BUFFALO FISCAL STABILITY AUTHORITY
Meeting Minutes
December 5, 2012

The following are the minutes from the meeting of the Buffalo Fiscal Stability Authority (the “BFSA”) held on Wednesday, December 5, 2012, in the Buffalo Market Arcade Complex. The meeting was called to order at 1:04 PM.

Board Members Present: Arthur, Brown (Estrich as proxy), Doherty, Floss, Jurasek, Mesiah, Olsen, and Poloncarz

Board Members Absent: Giardino

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

Additionally Present: Pamela C. Brown, Superintendent, Buffalo City School District
James L. Magavern, Esq., Magavern Magavern & Grimm LLP
Donna J. Estrich, Director of Administration & Budget

Opening Remarks
Chair Olsen called the meeting to order. He began by stating that Ms. Janet Penska was departing as the City of Buffalo’s Commissioner of Administration, Finance, Policy, and Urban Affairs to begin a new career with the Jacobs Neurological Institute. Ms. Penksa has been a pleasure to work with and has made significant contributions to the BFSA and the City of Buffalo.

Chair Olsen introduced Mr. James L. Magavern, Esq., newly appointed legal counsel for the BFSA. He outlined the meeting’s agenda as follows:

- To meet with Buffalo City School District (the “District”) Superintendent Dr. Pamela Brown, to discuss pertinent matters,
- A review of the District’s final fiscal year (“FY”) 2011-12 financial results, as provided within the audited financial statements,
- A review of the Mayor’s recommended 2013 five-year capital budget,
- A review of a collective bargaining agreement (“CBA”) between the City of Buffalo (the “City”) and Buffalo Crossing Guards Association, Inc. (the “Crossing Guard’s Union”),
- A review of the first quarter results and revised fiscal year-end (“FYE”) projections for the City and the Covered Organization (the District, the Buffalo Municipal Housing Authority or “BMHA”, and the Buffalo Urban Renewal Agency or “BURA”),
- A series of recommended actions on items referred to the full Board by the Governance Committee on BFSA issues including: revised bylaws, the 2013-2014 Minority and Women-Owned Business Enterprise (“MWBE”) Master Goal Plan, and the 2013 meeting schedule for regular board meetings, and
- Legal advice from BFSA’s outside legal counsel.

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

City of Buffalo Director of the Budget, Ms. Donna Estrich, 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…."*

Approval of the September 24, 2012 Minutes
Chair Olsen introduced Resolution No. 12-32, "Approving Minutes from September 24, 2012."

County Executive Poloncarz offered a motion to approve Resolution No. 12-32.

Director Mesiah seconded the motion.

RESOLUTION NO. 12-32
APPROVING MINUTES FROM SEPTEMBER 24, 2012

BE IT RESOLVED that the Buffalo Fiscal Stability Authority approves the minutes of its meeting on September 24, 2012.

BE IT FURTHER RESOLVED that the Buffalo Fiscal Stability Authority ratifies and affirms Resolution Nos. 12-28 through 12-31 that were approved on September 24, 2012.

The Board voted 8-0 to approve the resolution.

District Items
Discussion with Superintendent Pamela C. Brown, Ed.D

Chair Olsen advanced the agenda to the next item for consideration: a discussion with Dr. Brown, District Superintendent. Dr. Brown was invited to provide an opportunity to discuss the financial condition of the District as well as other pertinent matters.

Dr. Brown began by thanking the BFSA for the invitation. Utilizing a slide-show presentation, she shared information concerning her vision and priorities for the District.

The Vision

The vision for the District is consistent with providing a world-class education for all students which focuses on developing those skills, competencies and dispositions that will position students well to be successful worldwide. Students need advanced preparation in all content areas that include a comprehensive curriculum that is rigorous but that provides opportunities for participation in the arts, to develop creativity and innovation, athletics, to develop discipline, teamwork skills and a healthy lifestyle along with technological literacy.

Core Beliefs

The District's core beliefs are as follows:

- Every child can and must have a world class education;
- Great leaders and teachers make schools thrive;
- Victory is won in the classroom;
- A "whatever it takes" attitude makes the difference;
- Parents and community members are partners.

The Approach

The first and foremost focus is preparing students for college and careers. The approach includes:

- Student achievement and whole child development;
- Recruiting, developing and equipping caring and effective staff;
- Expecting excellence and ensuring accountability;
- Partnering with colleagues, parents and communities.

Financial Condition

The two major issues related to the financial condition of the District is the current standstill regarding the Annual Professional Performance Review ("APPR") and the current and immediately ensuing out-years.

- Failure to receive approval of an APPR plan by January 17, 2013 will result in a loss of $33.4 million in State Aid. Federal and New York State laws and regulations require the District and the teachers' union to negotiate a tool used for the evaluation of teachers that meets New York State Education Department approval ("NYSED").

- A successful evaluation agreement has been reached with the Administrators union (the "BCSA") and has been submitted to NYSED. It is believed that the agreement is an approvable component of the plan. The outstanding portion of the plan is with the Buffalo Teachers Federation (the "BTF"). As of December 4, 2012, NYSED has approved plans for 316 districts. Buffalo does not have an approved plan.

- The following are the missed deadlines that have resulted in a loss of grant funding for the District:
    1. July 1, 2012 - loss of $20 million,
    2. September 1, 2012 - loss of $4.5 million,
    3. November 30, 2012 - loss of $3 million.

