (for unexpected expenditures);
    - Remaining Restricted AIM - $10.8 million;
    - Available tax margin - $35.7 million
    - Total available – $94.3

Director Townsend sought clarification that the available tax margin of $37.5 million was the real property tax limit that the City could legally impose. Ms. Mongold concurred.

Director Townsend noted that by exhausting Fund Balance, the "Rainy-Day" fund, Restricted AIM, and raising the property tax margin to capacity, there is still a $70.0 million gap to be closed within the four year financial plan. Ms. Mongold noted that the hypothetical also assumed no "give-backs" or concessions by labor unions through negotiated collective bargaining agreements.

County Executive Collins asked if the scenario presented assumed increased State Aid every year. Ms. Mongold replied that the scenario provided a static State Aid increase. It included conservative revenue assumptions.

City Commissioner of Administration, Finance, Policy and Urban Affairs, Ms. Janet Penksa noted that the scenario presented does not depict increased property tax revenues through increased assessments nor does it depict increased State Aid revenue. While State Aid increases should not be expected in the short-term, it is reasonable to expect increases as the state economy improves.

County Executive Collins asked if an assumed rate of growth for the assessed value of commercial and private property was factored into the revenue projections in the four-year plan. He noted that Erie County uses an assumption of 2% annual growth. Ms. Penksa replied that this was not captured in the four-year financial plan. The City has essentially returned the increased revenue provided through raised assessments back to taxpayers through lower overall property tax rates.

In conjunction with Ms. Penksa's comments, Chair Olsen reiterated that the presentation was merely a "worse-case" scenario, not a certainty.

Director Floss noted that the scenario assumes a loss of the "Wage & Steps" litigation. Negotiated contracts with the various collective bargaining units may allow for the dismissal of these costs through negotiated settlements. Ms. Mongold replied that the potential $30 million liability was a heavy factor in the budgetary gap.

Chair Olsen noted that the projected 3% annual increase assumption in salary costs should be considered conservative as well.

Director Johnstone asked if the assumption also included additional Other Postemployment Benefit ("OPEB") payments other than what is currently budgeted. Ms. Mongold verified this; OPEB is currently budgeted on a "pay as you go" basis.

County Executive Collins "respectfully disagreed" with the notion that the scenario presented was in fact "worst case." He stated, "New York State's budget problems are so staggering. Personally I can't see an increase in State Aid to cities. I think that you have budgeted for it remaining flat. If State Aid to cities is even dropped two, three, four or five percent, which as a percentage is not huge, it will have a compounding impact on the four-year budget. I think that it may be a little naïve to assume that it is even going to stay flat, unless you know something about the economy that I don't."

Vice-Chair Townsend stated, "Let's assume that this [scenario] comes to pass in roughly this shape that Steps Litigation might be balanced out by declining State Aid. What this mean is, at the end of the four-year plan period, assuming cuts everywhere to close a $70 million budget gap and perhaps assessment increases in real property taxes, we are left at the end of the period basically with no resources and no margin for error, right at the time when all of the labor contracts will again be up for renewal. I remind my colleagues that, as we started a number of years ago reviewing labor contracts, the view was prevalent that we could afford [the negotiated contracts]." It was true that funds were available to settle the first few contracts. Now, there are some settled contracts with major unions still out of contract. The funds available previously that made the settled contracts affordable are no longer available.

She added, "We were generous in our first contract for school crossing guards where we continued to let them have almost free healthcare for life. My point is that we had a good run with massive increases in State Aid which is unlikely to continue in the near term and, in fact, will be flat or negative. We have to be much more 'clear-eyed' about what taxpayers, many of whom do not have access to virtually free healthcare for life, are owed and what they will pay. We have to keep this in mind as we go forward."

County Executive Collins added, "I bring this up not to be controversial, but perhaps it is. I believe that being 'forewarned is forearmed'. Have we looked at the laws, requirements and consequences of bankruptcy? As dire as that statement is, if you have not prepared for all [potential scenarios] then you are not fully prepared How will it impact contracts—specifically fire and teachers?

Ms. Penksa stated, "I have to object to that a bit. First of all, this Administration would never let that happen. We've demonstrated that, no matter what is thrown our way, we will make the tough budget choices. The second thing is, the Control Board always has the option to 'bounce back' into control period and put a wage freeze in place. That's been the insurance policy for ensuring that we would never go into bankruptcy."

