BUFFALO FISCAL STABILITY AUTHORITY
Meeting Minutes
September 24, 2012

The following are the minutes from the meeting of the Buffalo Fiscal Stability Authority (the "BFSA" or the "Authority") held on Monday, September 24, 2012, in the Buffalo Market Arcade Complex. The meeting was called to order at 1:02 PM.

Board Members Present: Arthur, Brown (proxy), Doherty, Jurasek, Mesiah, and Olsen

Board Members Excused: Floss, Poloncarz

Board Members Absent: Giardino

Staff Present: Link, N. Miller, R. Miller, Mongold, and Tyler

Additionally Present: Donna Gonser, CPA, Lumsden & McCormick, LLP

Opening Remarks

Chair Olsen called the meeting to order. He stated that the Audit, Finance, and Budget Committee had met earlier and has recommended that the full Board approve the receipt and acceptance of BFSA's fiscal year ("FY") 2011-12 Independent Audit performed by Lumsden & McCormick, LLP, and has also recommended the approval of the FY 2011-12 Annual Report.

The remaining agenda includes:

- A review of the collective bargaining agreement ("CBA") between the Buffalo Public School District (the "District") and the American Federation of State, County, and Municipal Employees, Local 264 ("Local 264"),
- Approval of reallocation of Efficiency Grant Funds,
- Approval of BFSA's general counsel,
- A list of required items that this Board would require to be submitted by the City of Buffalo (the "City") and the Covered Organizations while the BFSA is under an Advisory Period.

Chair Olsen indicated there is a proposed calendar of BFSA meetings for calendar year 2013 in the board book. He requested the Directors review the proposed schedule and inform the Executive Director of any scheduling conflicts. The final schedule of meetings will be brought to the full board for a vote at the December Board meeting.

Chair Olsen noted that the Privilege of the Floor would be extended at the conclusion of the meeting to provide any member of the attending public an opportunity to address any matters discussed at the day's meeting.

Roll Call of Directors
Chair Olsen asked Secretary Arthur to call a roll of the members. Finding a quorum present, the meeting commenced.

City Commissioner of Administration, Finance, Policy, and Urban Affairs, Ms. Janet Penksa, represented Mayor Byron W. Brown, in accordance with Subdivision 1 of §3853 of 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…".*

Chair Olsen offered condolences to Director Floss and his family concerning a personal matter.

Approval of the August 1, 2012 Minutes
Chair Olsen introduced Resolution No. 12-28, "Approving Minutes from August 1, 2012."

Director Mesiah offered a motion to approve Resolution No. 12-28.

Secretary Arthur seconded the motion.

RESOLUTION NO. 12-28
APPROVING MINUTES FROM AUGUST 1, 2012

BE IT RESOLVED that the Buffalo Fiscal Stability Authority approves the minutes of its meeting on August 1, 2012.

BE IT FURTHER RESOLVED that the Buffalo Fiscal Stability Authority ratifies and affirms Resolution Nos. 12-18 through 12-27 that was approved on August 1, 2012.

The Board voted 6-0 to approve the resolution.

BFSA Business
Approval of the BFSA FY 2011-12 Independent Audit

Chair Olsen advanced the agenda to the next item for consideration: A review of the FY 2011-12 Independent Audit. The Audit, Finance, & Budget Committee met earlier with the Authority's independent auditors and discussed the results of the audit. The Committee recommended that the full Board accept and approve the Audited Financial Statements.
He noted that Ms. Donna Gonser, audit partner from Lumsden and McCormick, was present and available to address any questions related to the independent audit.

Acceptance of the 2011-12 BFSA Annual Report

Chair Olsen asked if there were any questions with respect to the audit. Hearing none he advanced the agenda to the next item of business: review of the 2012 BFSA Annual Report.

The Audit, Finance, and Budget Committee recommended that the Board approve the BFSA's 2011-12 Annual Report in substantially its final form and to delegate the ability for the BFSA Chair, Executive Director, and Comptroller to make any changes necessary for its accurate completion. BFSA is required to file the Annual Report along with the results of the year-end audit and the BFSA's By-laws in effect during the 2011-12 year. The report details BFSA's activities for the 2011-12 fiscal year and has been prepared following the format required by the New York State Office of the State Comptroller. The report will be made available on the BFSA's website.

Chair Olsen asked for a motion to receive, accept, and approve the BFSA's FY 2011-12 Independent Audit.

Secretary Arthur offered a motion to receive, accept, and approve the BFSA's FY 2011-12 Independent Audit.

Chair Olsen seconded the motion.