The next deadline facing the District is January 17, 2013. BTF President Phillip Rumore assures the District that an approvable APPR can be reached before the submission deadline. However, if an agreement is not forthcoming, the District is prepared to present a plan to the Board of Education which outlines the options for closing the $33.4 million gap.

– The four-year financial plan submitted to the BFSA outlines a cumulative projected structural deficit of $165.7 million.

<u>District Solutions</u>

The targeted areas to close the funding gap are the use of reserve funds specifically set aside for renegotiations of current contracts and a reduction in staff.

– Strategic Review Timeline

A strategic review timeline was implemented which included the following:

1. November 5, 2012: presentation of review findings to the Board of Education, media and public;
2. November 7, 2012: presentation of review findings to Say Yes to Education, Community Leadership and Common Council;
3. November 2012-February 2013: alignment of organizational structure.

Dr. Brown noted that, in working closely with staff on the budget process, the strategic planning process will commence from December 2012 to February 2013. The 2013-14 Budget will be aligned with the strategic plan. The basis for planning will come from strategic review recommendations made by the consultant agency, Cross and Joftus via Say Yes to Education of Buffalo. These recommendations will allow the District a better alignment for the use of resources in order to become fiscally stable and responsible. The planning and alignment for the budget will include the District-wide Comprehensive Improvement Plan ("DCIP") and the School Comprehensive Education Plan ("SCEP") as budget strategy.

– 2013-2014 Budget Recommendations and Opportunities

For FY 2013-14 and all future budgets, efforts will be made to make reductions that minimize the impact on the classrooms. Those areas include facilities, non-employee reductions, contracts and out-of-classroom staff. Reductions may include:

1. A reduction in low-enrollment sections,
2. Development of web-based HR processes,
3. Increase direct reports per manager,
4. Reductions in unnecessary printing and copying,
5. Align price and services with the NFTA,
6. Re-purpose funds towards social workers.

These reductions could represent a $13.7 million to $20.0 million opportunity for savings within the District.

<u>Working Together Towards Solutions</u>

The District will work with the Buffalo Teachers Federation and parents on changing bell times in the schools for transportation savings. Changing the bell time from 8 AM to 9 AM would save the District over $3 million annually.

Dr. Brown concluded her presentation.

Director Jurasek thanked the Superintendent for her presentation. The District's 2013-16 Financial Plan projected an approximately $112.0 million gap. The four-year gap outlined in the presentation just given depicted a four-year gap of approximately $166 million. He asked for clarification regarding the discrepancy between the differing amounts.

BFSA Executive Director Jeanette Mongold clarified that the $112 million four-year gap was the remaining gap after depleting available reserve funds.

Director Jurasek asked Dr. Brown if the next planning year is when the District will deal with the structural deficits in the four-year plan, given the inability to utilize fund balance to fully close the operational deficits.

Dr. Brown stated that, while long term planning is necessary, the District's financial position needs to be reviewed on an annual basis with a focus on the established priorities. This includes avoiding a negative impact on the quality of instruction in the classroom based on the resources that are available in the schools. The District is aware the reserves are not able to fill the gaps each year which will require looking at other cost saving opportunities as previously outlined in the recommendations that were provided.

Director Jusrasek asked if there had been any discussion of school building closures, both those currently in use as well as those that are shuttered.

Dr. Brown noted that a recommendation was presented to the Board of Education prior to her administration regarding the closure of schools. There is also a current recommendation to close schools that are not in use.

Secretary Arthur referenced the slideshow presentation and asked for an explanation regarding the loss of grant funds.

Dr. Brown noted that attaining certain grant funds had been contingent on having an approved APPR plan earlier than the main, state-wide deadline for all school districts. The grant deadlines had not been met; the grant funds have therefore been forfeited.

Director Floss asked if Dr. Brown had coordinated the District's efforts with other superintendents, teachers, and PTA Groups that advocate the State legislature for additional educational funds to delay the APPR deadline, and other legislative reforms.

Dr. Brown confirmed that she had. From a general perspective, the District would like to confirm if there are other opportunities for a higher level of funding since the funding the District has previously received has not kept pace with the increased costs. Since 90% of the District's students live in poverty, the cost to educate those students disproportionally increases because of their additional needs.

Director Floss asked if Dr. Brown was involved with the Superintendents' Association of New York State. They meet regularly to discuss APPR and funding-related matters.

Dr. Brown advised she had not been involved with that particular group. Her involvement has been with the Big Five Conference. The sessions that have been held on a monthly basis have played a large role in what has been discussed today. Other involvement includes communication with advocates who are speaking out on behalf of the District as well as the other Big Five school districts.

Director Floss recommended that Dr. Brown reach out to some of the other active state organizations who are also discussing lawsuits related to the loss of educational funding in recent years in addition to seeking injunctions. The superintendents from the Big Five school districts were pushing afterschool programs for students in need.

He noted that grant money for afterschool programs has been available to the District and asked if those funds were used and if there was a plan to add afterschool programs.

Dr. Brown advised that the three schools that are operating on the U.S. Department of Education turnaround model will receive grant funding for afterschool programs totaling approximately $5.1 million. Afterschool programs will also be provided for all priority and focus schools through federal Title I funding.

Director Floss asked how adding afterschool programs were going to fit into the plan of reducing the level current staff.

Dr. Brown replied that funding for the afterschool programs impacts the Special Projects fund. Staffing adjustments have been proposed for positions funded through the General Fund. Funding for afterschool programs at priority schools is received or will be received via the New York State Education Department in the form of School Improvement Grants ("SIG grants").

