

**BUFFALO FISCAL STABILITY AUTHORITY**  
**Governance Committee Meeting Minutes**  
**September 29, 2010**

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The following are the minutes from the meeting of the Governance Committee (the “Committee”) of the Buffalo Fiscal Stability Authority (the “BFSA”) held on Wednesday, September 29, 2010, in the Buffalo and Erie County Central Public Library Auditorium. The meeting was called to order at 12:01 PM.

**Board Present:** Arthur, Johnstone, Olsen

**Additional Board Members Present:** Floss

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

**Opening Remarks**

Committee Chair Olsen opened the meeting. He announced the meeting’s agenda as follows:

- Review of the revised Code of Ethics;
- Review of the revised Procurement Policies;
- Review of the proposed adoption of the New York State Management Confidential holiday schedule for BFSA staff; and
- Review of the proposed amendments to the BFSA’s bylaws as discussed at the July 21, 2010, meeting of the Governance Committee.

He asked Secretary Arthur to call a roll of the members. Finding a quorum present, the meeting commenced.

**Approval of Minutes**

Chair Olsen introduced Resolution No.10-03, “Approving Minutes and Resolution from July 21, 2010.”

Motion to approve by Arthur, second by Johnstone.

**GOVERNANCE COMMITTEE RESOLUTION NO. 10-03**  
**APPROVING MINUTES AND RESOLUTION FROM JULY 21, 2010**

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BE IT RESOLVED that the Buffalo Fiscal Stability Authority approves the minutes of its meeting on July 21, 2010, and ratifies and affirms resolution 10-02 that was approved on said date.

This Resolution shall take effect immediately.

Vote to approve 3-0.

## **Revised Code of Ethics and Procurement Guidelines**

Chair Olsen introduced proposed revisions to BFSAs existing Code of Ethics and Procurement Guidelines. He noted the Committees function to review said material and make a recommendation to the full Board whether to approve or disapprove the revisions. He asked Executive Director Jeanette Mongold to review the proposed changes to the two policies.

Ms. Mongold addressed the Committee and provided the following information:

### **Code of Ethics**

- New language has been proposed to update the Code of Ethics to reflect changes in BFSAs staff. For example, the term “general counsel” has been changed to “legal counsel” throughout the document.
- New language has been proposed to address New York States passage of the Public Authorities Reform Act of 2009 (“PARA”).
- A new appendix has been provided to clarify preexisting language within the document.

Ms. Mongold noted that the key change within the document relates to the acceptance of gifts. She stated, “Public Authorities Law was changed to permit the acceptance of gifts of nominal value under certain constraints. Previously, Public Authorities Law provided a dollar threshold of gifts in an amount not to exceed \$75. Our code has been updated to include the term ‘nominal value’.”

Ms. Mongold added that relevant excerpts from PARA had been added as appendices into the Code of Ethics. Additionally, the printed copy included with the board books included Governor Spitzer’s Executive Orders No. 1 and 2. These two Executive Orders have been removed from the final drafted Code of Ethics as they have since been rescinded by Governor Patterson and are therefore obsolete.

Ms. Mongold added that a new appendix had also been included to assist directors and employees of BFSAs to determine degrees of consanguinity and affinity. Additionally, a certification form had been provided which needs to be signed and submitted to Mr. Nathan Miller, Manager of Administration & Technology, for records retention.

Director Arthur asked if the certification form was available presently. He asked when the signed copy was expected back. Ms. Mongold replied that the forms will be available at the board meeting and would be handed out. They should be resubmitted to BFSAs within the next couple of weeks.

Director Arthur offered a motion to send the Code of Ethics to the full Board with a recommendation for approval. Director Johnstone seconded the motion.

Vote 3-0 to send the revised Code of Ethics to the full Board with a recommendation for approval.