RESOLUTION NO. 12-29
ACCEPT AUDIT REPORT AND APPROVE ANNUAL REPORT
FOR FISCAL YEAR 2011-12

WHEREAS, Chapter 122 of the Laws of 2003, as amended, requires that the Buffalo Fiscal Stability Authority ("BFSA") is to be subject to an annual financial audit performed by an independent certified public accountant selected by the BFSA; and

WHEREAS, the accounting firm of Lumsden & McCormick, LLP was selected and has conducted an audit of the BFSA's general ledger; and

WHEREAS, Lumsden & McCormick, LLP have presented to the Audit, Finance and Budget Committee the results of their independent audit and the related Independent Auditors' Report on the BFSA's Financial Statements for the Fiscal Year Ended June 30, 2012; and

WHEREAS, the Public Authorities Accountability Act of 2005 (specifically, section 2800 of the Public Officers Law) requires state and local public authorities to file an Annual Report with the State, detailing its operations and activities and other budgetary and financial data; and

WHERAS, the Public Authorities Reform Act of 2009 maintained existing Annual Report requirements along with new additional requirements; and

WHEREAS, the Annual Report must be certified as accurate by the Executive Director of the BFSA; and

WHEREAS, much of the data and additional information within the Annual Report is required by regulations promulgated by the State Comptroller; and

WHEREAS, the BFSA Staff has presented for approval a draft of the 2012 Annual Report in substantially its final form; and

WHEREAS, the deadline to submit an approved final version of the Annual Report and audited Financial Statements to the New York State Office of the State Comptroller is October 1, 2012.

NOW THEREFORE BE IT RESOLVED that the Buffalo Fiscal Stability Authority does hereby accept the Lumsden & McCormick, LLP Independent Auditors' Report on BFSA's Financial Statements for the Year Ended June 30, 2012, and the BFSA's Annual Report for the Year Ended June 30, 2012, as prepared by the BFSA Staff; and

BE IT FURTHER RESOLVED that the Chair, the Executive Director and the Comptroller are hereby authorized to make such changes to the 2012 Annual Report and audited Financial Statements for the year ended June 30, 2012 in the form presented, as they may deem necessary for its timely and accurate completion; and

BE IT FURTHER RESOLVED, that the Executive Director is hereby authorized to release these Reports to the public and provide copies to the parties designated by Section 3871 of the BFSA Act and Section 2800 of the Public Authorities Law; and

BE IT FURTHER RESOLVED, that the Executive Director is authorized to certify that financial statements filed with the above reports are accurate and correct.

The Board voted 6-0 to receive, accept and approve the BFSA FY 2012 Independent Audit.

Chair Olsen then requested a motion to approve the Annual Report and to delegate the Chair, the Executive Director and the Comptroller the authority to make any necessary changes that may be required for its accurate completion.

Secretary Arthur offered a motion to approve the Annual Report.

Chair Olsen seconded the motion.

Chair Olsen asked if there were any questions.

The Board voted 6-0 to approve the Annual Report.

District Business
Local 264 Collective Bargaining Agreement

Chair Olsen advanced the agenda to the next item of business: a review of the settled collective bargaining agreement ("CBA") between the District and Local 264. He stressed that BFSA needs to receive draft CBAs before they are approved by the respective governing bodies. The Board of Education approved the labor agreement in July of 2012; the agreement became effective on July 11, 2012. This is the first collective bargaining agreement to have been approved by any of the covered entities since BFSA moved into an Advisory Period. He noted that BFSA's staff prepared a report on the collective bargaining agreement.

In addition to the report, a side-by-side comparison of the Local 264 CBA compared to the current labor contract negotiated with the Buffalo Urban Renewal Agency ("BURA") Civil Service Employees Association Local 815 ("BURA Local 815"), and the recent District Professional, Clerical, and Technical Employees Association ("PCTEA") contract, representing the District's white-collar employees was provided. A second side-by-side comparison shows the terms of the previous Local 264 contract as compared to the new terms.

BFSA staff has prepared a presentation to discuss the CBA. He asked Executive Director Jeanette Mongold to begin with some high level comments.

Ms. Mongold began by stating the presentation summarizes the terms of the new CBA. She noted that she would provide a summary of the staff conclusions following the overview presentation and asked Mr. Nathan Miller to present the analysis of the collective bargaining agreement.

Mr. Miller began his presentation by providing preliminary information regarding the blue-collar workers of Local 264. The previous collective bargaining agreement included the Local 264 Cook Managers. The new CBA bifurcated the blue-collar employees and this group. As such, the Cook Managers remain out-of-contract.

The previous collective bargaining agreement expired June 30, 2004. The new collective bargaining agreement is effective throughout the current fiscal year. Blue collar workers include positions such as stock clerks, drivers, mechanics, equipment technicians, etc… .

Background

- The District uses seven salary grades currently, each with five steps;
- 50% of employees are at grade 6 (laborers and stock clerks);
- 95% are at the highest salary step;
- No retroactive adjustments for those who left District employment prior to July 11, 2012.

Terms of the Collective Bargaining Agreement

- **Salary increases**
  - No increase from July 1, 2004 - June 30, 2007 (BFSA-imposed wage freeze);
  - July 1, 2007 - June 30, 2009 - 0%;
  - July 1, 2009 - 2.25%;
  - July 1, 2010 - $2,500 base salary increase, then 3%;
  - July 1, 2011 - 2.7%;
  - July 1, 2012 - 2.7%.

