BUFFALO FISCAL STABILITY AUTHORITY
Meeting Minutes – June 15, 2011

The following are the minutes of the meeting of the Board of Directors of the Buffalo Fiscal Stability Authority (the "BFSA" or "Authority") held on Wednesday, June 15, 2011, in the Buffalo Market Arcade Complex, 1st Floor Conference Room. The meeting was called to order at 1:03 PM.

Board Present: Arthur, Brown, Collins (proxy), Floss & Townsend

Board Excused: Giardino, Johnstone, Mesiah & Olsen

Staff Present: Link, Miller & Mongold

Additionally Present: A.Vincent Buzard, Esq., Harris Beach, PLLC

Opening Remarks

Vice-Chair Townsend called the meeting to order. She noted that she would perform the role of the chair as Chair Olsen was recovering from surgery.

Vice-Chair Townsend summarized the meeting's agenda, as follows:

- Consideration of the 2011-2012 Budgets and Four-Year Financial Plans of the City of Buffalo (the "City") and the Covered Organizations, which include the Buffalo School District (the "District"), the Buffalo Municipal Housing Authority ("BMHA"), and the Buffalo Urban Renewal Agency ("BURA");
- Consideration of the City's 2011 Capital Plan and the related borrowing associated with the Capital Plan;
- Consideration of a City contract for injured-on-duty medical services;
- Consideration of various budget modifications to the City's 2010-2011 Adopted Budget;
- Various District contracts that reflect litigation matters;
- Consideration of the recommendation of the Audit, Finance, and Budget Committee to approve the BFSA's Proposed 2011-2012 Budget and Four-Year Financial Plan;
- A resolution to honor former BFSA Comptroller, Ms. Margreta Mobley.

Vice-Chair Townsend asked Secretary Arthur to call a roll of the Directors.

Roll Call of Directors

Director Arthur called a roll of the Board and determined that a quorum was not present. He noted that Mayor Brown was en route and was expected shortly.

Erie County Commissioner of Parks, Recreation and Forestry, Mr. James Hornung, represented County Executive Chris Collins in accordance with Subdivision 1 of §3853 of the Buffalo Fiscal Stability Authority Act (the "BFSA Act").

Subdivision 1 of §3853 of the BFSA Act reads, *"…The Mayor and the County Executive shall serve as ex officio members. Every director, who is otherwise an elected official of the City or County, shall be entitled to designate a single representative to attend, in his or her place, meetings of the Authority and to vote or otherwise act in his or her behalf. Such designees shall be residents of the City of Buffalo.*

Written notice of such designation shall be furnished prior to any participation by the single designee…"

Director Floss indicated his desire to add an item to the meeting's agenda, related to an additional resolution pertaining to the current control period of the BFSA. Vice-Chair Townsend indicated that this action would be performed once a quorum was present.

Approval of May 11, 2011 & May 17, 2011 Meeting Minutes
Vice-Chair Townsend indicated that a review and approval of the May 11, 2011 and the May 17, 2011 meeting minutes would be visited after a quorum was present.

Director Arthur indicated that he had requested additional information from LP Ciminelli at the May 17, 2011 Board meeting in connection with compliance by the Joint Schools Construction Board with women and minority business enterprise goals. He asked if this material had been received. Ms. Mongold replied that a report had been recently submitted to her, however didn't fully address his inquiries. A request for additional information will be made.

Review of 2011-2012 Annual Budgets & Related Four-Year Financial Plan
City of Buffalo

Vice-Chair Townsend moved the agenda to the first item: a review of the 2011-2012 Annual Budgets and related Four-Year Financial Plans of the City and Covered Organizations. An extensive overview of these plans were provided by the staff at the May 11, 2011 board meeting.. Staff summaries at today's meeting will therefore include a brief overview of the material. The Board will review the final budgets and consider a resolution to approve the material.

Vice-Chair Townsend asked Principal Analyst Bryce E. Link to provide a summary of the City's Adopted 2011-2012 Budget and Four-Year Financial Plan.

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

Introduction
The following is an overview of the City of Buffalo's Adopted 2011-2012 Budget and Four-Year Financial Plan. It has not changed significantly from the originally proposed budget reviewed at the May 11, 2011 Board meeting.

- On May 20, 2011, the Buffalo Common Council submitted modifications to the Mayor's proposed budget. These changes included $628,000 in modifications, or less than 0.2% of the total budget;
- Funds were reallocated for various purposes. There was no overall increase in total expenditures;
- The most significant change was a $200,000 designation for local Arts and Cultural programs. Both the Mayor of Buffalo and the Buffalo Common Council will oversee $100,000 each to be allocated to qualifying groups.

Summary of Revenues and Expenditures

- The 2012-2015 Financial Plan is structurally imbalanced and requires the utilization of fund balance and other gap closing measures;
- Revenues are anticipated to increase $22.6 million, or 5%, over the course of the financial plan;

- Expenditures are anticipated to increase $19.4 million, or 4%, over the course of the financial plan;
- While increases to anticipated revenues exceed increases to anticipated expenditure, expenditures have been budgeted relatively flat and do not include increases for settlement of collective bargaining agreements (“CBAs”);
  - All but one smaller CBA have expired or will expire on June 30, 2011;
  - No recently settled CBA has had a net-zero impact. Settled CBAs will likely require the identification of additional funds;
- The projected operating deficit over the four-year financial plan is $49.64 million. The City anticipates the utilization of $38.0 million in unreserved, undesignated fund balance in addition to $11.75 million in additional savings through Programs to Eliminate the Gap (“PEGs”);
- PEGs include two components:
  - Asset and Property Management, which includes a complete inventory of City-owned properties and includes an assessment of utility costs) with a cumulative four-year savings of $6.75 million; and
  - An Offsite Time & Attendance program, with cumulative four-year savings of $5.0 million. This program will reduce the amount of manual entries that time-keepers are required to enter and subsequently reduce overtime costs.

Closing the Four-Year Deficit
It is important to note that in addition to the planned use of fund balance ($37.9 million) and PEG actions ($11.75 million), the City’s current financial plan also includes the use of $14.4 million of Restricted Aid and Incentives to Municipalities (“AIM”). Restricted AIM is not a recurring revenue source; currently the BFSA retains these funds which total approximately $18 million.

At 1:13 PM, Mayor Brown entered the proceedings.

City Expenditures
- Most expenditures are held relatively flat over the course of the Financial Plan. Fringe Benefits increase at a faster rate than other expenditures;
- Fringe Benefit expenditures include costs which are largely out of the control of management including pension contributions and health insurance. Management may be able to mitigate the future expected increases to health insurance through labor contract negotiations. Pension costs may become more manageable in the future through the new Tier V as well as the proposed Tier VI, however overall pension costs will increase over the next several years.
- It is noted that this week City Common Council issued a home-rule message requesting the State of New York (the “State”) to allow a new class of firefighters to be included under Tier IV; currently this class is included in the Tier V group. Such requests, if granted, will increase pension costs to the city.

City Personnel Cost Comparison
- Expenditures for wages and salaries are budgeted relatively flat over the course of the Financial Plan; wages and salaries are budgeted at $178.1 million in fiscal year 2012 and increases to $185.1 million in fiscal year 2015, representing an increase of 4%;
- As previously noted, the cost of fringe benefits increases at a faster pace over the course of the Financial Plan; fringe benefits increase from $116.3 million in 2012 to $134.9 million in 2015, representing an increase of 16%;

- The level of employees is projected to remain constant over the course of the Financial Plan at 2,163 active employees.

City Budget and Four-Year Financial Plan Risks
The Financial Plan includes a total deficit of $64.05 million:

- The Budget and Financial Plan project a planned use of $14.4 million of restricted AIM funds and $37.9 million in fund balance;
- The Financial Plan includes $11.75 million in PEGs to eliminate the remaining budgetary deficit;
- Minimal increases are anticipated over the Financial Plan in pay-as-you-go capital outlays, supplies, and services which may not be sustainable;
- Personnel costs are held flat and benefit costs continue to increase;
- New funding sources will need to be identified for any new CBAs or arbitration decisions, which would put additional pressure on the Financial Plan;
- New York State's economic climate is a risk to revenues. The City has no appetite for increasing property taxes;
- Other postemployment benefit ("OPEB") liabilities are estimated at $1.2 billion with an Annual Required Contribution ("ARC") of $83.7 million;
- The City's recommencement of operations of the pre-trial detention center could exceed original cost estimates including capital construction costs, supplies, and employee associated costs;
- The Refuse Fund has an ongoing deficit;
- The City continues to face a structural budgetary imbalance where expenditures grow faster than recurring revenues.