Chair Olsen concurred with Ms. Penksa. He stated, "One of the reasons for the Control Board is to avoid that." He agreed with the County Executive's comments the scenario presented was not the absolute worst-case scenario but rather a very dire one. He added, "It is critically important that we take this into consideration as we consider the role of the Authority as it moves forward. It emphasizes the extreme importance of the Authority's role in protecting these resources and working collaboratively with both the City and the District to come up with ways to avoid that ultimate dire consequence. I find it highly unlikely that it would come to bankruptcy and that raises a host of difficult legal questions as well."

Harris Beach Legal Counsel, Mr. A. V. Buzard interjected, "It is my recollection that a municipality in the State of New York can go bankrupt."

Vice Chair agreed and noted that this was an option considered in 1975 when New York City was in extreme financial difficulties. It was ultimately considered too caustic as NYC would lose access to the credit market. Ultimately, New York City went under the fiscal oversight of a control board.

Ms. Penksa stated that the City cannot statutorily go bankrupt. She stated, "This was the pledge to the bondholders to keep the City in the debt market. Should the City run a deficit, the Control Board 'pops back' to a hard control board" to prevent draconian measures such as bankruptcy.

Chair Olsen replied that evaluating 'worse case' scenarios has historically had a large value for the Board in collaboration with the City's Administration. It will continue to very important going forward to help the City avoid the direst of situations.

Director Arthur stated, "I recall going back to the famous Hurd case where Bradley J. Hurd sued the City of Buffalo. At that particular time, we were told that we could not go into bankruptcy. It was one of the things that was talked about at the [City's] Corporation Counsel at that particular time. It was Judge Mancuso who said that we cannot go into bankruptcy. There were other steps that were taken, but not bankruptcy."

Director Floss replied, "I'm a little concerned about this whole discussion because I think that there's a balance that we have to understand. We have worked very, very hard to put the City in, I think, a relatively good position, given all of the financial problems that not only the City has gone through but also the state and the country has gone through. As good as a position that we are in now, [it is] a testament to how hard everyone has worked. There is a problem with getting too far out in front of ourselves here because there's another side to the story. If we're saying that we're never going to give a raise to workers again, if we say we're going to take away all of your benefits, then no one, one year, two years, or three years 'down the line' is going to want to work for the City and the population isn't going to want to stay in the City if they can't get [adequate] services. I'm afraid that if we start talking about this [we could] make this a self-fulfilling prophecy: we will have revenue problems that we wouldn't have had otherwise. It is important to look at a rational budget. It is important to look at a 'worst case' scenario. It is also important to act, not on a 'worst case' scenario, but on the best estimate of those kinds of scenarios because, if we don't, we may well do ourselves some damage with these financial estimates in the out years because we're forcing people to make decisions that are going to hurt the City of Buffalo that we don't have any control over other than what we say at these meetings."

County Executive Collins stated, "I can assure you that in the County where our contracts expired five years ago, and frankly I don't expect any new ones in the next five years, the waiting list of people that still want to come to work for us could go from here to Chicago and back because the benefit package and the retirement package offered by the County of Erie [is quite lucrative]. I very much disagree with your assessment that you have to give raises to get qualified applicants for these jobs because the facts say otherwise."

Chair Olsen replied, "I don't think that anyone is suggesting that there shouldn't be cooperative and mutually beneficial collective bargaining agreements in the future and all-time for all City workers. The purpose of this was largely to inform our decision-making body as we move toward the very important decision we have to make which is whether to go advisory or not. This is not an absolutely worst case scenario but is certainly not an unreasonable one. It is important for this body to stay fully informed and to act accordingly as we address these issues." He added, "We wouldn't be doing our job if we don't take a reasonably informed perspective of what the out years [of the financial plan] are likely to be given the decisions we are likely to make."

Director Arthur referenced Chair Olsen's comment, "whether or not to go advisory" and asked if the Board has the option. He stated, "Right now we are waiting for the Comptroller to 'close the books.' That should be within another thirty days or so."

Chair Olsen concurred. He stated that at that point the Board will have further discussion of what the Board's action should be. He added, "We should also have further discussions of what our continued obligation should be irrespective of that. Particularly we have not gotten to the most alarming of those statistics yet." He added, "I have no doubt that if one of the Covered Organizations is confronted with a serious financial crisis that we have an obligation to [be] cognizant of that fact."

Fiscal Outlook Presentation for the Buffalo School District

Chair Olsen advanced the agenda to the next item for consideration: a presentation on the fiscal outlook of the Buffalo School District. He asked Principal Analyst Bryce Link to provide an overview of the material.

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

Buffalo School District 2010-11 Adopted Budget and Four-Year Financial Plan (General Fund)
The District faced a $124 million deficit in the second, third and fourth out years of the four-year financial plan at its adoption. The presentation uses the assumptions included in the four-year plan as the starting point and basis for analysis.