Director Floss stated that the two sources of revenue should be coordinated so a reduction in services funded through the General Fund would not have a negative impact on the creation of the afterschool programs. In addition, working with the colleges and universities in Western New York would be a benefit to the District; they are more than willing to provide assistance.

Dr. Brown asked if the assistance being offered was financial.

Director Floss advised that assistance was available with respect to curriculum, financial, programming, as well as with the development and implementation of APPRs.

Chair Olsen asked if there were any additional questions. Hearing none he commended the Superintendent for seeking to align the District's budget with best practices and goals. There is a great concern regarding the lack of progress in the negotiations with the BTF on the APPR plan. Public statements made by the BTF have not been conducive to negotiations. If the deadline passes without an approved APPR plan, the District will add $33.4 million to the $20.4 million deficit for the current year. With a $112 million deficit looming through the period planned, in addition to the funds already lost, along with a complete depletion of any carryover funds, utilizing reserves to cover anticipated cuts, the District's largest problem is that it lacks a CBA with its most important partners. If there isn't money to implement a new CBA, the very long period with a lack of negotiations will continue especially considering the vitriol publically issued by the union. Even if the District is able to obtain the $33.4 million by submitting an approved APPR plan in collaboration with the teacher's union, and realizing $13.7 million from difficult to implement efficiencies, the resources to close the existing operational gaps are still not available.

The District is in imminent fiscal crisis. There are wonderful efforts being made by dedicated staff, however, BFSA is reaching a point where it needs to consider reentering a control period. The District is considering reducing teaching positions to narrow operational gaps. Given the graduation rate and the low level of college participation, reducing the instructional staff is not conducive to improving academic performance.

BFSA's concerns are primarily financial as opposed to the implementation of policy. The continual concern is with respect to the quality of education and how to improve academic achievement, given the risk of lost resources.

Dr. Brown asked for latitude given that she is new to the position of District Superintendent, and is entering her fifth month in the position. What has been shared with the BFSA Board in the presentation is the District's focus and what has been developed within the last two months. Viable plans exist to get the District through the current year. The District will be able to maintain a balanced budget, even if it involves making additional cuts. Those cuts will be made in a way that the critical elements will be sustained. The District would like to have the opportunity to demonstrate the effectiveness of those plans to the BFSA before the action of reentering a control period is taken.

District 2012 Audited Financial Statements

Chair Olsen thanked Dr. Brown for addressing the Board. He asked if there were any additional questions or comments. Hearing none, he advanced the agenda to the next item for consideration: review of the District's 2011-12 audited financial statements. He asked Executive Director Jeanette Mongold to provide a summary of the material for the Board.

<u>Final 2011-12 Budget-to-Actual Summary</u>
Ms. Mongold began by stating the 2011-12 budget was amended twice during the fiscal year. The first amendment was to recognize carryover encumbrances from the FY 2010-11 in the amount of $4.9 million. The second was to amend the budget to increase appropriations by $5.7 million as a result of the settled contract with the Professional, Clerical, and Technical Employees Association ("PCTEA").

The modified budget projected the use of fund balance at $40.8 million. The actual operating deficit for fiscal year 2011-12 was $14.5 million. It is the first operating deficit for the District since the 2001-02 fiscal year.

Actual General Fund revenues were consistent with budgeted amounts. The unfavorable budgetary variance of $5.4 million was largely the net result of an unfavorable budgetary variance of $9.1 million in State Aid partially offset with favorable budgetary variances of $1.8 million in Erie County sales tax receipts and $4.4 million in miscellaneous revenues.

Actual General Fund expenditures were 95.9% of budgeted amounts. A **favorable budgetary variance of $31.7 million** was realized. Significant favorable budgetary differences were as follows:

- Employee Benefits - $8.8 million,
- General Support: Central Services - $6.3 million,
- Instruction: Teaching - $4.9 million,
- Pupil Transportation - $2.8 million,
- Charter School Payments - $2.4 million.

Payments for employee benefits related to social security, employee retirement systems and for medical insurance were less than anticipated, due to vacancies and conservative budgeting practices. General Support, Central Services were favorable with less than anticipated utility costs, custodial services, employee compensation and overtime.

Instructional services for teaching was favorable by $4.9 million due to a combination of factors including position vacancies and lower than anticipated average salaries.

Pupil Transportation was favorable due to lower actual fuel costs, more efficient route scheduling and lower average employee salaries and overtime.

The payment to area charter schools was favorable as fewer than anticipated students were enrolled in area charter schools.

Director Mesiah noted that the District was a pass-through entity for the State to area charter schools for operating funds. The level of funding is based on the number of students enrolled in the charter schools. He asked if funds return to the District when students leave a charter school and return to the traditional public school system.

District Chief of Staff, Mr. Jim Kane, addressed the Board. He confirmed that the level of funding provided to area charter schools was periodically adjusted to reflect the fulltime equivalent number of students enrolled in area charter schools. This number is adjusted to address the periodic changes in enrollment numbers throughout the school year.

<u>Fund Balance</u>

The District's fund balance decreased by $14.5 million from the end of the 2010-11 fiscal year. The operating deficit was the first the District had realized since the 2001-02 fiscal year. The non-spendable fund balance increased $4.4 million. These funds represent assets that are not readily convertible to cash due to external restrictions such as laws, regulations and creditors. Those funds can only be used for a specific purpose.

Assigned fund balance represents the District's intent on how to utilize certain portions of fund balance; it decreased $16.8 million over last year.

Unassigned fund balance decreased $2.1 million.