Mr. Link concluded his summary of the City's 2012 Budget and Four-Year Financial Plan.

Director Arthur noted the arrival of Mayor Brown during the presentation, and the resulting quorum of Directors.

Mayor Brown thanked and commended Mr. Link for his presentation. He noted the recent "home-rule" message mentioned in the presentation regarding the City Common Council's request to adjust the pension tiers for new firefighters to an earlier tier without similar employee pension contributions. He noted that the Administrative branch of the City will strenuously express opposition of this action to the New York State Governor and Legislature, as it would cost an additional $200,000 annually, at a minimum, and the City is not in a position to incur these additional costs.

Approval of May 11, 2011 & May 17, 2011 Meeting Minutes (continued)
Vice-Chair Townsend asked that the presentations on the budgets and financial plans be momentarily deferred to allow for a consideration of Resolution No. 11-10, "Approving the Minutes from May 11, 2011 & May 17, 2011".

Director Arthur offered a motion to move the item which was seconded by Director Floss.

RESOLUTION NO. 11-10
APPROVING MINUTES FROM MAY 11, 2011 & MAY 17, 2011

BE IT RESOLVED that the Buffalo Fiscal Stability Authority approves the minutes of its meeting on May 11, 2011.

BE IT FURTHER RESOLVED that the Buffalo Fiscal Stability Authority ratifies and affirms Resolution Nos. 11-05 through 11-08 that were approved on May 11, 2011.

BE IT FURTHER RESOLVED that the Buffalo Fiscal Stability Authority approves the minutes of its meeting on May 17, 2011.

BE IT FURTHER RESOLVED that the Buffalo Fiscal Stability Authority ratifies and affirms Resolution No. 11-09 that was approved on May 17, 2011.

Vice-Chair Townsend asked if there were any proposed amendments to either of the minutes. Hearing none, she called for a vote.

Vote 5-0 to approve.

Review of 2011-2012 Annual Budgets & Related Four-Year Financial Plan
Buffalo School District

Vice-Chair Townsend advanced the agenda to the next item for consideration: a review of the District's 2011-12 Budget and 2012-2015 Financial Plan. She asked Financial Analyst/Manager of Technology Nathan D. Miller to provide a brief summary of the material.

Mr. Miller addressed the Board and provided the following summary of the District's 2011-12 Budget and 2012-2015 Financial Plan:

Overview of the 2011-2012 Adopted Budget

- General Fund Revenues total $726.65 million in the Adopted FY 2012 Budget:
  - Total General Fund Revenues are unchanged from the Preliminary 2012 Budget;
  - Individual revenues remain unchanged as well.
- General Fund Expenditures total $756.85 million in the Adopted FY 2012 Budget:
  - Total General Fund Expenditures are unchanged from the Preliminary 2012 Budget;
  - Some changes have occurred in individual expenditures.
- The Adopted FY 2012 Budget includes the elimination of 302 General Fund positions:
  - A net of 9 positions have been restored from the Proposed 2011-12 Budget;
  - A total of 75 Buffalo Teachers Federation (BTF) positions have been transferred from the General Fund to the Special Projects Fund.
- The Adopted FY 2012 Budget includes the use of Fund Balance:
  - $14.2 million in Designated or Reserved Fund Balance;
  - $16.0 million in Unreserved, Undesignated Fund Balance.
- General Fund Revenues total $726.65 million; of which $602.5 million, or 82.9%, is New York State Aid;
- General Fund Expenditures total $756.85 million:

  - Total Employee Compensation has changed slightly from $226.18 million in the Proposed Budget to $225.54 million in the Adopted Budget. Total Employee Compensation is slightly less than originally proposed although the total number of Full Time Equivalent ("FTE") employees increased. This is reflective of a reexamination and reduction of anticipated FY 2012 average employee compensation;
  - Total Employee Benefit costs have changed slightly from $176.83 million in the Proposed Budget to $176.97 million in the Adopted Budget;
  - All Other Expenditure costs have changed slightly from a total of $353.84 million in the Proposed Budget to $354.34 million in the Adopted Budget. The $505,000 increase in Reserve for Contingency expenditures reflects the Board of Education's desire to address the student attendance problem and potentially hire several Attendance Teachers;
- The 2010-2011 Adopted Budget included 4,262 General Fund FTE positions. The 2011-2012 Proposed Budget included General Fund 3,951 FTE positions, representing a reduction of 311 positions. The 2011-2012 Adopted Budget includes 3,960 FTE positions, a net reduction of 302 from the prior fiscal year.

FY 2012-2015 Financial Plan – Programs to Eliminate the Gap

The remaining years in the 2012-2015 Financial Plan have not been changed. The Financial Plan includes a series of potential gap eliminating actions ("PEG actions") to close anticipated out-year budgetary gaps. These PEG actions include:

- Staff reductions;
- Closure of administrative, alternative and/or swing schools;
- Forced reductions; and
- Elimination of non-mandated services.

Vice-Chair asked what percent of the total FY 2012 operating budget was comprised of New York State Aid. Mr. Miller replied that 82.9% of FY 2012 General Fund Revenues were remitted by the State of New York.

Director Arthur noted the proposed PEG action of elimination of non-mandated services, specifically art and music, and asked what the potential savings were within the Financial Plan. Ms. Mongold, Executive Director, noted that the cumulative estimated potential savings would be $7.65 million over the three out-years of the Financial Plan for the elimination of non-mandated programs including arts, music, and athletics.

Director Floss noted that various parent groups have been working with the District to improve the quality of educational services. Student absenteeism has become a big problem. He asked if money has been set aside in the budget to fund any of these proposals, or have funds been set aside for music and art programs? Mr. Miller noted that $0.5 million has been additionally set aside to address the absenteeism issue. The Board of Education has indicated that it would draft a plan to address this specific issue in the Summer of 2011. He noted that the PEG action of eliminating non-mandated arts, music and athletics was not a certainty but rather a potential action to close gaps in the out-years of the Financial Plan. With respect to funding specific proposals from parents groups, he requested that a representative from the District address the question.

District Chief Financial Officer Barbara Smith addressed the Board. She provided the following information:

- The Board of Education will draft a proposal to address the issue of student absenteeism. The additional $500,000 set aside will be used to fund the tenets of the proposal;

- The District has over $100 million available in the Special Projects Fund, as well as remaining Persistently Low Achieving (“PLA”) grant funds and School Improvement Grant funds (“SIGs”), which may be used in schools identified as PLAs to address attendance issues. The intent is to draft a plan to address the absenteeism issue, rather than to simply add funds into the General Fund.

Director Arthur asked how much had been budgeted specifically for the art and music programs. Ms. Smith replied that she did not know the exact amount off hand but could provide the amount shortly. She reiterated that the proposed PEG action of reducing or eliminating non-mandated services such as art and music is not an action that the District would like to implement. As 86% of the budget is mandated, the District does not have a plethora of options available when spending cuts are required. Cutting non-mandated services such as art and music programs is an option available to close budgetary gaps.

Vice-Chair Townsend asked what the amount of savings lost annually was for the refusal of the District’s unions to transfer into a single-carrier health insurance plan system. Ms. Smith replied that the District is currently on a retrospective rated insurance plan. The differential between the current plan and a true single-carrier plan is now minor. However, the District is actively attempting to negotiate with the unions to eliminate the costly cosmetic surgery rider that is available. While the District has been able to decrease these costs from $9.0 million in FY 2011 to an estimated $5.0 million in FY 2012, the District has approached the unions to forego this provision in order to free up funds for instruction. These efforts have not been successful to date.