District Revenue

- The District budgeted revenue based on the Governor's proposed budget, prior to the final budget passed by the State.
- The Governor has used his powers to veto several items from the Legislature's budget including State Aid pension revenue advance that was essentially a "spin up" of funds that local districts receive. As such, the expected $11.5 million will not be received in the current fiscal year.
- The District budgeted revenue based on the Governor's proposed budget but as part of the final budget negotiations a claw-back provision was included that would decrease all non-mandated local assistance payments by 1.1% to cover the projected reduction in FMAP (Federal Medical Assistance Percentages) State Aid payments of $4.1 million. The funds were initially budgeted based on a higher projected reimbursements from the Federal government.
- The projected revenue of sales tax has been projected $0.5 million less than originally budgeted. The share of sales tax is formulaic and based on population. The lower projected revenue estimate is based on newer, more accurate census numbers.

District Expenditures

- As with budgeted revenue, the District's budgeted expenditures are based on the Governor's proposed budget.
- The Governor used his powers to veto several items from the Legislature's budget. One of these vetoes altered the formula used to calculate payments from the District to Charter Schools. The net effect of the veto will be an annual increase of payments from the District to Charter Schools greater than or equal to $11.3 million in each year of the financial plan.
- The District expects to save an additional $1.7 million in year one of the financial plan through the early retirement incentive. There are related projected saving in each year of the financial plan stemming from this action.
- Unsettled labor contracts constitute a potential increase in expenditures in the out years of the financial plans. Using the 3% annual increase assumption, labor costs could cumulatively increase by $44.6 million in the second, third and fourth years of the financial plan for the Buffalo Teachers Federation alone.

Vice Chair Townsend asked how long the Buffalo Teachers Federation has been out-of-contract. Mr. Link replied that the negotiated contract expired in fiscal year 2004.

Vice Chair Townsend asked for clarification how the increase in expenditures had been calculated. Ms. Mongold explained that the staff analysis used the assumption that the Wage and Steps litigation was decided unfavorably for the District. For the District there would be no additional retroactive payments

outside of the Wage and Steps litigation award and that beginning in fiscal year 2011-12 all employees would be receiving 3% annual increases in addition to their natural step progressions. The City was treated differently in that additional costs were incurred for the additional years that Police and Fire were out of contract since they are afforded the option of binding arbitration, whereas no employee group in the District has that option. Binding arbitration could provide public safety employees additional increases during the period of July 1, 2007 through the current fiscal year. For both the City and the District the awards for the Steps and Wage litigation were added into the budgeted base and increase 3% in each out year of the financial plan to arrive at the projection. Retroactive payments have a compounded effect that will exacerbate a delicate financial situation since any prior year increases will roll year to year finally into the current year operating budget when those increases will be due at one time. .
Director Floss asked for clarification on how the District had budgeted the cost of the Wage and Steps litigation. Mr. Link explained that the District had budgeted for the potential liability of a loss in the litigation. It is a reoccurring cost of approximately $18.5 million starting in July 1, 2007. Subsequently, it would hit the current year's budget in the amount of $74 million. The projection used in the analysis adds this amount into the base salary costs and increases the base salary costs by 3% in each out year of the financial plan.

Ms. Penksa asked what the analysis projected City of Buffalo salary costs increases due to the Wage and Steps litigation starting in the current fiscal year while the analysis projected District salary costs starting in year two of the financial plan. Mr. Link explained the difference was due to State labor laws which afford both police and fire binding arbitration awards while teachers do not have this avenue available.

Ms. Penksa replied that the parameters set forth in the analysis are "a little harsh for the City." Ms. Mongold replied that the analysis was not intended to be overly harsh but was, "a difference in the way the City budgets versus the way that the District budgets." The District budgets the potential loss of the litigation as a liability within the operating budget. The City has the funds set aside to address the potential loss of the litigation but does not have it recorded in one line item the same way the District does. The District included the potential liability in the four-year plan expenditure assumptions while the City did not. As the analysis incorporated a loss of the Wage and Steps litigation, the amount that would be funded needed to be added to year one of the City's financial plan; it is already incorporated in the year one expenditure for the District.

Mr. Link continued his presentation.

<u>Revised Revenues and Expenditures</u>

- The revised revenues and expenditures create an operating deficit of $41.7 million in the current fiscal year. With a projected use of fund balance of $16 million, the budget gap totals $25.7 million in the current year. The current year's budget was balanced upon adoption.
- The District does not project any large increase in revenues. Gap closing measures will include expenditure cuts such as eliminating services, closing facilities and laying off staff as well as the use of fund balance to close the newly projected four-year $100 million budgetary gap.