Director Doherty asked if using the available assigned fund balance for operating deficits was within the District's discretion. Ms. Mongold confirmed this.

County Executive Poloncarz noted that boards have discretion to change the intended usage of both assigned and unassigned fund balance. These funds may be appropriated for operating funds.

<u>Assigned Fund Balance</u>
Assigned Fund Balance is comprised of the following:

- $20.4 million for subsequent year's expenditures,
- $32.5 million for other postemployment benefits ("OPEB"),
- $76.3 million set aside for prior year claims such as litigation and the settlement of CBAs ($69.8 million) and claims related to pending State audits ($6.5 million),
- $3.6 million for encumbrances. The balance for encumbrances will change each year as it is reflective of timing.

<u>Significant Fluctuations 2011 vs. 2012</u>
Total General Fund revenue decreased $7.0 million in fiscal year 2011-12 as compared to fiscal year 2010-11. The main driver was the federal stimulus funding that ended in 2010-11. Expenditures increased by $31.1 million or 4.4% comprised as follows:

- $15.1 million in employee benefits; of this amount $12.3 million of the increase related to the payment due on the State's early retirement incentive program which was offered by the District in 2011. The remaining increase of $2.8 million represents a 2% increase.
- $5.0 million for instructional expenditures, due to step increases,
- $5.2 million for charter school payments due to the increase in the number of students enrolled in the charter schools. The same per student rate as 2011 applied ($12,005),
- $2.3 million in transportation costs due to the increase in fuel costs and the settlement of the labor contract for bus aides,
- $4.4 million for transfers out, for the increase in overall debt service.

<u>Other Postemployment Benefits</u>
The requirement to measure the other postemployment benefits liability began in 2008. The significant increases that have occurred since that time are:

- A $734.0 million, or 68%, increase in the Actuarial Accrued Liability, and
- A $63.0 million, or 60%, increase in the Annual Required Contribution.

<u>Historical Revenues and Expenditures</u>
General Fund revenue has been relatively flat since FY 2008-09. In comparison, expenditures have increased $65.0 million since 2008-09, or 9.7% (3.2% per year). As expenditures continue to rise and as revenues continue to be flat, the District faces an operational deficit.

County Executive Poloncarz referenced the historical expenditures slide and asked what is causing the dramatic increase in total expenditures. Ms. Mongold advised that the main drivers in the overall increase of expenditures were health insurance costs, pension costs, and payments to charter schools.

Director Floss asked if there was a forecasted decline in debt service given the near completion of the Joint Schools Construction Board (“JSCB”) project. He asked if there was an increase in State aid forecasted. Ms. Mongold responded that there were five borrowings that are still outstanding related to the JSCB project. The District had forecasted a projected building aid increase with all other State aid remaining relatively flat.

Director Floss responded that there is a possibility that the capital projects may not be affordable if a larger portion of revenue is absorbed by debt service.

County Executive Poloncarz stated that if expenses continue to increase in areas that are uncontrollable, such as payments to charter schools and debt service, there will continue to be greater deficits each year.

Dr. Brown noted that the District is examining how to “right-size” its staffing levels. Currently there is a level of student vacancies. However, 2012-13 is the first time in recent years that there has been an increase in total student enrollment.

Chair Olsen identified major issues impacting the District as: increasing employee benefit costs, debt service costs, the use of reserves for operating expenditures which distorts the true financial health of the District, particularly as major unions have long-expired CBAs. While debt service can be difficult to address, the collective bargaining agreements between the two largest components of the District is something which can be addressed.

County Executive Poloncarz asked if the pension component is included in employee benefits. He noted that local governments will be impacted by the State economy in general and by the financial impact of Hurricane Sandy which caused a tremendous amount of damage to downstate New York. Ms. Mongold confirmed that pension costs were a component of total employee benefits. The 2013-14 estimated employer contribution rates project an increase in the employer contribution rates.

Director Doherty asked if, with the retirement of current teachers and the hiring of new teachers, would the District’s pension costs be favorably impacted in the near future. Ms. Mongold responded the new pension tiers are structured in a more beneficial way for taxpayers. There are lifetime contributions by employees toward the cost to the pension systems. The majority of employees currently are in tiers one through four; the District’s effective pension contribution rate will be favorably affected as new Tier 6 employees are hired.

Director Jurasek referenced Chair Olsen’s earlier comments where he indicated that, from his personal perspective, the District was in a current fiscal crisis and asked for elaboration when the fiscal crisis will begin or when it had begun.

Chair Olsen noted that the District's structural deficits continue to increase. Reserves have been used and are projected to be used to close deficits until they are depleted. Collective bargaining agreements are years out-of-date; the costs associated with settling these contracts will put further stress on the District's finances. The identified potential resources available do not begin to address rising costs. Additionally, the District has an unusually contentious relationship between management and organized labor which has already led to the loss of crucial resources.

He added that had there not been a control board in place along with the imposed wage-freeze and the associated salary-step litigation, the District would be effectively bankrupt. The relevance of the BFSA should not be underestimated even though some of the problems in the District are not the areas in which the Board can provide direct assistance.

County Executive Poloncarz asked Mr. Magavern if a legal opinion had been rendered that would allow the Board to resume a control period solely for Covered Organization but remain in advisory status for other entities.

Mr. Magavern responded he would examine whether or not this was legally tenable.

County Executive Poloncarz exited the proceedings at 2:16 PM.