Vice-Chair Townsend noted that all actions or inactions have consequences. The inability of the District to free up these funds will detract from the amount of funds which would be directed toward education. She thanked Ms. Smith for her comments and asked Mr. Miller to continue his presentation.

Mr. Miller continued his presentation.

District Budget & Four Year Financial Plan Risks

- The District is a dependent school district and therefore heavily reliant on New York State for funding. The State’s own budgetary concerns are a risk to the District;
- PEG actions, if implemented would have a deleterious impact on the quality of educational services;
- The District is utilizing up to $64.0 million in unreserved, undesignated fund balance to reduce operational deficits in the Financial Plan. Use of reserves at these levels would essentially deplete unreserved, undesignated fund balance with only $3.5 million remaining at the end of the Financial Plan;
- No estimates for settling open CBAs is included in the Financial Plan. Most unions are out-of-contract;
- OPEB liabilities loom large. The last assessment placed the liability at $1.2 billion with an ARC of $121.0 million, subject to adjustment.

Mr. Miller concluded his presentation.

Vice-Chair Townsend thanked Mr. Miller and asked if any Directors had further questions regarding the District’s 2012 Budget and 2012-2015 Financial Plan. Hearing none, she advanced the agenda.

<u>Review of 2011-2012 Annual Budgets & Related Four-Year Financial Plan</u>
Buffalo Municipal Housing Authority

Vice-Chair Townsend advanced the agenda to the next item for consideration: a review of the BMHA's 2012 Adopted Budget and 2012-2015 Financial Plan. She asked Ms. Mongold to provide the Board with a summary of the material.

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

Summary of 2012-2015 Financial Plan

- The key underlying assumptions BMHA used to develop the Financial Plan are consistent with those of the prior year;
- Total operating revenues increase $1.7 million, or 4.7%, over the course of the Financial Plan. This averages to just under 1.2% annually;
- Total operating expenses increase $1.5 million, or 4.3%, over the course of the Financial Plan. This averages to just under 1.1% annually;
- Net annual operating revenue ranges between $900,000 to $1.2 million;
  - After payment of principal on long-term debt, the total cash flow impact is projected to be positive by $200,000 to $600,000 annually;
- There are no unusual or significant fluctuations in individual balances for either operating revenues or operating expenses;
- Total operating revenues and operating expenditures in the Adopted 2012 Budget are consistent with the Adopted 2011 Budget and remain so over the course of the Financial Plan.

Operating Revenues

- Operating Subsidy and Dwelling Rental Income constitutes 76% of total operating revenues included within the Financial Plan;
  - The key assumption in determining the level of Operating Subsidy is a funding level of 92%, which is applied over the course of the Financial Plan. This assumption is based on historic data and can be adjusted as new data becomes available;
    - Operating Subsidy represents on average 58% of total operating revenues;
    - In total dollars, the Operating Subsidy is anticipated to increase 3% per annum over the course of the Financial Plan, reflective of an assumption of 3% annual inflation factor applied to expenses;
    - FY 2015 of the Financial Plan is held consistent with FY 2014 of the Financial Plan;
  - Dwelling and Rental income represent 28% of total operating revenues and are projected to increase 3% per annum over the course of the Financial Plan;
    - Various initiatives undertaken by BMHA are expected to increase this revenue source including new developments at A.D. Price, better cycle maintenance, and improved occupancy rates.

Operating Expenses

- No unusual changes have been noted when comparing FY 2011 actual expenses to FY 2012 budgeted expenses;
  - Total Administrative Cost expenses constitute 29% of total expenses;
  - Total Ordinary Maintenance constitutes 27%;

    - Total Utilities constitute 24%.
- A 3% inflationary rate was applied to all expenses, with the exception of salaries and wages which are held at 0%. All collective bargaining units have either expired or will expire on June 30, 2011.

Management of Marine Drive

- BMHA took over management of the Marine Drive apartments effective February 2011;
- The Marine Drive apartments are self-sustaining with revenues generated to pay all annual expenses. It is budgeted outside of the BMHA budget;
- Net operating income is projected in each year of the Financial Plan;
- Total revenues range from $3.2 million to $3.4 million over the Financial Plan; while total expenses range from $3.1 million to $3.3 million;
- The resulting net operating income ranges from $91,000 to $106,000 annually;
- There is an increase of 23 BMHA positions for Asset Management related to the positions "brought over" to BMHA; these positions are not new BMHA positions, but rather represent transfers from the prior management group.

Capital & Other Grants Summary

- BMHA has not received any notification from the U.S. Department of Housing and Urban Development ("HUD") regarding a decrease in capital funding. BMHA has therefore determined that the capital budget should be extended consistent with the prior year's budget;
- BMHA's management is cognizant of potential decreases in revenue from HUD. This will be continuously monitored for changes;
- Discussions have taken place at the federal level for housing authorities to return unused funds from prior years. If this action were to occur, it would have a deleterious effect on BMHA's ability to improve their housing facilities.

Ms. Mongold concluded her presentation.

Vice-Chair Townsend asked if any Director had questions regarding the material presented. Hearing none, she advanced the agenda.

Review of 2011-2012 Annual Budgets & Related Four-Year Financial Plan
Buffalo Urban Renewal Agency

Vice-Chair Townsend advanced the agenda to the next item for consideration: a review of the BURA's 2012 Adopted Budget and 2012-2015 Financial Plan. She asked Ms. Mongold to provide the Board with a summary of the material.

Ms. Mongold addressed the Board. She noted that an overview of the material had been provided at the May 11, 2011 meeting.

Ms. Mongold provided the following information:

Introduction
HUD has dictated several changes to BURA. The 2012 Budget and 2012-2015 Financial Plan reflect these changes.

- BURA's primary revenue source is Community Development Block Grants ("CDBG") allocated by HUD;
- Funding is approved by the U.S. Congress; a formula determines how funding will be distributed;
- The results of the 2010 U.S. Census will likely impact this funding.

Revenues

- Total grant revenues have decreased $4.6 million in FY 2012;
    - The total amount budgeted is $26.4 million;
- CDBG funds are the largest revenue source and represent 60% of total revenues in FY 2012 and increases to 65% of total revenues in FY 2015, as other funding sources decrease ;
- HUD provided reauthorizations for FY 2010-2011; these are reflected in the 2012 Budget and Financial Plan. The new level projected for FY 2012 is $14,540,753;
- HOME program funds have been reduced by HUD by $600,000 and are held consistent through the remainder of the Financial Plan;
- Emergency Shelter Grants ("ESG") funds have experienced recent reductions of $275,000 in the past week. Currently, ESG is budgeted at $700,000 annually. ESG funds for homeless prevention terminates after this year and represents a reduction in grant funds of $2.2 million;
- Remaining revenues are consistent with the current year. Reductions in grant funds directly impacts the program related expenditures;
- Overall, revenues decline $3.9 million, or 15.0%, over the course of the Financial Plan. Program expenditures are subsequently reduced as less funds are available;
- BURA's staffing level remains at a level consistent with recent years over the course of the Financial Plan.

Ms. Mongold concluded her presentation.

Vice-Chair Townsend asked if any Directors had questions regarding the presentation. Hearing none, she introduced Resolution No. 11-11, "Approval of City of Buffalo Four-Year Financial Plan," and asked for a motion to move the item.

Mr. Hornung offered a motion on the behalf of County Executive Collins to move the item. Director Arthur seconded the motion.