Vice Chair Townsend asked, "On a fully loaded basis, how much does the average teacher cost?"

District Executive Assistant to the Superintendent, Mr. James Kane, addressed the question and stated that the average salary cost per employee was $55,000 with an additional $16,000 average for benefits annually.

Vice Chair Townsend asked Mr. Link how many teachers "one million dollars represents" using an average assumed cost of $75,000 per teacher. He replied that it was approximately thirteen. She replied, "If in [fiscal year 2011-12] you had to solve the $36 million gap which is the current gap-closing measure, [this] would be 468 teachers [laid off]. That's a lot of teachers. That would grow, if you had to solve it all in 2012, it would be even more." In conjunction with Director Floss's earlier comment, she stated, "at some point the School District is not sustainable in its current configuration with its current level of pay and benefits."

County Executive Collins noted that the four-year financial plan assumes a $34.2 million increase in the level of total State Aid from the current fiscal year to the 2013-2014 fiscal year. He asked if this level of increase was guaranteed.

Mr. Link replied that it was not a guaranteed revenue stream. The State Aid projection used in the analysis is the projection in the State's adopted four-year financial plan. It could be "too rosy." It was used as a conservative baseline assumption. He added, "We could have 'flat lined' the revenue line and if so we would be looking at an additional $100-$150 million shortfall."

County Executive Collins replied that the projected rate of increased State Aid for the District is unrealistic given the state of New York State's financial outlook in the next few years.

Mr. Link replied, "Going into this demonstration, there are a lot of moving variables. We tried to keep as many of these variables constant to the adopted budget as close as possible. These are items that we are looking at and are concerned with. Two years ago we saw a reduction of close to $15 million to the School District. The District was only held flat through the use of federal funds. It's nothing new for the State to adjust the level of aid to the District and supplant State Aid with the use of Federal funds. It is a problem that roughly 80-85% of all revenue is generated [through state aid]." He noted that the major portions of revenue to the District are: State Aid, sales tax revenues and the City of Buffalo's contribution to the District and other di minimis sources.

County Executive Collins replied, "It is safe to say that we will not see any more federal stimulus dollars. When you look at the state budget, they are assuming a $48 million increase which is unreasonable." He added, "I think that we are going to see cuts in State Aid. If we are going to present a 'worst case' scenario, we should present it as such.

Director Johnstone stated, "I have a request for staff going forward. This is important analysis. It is raising many very important questions amongst this board. You've picked numbers which make sense to pick but are based on a series of assumptions that are not clearly defined." She asked that the assumptions be included "in writing" going forward to help aid the understanding of the analysis. She added, "We are going to face such an important decision period going forward because two beloved but fragile institutions. We want to be sure that the City, the District, and the Covered Organizations are viable. We really need to understand the source of these numbers so we can be as wise collectively as we can be in determining the actions that we will be called to take going forward."

Chair Olsen concurred.

Vice Chair Townsend added, "If in 2011-2012, State Aid is held flat, then to make up the new larger gap, it would be [a layoff of] 793 teachers which sounds like a disaster."

Mr. Link added for clarification that the revenue and expenditure projections were deemed appropriate for the analysis as they came from the budget and four-year financial plan adopted in June. They are numbers that the Board has seen in the past. He added, "I agree with Mr. Collins that the State budget is in a tenuous position and that we could very easily see a reduction [in State Aid] in the three out years.

It is very likely but, as we acknowledged earlier in the presentation, there are many variables out there. We are trying to stay with our base assumptions and highlight some of the larger ones."

Mr. Link concluded his presentation.