Chair Olsen added it is unrealistic to have a doubling of graduation rates in schools that are not highly selective in admission, considering the current financial picture and a lack of collaboration with teachers, who are essential in achieving those increased rates. The lack of consultation and cooperation is further hampering the District's ability to meet these goals that are absolutely critical, not only for the parents and the children who are affected, but for the City of Buffalo. Clearly an important aspect of the growth in City of Buffalo's economic picture is based on the performance and the perception of public education.

Superintendent Brown asked to readdress the Board. She stated that she had been advised shortly after becoming Superintendent the BFSA Board had just entered an advisory period. The only change that had taken place since that time was the District's inability to put in place an approved APPR plan.

She asked if the Board was contemplating making a decision at the day's meeting that would change the relationship with the District from advisory status to control status.

Chair Olsen advised Superintendent Brown that the process involved long-term discussions. The statutory conditions from transitioning from a control period to an advisory period are different than from moving back into a control period. Chair Olsen noted that the District had seen improvements in various areas of late. He thanked and commended Superintendent Brown for her recent successes.

Ms. Mongold continued her presentation. The 2011-12 fiscal year was the first since 2001-02 where expenditures exceeded revenues. Without larger revenue increases, the trend will continue and put further stress on the District's financial situation.

Historical Fund Balance

The unassigned fund balance was previously referred to as unreserved or undesignated fund balance and has been relatively flat since 2007-08. This is the amount that remains available for the future gaps in the financial plan. The District in previous years has relied heavily on unassigned fund balance.

Ms. Mongold concluded her presentation.

City of Buffalo Items

2013 Capital Budget and Capital Improvement Plan

Chair Olsen advanced the agenda to the next item for consideration: review of the City's 2013-2017 Recommended Five-Year Capital Improvement Plan ("CIP"). The plan has been submitted to the City's Common Council by the Mayor with a request for approval. The Common Council has not yet approved this Plan.

He asked Principal Analyst, Mr. Bryce Link, to briefly review the information.

Mr. Link addressed the Board and provided the following summary of the City's five-year CIP.

The Mayor submitted the 2013 Capital Budget and Capital Improvement Plan on December 15, 2012. Unlike in previous years, the City is not borrowing on the behalf of the District; in recent years they have borrowed approximately $5 million annually for the District. The District is able to utilize savings derived from the recent refunding of some JSCB bonds that allows the District to redirect those funds back into District Capital Improvements.

The 2013 Capital Budget includes a request for $21.07 million for various capital projects. The proposed capital budget is largely in-line with the previous proposed capital improvement plan, which, with minor changes, will capitalize on matching funding where it is available as well as reprioritizing some investments. The following is a breakdown of the various projects:

- $8.2 million for street engineering projects,
- $3.4 million for economic development and cultures,
- $3.3 million for demolitions,
- $2.9 million for parks, City-wide tree trimming and plantings,
- $1.8 million for City buildings and,
- $1.4 million for City vehicles such as fire and snow removal.

Highlighted proposed projects include:

- $6.0 million for various citywide infrastructure repairs such as streets and sidewalks,
- $3.25 million for demolitions and code enforcement work and,
- $1.82 million for park improvements.

Capital Borrowing Levels

In prior years, a "debt diet plan" was implemented to reduce the City's overall debt. It placed a cap on the amount the City could borrow annually. Since 2004, the City has averaged $22 million for capital borrowings and the District has averaged $5 million annually, excluding the

2012-13 fiscal year. The City plans to maintain a targeted borrowing amount of approximately $21 million annually.

Outstanding Capital Proceeds
The City has undisbursed bond proceeds of $48.5 million from prior years dating back to FY 1996-97. The proceeds from FY 1996-97 to FY 2004-05 are $1.8 million. Between FY 2005-06 and FY 2011-12, the amount outstanding is $46.7 million. The City is moving forward with expending the remaining funds.

Mr. Link concluded his presentation.

Chair Olsen commended Mayor Brown for devoting a significant portion of the City's budget to address quality-of-life issues which ultimately lead to the increase of property values.

Collective Bargaining Agreement between the City and the Crossing Guards Union

Chair Olsen advanced the agenda to the next item for consideration: a review of the collective bargaining agreement between the City and the Crossing Guards Union. The collective bargaining agreement was approved by the City Common Council on October 30, 2012. A financial analysis was not performed by the City's Department of Finance; all cost projections discussed are based on BFSA's staff work. Crossing Guard employees are part-time workers and earn an hourly wage slightly higher than the amount prescribed in the City's Living Wage Ordinance. Therefore, in juxtaposition with other City unions, the total net increased costs for the CBA are not expected to have a significant impact on the City's long-term financial condition.

Chair Olsen emphasized that in order to fulfill the statutory mandate of the BFSA, these types of agreements must be reviewed by the Board before they are passed. The City was inadvertently remiss in not submitting the proposed agreement to the BFSA prior to its approval by the Common Council.

A final report will be issued based on responses to outstanding requests and questions. The report will include final comments and recommendations that will require a public response from the City's Administration. Chair Olsen asked Ms. Mongold to provide a review of the report.

Ms. Mongold began by stating the collective bargaining agreement was a five-year agreement that covers the period from July 1, 2010 through August 30, 2015. The crossing guards agreed to no retroactive increases for the initial two year period from July 1, 2010 - August 31, 2012. The average increase beginning in September 2012 is approximately 8.9%. Beginning in September 2013 and September 2014, wages increase by 2% each year to be compliant with the Living Wage Ordinance.

One additional paid holiday is being provided to the crossing guards, an increase from five days to six days. An additional change in the collective bargaining agreement is the residency requirement has been strengthened to include domicile language.