RESOLUTION NO. 11-11
APPROVAL OF CITY OF BUFFALO FOUR-YEAR FINANCIAL PLAN

WHEREAS, Chapter 122 of the laws of 2003, as amended by Chapter 86 of the laws of 2004, requires the City of Buffalo to submit a four-year financial plan that includes the City of Buffalo, the City of Buffalo School District, the Buffalo Municipal Housing Authority ("BMHA") and the Buffalo Urban Renewal Agency ("BURA") along with the Mayor's proposed City budget to the Buffalo Fiscal Stability Authority ("BFSA") not later than the date required for submission of the budget to the Common Council as set by the City Charter; and

WHEREAS, the City of Buffalo submitted the proposed City budget and related four-year financial plan to the BFSA on May 2, 2011 to the BFSA; and

WHEREAS, pursuant to §3857 of the BFSA Act, BFSA is required, "…prior to the approval or disapproval of the financial plan of the city by the [BFSA], the [BFSA] shall request community, educational or other entity or entities to seek public input and comment relating to the city's and/or any Covered Organization's Financial Plan. Such community, educational or other entity or entities shall report to the authority on such public input and comment ten days after the city has submitted the financial plan to the [BFSA]…"; and

WHEREAS, the BFSA advertised through various local media sources, provided notices at all area public libraries, met with various community groups, sent out public notices and flyers to a wide array of local constituents via standard mail, facsimile and/or electronic mail, and posted pertinent material on the BFSA website that a Public Forum would be held for citizens to provide valuable feedback to the BFSA Board of Directors about the City of Buffalo's Proposed 2011-12 Budget and 2012-2015 Financial Plan; and

WHEREAS, the BFSA held a Public Forum the evening of May 9, 2011, at the Market Arcade Complex, located in downtown Buffalo, New York; and

WHEREAS, Ms. Jacqueline Siever and Mr. Joshua Boston were the independent scribes to record the public's comments, as required by the BFSA Act; and

WHEREAS, Ms. Jacqueline Siever and Mr. Joshua Boston and BFSA Principal Analyst Mr. Bryce E. Link compiled a report on the Public Forum and submitted it the BFSA Board on May 13, 2011; and

WHEREAS, the Buffalo Common Council acted to modify and approve the proposed budget on May 20, 2011, and such modifications were minor and did not alter the totality of the budget as presented to BFSA; and

WHEREAS, the City of Buffalo presented a revised Budget and Four-Year Financial Plan to the BFSA on June 8, 2011; and

WHEREAS, the Board of Education approved the revised Buffalo Public School District budget on May 25, 2011; and

WHEREAS, the Buffalo Public School District presented a revised Budget and Four Year Plan to the BFSA on May 31, 2011; and

WHEREAS, BFSA received a Certificate from the Mayor on June 8, 2011, that indicates that the 2011-12 budget submitted is consistent with the City of Buffalo's Revised Four-Year Financial Plan and that the City of Buffalo operations within that budget are feasible as required by Section 3857(2)(a) of the Public Authorities Law; and

WHEREAS, BFSA staff has reviewed the revised Budget and Four-Year Financial Plans for the City of Buffalo, the Buffalo Public Schools District, the Buffalo Municipal Housing Authority and the Buffalo Urban Renewal Agency and reported that it complies with the requirements of the BFSA Act and recommends that the BFSA approve the plan.

NOW THEREFORE BE IT RESOLVED THAT the Buffalo Fiscal Stability Authority determines that the City of Buffalo's Four-Year Financial Plan is complete, complies with the standards set forth in Sections 3857 and 3858 of the Buffalo Fiscal Stability Authority Act, and is hereby approved.

AND BE IT FURTHER RESOLVED THAT, the Buffalo Fiscal Stability Authority hereby certifies the revenue estimates in the budgets submitted to the BFSA by the City, the District, BMHA and BURA for the fiscal years 2011-2012.

Vice-Chair Townsend noted that in both the City of Buffalo's Financial Plan as well as the School District's Financial Plan, the growth of expenditures cost exceed the growth of revenues. The Budgets and Financial Plans are balanced only because of the use of two sources: extreme staffing cuts, as is the case with the District, and large drawdowns of reserves for both entities. During a period where expenditures grow at a rate that exceeds the rate of revenue growth, both entities have most of their collective bargaining units out-of-contract. Contracts settled over the course of the Financial Plan will very likely increase expenditures as well. Management for both entities is in the unenviable position of dealing with these difficult constraints.

Vice-Chair Townsend commended the Mayor for his position stated earlier regarding opposing increased employee benefits irrespective of the cost-constraints currently facing the City. Both the City and the District will need to maintain similar stances to address looming financial constraints.

Vice-Chair Townsend called for a vote to approve the item.

Vote 5-0 to approve.

City Issues
Capital Budget and Capital Improvement Plan

Vice-Chair Townsend advanced the agenda to the next item for consideration: the City of Buffalo's five-year Capital Improvement Plan, as submitted by the Mayor. She asked Mr. Link to provide a brief summary of the plan for the Board.

Mr. Link addressed the Board and provided the following summary of the City's five-year Capital Improvement Plan:

Introduction
The City submitted the Capital Improvement Plan and Capital Budget to the BFSA on May 17, 2011, in the amount of $27.3 million.

- $22.4 million, or 82%, of the Capital Improvement Plan is for City improvements;
- The remaining $4.9 million, or 18%, is for general school reconstruction projects;
- The largest single category within the Capital Budget is Public Works which includes $11.9 million, or 44%, of the Capital Budget. This includes various City-wide improvements including curb and sidewalk repair, road reconstruction, and building improvements;
- The remaining breakout of the Capital Budget is as follows:
  - $4.0 million, or 15%, for City parks,
  - $3.1 million, or 11%, for economic development,
  - $2.2 million, or 8%, for City vehicles including Fire Department apparatus, and

  - $1.2 million, or 4%, for cultural investments.
- City Projects to be funded in the Capital Budget are as follows:
  - Citywide Infrastructure Repairs = $5.1 million;
  - Demolitions = $2.7 million;
  - Citywide Park Improvements = $1.6 million
  - City Court Prisoner Lock-Up = $1.4 million (Note: only a portion of total costs)
  - Tree Removals & Plantings Citywide = $1.3 million (Note: recurring cost after dissolution of Intergovernmental Parks Agreement with Erie County);
  - Fire Apparatus = $1.0 million;
  - Broderick Park Infrastructure Repair = $0.8 million;
  - Streets Division Vehicles = $0.7 million;
  - City-Owned Buildings Repair = $0.6 million;
  - Parks Department Vehicles = $0.5 million;
  - Comprehensive Condition Assessment = $0.5 million;
  - All Other = $6.2 million;
- The City has been restricted by a "debt diet" since FY 2000 per the instructions of former-City Comptroller SanFilippo;
- BFSA borrowed on the behalf of the City in FY 2005, FY 2006 and FY 2007. The City recommenced borrowing on its behalf in FY 2008;
- Borrowing in FY 2008 and FY 2009 were negotiated sales whereas the borrowing in the previous year and the proposed borrowing in FY 2012 are competitive sales.

Mr. Link concluded his summary.

Vice-Chair Townsend asked if there were any further questions regarding the proposed Capital Improvement Plan and Capital Borrowing. Hearing none, she introduced Resolution No. 11-12, "Approval of City of Buffalo 2011 Capital Improvement Budget," and asked for a motion to move the item.

Director Floss offered a motion to move the item. Director Arthur seconded this motion.

RESOLUTION NO. 11-12
APPROVAL OF CITY OF BUFFALO 2011 CAPITAL IMPROVEMENT BUDGET

WHEREAS, Chapter 122 of the Laws of 2003, as amended by Chapter 86 of the Laws of 2004, authorizes the Buffalo Fiscal Stability Authority ("BFSA") to approve the City of Buffalo's four-year financial plan that encompasses the City of Buffalo, the Buffalo Public Schools and other covered organizations, and may include a capital budget; and

WHEREAS, the Charter of the City of Buffalo requires the Mayor to prepare and submit a capital budget and four-year recommended capital improvement program after receiving a recommendation from the Citizens Planning Council ("CPC"); and

WHEREAS, after receiving CPC's recommendation, the Mayor submitted a capital budget to the Common Council for its consideration; and

WHEREAS, the Mayor has submitted the capital budget to BFSA for its consideration; and

WHEREAS, the City of Buffalo will submit for approval the proposed terms of the bond issuance to finance the capital improvement program; and

WHEREAS, the City has included in its 2011-12 budget and related four-year financial plan the necessary resources to make the debt service payments required by this capital budget; and

WHEREAS, in approving last year's capital budget, BFSA noted the following caveat: "That the City of Buffalo continue to reduce its use of capital borrowing for short-term operating expenses that are not supported by a long-term physical asset with the goal of eliminating the practice,"; and

WHEREAS, in approving last year's capital budget, BFSA also noted the following caveat: "That the City of Buffalo continues to rescind authorized but unissued debt whenever possible."