### **Procurement Guidelines**

Ms. Mongold offered a summary of the revised Procurement Guidelines. She noted the Board had voted to approve the current Procurement Guidelines at the July 21, 2010 meeting. Since this meeting, BFSAs had been notified that the Governor had signed several bills into law that amend the current Executive and Local Finance laws with respect to the use of services from Women and Minority-Owned Business Enterprises (“WMBEs”). The Procurement Guidelines have been updated with newly proposed language to address these recent legislative changes. The requirements of the new laws take

effect October 15, 2010.

The Procurement Guidelines have been updated to include the following:

- The New York State legal definition of a “women”, a “minority”, and a “minority-owned business”, with respect to the Executive Law and the Finance Law;
- The discretionary cap increase from \$100,000/contract to \$200,000/contract, afforded by the newly adopted legislation;
- The designation of the Executive Director of BFSAs as the overseer of BFSAs’s compliance with the WMBE legislation; and
- BFSAs’s continued support and commitment to the stated goals of the State’s WMBE program.

Director Arthur asked what the consequences of failing to meet the legal requirements of the legislation were and what remedies were in place. Ms. Mongold replied that there were no such current provisions in place within the statute.

Director Arthur queried whether BFSAs could enact its own provisions to enforce compliance with the legislation in the absence of provisions statutorily in place.

Chair Olsen opined that BFSAs could act in this fashion. There is likely some mechanism in place at the state level for enforcement of the statutes.

Director Arthur asked that BFSAs investigate further what enforcement was in place for compliance with the statutes.

Chair Olsen asked Ms. Mongold to discuss the issue with BFSAs’s outside legal counsel, Harris Beach, PLLC.

Director Johnstone suggested that the Committee request a remedy at the State level that would cover all entities subject to the provisions of the statute.

Director Johnstone offered a motion to send the Procurement Guidelines as submitted to the full Board with a recommendation for approval with the stipulation that BFSAs seek guidance on remedies for noncompliance, as previously discussed. Director Arthur seconded the motion.

Vote 3-0 to send the Procurement Guidelines to the full Board with a recommendation for approval.

Vote 3-0 to direct the Executive Director to consult with counsel to seek guidance on remedies for noncompliance.

### **Consideration of the New York State Department of Civil Service Management Confidential Holiday Schedule**

Chair Olsen advanced the agenda to the next item for consideration: consideration to adopt the New York State Department of Civil Service (“NYSDCS”) Management Confidential holiday schedule for BFSAs’s staff. He noted that the BFSAs staffing model was established to parallel the NYSDCS Management Confidential model and recommended sending the holiday schedule to the full Board with a recommendation for approval.

Director Arthur motioned to send the holiday schedule to the full Board with a recommendation for approval. Chair Olsen seconded the motion.

Vote 3-0 to send the holiday schedule for BFSAs staff to the full Board with a recommendation for approval.

### **Amend Bylaws**

Chair Olsen advanced the agenda to the next item for consideration: consideration to adopt revisions to BFSAs bylaws. He noted that the Committee had discussed two areas of the bylaws which needed revision at the last Committee meeting. He asked Ms. Mongold to provide a summary of the proposed revisions.

Ms. Mongold provided the following summary of the proposed revisions:

- New language to clarify that a special meeting may be called for one or more specific purposes and that Board action shall be limited to the stated purpose or purposes; and
- New language to clarify that a meeting may be cancelled or postponed with a reason provided by the Chair to the Directors within the respective notice. Additionally, a consensus by a majority of Directors may cancel or postpone a meeting.

She added that the modifications have been made to Article III of the bylaws which governs “Meeting of the Authority” and Article IV which governs the Committees. The language between both the full Board meetings and Committee meetings is consistent and addresses the concerns expressed at the last Committee meeting.

Director Arthur offered a motion to send the revised bylaws to the full Board with a recommendation for approval. Director Johnstone seconded the motion.

Vote 3-0 to send the revised bylaws to the full Board with a recommendation for approval.

### **Adjournment**

Director Arthur offered a motion to adjourn the meeting. Chair Olsen seconded this motion.

The Committee voted 3-0 to adjourn the meeting.

The meeting adjourned at 12:17 PM