Health Insurance
Current employees will continue to contribute 10% towards the premium cost of health insurance. The City will begin to pay for the premium during the summer months of July and August. New employees will contribute 20% towards the cost of health insurance.

Director Floss asked for confirmation that the employees would maintain their health insurance coverage in the summer months.

Ms. Mongold confirmed that coverage would be maintained with 100% payment by the City for July and August.

Chair Olsen asked what percentage of new employees' total wages would equate to twenty percent of the health insurance premium.

Ms. Mongold responded that a twenty percent contribution by new employees toward the cost of their health insurance premium could equate to approximately fifty percent of their total monetary compensation.

Chair Olsen opined that the healthcare cost contribution should be spread around more equitably so the lowest paid employees would not have to pay a disproportionate percentage of their wages.

Comments
- Regardless of financial significance, an analysis should be performed for any draft and/or proposed collective bargaining agreement;
- The 2012-2013 budget may need to be modified. An internal financial analysis should be performed to determine if this is required;
- The financial plan should be modified as necessary to address the prospective costs of the contract;
- The collective bargaining agreement begins to address rising costs of healthcare;
- BFSA should be provided the proposal before it is filed with the Common Council.

Ms. Mongold concluded her presentation.

Chair Olsen asked if there were any questions. Hearing none he requested a motion to affirm the recommendations to be included in the final report, to remit the report to the City, and to require a public response from the City Administration.

Director Floss offered the motion that the Board affirms the recommendations in the final report, to remit the report to the City, and to require a public response.

Secretary Arthur seconded the motion.

The Board voted 7-0 to affirm the recommendations in the final report, to remit the report to the City, and to require a public response.

2012-13 1st Quarter Reports

Chair Olsen advanced the agenda to the next item for consideration: review the first quarter reports for the City and the Covered Organizations. Staff prepared summaries of the quarterly results and revised year-end projections for the City, BURA and the District. The quarterly results for BMHA were not summarized as there are a number of outstanding questions with BMHA management that have not yet been answered.

He asked Mr. Link to briefly discuss the City and BURA's first quarter reports.

City of Buffalo1st Quarter Report

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

The City of Buffalo provided BFSA with the first quarter report covering July 1, 2012 through September 30, 2012. The City is not anticipating a significant variation from their adopted budget; a net budgetary surplus of approximately $200,000 is currently projected.

Compared to the adopted budget of $482.62 million, both estimated revenues and expenditures have decreased minimally. Revenues are projected to decrease by $669,000 to $481.95 million and expenditures are projected to decrease by $870,000 to $481.75 million at fiscal year-end ("FYE"). The City budgeted for 2,615 full time equivalents ("FTE's"). As of September 30, 2012 there was a vacancy rate of 9.1%, or 2,377 FTE's. The City is looking at bringing on another police class in the beginning of the 3rd quarter.

– Revenue
  The largest revenue reduction was in the amount of $772,000 due to lower than expected service charges. All other revenue sources on an aggregate are showing minimal increases, offsetting the service charges reduction by approximately $100,000. In addition, the projected use of designated fund balance is to be reduced as well, due to the reductions in expenditures.

– Expenditures
  At the end of the first quarter, fourteen of fifteen departments were projecting to be under budget for a cumulative savings of $863,000. The Police Department is projecting to be over budget by $2.1 million. All other departments are projecting to be under budget as follows:
  - Department of Public Works - $884,500
  - Department of Community Services - $595,000
  - Department of Administration & Finance - $217,000,
  - Fire Department - $156,000, and
  - All other departments - $1.2 million.

– <u>Fiscal Year Considerations</u>
  - There is uncertainty with State aid levels with a potential for mid-year reductions,
  - There is the potential of reduced revenue stemming from increased costs for downstate redevelopment and cleanup costs from Hurricane Sandy,
  - Expired collective bargaining agreements as well as police and fire arbitration settlements are major considerations,
  - The City is currently operating at very thin margins,
  - The City may be unable to absorb increases towards compensation without offsetting concessions,
  - The potential of increased police overtime to continue to rise.

Buffalo Urban Renewal Agency 1st Quarter Report

Mr. Link concluded his presentation on the City of Buffalo's first quarter. He provided a following summary of BURA's first quarter.

BURA is a unique organization allowed to roll funds from previous years forward. On a year to year basis, BURA's operating revenue from the U.S. Department of Housing and Urban Development ("HUD") has been reduced by $5.5 million. BURA is expected by HUD to deliver services with fewer funds.

In addition there has been a delay in releasing the $13.3 million in FY 2013 Community Development Block Grant ("CDBG") funds. CDBG funds released to date are from prior allocations.

The funds will need to be disbursed through the Comptroller's office as opposed to BURA. This has delayed the receipt and disbursement of funds to date. Through the end of the first quarter, revenues and expenditures are 19% of the budget year-to-date.

Chair Olsen asked if there has been a reduction in staff at BURA.

Mr. Link responded that BURA is working through that process. The agency has expended 20-22% for administrative costs through the 1st quarter. There have been some reductions in staff, including the clean and seal team.

Mr. Link added that operations are at 25% of the budget. This is an area that may need to be monitored as it accounts for the administrative and program delivery costs. BURA currently owes $8.4 million in default section 8 (Section 8 of the U.S. Housing Act of 1937 or "Section 8") loan guarantees, with a schedule to pay this amount down over the next eight years.

Mr. Link concluded his presentation.