The average annual salary increase from the point when the wage-freeze was lifted is 3.9%. The previous average salary was $32,360. The new average salary is $38,660 which results in a 19.5% cumulative salary increase over the course of the agreement.

- **Health Insurance**
  1. Active Employees
     - Shall contribute 1.25% of their salary towards the cost of premiums, regardless of plan selection;
       - ❖ The average FY 2012-13 contribution will be $483;
     - Choice of Enhanced Plan or Base Plan;
       - ❖ Enhanced Plan premium costs are $6,822 (single) and $15,122 (family)
       - ❖ Base Plan premium costs are currently $5,636 (single) and $15,571 (family);
     - Employees hired after July 11, 2012 will contribute 20% of the Base Plan premium or 20% of the Base Plan and 100% of cost differential of the Enhanced Plan, as applicable;
     - The cosmetic surgery provision is eliminated.

  2. Retired Employees
     - No benefit or contribution changes for employees retired prior to the ratification of the CBA;
     - Current retirees do not contribute toward the cost of the health insurance premiums;
     - Cosmetic surgery provision remains available;
     - Retirees are required to enroll in Medicare Part A & B at age 65 at no cost to them.

  3. Currently Active Employees at Retirement
     - Active employees shall annually contribute until age 65:
       - ❖ $400 (single) and $700 (family);
     - May select either the Base Plan or the Enhanced Plan;
     - Cosmetic surgery provision is eliminated;
     - Enrollment in Medicare Part A (in-patient) & Part B (physician/out-patient) and pay for Part B;
     - Enrollment in Forever Blue Medicare Plan upon eligibility, with the District paying 100% of the premium cost:

- ❖ Single coverage - currently $3,972 (in area) and $4,560 (out-of-area)
- ❖ Retiree & spouse - currently $7,944 (in area) and $9,120 (out-of-area)

4. Future Employees at Retirement
   - Retirees will contribute 25% of premium cost of the Base Plan with the option to buy-up to the Enhanced Plan at 100% of the cost differential;
   - Cosmetic surgery provision is eliminated;
   - Enrollment in Medicare Part A & Part B upon eligibility with 100% payment for Part B;
   - Shall enroll in Forever Blue Medicare Plan upon eligibility, with the District paying 100% of the premium cost.

- **Supplemental Benefits Fund**
  - Dental insurance administered by Local 264;
  - District pays 100% of premium in FY 2012-13;
  - District contributes approximately $43,200 annually thereafter.

- **Paid Leave**

1. Vacation
   - Active employees receive between 2-5 weeks of vacation time, contingent on the length of service;
   - New employees receive between 2-4 weeks of vacation time, contingent on the length of service.

2. Personal Leave
   - Active employees receive 5 days annually;
   - Future active employees receive 4 days annually.

3. Summer Hours
   - Eliminated for all current and future employees.

4. Sick Leave
   - Reduced from 15 days to 13 days for all current and future employees;
   - Maximum accrued sick leave increases from 190 days to 220 days for all current and future employees;
   - Termination pay consists of 10 additional days of pay, or approximately $1,500 per employee.

- **Other Changes**
  - Agree to single-carrier, multi-plan health insurance;
  - New employees take 6 years to reach Step 5 rather than 5 years;
  - Increased management rights:
    - ❖ Electronic record-keeping and payroll;
    - ❖ Away With Out Leave Policy;
    - ❖ All pre-existing grievances deemed resolved;
  - Increases in the auto, shoe and tool allowances.

Unchanged Terms of the CBA

- **Holidays**
  - 15 annually

- **Longevity Payments**
  - 5-9 years = $400
  - 10-14 years = $725
  - 15-19 years = $1,050
  - 20-24 years = $1,375
  - 25-29 years = $1,700
  - 30 plus years = $1,850

- **Payment in lieu of health insurance**
  - $1,200 annually

- **Payment in lieu of dental insurance**
  - $300 annually

- **Residency**
  - All employees are required to be residents of the City of Buffalo unless exempted by New York State or Federal Law;

FY 2012-13 Collective Bargaining Agreement Costs/Savings

- Current Fiscal Year ("CFY") Costs - $2.2 million;
- CFY Savings - $120,000;
- Net CFY Cost - $2.1 million
- FY 2012-13 budget amended to include the usage of a maximum of $2.6 million of Assigned Fund Balance.

Summary of Modified 2012-2013 Adopted Budget

- General Fund Revenues - $759.6 million;
- General Fund Expenditures - $782.6 million;
- Usage of Fund Balance - $23.0 million;
- Assigned Fund Balance - $8.0 million;
- Unassigned Fund Balance - $15.0 million.