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby approve the City of Buffalo's 2011-2015 Capital Improvement Program Budget as submitted by the Mayor on May 17, 2011; and

BE IT FURTHER RESOLVED, that BFSA does hereby reaffirm the caveats it included in its approval of last year's capital budget, "That the City of Buffalo continue to reduce its use of capital borrowing for short-term operating expenses that are not supported by a long-term physical asset with the goal of eliminating the practice," and "That the City of Buffalo continue to rescind authorized but unissued debt whenever possible."

Director Arthur asked if the bond resolutions were being considered by the Buffalo Common Council. Mr. Link replied that he believed that they were and asked an attending member of the City Comptroller's office to speak to the issue.

City of Buffalo Investment & Debt Management Officer, Mr. Rick Calipari, addressed the Board. He noted that the Buffalo Common Council had passed the bond resolutions. Permissive referendum has been completed. Currently, the City is in the estoppel period will be completed effective June 16, 2011. The City intends to go to the bond market June 28, 2011.

Director Arthur noted that BFSA had approved the prior year's Capital borrowing in June of 2010. The borrowing did not occur until July 15, 2010. He asked why the borrowing had not taken place until FY 2011. Mr. Calipari noted that market rates fluctuate and the City decided to wait until that time as it was beneficial in order to receive a lower interest rate. Borrowing could have occurred earlier at a higher interest rate.

Director Arthur inquired what the interest cost savings had been between going to market in June 2010 versus July 2010. Mr. Calipari indicated that he did not know the exact amount offhand but could provide it in the near future.

Director Arthur noted that the lack of a bond borrowing in FY 2011 prevented BFSA a transitioning into an advisory period. He asked when the Comptroller's Office had notified the City that it would not be borrowing in FY 2011. Mr. Calipari indicated that the City had determined not to go to market in late June 2010 because of unfavorable market conditions. At that time, many municipalities had gone to market creating a condition where rates were higher than was deemed favorable. The City therefore

held off issuing bonds until it was determined that lower rates could be achieved, thereby saving the City interest payment costs.
Interim Acting City Comptroller Darby Fiskin addressed the Board. She noted that the issue of the interest rate attainable is not the sole criteria used to decide when to issue bonds. Additionally, the demand for municipal bonds by the market determines whether or not a municipality decides to issue bonds.

Director Arthur noted that the absence of a bond sale in FY 2010 prevented BFSA from a transitioning to an advisory period. He noted the BFSA was "at the mercy" of the Comptroller's Office, who would initiate this action. Ms. Fiskin replied that the City is "at the mercy" of the bond market as it is prudent to go to market when rates and terms are more favorable for the borrowing. The City Comptroller's Office has discussed the issue of "constructive intent" with the State Comptroller's Office. The City intended to go to market in FY 2010 but held off to achieve more favorable conditions. The State Comptroller's Office did not concur that the intent to go to market could qualify as actually going to market with respect to certifying an actual borrowing in the 2010 fiscal year.

Director Arthur asked whether the State Comptroller's Office had quantified this position in a written document. He asked why the City Comptroller's Office had not submitted a written statement to BSFA. Ms. Fiskin replied that the State Comptroller's office had not submitted a written statement regarding the issue of constructive intent but rather had communicated this verbally. Ms. Mongold noted that the City Comptroller's Office had forwarded a written statement to BFSA which had been provided to the Board along with the Board book materials.

Director Arthur replied that the statement received was lacking and did not sufficiently address his request. He asked Ms. Fiskin to confirm that the City would issue a borrowing on June 28, 2011. Ms. Fiskin replied that the City intended to enter the market on this date, contingent on market conditions. The City has already issued a borrowing in the 2011 fiscal year.

Director Arthur asked General Counsel A.V. Buzard, Esq., how these borrowings would affect BFSA's ability to enter into an advisory period. Mr. Buzard replied that by entering the market on July 14, 2010, the City has met the objective requirement to issue a borrowing in the prior fiscal year. Ms. Fiskin added that the City Comptroller's Office would be in a position to certify that the City entered into a borrowing in the 2011 fiscal year on July 1, 2011.

Vice-Chair Townsend asked if any Directors had any further questions. Hearing none, she called for a vote.

Vote 5-0 to approve.

2011 General Obligation Borrowing

Vice-Chair Townsend advanced the agenda to the next item for consideration: the City's proposed 2011 General Obligation Bond. The Acting City Comptroller has requested approval from BFSA to approve the 2011 General Obligation borrowing up to $27,300,000, the proceeds of which are to be used for the costs of capital projects of the City and the School District and the related bond issuance costs. Directors have been provided with a staff memo as well as the pricing differential analysis prepared by BFSA's financial advisor, Public Financial Management ("PFM"). The pricing differential analysis offers the cost of issuance under two scenarios: a BFSA issuance and a City of Buffalo issuance.

Approval of these bonds would be contingent upon approval of the final terms and pricing of the borrowing. Consistent with past practice, the Board is asked to delegate authority for the final pricing to certain officers and employees of BFSA.

She asked Ms. Mongold to provide a summary of the proposed 2011 General Obligation Borrowing for the Board.

Ms. Mongold addressed the Board and provided the following:

Introduction

- The City Comptroller's Office has requested that BFSA approve the borrowing conditional on final approval of pricing;
- From a structure perspective, the issuance will be tax-exempt;
- The total borrowing is \$27.3 million, \$4.9 million of which is for District borrowing and \$22.4 million for City borrowing;
- The projects to be paid for with this borrowing are the projects approved today via Resolution No. 11-12 "Approval of City of Buffalo 2011 Capital Improvement Budget";
- Bonds are to be sold competitively as opposed to a negotiated sale. The competitive sale is expected to generate lower interest rates than a negotiated sale, and is reflective of bond rating upgrades the City has received over the past few years;
- Bonds will be eligible for bond insurance at the option of the bidders, which is consistent with how competitively issued bonds are structured;
- The bonds are expected to be premium bonds with an average life of 8.3 years and a final maturity date in 2026;
- The estimated cost of issuance will likely be slightly more than \$200,000;
    - PFM performed an analysis of a theoretical BFSA structure compared to the planned City issuance An issuance by BFSA would afford total savings of \$1.6 million over the life of the bonds, which represents approximately \$110,000 in annual debt service savings. The present value of the total savings is \$1.2 million;
    - The Board of Directors has taken the position in the past not to issue bonds on the behalf of the City to allow the City the ability to meet the borrowing requirements provision of the BFSA Act in anticipation of the BFSA's consideration of transitioning into an advisory period.

The expected bond ratings by the three rating agencies are considered high quality investment grade; outlook is stable. It is noted that the City refunded bonds earlier this calendar year and received an upgrade from one of the rating agencies (Fitch) at that time. No further upgrades are expected in connection with the general obligation bond.

Ms. Mongold concluded her summary.

Director Floss asked what discount rate had been used for the present value calculations. Ms. Mongold replied that the arbitrage yield rate was utilized and was approximately 3.5%. Director Floss asked if the terms of the borrowing are to be commensurate with the timing of the capital projects to be completed. Ms. Mongold replied that the periods of probably usefulness for all projects were utilized in structuring the individual bond maturities.

Vice-Chair Townsend introduced Resolution No. 11-13 "Approving Bond Issuance by the City of Buffalo Not To Exceed $22.4 Million of General Improvement Serial Bonds and $4.9 Million of School Serial Bonds". She asked for a motion to move the item.

Director Floss offered a motion that was seconded by Director Arthur.