Chair Olsen advanced the agenda to the next item for consideration: review of the District's first quarter report presented by Financial Analyst/Manager of Technology, Mr. Nathan D. Miller.

Buffalo City School District 1st Quarter Report

Mr. Nathan Miller addressed the Board and provided the District's first quarter highlights as follows:

<u>1st Quarter Highlights</u>

- The District is projecting an unfavorable budgetary variance of $1.2 million at FYE,
- The projected operating deficit has increased to $27.8 million,
- The APPR plan is unresolved with $59.0 million in funding at risk,
- The settled blue-collar CBA resulted in an additional appropriation of fund balance of $2.6 million in the current fiscal year,
- Municipal bonds were refinanced for savings of $1.1 million in the current fiscal year. Savings in the amount of $2.0 million is expected for fiscal years 2014-2016 with a portion of the refinancing costs to be reimbursed in fiscal year 2013-2014 by NYS Municipal Bond Bark Agency Prior Year Aid.

<u>Operating Deficit</u>

The 2012-2013 adopted budget includes estimated revenues of $759.6 million, budgeted appropriations of $780.0 million, and a deficit of $20.4 million to be funded by the use of fund balance. The budget was later modified with revisions to budgeted appropriations which have increased to $786.2 million, with a projected deficit of $26.6 million to be funded by the use of fund balance. The actual year-end projected deficit is higher than the budget by $1.2 million and totals $27.8 million.

The modified budget includes two budget modifications¸ as follows:

- Carryover encumbrances - $3.6 million;
- Budget modification: Local 264 Blue-Collar CBA - $2.6 million.

The following budgetary variances are projected at fiscal year-end:

- Employee Benefits - $3.7 million favorable budgetary variance
- Debt Service – $1.1 million favorable budgetary variance, and
- Charter School Payments - $6.0 million unfavorable budgetary variance.

<u>FY 2011-12 & FY 2012-13 Full-Time Equivalent ("FTE") Employee Comparison</u>

A comparison of staffing for the CFY at the end of the first quarter with the end of the first quarter from the prior FY depicts an increase of twenty-one employees on an All Funds-Basis. On a General Fund basis, there were 151 more FTE employees at the end of the first quarter of the CFY compared with the end of the first quarter of the prior FY, chiefly due to an increase of 114 teaching positions in the General Fund that had been funded through the Special Projects Fund the prior FY. Federal stimulus funding had been available in the prior fiscal year to fund these positions.

Mr. Miller concluded his presentation.

Chair Olsen asked if there were any questions.

Director Floss noted that the absence of a settled collective bargaining agreement with the Buffalo Teachers Federation correlated with older average retirement ages, resulting in an increased employee compensation cost from longer tenured teachers. He asked if this had been examined.

Mr. Miller noted that an analysis had been conducted as part of the recent teacher retirement incentives. The lower average compensation cost of a lower salary step teacher is somewhat offset by the additional retiree health insurance premium, which is currently approximately $16,900 annually.

BFSA Items
BFSA Bylaws

Chair Olsen advanced the agenda to the next items of business: various recommendations from the Governance Committee regarding BFSA's bylaws, the 2013-14 MWBE Master Goal Plan, and the 2013 BFSA Board Meeting schedule. One change to the proposed calendar was noted, with the addition of a May 15th meeting for the purpose of discussing the proposed budgets and related financial plans before they are approved by the respective governing bodies.

Chair Olsen requested a motion to accept the recommendation from the Governance Committee and to approve the revised bylaws.

Director Floss offered a motion to accept the recommendation from the Governance Committee and to approve the revised bylaws.

Secretary Arthur seconded the motion.

RESOLUTION NO. 12-33
APPROVING THE BYLAWS OF THE BUFFALO FISCAL STABILITY AUTHORITY

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

WHEREAS, pursuant to §3854(3) of the BFSA Act, it was necessary to make and alter by-laws for the BFSA's organization and management; and

WHEREAS, the BFSA desires to review and affirm the organization's By-Laws on a regular basis, as a good governance practice; and

WHEREAS, the BFSA approved the initial adoption of its By-Laws by Resolution No. 03-01 at its meeting on July 15, 2003; and

WHEREAS, the BFSA adopted revised By-Laws by Resolution No. 10-07 at its meeting on March 11, 2010; and

WHEREAS, the BFSA also adopted revised By-Laws by Resolution No. 10-43 at its meeting on September 29, 2010; and

WHEREAS, upon reviewing the By-Laws, BFSA staff determined that minor modifications were necessary to provide for continuity and clarity; and

WHEREAS, the Governance Committee of the BFSA has reviewed the amended By-Laws and has recommended they be reaffirmed by the BFSA Board of Directors.

NOW THEREFORE BE IT RESOLVED that the BFSA does hereby accept the recommendation of the Governance Committee and approves the revised By-Laws in their present form.

The Board voted 7-0 to accept the recommendation from the Governance Committee and approve the revised bylaws.

2013-14 Minority & Women-Owned Business Enterprise Master Goal Plan

Chair Olsen requested a motion to accept the Governance Committee's recommendation and approve the 2013-14 MWBE Master Goal Plan.

Director Floss offered a motion to accept the Governance Committee's recommendation and approve the 2013-14 MWBE Master Goal Plan.

Secretary Arthur seconded the motion.