Impact on Remaining Out-Years of the Financial Plan

- 2014 - 2016 costs - $1.99 million;
- 2014 - 2016 savings - $356,000;
- Net 2013 - 2016 additional costs - $1.6 million

District management did not modify the 2013 - 2016 Financial Plan.

Impact on Four-Year Operational Deficit

- The estimated gross costs of the CBA are $2.2 million in the CFY. The cumulative estimated gross cost of the CBA is $4.2 million over the four-year course of the financial plan.
- The estimated gross savings of the CBA are $0.1 million in the CFY. The cumulative estimated gross savings of the CBA is $0.5 million over the course of the financial plan.
- The estimated net increase in expenditures is $2.1 million in the CFY. The cumulative estimated net increase in expenditures is $3.7 million over the course of the financial plan.
- The FY 2012-13 beginning budgetary gap is $20.4 million. The four year cumulative gap is $165.7 million. This gap is reduced through the usage of $53.1 million of fund balance and $42.3 million in planned programs to eliminate the gap.
- The remaining four year cumulative unfunded budgetary gap is $70.3 million. The prospective net costs for this Local 264 contract of $1.6 million increases this unfunded four-year budgetary gap to $71.9 million.

Impact on Four-Year Operational Deficit

	2012-13	2013-14	2014-15	2015-16	Totals
Estimated Gross Costs of CBA	$ 2.2	$ 0.7	$ 0.6	$ 0.6	**$ 4.2**
Less Estimated Savings	0.1	0.1	0.1	0.1	**0.5**
Estimated Net Increase of CBA	$ 2.1	$ 0.6	$ 0.5	$ 0.5	**$ 3.7**
Beginning Budgetary Gap	20.4	41.6	46.6	57.1	**165.7**
Less Use of Fund Balance	(20.4)	(15.9)	(15.9)	(0.9)	**(53.1)**
Less Planned Programs to Eliminate the Gap	0.0	(9.6)	(13.6)	(19.1)	**(42.3)**
Net Unfunded Budgetary Gap	**$ -**	**$ 16.1**	**$ 17.1**	**$ 37.1**	**$ 70.3**
Plus: Estimated Net Increase of CBA	0.0	0.6	0.5	0.5	$ 1.6
Revised Unfunded Budgetary Gaps	**$ -**	**$ 0.6**	**$ 0.5**	**$ 0.5**	**$ 71.9**

Mr. Miller concluded his presentation by stating the current fiscal year costs were addressed with the identification of funding through Assigned Fund Balance. Funding has not been identified for the additional $1.6 million in prospective costs.

Conclusions

- Management should perform or procure an actuarial analysis on the impact on the Other Postemployment Benefits (“OPEB”) liability, for significant labor contracts;
- The District should clearly identify funding sources for both current and prospective increased costs of collective bargaining agreements. The financial plan should be modified, as necessary;
- The District should exclude all non-monetary provisions from future cost analyses;
- Future collective bargaining agreements should reduce net costs and be economically feasible;
- The Local 264 CBA begins to address the rising costs of health insurance by requiring contributions from all current employees, and more significant contributions from future employees.

Chair Olsen asked if there were any questions. Hearing none, he asked Ms. Mongold to provide a summary of the conclusions.

Summary of Conclusions of the Collective Bargaining Agreement
Ms. Mongold began the summary of the collective bargaining agreement conclusions by stating there are four main conclusions, three of which would require a response from the District, in reference to the requirements of the BFSA Act. The BFSA Act indicates that as reports are issued by the BFSA, the entity being reported on is required to provide a public, written response.

Conclusion 1

- A funding source for the total current fiscal year costs, which includes all of the retroactive adjustments along with the salary increase for this past July 1, 2012, was identified and the budget was amended with the use of fund balance.
- The prospective costs do not fit into the current financial plan. These costs increase the budget gap. The prospective costs are not significant in comparison to the entire budget, however, a budgetary disciplined financial approach is necessary irrespective of the dollar amount. Applying a materiality threshold merely delays decisions that need to be made concerning how the additional costs will be funded. Increasing the budgetary gap by $1.6 million is the equivalent of approximately 21 teaching positions.
- If the BFSA were operating in a Control Period, the recommendation would be to disapprove the contract, as under the BFSA Act, costs associated with a CBA must fit within the financial plan.

Conclusion 2

- Within the District’s cost analysis, the District calculated values for certain provisions in the contract that provide value to the District, for example a reduction in paid time off (from vacation, personal days, summer hours), or from formally agreeing to a single health carrier which removes Local 264 as a litigant in the ongoing lawsuit. These items do represent value to the District but the value is non-monetary.
    - For example, an individual will be paid an annual salary regardless if he or she receives two weeks of vacation or three weeks of vacation. A reduction in paid time off does not reduce the cash outlay to be made by the District for salary and benefits. True cost savings may be generated from reduced expected overtime or from a reduced workforce, and it could be appropriate and reasonable to include these types of costs savings in the analysis.
        - It is noted that the District did adjust expected overtime hours in the financial plan, bringing those projected costs down substantially.
    - The second significant savings the District included is in the area of the outstanding litigation for single health carrier. This was the most substantial savings within their analysis, of $120,000 annually. The District had moved to a single health carrier years ago, which was subsequently litigated with a ruling against the District. The District was unable to go back to the original plans that had been provided by the multiple insurance companies. The District included the amount they would have been paying as a cost as they negotiate contracts.