RESOLUTION NO. 11-13
APPROVING BOND ISSUANCE BY THE CITY OF BUFFALO NOT TO EXCEED $22.4 MILLION OF GENERAL IMPROVEMENT SERIAL BONDS AND $4.9 MILLION OF SCHOOL SERIAL BONDS

WHEREAS, §3858 of Chapter 122 of the Laws of 2003 ("Chapter 122"), as amended, requires that the Buffalo Fiscal Stability Authority ("BFSA" or the "Authority") "shall, with respect to any proposed borrowing by or on behalf of the city or any covered organization on or after July first, two thousand three, review the terms of and comment, within thirty days after notification by the city or covered organization of a proposed borrowing, on the prudence of each proposed issuance of bonds or notes to be issued by the city or covered organization…"; and

WHEREAS, Chapter 122, as amended, further provides that "…no such borrowing shall be made unless first reviewed, commented upon and approved by the Authority"; and

WHEREAS, Chapter 122, as amended, permits BFSA to review and approve or disapprove contracts or other obligations of the City or any covered organization; and

WHEREAS, the City Comptroller has requested BFSA approval to borrow in the public markets up to $28.0 million for City of Buffalo ("City") and Buffalo School District ("District") projects; and

WHEREAS, the City Comptroller's correspondence indicates a plan to borrow for capital projects on a level debt payment basis, with a final maturity of 2026 which reflects the weighted average of the projects' period of probable usefulness of 8.3 years; and

WHEREAS, the City Comptroller identifies the source of repayment as being property taxes collected by the City of Buffalo and deposited in advance with the Trustee to cover upcoming maturities; and

WHEREAS, debt service costs have been included in the respective 2012 budgets and 2012-2015 financial plans of both the City and District; and

WHEREAS, BFSA has utilized the services of its financial advisor The PFM Group ("PFM") in its review of the structure and pricing of the issue.

NOW THEREFORE BE IT RESOLVED, that the Authority approves the borrowing as proposed by the City Comptroller to address the City and School District of Buffalo's capital needs, provided that (i) the aggregate amount of the borrowing shall not exceed $27.3 million for capital purposes, and (ii) the Chair, the Vice Chair or the Executive Director of the Buffalo Fiscal Stability Authority shall approve the final terms and pricing of the borrowing in writing; and

BE IT FURTHER RESOLVED, that the Authority authorizes the City to enter into necessary and appropriate contracts in connection with this borrowing; and

BE IT FURTHER RESOLVED, that the City shall continue to submit contracts and other obligations in excess of $50,000 for review and approval or disapproval; and

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

Vote 5-0 to approve.

Contract Approval Request: Injured-On-Duty Medical Services Contract

Vice-Chair advanced the agenda to the next item for consideration: a contract approval request for an injured-on-duty processing services contract between the City and Great Lakes Physician's Services in the amount of $334,500. The contract is for one year; all required forms have been completed and submitted to BFSA.

Vice-Chair Townsend asked for a motion to move the item.

Director Floss offered a motion, which was seconded by Mr. Hornung [Collins].

RESOLUTION NO. 11-14
AUTHORIZE CITY OF BUFFALO TO ENTER INTO A CONTRACT WITH BE WELL HEALTHCARE MEDICINE, PLLC

WHEREAS, Chapter 122 of the Laws of 2003, as amended by Chapter 86 of the Laws of 2004, permits the Buffalo Fiscal Stability Authority ("BFSA") to review and approve or disapprove contracts or other obligations binding or purporting to bind the City or any covered organization; and

WHEREAS, Chapter 122 of the Laws of 2003, as amended by Chapter 86 of the Laws of 2004, permits the BFSA to review and approve or disapprove the terms of any proposed settlement of claims against the City or any covered organization in excess of $50,000; and

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

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

WHEREAS, the Mayor and other City officials submitted a contract or obligation for approval on May 24, 2011 to BFSA, and have signed the BFSA Remittance Approval

Request Form ("RARF") in which they indicate that there are sufficient funds available for such item; and

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

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority approve and authorize the City of Buffalo to enter into a contract and obligation as listed below:
1. Be Well Healthcare Medicine, PLLC – Case Management of Injured on Duty Employees of the Buffalo fire and police departments.

Vice-Chair Townsend asked if there was any discussion regarding the proposed contract.

Director Floss noted that the term of the contract was for one year. He expressed concern how these services would be provided and what precedent it would set, as these types of services are typically performed by an internal human resources department. Additionally, he requested information related to various analyses related to these issues.

City of Buffalo Acting Corporation Counsel David Rodriguez addressed the Board. He noted at the one-year term of the contract had been determined to be preferred from a management standpoint. The City is developing a model for managing Injured-on-Duty ("IOD") police officers and firefighters. The practice of hiring outside consultants to perform services for the City's Human Resource Department has been done before. The intent is to assist members of the Police and Fire Departments who are on IOD status, as well as to manage the various Memorandums' of Agreement ("MOA's") and terms of the various contracts with the union members. Mayor Brown had directed the Department of Law, the Department of Human Resources, and the Commissioners of both the Police and Fire Departments to re-examine the IOD issue and develop a better model to address and incorporate the experiences and expertise of all departments. The City's current practices were compared with those of other entities to develop a hybrid model and improve the current system. The overall intent has been to not only examine how services could be provided at a lower cost, but also to improve the quality of the services for those Police and Firefighters who have been injured as a result of their employment. Mr. Rodriquez added that the City's management maintains control of the process after approval of the contract.

Director Arthur sought clarification on the members of the committee addressing the IOD issue. Mr. Rodriquez replied that the members include the Police Commissioner and members of his staff, the Fire Commissioner and members of his staff, the Director of Labor Relations, the Acting Corporation Counsel, and employees of the Law Department.

Director Arthur asked if members of the various unions were involved on the committee and what role the unions play with respect to the committee. Mr. Rodriguez replied that the committee was strictly comprised of City management and staff. The intent is for members of the collective bargaining units to see the efforts of management to address the issue and help injured employees heal earlier and with less pain. While the leadership of the various unions' are not standing members of the committee, they have been apprised of developments by both the Police and Fire Commissioners.

Director Floss asked for clarification that the costs of the wellness programs and the medical care programs are not duplicative. Are the services offered in the contract already provided by the health insurance provider? If not, how is this assured? Mr. Rodriquez replied that the costs are not duplicative though there has been a duplication of services in prior contracts. The vendor will be accountable to the City's management and work in conjunction with the existing Employee Assistance Program ("EAP") to make sure the IOD police officers and firefighters' physical and emotional needs are met and that no one "falls through the cracks".

Director Arthur asked how disputes would be settled. Mr. Rodriquez replied that the dispute process is outlined within the various collective bargaining agreements. The dispute process with the vendor is governed by the provisions of the contract.

Vice-Chair Townsend called for a vote for Resolution 11-14.

Vote 5-0 to approve.

Approval of City Budget Modification

Vice-Chair Townsend advanced the agenda to the next item for consideration: a budget modification to transfer funds from the unreserved, designated fund balance into budgeted appropriations of the General Fund to pay for various judgments and claims. She asked Mr. Link to provide a brief summary of the budget modification.

Mr. Link addressed the Board. He noted that the City had submitted a request for a budget modification on Friday, June 10, 2011. The budget modification will allow funds to be transferred into the judgment and claims account for various judgments and claims that had been approved by the Buffalo Common Council. The new budgeted amount for judgment and claims has increased to $4.852 million. Funding will come from the unreserved, designated fund balance for such prior years' judgment and claims. The remaining balance of unreserved, designated fund balance account will be reduced to $11.4 million. Of the funds to be paid, $2.74 million will be paid for actual claims while the additional $111,339 is for interim interest payments.

Mr. Link concluded his summary.

Vice-Chair Townsend asked if there were any questions regarding the material. Hearing none, she asked for a motion to move the item.

Mayor Brown offered a motion that was seconded by Director Arthur.