Chair Olsen stated, "We are at a really important point in this body's illustrious history. Under section 3858 of the authorizing legislation, an advisory period is commenced when several objective occurrences take place. You need three years of basic balanced budgets from the City, certifications from the City and State Comptroller that securities have been sold by the City in a public market with a substantial likelihood that it will continue. Once the Authority is in an advisory posture a new control period may be imposed if any of these conditions are no longer met or, more to the point, if the Authority determines that 'a fiscal crisis is imminent.' I want to state my serious concerns as we approach a vote on advisory status. I agree with [Director Arthur] that it is largely triggered by objective occurrences. First, with respect to the City, the City is responsibly administered through the last control period. and under the Mayor's leadership, an unencumbered rainy day fund and fund balance have been established, the City has recreated tax room under their constitutional taxing levy, and has operated within its budget and significantly improved its bond ratings over the period. When you take a look at the future at this high level, semi-worst case analysis, though we could certainly envision [more dire, worse occurrences], there are serious short-term challenges to the City reaching closure on collective bargaining negotiations with the major unions in what can only be termed a toxic environment, with a possible arbitration decision looming over the entire process. Unless other responsible and appropriate obligations are incurred, the surplus funds will quickly be utilized to meet structural deficits that would lead back to a situation that gave rise to the Authority in the first place. Uncertainty regarding the amount of fiscal aid from the State of New York further complicates this. The State of New York has played a significant role in the City's ability to 'right the ship.' Uncertainty over the ultimate prospects of the Steps Litigation currently pending before the New York State Court of Appeals, which has been lost twice to date, carries significant financial obligation to the City for the next five years unless the lower court decisions are reversed. Uncertainty in the economic prospects in the community, probable sales tax revenue reductions, while taxation authority has been restored to an extent, clearly any significant increases in property tax receipts in order to address structural deficits would be counterproductive at best." All of the factors that have led to the City's turnaround could become compromised in the next four years of the financial plan. "With respect to the City however, this prospect is in the out years and, given the record of the current Administration in responsibly and successfully addressing the financial disorder and placing the City's financial house in order, an advisory status appears appropriate. This does highlight the very important need for this Authority to work much more proactively and collaboratively with the City to come up with ways beyond freezing collective bargaining agreements and reestablishing the 'hard' status of this Authority to solve its problems because the problems are quite real and are not going away."

He added, "As the presentation of the School District graphically discloses, the situation presented is far more serious. In my view it clearly presents an imminent fiscal crisis at the current time and into the future, which can only be averted by employing heroic and significantly unlikely assumptions with respect to revenue. The administration of Superintendent Williams and the [School] Board have made significant improvements during the control period and have set aside funding for the extraordinary financial challenge created by the Steps Litigation. There are, however, extraordinary burdens and impacts on the District that appear to occur almost on a monthly basis. First and foremost, the direct and indirect labor costs. As with the City, collective bargaining is long overdue, particularly with respect to the largest unions: teachers and administrators, people whose environment is a difficult one given a freeze in wages in the past years and the long-term structural deficit the District finds itself in. Reductions in State Aid and the enormous uncertainty of general budgetary assistance cannot be ignored; the State is basically the primary funder of education within the City of Buffalo. I certainly agree that it is highly unlikely that, within the next several years, we will see significant increases in the already substantial amount of aid that the State is making. The District has received significant funding through state and federal grants which is a cause for great celebration. The difficulty with those grants is that they are targeted grants with very specific requirements as to how they are to be spent. It doesn't appear to me that they would likely reduce the structural deficit much, if at all, and in fact, if employed to increase and enhance the quality and number of resources available to address serious educational problems, it could create additional employment and benefit costs over the short-term.

Chair Olsen added that an additional challenge facing the District is a change in the legally mandated formula of payment from the District to Charter Schools. The District has been forwarding less than the new formula affords which will create an additional burden on the District. He stated, "Again, we're left relying on a thin reed of hope that you will get a functional, rational and appropriate reconsideration of these issues in the current political climate in Albany. The health insurance costs projected for current employees and the ever-growing cost for retired employees, which is projected to grow to close to $150 million within four years are clearly a matter of enormous concern for having a balanced budget over this four-year period of time. As more and more funds are redirected away from fundamental teaching resources and maintaining adequate school resources and redirected toward health care [it creates a challenge] and should not be underestimated, particularly for retirees. In my view, when all of these factors are put together, it is not unreasonable to suggest that, until some changes are put in place, whether it is an amendment to the State budget or some other act, the District appears to be operating in the deficit in which the only available resources are the redirection of the fund balance, which has very responsibly set aside to deal with a potential liability arising from the lawsuit, and a closing of schools during a time when the State and District has embarked upon an extraordinary and important effort to improve the capital resources of the District or an additional number of layoff of teachers beyond the number laid off to date. Under these circumstances, from my perspective, moving into an advisory status is at best questionable since, unless these heroic assumptions are made, that the legislature will somehow step into the front, change the budget, cut back on the amount of money required for Charter Schools, I seriously question making a rational decision that the District is not reasonably, rationally and quite appropriately viewed as confronting a serious fiscal emergency. [This emergency] is not in the future, as with the City's analysis bears out, but in the present. We need to really take this into consideration not only in the context of whether or not we go advisory when the certifications are received from the two Comptrollers, but in the level of vigilance that we owe to the people that appointed us to this position and certainly to the citizens of Buffalo who rely on the District for the single most important service provided: education. We really need to keep a close eye on this. It appears to be that remaining in an advisory context would be thoroughly inappropriate."