From a cost analysis perspective there is no reduction to the budgeted amounts or cash outlays.

- ❖ BFSA recommends that the cost analysis exclude all non-monetary provisions.

Conclusion 3

- The settled collective bargaining agreement begins to address the issues of healthcare costs by requiring contributions of 1.25% of salary from all active employees and more significantly from future employees who will contribute 20% of the premium's cost.

Conclusion 4

- OPEB costs are significant to the District, constituting 8.2% of the 2013 budget. These costs are projected to become a larger amount of the total budget in future years, primarily because of the increase in premiums. This is a national issue, not only a local issue.
- A recommendation has been included in the report that management should have an actuarial analysis performed on the District's OPEB liability during the negotiation process for significant labor agreements, in order to fully understand how the change in terms will directly impact these future costs. At a minimum, this should be performed for the larger unions particularly the Buffalo Teachers Federation and the Buffalo Council of Supervisors and Administrators.

Ms. Mongold concluded her summary and noted that the BFSA staff had communicated these conclusions to the District.

Chair Olsen asked if there were any questions.

Secretary Arthur asked if anyone from the District or Local 264 was here to respond to the summary of conclusions. Ms. Mongold advised no one was available today.

Secretary Arthur asked if what was presented to the BFSA Board of Directors had been conveyed to the District. Ms. Mongold responded that a copy of the report had been provided. The CFO disagreed with the finding regarding the need to modify the financial plan to address the increased costs, due to the overall immateriality of the costs as compared to the total Financial Plan. A copy of the report has also been remitted to the Superintendent.

Director Doherty asked how large the non-cash items that were discussed were. Ms. Mongold responded the total savings compared to costs were approximately 4%. The total savings from the staff analysis is approximately $475,000 which is $400,000 less than what the District calculated over the four-year period.

Chair Olsen commented that it is his opinion the CBA is not immaterial. The amount it reflects only heightens the concern with the District in that it confronts not only the fiscal crisis but the quality crisis of the educational services it is able to provide. As is clear from the four-year plan, there is a projected structural deficit of $165.7 million. While the District is to be commended for reaching an agreement with one of the bargaining units, the increased expenditures are only funded for the current year and add an additional $1.6 million to the structural deficit. The District has proposed to address the structural deficit through the utilization of the remaining fund balance and employing draconian gap-closing measures including: the elimination of all non-mandated, non-grant funded services including part-time bus aides who are critical to students' safety, music, art, athletics, a significant reduction of summer school, after school programs and tutoring are additionally proposed as gap-closing measures; the continued attrition of the number of full-time teachers by up to 50 annually; the closure of schools, and projecting an increase in State Aid for the District of $30.5 million, which is an uncertainty given the District's continuing issues with the State and also the uncertain State budget.

Even with all of these measures fully implemented, the District is carrying forward a structural deficit of $70.3 million. This deficit can only be closed through further measures which, though undefined, would necessarily be achieved through further lay-offs, continuing reduction of academic support and quality of life programs and the hope of reductions in the annual payments expected to support charter schools along with an increase in further State Aid.
The District has been the beneficiary of State and Federal grant funding; these dollars do not go to general operating support and in the end are used to create remedial programs, that once the grants terminate, must be funded by the District, further increasing the operational deficit. At the same time this incredibly bleak fiscal picture is projected, the District is severely challenged as to the acceptability of the public education as provided to many of the City residents. Graduation rates are among the lowest in the State and when the four magnet schools, such as City Honors, in which enrollment is largely knowledge tested or which are highly selective in admission, are excluded, as calculated by our staff, it drops to approximately a 40% graduation rate. Bennett High School, Grover Cleveland High School, Lafayette High School, and East High School are graduating respectively around 36%, 24%, 31% and 36% of students. These numbers are unacceptable as well as heart-breaking. At a time when non-mandated services, which is Art, Music, Sports, Tutoring and Summer School, are most needed, they are projected to be eliminated or drastically reduced to lower the structural deficit.

Moreover, our staff calculated that since 2010 the District has reduced the number of teachers by approximately 200. The four-year plan envisions further reductions by 89 in 2013 and 50 per year through the out-years for an additional decrease of 239. While it can be argued that the elimination of positions is reflective of right-sizing due to decreased enrollment throughout the system, the qualitative results are the education being provided suggests that additional teachers are needed to adequately address the continuing failures of the system.