RESOLUTION NO. 11-15
APPROVAL OF THE CITY OF BUFFALO'S BUDGET MODIFICATION FOR TRANSFERRING FUNDS FROM THE CITY'S UNRESERVED, DESIGNATED FUND BALANCE TO THE GENERAL FUND TO PAY VARIOUS JUDGEMENTS AND CLAIMS

WHEREAS, on June 6, 2011, the City of Buffalo ("City") submitted a budget modification request for the 2010-2011 fiscal year to the Buffalo Fiscal Stability Authority ("BFSA"); and

WHEREAS, the proposed modification would serve to amend the budget originally approved by BFSA on June 22, 2010 as modified subsequently; and

WHEREAS, the modification addresses a single-year change for 2011 only within the City's 2010-11 budget; and

WHEREAS, there is no change to the City's 2011-2014 financial plan; and

WHEREAS, the City's Law Department has provided the amount of $2,582,000 for the settlement and respective payment of various judgments and claims against the City of Buffalo, including interest; and

WHEREAS, the budget modification provides for the use of $2,582,000 of unreserved, designated fund balance for judgments and claims within the City's General Fund; and

WHEREAS, the City's Common Council has previously approved the budget modification; and

WHEREAS, BFSA staff has reviewed the budget modification and has determined that such budget modification in in compliance with the provisions of Chapter 122 of the Laws of 2003, as amended by Chapter 86 of the Laws of 2004 ("BFSA Act").

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

Vote 5-0 to approve.

School District Issues
Consideration of Various Legal Settlements

Vice-Chair Townsend advanced the agenda to the next items for consideration: three legal settlements.

The first two contracts represent legal settlements in the amounts of $1.1 million and $65,000. She asked Ms. Mongold to provide a brief summary of these items.

Ms. Mongold replied that the BFSA had received a request to approve two legal settlements from the District. All appropriate request forms and supporting documentation have been received. The first legal settlement is for $1.1 million. The second is a payment for a legal settlement in the amount of $65,000. BFSA's staff have reviewed the materials submitted, determined that the amounts are affordable under the context of the 2011 budget, and recommend approval of the contracts. The payments would be made out of the budgeted amount for Judgments and Claims; no budget modification is required. Both settlements relate to accidents and have been approved by the Buffalo Board of Education.
.
Vice-Chair Townsend asked for a motion to move the item.

A motion was offered by Director Floss that was seconded by Director Arthur.

RESOLUTION NO. 11-16
APPROVAL OF LEGAL SETTLEMENT

WHEREAS, Chapter 122 of the Laws of 2003, as amended by Chapter 86 of the Laws of 2004, permits the Buffalo Fiscal Stability Authority ("BFSA") to review and approve or disapprove contracts or other obligations binding our purporting to bind the City or any covered organization; and

WHEREAS, Chapter 122 of the Laws of 2003, as amended by Chapter 86 of the Laws of 2004, permits the BFSA to review and approve or disapprove the terms of any proposed settlement of claims against the City of Buffalo or Covered Organizations; and

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

WHEREAS, the City of Buffalo School District ("District") has requested BFSA approval of a legal settlement in the amount of $1,100,000; and

WHEREAS, the District provided all information as requested by the BFSA on or before June 14, 2011; and

WHEREAS, the District has also submitted to the BFSA a completed Contract Approval Request Form which contains all required signatures and indicates that sufficient funds are available within the 2010-2011 Adopted Budget for the payment of such legal settlement; and

WHEREAS, BFSA Staff have reviewed the information and recommends the approval of such legal settlement.

NOW, THEREFORE BE IT RESOLVED that the Buffalo Fiscal Stability Authority does hereby authority the Buffalo School District to settle the matter of Wiggins v. Board of Education, et al, in the amount of $1,100,000.

RESOLUTION NO. 11-17
APPROVAL OF LEGAL SETTLEMENT

WHEREAS, Chapter 122 of the Laws of 2003, as amended by Chapter 86 of the Laws of 2004, permits the Buffalo Fiscal Stability Authority ("BFSA") to review and approve or disapprove contracts or other obligations binding or purporting to bind the City or any covered organization; and

WHEREAS, Chapter 122 of the Laws of 2003, as amended by Chapter 86 of the Laws of 2004, permits the BFSA to review and approve or disapprove the terms of any proposed settlement of claims against the City of Buffalo or Covered Organizations; and

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

WHEREAS, the City of Buffalo School District ("District") has requested BFSA approval of a legal settlement in the amount of $65,000;

WHEREAS, the District provided all information as requested by the BFSA on or before June 14, 2011; and

WHEREAS, the District has also submitted to the BFSA a completed Contract Approval Request Form which contains all required signatures and indicates that sufficient funds are available within the 2010-2011 Adopted Budget for the payment of such legal settlement; and
WHEREAS, BFSA Staff have reviewed the information and recommends the approval of such legal settlement.

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby authorize the Buffalo School District to settle the matter of Bergman vs. Board of Education, et al, in the amount of $65,000.

Mayor Brown expressed his desire to abstain from a vote for these items.

Director Arthur noted that an abstention would not afford the minimum of five aye votes need to approve the item.

Vice-Chair Townsend asked if Mayor Brown had any outstanding questions regarding the material which could be answered presently.

Mayor Brown replied that he had not had the proper time to review the material and therefore did not feel comfortable voting on the items.

Mr. Buzard suggested that the items be reviewed in an Executive Session.

Director Arthur offered a point-of-order that the items are not relating to pending litigation but rather settlements approved by the Buffalo Board of Education. An executive session would not be appropriate for these discussions.

Mayor Brown requested an opinion from Mr. Buzard, that the material had been properly vetted and that the terms of settlement were reasonable. Mr. Buzard confirmed that the settlements were within a range of reasonableness.

Upon the advice of Mr. Buzard, Mayor Brown expressed his desire to vote in the affirmative on the items.

Vote to approve 5-0.

Separation Agreement between the Buffalo School District and Deputy Superintendent Oladele

Vice-Chair Townsend advanced the agenda to the next item for consideration: a proposed separation agreement between the District and Deputy Superintendent Oladele. She noted that the Buffalo Board of Education had called a Special Meeting of the Board to include an executive session for the purposes of discussing a personnel matter later in the day. A reconsideration of the terms of this proposed contract is a possibility. As such, it is prudent to table the issue from BFSA's consideration until the Board of Education's decision is definitively known.

Director Arthur requested confirmation that the Special Meeting had in fact been called to readdress the proposed separation agreement.

Vice-Chair Townsend asked an attending member of the School District to address the Board relative to explain the agenda for the Board of Education's Special Meeting of the Board.

Mayor Brown expressed his desire for an explanation as well.

District General Counsel Brendan Kelleher addressed the Board. He relayed that the notice for the Special Meeting indicated that it was called to discuss a personnel issue as well as other issues. However, it is not prudent to discuss the details of the Special Meeting of the Board in the current open session. The Special Meeting has been called by the President of the Board of Education. The Notice of Meeting had been duly signed by the Board Clerk and remitted to the public. Director Arthur asked if the President of the Board of Education had voted to approve the Separation Agreement. Mr. Kelleher confirmed that, in open session, he had voted to approve this item.

Director Floss asked if there were any timelines that could arise from the evening's Special Meeting what would cause BFSA to act prior to the next BFSA regular meeting and whether or not the Separation Agreement would be paid in the near future sans BFSA approval. Mr. Kelleher replied that the Separation Agreement would be paid after June 30, 2011, contingent upon BFSA's approval. However, he would not be able to discuss any potential actions taken at the evening's Special Meeting.

Director Arthur asked if Mr. Kelleher had advised the Buffalo Board of Education that they could not readdress the terms of the Separation Agreement. Mr. Kelleher replied that he could not discuss this as it would violate his client confidentiality agreement.

Vice-Chair Townsend sought consensus to put the issue of the proposed Settlement Agreement on hold pending the results of the Board of Education's Special Meeting of the Board and to call a Special Meeting in the near future to address the issue. Hearing no objections, the proposed contract was held for future consideration.

BFSA Issues

Vice-Chair Townsend advanced the agenda to the next item for consideration: approval of BFSA's 2011-2012 Budget and Four-Year Financial Plan. She noted that the Audit, Finance & Budget Committee had met earlier in the day and approved a motion to send the material to the full Board with a recommendation for approval.

Mayor Brown offered a motion to move the item which was seconded by Director Arthur.