Director Arthur replied, "I listened very carefully and would also say that I respectfully disagree. I understand what the future holds and what it seems like as far as the Board is concerned. If anything is likely to trigger our going back into a control board at this point in time it would be the School District. I agree with you there. But in keeping with the enabling legislation, once the City Comptroller and State Comptroller certifies [the respective budgets], we go into an advisory status. It is our duty and responsibility to keep a keen eye on what is happening with the City and with the School District, particularly with the School District. If something is happening with one of those entities, when we would have to consider going back into a 'hard mode' from the advisory…" He added, "We don't know what is going to happen [in the future] but right now I think that we should consider going into an advisory mode."

Chair Olsen replied, "I believe that this exercise has been broad reaching and perhaps a little confusing with its detail and lack of detail at the same time. [The intent] was to lay out a rational picture of what is likely to occur so that we can act proactively."

Director Arthur replied, “One of the things that this Board needs to convene and think about is a number of memorializations to the State Legislation. One of the things could be whether or not the School District could be separated out” for control mode while the other entities remain under advisory status. “There are a lot of changes to be made to the enabling legislature to make it current. It is like any legislation that is passed. There is a time where it gets outdated and needs to be looked at and revised to keep it current.

Vice Chair Townsend asked whether a budget modification was expected from the District, given the change in projected revenues. In reference to Director Johnstone’s earlier request to have a list of the assumptions used in the analysis, she concurred with the value of such a list and stated, “This was an extraordinarily valuable piece of work and I commend the staff for producing it.”

Chair Olsen replied that the upcoming legislative session will need to be watched closely, and the Board kept abreast of legislative actions which have changed the State budget, i.e., the various reductions, and would necessitate a budget modification and submission to BFSA.

Director Johnstone stated, “It was a huge piece of work and the framework we needed to have, very important for everybody to enable us to be wise and ask the right questions and be better prepared to make the tough decisions. Thanks!”

BFSA Issues
Appointment of Records Access Officer, Internal Controls Officer, and Treasurer
Adoption of BFSA’s 2011 Public Meetings’ Schedule

Chair Olsen advanced the agenda to the next items for consideration: review of various appointments of BFSA staff to various roles as required by New York State law and a review of the proposed BFSA 2011 public meetings’ schedule.

Director Arthur offered a motion to approve Resolution No. 10-46, “Appointment of Freedom of Information Law Records’ Access Officer.” Director Floss seconded the motion.

RESOLUTION NO. 10-46
APPOINTMENT OF FREEDOM OF INFORMATION
LAW RECORDS’ ACCESS OFFICER

WHEREAS, Chapter 122 of the Laws of 2003, as amended, that created the Buffalo Fiscal Stability Authority (“BFSA") provides that the Directors shall appoint officers and agents as it may require; and

WHEREAS, under the Freedom of Information Law every state agency must promulgate rules and regulations pertaining to the availability of records and procedures to be followed to obtain such records; and

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

WHEREAS, pursuant to Resolution No. 07-53, the BFSA appointed Director Gail E. Johnstone, to be the FOIL Appeals Officer, which shall remain unchanged; and

WHEREAS, due to recent staffing changes, it is necessary for the BFSA to appoint an individual to the position of Records' Access Officer.

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby appoint Nathan D. Miller, Manager of Administration and Technology as the Freedom on Information Law Records' Access Officer for the Authority until such time that reappointment is deemed necessary.

This Resolution shall take effect immediately.

Director Arthur offered a motion to approve Resolution No. 10-47, "Appointment of Internal Controls Officer." Director Floss seconded the motion.

RESOLUTION NO. 10-47
Appointment of Internal Controls Officer

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

WHEREAS, the BFSA as a State Authority is required by the Budget Policy and Reporting Manual, B-350- *Governmental Internal Control and Internal Audit Requirements* to designate an internal controls officer, who shall report to the Executive Director to implement and review the internal control responsibilities established pursuant to B-350; and

WHEREAS, these responsibilities include the coordination of internal control activities within the BFSA, and to ensure that BFSA's internal controls program meets the responsibilities established by B-350; and

WHEREAS, Michael P. Kelly, Principal Analyst was appointed BFSA's Internal Control Officer by Resolution No. 08-24 on May 8, 2008; and

WHEREAS, as a result of recent staff turnover, changes in functions among staff were required; and

WHEREAS, it is recommended that Bryce E. Link, Principal Analyst, be appointed BFSA's Internal Control Officer.

NOW THEREFORE BE IT RESOLVED, that Bryce E. Link, is hereby designated as the Internal Controls Officer for the Buffalo Fiscal Stability Authority until such time as his resignation or removal.

This Resolution shall take effect immediately.

Director Arthur offered a motion to approve Resolution No. 10-48, "Appointment of BFSA Treasurer." Director Floss seconded the motion.