Finally, the District confronts one additional factor that will contribute to its financial crisis, and that is the lack of collective bargaining agreements for its employees, particularly the teachers and administrators. The additional deficit created by the agreement with a relatively small collective bargaining unit is material. The unavailability of funding for the much greater costs likely entailed by agreements with the two largest and most costly bargaining units would almost certainly result in an even worse financial picture and operational deficit requiring still further destruction of the educational resources and programs within the District. It is dismaying that BFSA may only comment on an agreement that has already been entered into. It is further dismaying that no representative of the District is in attendance.

Director Jurasek commented in terms of Chair Olsen's final observations, having only license to discuss and not influence the outcome. He asked what prerogative the Board had since the District approved the collective bargaining agreement. He asked if it was only to request a written response.

Chair Olsen confirmed that this is the only prerogative of the Board.

Director Jurasek concurred with Chair Olsen's comments concerning the District's position that the approximately $2 million unfunded increase in the Financial Plan was not immaterial. The multi-year financial plan is based on multi-year assumptions with unnamed revenues and savings yet to be determined. It is appropriate to have the Superintendent or another representative from the District address the questions that were raised five months ago concerning $70 million of yet to be determined gap-closing measures.

Secretary Arthur asked if the Superintendent and her staff were scheduled to attend the next BFSA Board meeting. He asked if some of the comments would be submitted to the Superintendent for their response.

Chair Olsen responded that he and the staff had met with the Superintendent to discuss the issue of timely submissions and the type of information that was appropriate. The report was remitted to the Superintendent. It is inappropriate to meddle in policy for any of the Covered Organizations, but it not the function of the BFSA to ignore them. Given the reality that this is a "time bomb" for the City of Buffalo, if the District does not improve dramatically and demonstratively, it will be difficult for the City to maintain the success it has had in terms of keeping property taxes down, which results in getting new residents to move into the community. Public schools are the most important service provided to citizens. BFSA should not just look at the balance sheet; if you dismember the system enough you can probably cover any deficit.

Secretary Arthur added that BFSA should examine the drain of resources to area charter schools as a significant portion of funds are being spent there as well as on retiree health care benefits.

Director Jurasek asked what the average salary increase per employee was and what the average increase in health insurance contributions was. Mr. Miller responded that the average salary increase was $6,300 over the previous base. The average contribution toward health insurance is approximately $500 annually.

Chair Olsen requested that the Board approve the report as final. As noted, reports issued by this Authority will require a public response by the District.

Secretary Arthur offered a motion to accept the report.

Director Jurasek seconded the motion.

The Board voted 6-0 to accept the report.

<u>City Business</u>
Reallocation of Efficiency Grant Funds

Chair Olsen advanced the agenda to the next item of business: the reallocation of efficiency grant funds. The Mayor requested a reallocation of efficiency grant dollars between projects that have previously been approved by BFSA. Under the BFSA statute, the BFSA is required to approve the spending plan for Efficiency Grants funding; this requirement stands regardless if the Authority is in a Control Period or an Advisory Period. A summary of the Efficiency Grant program by approved projects, including the dollar amount approved for each project and the total amount of reimbursement that has been both requested and received from the State has been provided. He asked Mr. Bryce Link, to discuss these items.

Mr. Link began by stating there is a zero net impact of the efficiency grant modifications. The redesignation consists of $250,000 from two separate projects as follows:

- **Current Designations**:
  - $200,000 Fuel Tracking Ring System;
  - $120,000 Fuel Dispensing Pumps;
  - $240,000 Vehicle Management System.

- **Proposed Redesignations:**
  - $450,000 Fuel Tracking Ring System;
  - $ 85,000 Fuel Dispensing Pumps;
  - $ 25,000 Vehicle Management.

- **System Net Impact of Redesignations: $0**

The increase is being moved to the fuel tracking ring system which converts from keys to a ring system. This is a new type of radio frequency technology that incorporates an identification tag in all the vehicles in the City fleet. All vehicles would have a key fob that is authorized for use. There are certain internal control issues, such as incidents of loss and use on incorrect vehicles. The new system will install the radio frequency identification tags with the correct vehicles so the authorized user can go to the pumps and be recognized with the new technology. The user will have a punch code to authorize dispensing fuel to that vehicle.

The concern with reducing the other designations from the two other areas resulted in discussions with the Department of Public Works and the Division of Purchasing. The fuel dispensing pumps have been reviewed. It was determined that six of fourteen were over fifteen years old and needed to be upgraded. The redesignation will cover those upgrades with the remaining pumps slated to be upgraded over the next five to ten years.

The second redesignation is from the centralized vehicle management system. Initially the City was looking at attempting to purchase a tailored specific software program that would combine various data sets. Realizing this was more cumbersome that it is worth, they are now looking at an off the shelf software package that would capture everything needed to operate from the RFI tags in the vehicles. This will allow for more preventive maintenance.