RESOLUTION NO. 11-18
ADOPTION OF 2011-2012 BFSA BUDGET & 2012-2015 FOUR YEAR FINANCIAL PLAN

WHEREAS, the Buffalo Fiscal Stability Authority ("BFSA") was created by Chapter 122 of the Laws of 2003 of the State of New York, as amended from time to time (the "BFSA Act"); and

WHEREAS, the BFSA is a corporate governmental agency and instrumentality of the State of New York constituting a public benefit corporation with a broad range of financial control and oversight powers over the City; and

WHEREAS, such financial control and oversight powers include: (1) overseeing the City of Buffalo's budget, financial plans and capital plans, (2) issuing bonds, notes or other obligations to achieve budgetary savings through debt restructuring, (3) financing short-term cash flow or capital needs and (4) if necessary, to develop financial plans on behalf of the City of Buffalo if it is unwilling or unable to take the required steps toward fiscal stability; and

WHEREAS, the BFSA is currently operating under a control period; and

WHEREAS, during a control period, the BFSA is empowered, among other things, (i) to approve or disapprove contracts, including collective bargaining agreements to be entered into by the City or any Covered Organization, binding or purporting to bind the City or any Covered Organization; (ii) to approve or disapprove the terms of borrowings by the City and Covered Organizations; (iii) to approve, disapprove or modify the City's financial plans and take any action necessary in order to implement the financial plan should the City or any Covered Organization fail to comply with any material action necessary to fulfill the plan, including issuing binding orders to the appropriate local officials; (iv) to set a maximum level of spending for any proposed budget of any Covered Organization; (v) to impose a wage or hiring freeze, or both, with respect to employees of the City or any Covered Organization; (vi) to review the operation, management, efficiency and productivity of the City and any Covered Organization; and (vii) upon a determination that no condition exists which would permit imposition of a control period to terminate the control period; and

WHEREAS, the BFSA intercepts certain revenues according to the direction to the State Comptroller as prescribed within the BFSA Act; and

WHEREAS, the BFSA incurs expenses for its operations and the execution of the functions prescribed within the BFSA Act; and

WHEREAS, the Office of the State Comptroller's Regulation 203 requires the BFSA to annually prepare a Financial Plan covering the budget year and the three subsequent fiscal years in a form similar to that of the budget; and

WHEREAS, the BFSA has carefully reviewed and projected the revenues expected to be received and expenses expected to be incurred over the four-year period of the Financial Plan for fiscal years 2011-12 through 2014-15.

NOW THEREFORE, BE IT RESOLVED, that the Directors of the Buffalo Fiscal Stability Authority do hereby approve the 2011-2012 BFSA Budget and 2012-2015 Financial Plan.

Vote 5-0 to approve.

Honoring Former BFSA Comptroller Margreta Mobley

Vice-Chair Townsend advanced the agenda to the next item for consideration: a resolution to honor the contributions of former BFSA Comptroller Margreta Mobley. She noted that Ms. Mobley had brought more than four years of dedicated service in working to promote the mission of the BFSA to help restore long-term fiscal stability to the City and Covered Organizations.

Vice-Chair Townsend read the following excerpts of the resolution aloud:

> *"WHEREAS, after more than four 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, Ms. Mobley has chosen to step down from the position of Comptroller to pursue a new and challenging career; and*
>
> *WHEREAS, despite her resignation from BFSA, Ms. Mobley'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 Margreta D. Mobley for her significant and outstanding contributions to the Buffalo Fiscal Stability Authority."*

RESOLUTION NO. 11-19
HONORING FORMER BFSA MS. MARGRETA D. MOBLEY, MBA

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 5, 2007, Margreta D. Mobley was hired as Principal Analyst of the Buffalo Fiscal Stability Authority, noting her to be "highly qualified for the position and possess unique training and experience…"; and

WHEREAS, during her tenure with BFSA, Ms. Mobley served as Principal Analyst, Internal Controls Officer, and Comptroller; and

WHEREAS, during her 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, Ms. Mobley's commitment to Buffalo and the Western New York community transcended her work with BFSA to include serving as the BFSA United Way representative; and

WHEREAS, after more than four 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, Ms. Mobley has chosen to step down from the position of Comptroller to pursue a new and challenging career; and

WHEREAS, despite her resignation from BFSA, Ms. Mobley'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 Margreta D. Mobley for her significant and outstanding contributions to the Buffalo Fiscal Stability Authority.

Vote to approve 5-0.

New Business – Resolution Cosponsored by Secretary Arthur and Director Floss

Vice-Chair Townsend introduced a resolution that had been co-sponsored by Directors Arthur and Floss. She noted their desire to introduce the resolution for future consideration upon the return of Chair Olsen.

Director Floss concurred with this assessment. He noted that there have been discussions relating to BFSA's status under a control period. It is important for the Board to go on record and discuss some of the issues relating to the control period and for the BFSA to move forward into an advisory period, and to make certain recommendations to the New York State Legislature. BFSA has previously noted, but has not yet formally praised, the Mayor, the City Comptroller, the workers of the City and the District, and the various labor unions. Director Floss noted the great sacrifices that have occurred by the workers to enable BFSA to be at a point where it can transition from a control period into an advisory period. Additionally, BFSA should recognize the difficult positions that both the Mayor and the Comptroller have been placed in. For example, the Comptroller had the decision of when to enter the bond market. Entering the bond market in the 2010 fiscal year would have met the statutory requirement for BFSA to transition into an advisory period but would not have afforded the most advantageous terms for the borrowing. These types of difficult decisions need to be recognized by BFSA. The wording of the BFSA Act created this unfortunate scenario that, while unintended by the New York State Legislature, placed the Comptroller in a difficult position.

Director Floss noted that the resolution would address the issues he had discussed but that it should not be brought to a vote in the absence of the Chair. Therefore, it is prudent to introduce the resolution and highlight some of the key tenets and hold the resolution for future consideration.

Director Arthur added that the resolution codifies some of the changes which need to be proposed to the New York State Legislature as they relate to the BFSA Act. Additionally, the language of the BFSA Act which pertains to timing of BFSA's Public Forum needs to be readdressed, as requiring it to be held prior to its final approval is a "waste of time and money." These changes which need to be memorialized to the New York State Legislature, are intended to not only amend the BFSA Act but to also provide a better model for future control board legislation for other municipalities.

Director Arthur concurred with Director Floss's intent to table the resolution until Chair Olsen could be present at a regular meeting of the Board.

Director Arthur offered a motion to table the item. Director Floss seconded the motion.

Vote 5-0 to table the item.

Privilege of the Floor

Vice-Chair Townsend extended the Privilege of the Floor to any attending member of the audience who wished to publically comment on any items discussed during the day's meeting.
Ms. Marilyn Gallivan addressed the Board. She thanked the speakers for making a conscientious effort to speak clearly and into the microphones so that the audience could better hear the proceedings.

BFSA Issues (continued)
New Business – Resignation of the Vice-Chair

Vice-Chair Townsend noted that she had attended her first BFSA meeting as its Vice-Chair almost eight years ago. She explained that she has been traveling to Buffalo over this time; the current meeting will be her last as she as submitted her formal resignation to the Governor.

Vice-Chair Townsend explained that she had taken on some additional responsibilities including work with an arm of Lincoln Center as well as to the Boy Scouts of America where she is now the new President of the New York City Chapter. She noted that it has been a privilege to work with four distinctive Chairs of the Board, including former Chair Thomas Baker, former Chair Brian Lipke, former Chair Paul Kolkmeyer, as well as current Chair Nils Olsen, each of which have been outstanding and have had their own unique styles. She commended the BFSA staff including the former Executive Director Ms. Dorothy Johnson, former Executive Director Mrs. Bertha Mitchell and current Executive Director Ms. Jeanette Mongold and current staff members Mr. Bryce Link and Mr. Nathan Miller, and former Comptroller Ms. Margreta Mobley, all of whom do yeoman's work on the behalf of the BFSA.

The Board commended Vice-Chair Townsend for her service to the Board.

Adjournment

Vice-Chair Townsend asked for a motion to adjourn from the meeting.

Director Arthur offered a motion to adjourn that was seconded by Director Floss.

Vote 5-0 to adjourn.

The Board adjourned at 2:20 PM.