RESOLUTION NO. 10-48
APPOINTMENT OF BFSA TREASURER

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

WHEREAS, Subdivision 3 of Section 2824 of the Public Authorities Law ("PAL") provides that no member of the Board of Directors of a public authority may serve as the Authority's Chief Financial Officer, Comptroller or hold similar office, such as Treasurer;

WHEREAS, due to recent staffing changes, the position of Treasurer requires appointment; and

WHEREAS, it is desirable to have the position of Treasurer held by an individual who does not have direct access to the accounting records.

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby rescind the appointment of Michael P. Kelly as Treasurer, who resigned from the BFSA effective October 1, 2010, and appoint Bryce E. Link to serve as Treasurer of the Authority until it is deemed necessary to modify the assignment of this job function.

This resolution shall take effect immediately.

Director Arthur offered a motion to approve Resolution No. 10-49, "Adoption of a BFSA Board of Director Regular Meeting Schedule for Calendar Year 2011." Director Floss seconded the motion.

RESOLUTION NO. 10-49
ADOPTION OF A BFSA BOARD OF DIRECTOR REGULAR MEETING SCHEDULE FOR CALENDAR YEAR 2011

WHEREAS, the Buffalo Fiscal Stability Authority ("BFSA") was created by Chapter 122 of the Laws of 2003 to be a corporate governmental agency and instrumentality of the State of New York constituting a public benefit corporation to oversee the City of Buffalo's budget, financial and capital plans; to issue bonds, notes and other obligations, as defined in the Act; and to develop and implement financial plans on behalf of the City of Buffalo as necessary.

WHEREAS, it was necessary for the BFSA to adopt By-Laws to conduct its business; and

WHEREAS, the BFSA approved the adoption of By-Laws by Resolution No.03-01 adopted July 15, 2003; and

WHEREAS the BFSA reaffirmed and/or amended the By-Laws by Resolution No. 03-09 adopted August 6, 2003, Resolution No. 07-47 on September 24, 2007, Resolution No. 08-45 on September 19, 2008, Resolution 10-07 on March 11, 2010 and Resolution No. 10-43 on September 29, 2010; and

WHEREAS, the BFSA By-Laws under Article III, Section I, "Meetings of the Authority", allows the Directors to schedule regular meetings of the Authority as the Directors determine necessary with such regular meetings required to be held at least quarterly; and

WHEREAS, the BFSA Directors believe that the adoption of a 2011 regular meeting schedule, including committee meetings and the annual BFSA public forum, is in the interests of the Authority and other interested parties.

NOW THEREFORE BE IT RESOLVED, that the BFSA approves the adoption of the 2011 regular Board of Director meeting schedule as attached.

This resolution shall take effect immediately.

The Board voted 9-0 to approve Resolution Nos. 10-45 through 10-49.

Financial Issues (continued)
Buffalo School District Health Insurance

Chair Olsen advanced the agenda to the next item for consideration: the District's health insurance plan. He noted that the analysis was prepared in response to several requests made throughout the last year. He asked Ms. Mongold to provide an introduction to the topic and Mr. Link to provide a summary of the analysis.

Ms. Mongold addressed the Board. She provided the following introduction:

Introduction

- Health insurance constitutes 12.5% of the annual general fund budget. It is a key expense and is a challenge facing the District as well as all local municipalities.
- Single Carrier versus Multiple Carrier Insurance:
  - Several years ago, the District unilaterally moved the health insurance to a single-carrier system. While the provider duplicated the services provided under the multi-carrier system and saved the District considerable amount of money, the move was challenged through litigation.
  - The courts ruled that the switch was not appropriately performed and ordered the District to provide the different benefit plans to its employee groups. However, several of the carriers no longer provided those plans. The District was thus forced into a position where they need to self-insure a multitude of programs to comply with the court's ruling. The cosmetic surgery rider was one such benefit group no longer provided by all carriers.
- BFSA will present final health insurance expenditure costs that correlate with the 2009-10 fiscal year, not the calendar year. Any questions can be addressed by me or Mr. Link

Ms. Mongold concluded her introduction.

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

Major Issues Facing the District:

- Health insurance is one of the most significant costs to the District. It represents nearly $100 million in the current budget, roughly 12.5% of total general fund expenditures.
- The District currently faces a $1.2 billion OPEB (Other Postemployment Benefits) liability over the next thirty years, based on assumptions from the currently negotiated contracts.
- The projected short-term growth of healthcare costs is 9.5% annually.

County Executive Collins asked if the OPEB estimate used the current value of dollars or the future value. Mr. Link replied that it was an estimate using the current value (the net present value of the liability as opposed to the adjusted for future anticipated inflation value). County Executive Collins reiterated that the $1.2 billion actually represents funds that would have to be set-aside today to meet the thirty year OPEB obligation. The number is actually much higher if expressed in "future dollars".