Secretary Arthur asked if the fuel dispensing will be at all the City facilities. Mr. Link affirmed that it would so that each facility is uniform and the process is the same for everyone. Secretary Arthur asked how long it would take for implementation of the new process. Ms. Penksa responded the City planned to complete implementation by the end of the year.

Director Mesiah asked if the vehicles were assigned to specific individuals or if it the assignments were done randomly. Mr. Link advised it would be determined by the department and the work assignment.

Director Mesiah asked how the consistency of maintenance will be achieved. Mr. Link responded the centralized vehicle management system will address those issues by logging in mileage and vehicle usage which would indicate when the vehicle needed to be pulled in for maintenance. The collection of data is electronic and feeds into the fleet management system.

Director Jurasek noted that the system would make pilferage much less likely.
Chair Olsen requested a motion to approve the reallocation of efficiency grant funds.

Director Mesiah offered a motion to approve the reallocation of efficiency grant funds.

Chair Olsen seconded the motion.

RESOLUTION NO. 12-30
APPROVAL OF REDESIGNATION OF EFFICIENCY INCENTIVE GRANT REQUEST

WHEREAS, Chapter 122 of the Laws of 2003, as amended, created the Buffalo Fiscal Stability Authority ("BFSA") to provide financial oversight and budgetary control over the City of Buffalo and other Covered Organizations; and

WHEREAS, in 2006, New York State ("NYS") amended the Buffalo Fiscal Stability Authority Act (the "Act") to include Section 3857-A, which provides for Efficiency Incentive Grant funding 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, BFSA has previously approved individual projects for the planned use by the City of $20,100,000 of total available Efficiency Incentive Grant funding since March 2007; and

WHEREAS, the City has submitted to BFSA a modified plan including the redesignation of available Efficiency Incentive Grant funding in the amount of $250,000 for the purpose of increasing the amount of funding available for the fuel tracking system efficiency grant project; and

WHEREAS, such redesignated funding comes from two previously approved projects, including fuel dispensing pumps ($35,000) and the centralized vehicle management system ($215,000); and

WHEREAS, BFSA staff has reviewed the City's revised plan for the NYS Efficiency Incentive Grant funding, and has determined the revisions to be reasonable; and

WHEREAS, the BFSA previously approved the projects noting that such initiatives met the goals of the NYS Efficiency Grants program of 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 to re-designate $250,000 in Efficiency Incentive Grant funding to revise available funds for the following projects in the following amounts:

> Fuel Tracking System—Fuel master Radio Frequency ID $250,000
> Fuel Dispensing Pumps $(35,000)
> Centralized Vehicle Management System $(215,000)

The Board voted 6-0 to approve the reallocation of efficiency grant funds.

BFSA Business
Appointment of General Legal Counsel

Chair Olsen advanced the agenda to the next item of business: consideration of the appointment of a general legal counsel. Harris Beach, PLLC, continues to serve as the BFSA's litigation counsel. Due to a conflict, Harris Beach is no longer able to serve as general legal counsel to the BFSA.

The needs of the BFSA with respect to legal counsel are extraordinarily specific. The BFSA was created specifically for the purpose of acting as a state-imposed fiscal oversight authority. Considering the recent transition of BFSA into an Advisory Period, one of the most effective ways the Authority can continue to effectuate change is through the collaborative lobbying effort with the City and District as well as the other Covered Organizations to change New York State laws that have a direct detrimental financial impact on the City and the District. Having general legal counsel with a thorough understanding of these State laws, along with a deep grasp of the City Charter, the BFSA Act, and municipal finance will be beneficial to the BFSA in terms of achieving its mission, as well as provide benefits to the City, District and remaining Covered Organizations.

He added that both he and Secretary Arthur had met with Mr. James Magavern, Esq., of Magavern, Magavern, & Grimm, LLP, after identifying him as being a local attorney who has the specific experience critical for the BFSA. Mr. Magavern has agreed to serve as the BFSA's general legal counsel at a rate consistent with what this Authority had previously been remitting.

Furthermore, it is noted that the Board previously confirmed with the previous general counsel that legal services are not required to be competitively bid under New York State procurement laws due to the specialization required.

Chair Olsen asked for a motion to approve Magavern, Magavern, & Grimm, LLP, as the Authority's outside general legal counsel.

Secretary Arthur offered a motion to approve Magavern, Magavern, & Grimm, LLP, as the Authority's outside general legal counsel.

Chair Olsen seconded the motion.