RESOLUTION NO. 12-34
APPROVAL OF THE 2013-2014 MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE GOAL PLAN

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

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

WHEREAS, in accordance with the 2010 Business Diversification Act, which amended Article 15-A of New York State Executive Law, state agencies are required to prepare an annual Minority and Women Business Enterprise ("MWBE") Goal Plan to submit to the New York State Empire State Development's Division of Minority and Women's Business Development; and

WHEREAS, the BFSA is required to establish annual goals for MWBE procurement and file such goals with the New York State Empire State Development's Division of Minority & Women's Business Development in accordance with New York State deadlines; and

WHEREAS, the New York State Empire State Development's Division of Minority & Women's Business Development provided state agencies a prescribed format for the completion of the Annual Goal Plan Update for Fiscal Year 2013-2014; and

WHEREAS, the Governor of New York State has issued a directive that all state agencies should establish a minimum goal of 20% participation for procurements with qualified MWBE's; and

WHEREAS, the BFSA has deemed it appropriate to adopt the Governor's directive of a 20% goal as split evenly with 10% participation by Minority Business Enterprises and 10% participation by Women Business Enterprises; and

WHEREAS, the BFSA will continue to seek procurement opportunities with qualified MWBE's; and

WHEREAS, the BFSA Governance Committee reviewed the proposed 2013-2014 Annual Goal Plan Update and approved a recommendation on December 5, 2012 for the BFSA Board of Directors to approve the proposed 2013-2014 Annual MWBE Goal Plan.

NOW THEREFORE BE IT RESOLVED that the Board of Directors of the Buffalo Fiscal Stability Authority hereby adopts the 2013-2014 Annual MWBE Goal Plan.

BE IT FURTHER RESOLVED that BFSA staff is hereby authorized to file the 2013-2014 Annual MWBE Goal Plan with the required parties.

The Board voted 7-0 to accept the Governance Committee's recommendation and approve the 2013-14 MWBE Master Goal Plan.

2013 BFSA Meeting Calendar

Chair Olsen requested a motion to accept the Governance Committee's recommendation and approve the 2013 BFSA Board Meeting Schedule.

Secretary Arthur offered a motion to accept the Governance Committee's recommendation and approve the 2013 BFSA Board Meeting Schedule.

Director Floss seconded the motion.

RESOLUTION NO. 12-35
ADOPTION OF A BFSA BOARD OF DIRECTOR REGULAR MEETING SCHEDULE FOR CALENDAR YEAR 2013

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

WHEREAS, the BFSA's By-Laws under Article III, Section I, "Meetings of the Authority," allows the Directors to schedule regular meetings of the Authority as the Directors determine necessary with such regular meetings required to be held at least quarterly during a control period and annually during an advisory period; and

WHEREAS, the BFSA Directors believe that the adoption of a 2013 regular meeting schedule, including committee meetings, is in the best interests of the Authority and other interested parties.

NOW THEREFORE BE IT RESOLVED, that the BFSA approves the adoption of the 2013 regular Board of Director meeting schedule as attached.

The Board voted 7-0 to accept the Governance Committee's recommendation and approve the 2013 BFSA Board Meeting Schedule.

Advice from Legal Counsel

Chair Olsen noted that Board needed to discuss litigation matters with legal counsel and proposed that it would be appropriate to consider exiting from the public session into an executive session.

Secretary Arthur offered a motion to enter into an Executive Session. He suggested that the Privilege of the Floor, the portion of the meeting extended to attending members of the public to address the Board regarding items discussed at the meeting, be moved up on the agenda prior to exiting into an Executive Session.

Director Floss seconded the motion to exit into an executive session.

The Board voted 7-0 to change the order of the remaining agenda to extend the privilege of the floor.

Privilege of the Floor

Chair Olsen extended the Privilege of the Floor to any member of the attending audience who wished to address the Board for the public record. Hearing none, he asked to call the motion to exit into Executive Session.

The Board voted 7-0 to exit into an executive session.

The Board adjourned into executive session at 2:57 PM.

BUFFALO FISCAL STABILITY AUTHORITY
Executive Session Meeting Minutes
December 5, 2012

The following are the minutes from the Executive Session of the Buffalo Fiscal Stability Authority (the "BFSA") held on Wednesday, December 5, 2012, in the Buffalo Market Arcade Complex. The meeting was called to order at 3:00 PM.

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

Board Members Excused: Poloncarz

Board Members Absent: Giardino

Staff Present: Link & Mongold

Additionally Present: James L. Magavern, Esq., Magavern, Magavern, & Grimm, LLP

Pursuant to New York State Public Officers Law, Article 7, §105(d), the Board entered into an executive session for the purposes of receiving legal advice from counsel.

Chair Olsen called the Executive Session to order.

The Board received legal advice from Mr. James Magavern.

Adjournment

Chair Olsen asked for a motion to adjourn the Executive Session and to reenter the public portion of the Board meeting.

Director Arthur offered a motion to adjourn from the Executive Session and reenter into the public portion of the Board meeting.

Director Floss seconded the motion.

The Board voted 7-0 to adjourn from the Executive Session and reenter he public portion of the Board meeting.

The Board exited the Executive Session at 3:23 PM

Adjournment
Chair Olsen asked for a motion to resume the public portion of the meeting.

Director Floss offered a motion to reenter the public session.

Director Arthur seconded the motion.

The Board voted 7-0 to reenter the public session.

Chair Olsen asked if there was any new business for discussion. Hearing none, he made a motion to adjourn the meeting.

Director Olsen offered a motion to adjourn the meeting.

Director Arthur seconded the motion.

The Board voted 7-0 to adjourn the meeting.

The meeting adjourned at 3:26 PM.