Mr. Link continued his presentation.

Major Issues Facing the District (continued):

- Retiree healthcare costs exceed current employee healthcare costs.
- Over 3,700 retirees contribute 0% toward the cost of the healthcare they receive.
- There is 0% contribution from 96% of the 4,425 full time employees
- The cosmetic surgery rider had an impact of $8.5 million in the 2009-10 fiscal year, or about 9% of total healthcare cost.

Retiree versus Active Employee Healthcare Costs

- Retiree cost is approximately 30% higher than active employee cost over the span of fiscal years 2005-06 through 2013-14.
- The average retiree cost for healthcare in 2010-11 fiscal year is approximately $15,500. The average active employee cost for healthcare in the 2010-11 fiscal year is approximately $8,700. The averages were determined by dividing total cost by total population of those served.
- The total cost of healthcare to the District in fiscal year 2005-06 was $54.4 million. The average projected cost in fiscal year 2013-14 is $141.5 million, a 160% total increase over 8 years.

Major Spending Categories (All Funds)

- Professional fees constitute the largest, single expenditure cost at $35.5 million in fiscal year 2009-10.
- Cosmetic Surgery cost totaled $8.5 million to the District in fiscal year 2009-10. In fiscal year 2005-06, the cost was just under $1.0 million. There has been an exponential increase in costs. Utilization has increased as well.

Mr. Link concluded his presentation.

Director Floss asked if the study conducted had broken out the costs of cosmetic surgery for "major medical issues" verses elective issues.

Mr. Link replied that the exact figures were not readily available. Very little of the cosmetic surgery expenditures were for major medical issues, which were accounted for in various other line items.

Chair Olsen noted that the cost of the cosmetic surgery rider was one small piece of the total healthcare expenditure, as exhibited by the presentation. The overall cost is a "major budgetary problem that needs to be confronted."

BFSA Issues (continued)

Chair Olsen advanced the agenda to the next item for consideration: a resolution acknowledging and honoring the significant contributions of former Principal Analyst Mr. Michael Kelly. He noted that Mr. Kelly had brought dedication, hard work and focus to the Authority; his contributions are greatly appreciated by the Board.

Director Townsend offered a motion to approve Resolution No. 10-50, "Honoring Former BFSA Principal Analyst Mr. Michael P. Kelly, MPA." Director Johnstone seconded the motion.

RESOLUTION NO. 10-50
HONORING FORMER BFSA PRINCIPAL ANALYST MR. MICHAEL P. KELLY, MPA

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

WHEREAS, on February 26, 2007, Michael P. Kelly was hired as Principal Analyst of the Buffalo Fiscal Stability Authority, noting him to be "highly qualified for the position and possess unique training and experience…"; and

WHEREAS, during his tenure with BFSA, Mr. Kelly served as Principal Analyst, Treasurer, Records Access Manager and Internal Controls Officer; and

WHEREAS, during his tenure with the Authority, BFSA assisted the City of Buffalo and its covered organizations in enhancing their financial reserves, reducing their annual debt costs, enhancing its' credit rating, reaching affordable collective bargaining agreements with numerous employee groups and realizing more than $237 million in savings; and

WHEREAS, Mr. Kelly's commitment to Buffalo and the Western New York community transcended his work with BFSA to include serving as the BFSA United Way representative and President of the Buffalo-Niagara Chapter of the American Society for Public Administration; and

WHEREAS, after more than three and a half years of tireless and dedicated service in working to promote the mission of BFSA to help restore long-term fiscal stability to the City of Buffalo and its covered organizations, Mr. Kelly has chosen to step down from the position of Principal Analyst to pursue a new and challenging career; and

WHEREAS, despite his resignation from BFSA, Mr. Kelly's innumerable contributions to BFSA and the community will endure.

NOW THEREFORE BE IT RESOLVED that the Buffalo Fiscal Stability Authority does hereby honor and appreciate Michael P. Kelly for his significant and outstanding contributions to the Buffalo Fiscal Stability Authority.

This resolution shall take effect immediately.

The Board voted 9-0 to approve Resolution No. 10-50.

Privilege of the Floor
Chair Olsen extended the Privilege of the Floor to any member of the attending public who wished to address the Board regarding any agenda item. Hearing none, he asked for a motion to adjourn the meeting.

Adjournment
Director Arthur offered a motion to adjourn the meeting. Director Townsend seconded the motion.

The Board voted 9-0 to adjourn the meeting.

The meeting adjourned at 2:28 PM.