RESOLUTION NO. 12-31
APPROVING ENGAGEMENT OF MAGAVERN MAGAVERN GRIMM LLP AS BUFFALO FISCAL STABILITY AUTHORITY GENERAL LEGAL COUNSEL

WHEREAS, Chapter 122 of the Laws of 2003, as amended, created the Buffalo Fiscal Stability Authority ("BFSA") to provide financial oversight and budgetary control over the City of Buffalo and other Covered Organizations; and

WHEREAS, the BFSA will require, and is empowered, to retain legal counsel to assist in the performance of its duties; and

WHEREAS, the BFSA is currently not represented by general legal counsel; and

WHEREAS, the BFSA is a public authority of the State of New York ("State") and as such is governed by certain State laws that specify the procurement of certain services; and

WHEREAS, the BFSA had determined that competitive bidding is not required for the procurement of legal services under State law; and

WHEREAS, the BFSA recognizes the need to procure services from a firm with specific and unique municipal finance expertise; and

WHEREAS, the BFSA has determined that due to the unique needs for general counsel, competitive bidding is both inefficient and ineffective; and

WHEREAS, the BFSA has met with James Magavern of the firm Magavern Magavern Grimm LLP, who meets the unique needs of the BFSA and desires to procure such legal services from this firm, which has been agreed to by such firm; and

NOW THEREFORE BE IT RESOLVED that the Buffalo Fiscal Stability Authority does hereby engage the law firm of Magavern Magavern Grimm LLP to provide such general legal services to the BFSA on an as-needed basis as requested by the Chairman. Such services shall be undertaken for such amounts and on such terms as agreed upon by the Chairman, Secretary, or Executive Director.

The Board voted 6-0 to approve Magavern, Magavern, Grimm, LLP, as the Authority's General Legal Counsel

Checklist of Required Reports for the City & Covered Organizations

Chair Olsen advanced the agenda to the next item of business: the adoption of a formal list of items to be requested from the City and Covered Organizations. He asked Ms. Mongold summarize the item.

Secretary Arthur asked if BFSA was still required to hold an annual public forum on the City and Covered Organization's proposed budgets and financial plans. Ms. Mongold offered her opinion that it was no longer a requirement, however, she will discuss this with legal counsel.

Ms. Mongold reviewed the proposed list of items to be provided to BFSA under an advisory period, noting that the list is not intended to be all inclusive as requests for information beyond the list may be necessary. Also, the list includes items that have been provided to the BFSA over the last several years and is intended to assist the various organizations in responding to BFSA's needs.

Chair Olsen asked if there were any questions. Hearing none he requested a motion to approve the distribution of these lists to the City and Covered Organizations.

Secretary Arthur offered a motion to approve the distribution of these lists to the City and Covered Organizations.

Director Mesiah seconded the motion.

The Board voted 6-0 to approve the distribution of the lists to the City and Covered Organizations.

Additional Documents

Ms. Mongold requested from Chair Olsen an opportunity to comment on the additional documents provided to the Board members.

She began by stating the BFSA Meeting Schedule has been structured so the Board meets a minimum of every three months, noting that items such as proposed collective bargaining agreements and retirement incentives may require Special Meetings and/or adjustments to the meeting schedule. Additionally, the Public Forum has been removed along with the regularly scheduled May meeting. This will afford the Board the opportunity to discuss the finalized financial plans of the city and covered organizations.

Secretary Arthur added the Common Council historically holds the public hearings the first week in May. While the City Charter deadline for Common Council to oppose the budget is June 21st or June 22nd, all items are usually completed by the end of May.

Ms. Mongold continued commenting on the additional documents and advised the Board that the Buffalo Municipal Housing Authority's 2011 financial statements have been received and a copy has been provided in the board package. She added the statements were delayed for a considerable amount of time by the Housing and Urban Development Agency. As the information is older and stale at this point, the documents were not placed on the agenda for discussion. Ms. Mongold advised the Board she would answer any questions concerning the statements.

The revised Supplemental Tax Certificate for the City of Buffalo has been included. Chair Olsen thanked the staff for the hard work provided in completing the revisions while Ms. Mongold thanked Janet Penksa for her assistance.

A copy of the City's request to the State for the 2013 spin-up of State Aid Incentives to Municipalities (AIM) was provided, confirming that the request had been made.

Finally, the New York State Employment Retirement System and the New York State Police and Fire Retirement System 2014 rates have increased. Copies of the rates are included in the board package. These increases do not generate any additional concerns that affect the financial plan at this time, based on our initial assessment.

Ms. Mongold concluded by thanking the Board for the additional time.

<u>Privilege of the Floor</u>

Chair Olsen asked if there was any new business for discussion. Hearing none, he extended the Privilege of the Floor to any member of the attending audience who wished to address the Board for the public record.

Ms. Marilyn Gallivan addressed the Board. She stated that she had a grandchild in the Buffalo Public School system and very much appreciates the concern expressed as it relates to the collective bargaining agreement and the quality of education in the school system. She also inquired if the content of Chair Olsen's statement could be made available to the public as a whole since some of the families may not have a full understanding of what is happening in the school system.

<u>Adjournment</u>

Chair Olsen requested a motion to adjourn the meeting.

Secretary Arthur offered a motion to adjourn the meeting.

Director Jurasek seconded the motion.

The Board voted 6-0 to adjourn the meeting.

The meeting adjourned at 2:13 PM.