BUFFALO FISCAL STABILITY AUTHORITY
Meeting Minutes
May 15, 2013

The following are the minutes from the meeting of the Buffalo Fiscal Stability Authority (the "BFSA") held on Wednesday, May 15, 2013, in the Buffalo Market Arcade Complex. The meeting was called to order at 1:06 PM.

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

Board Members Absent: Giardino

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

Additionally Present: James L. Magavern, Esq., Magavern, Magavern, & Grimm, LLP
Barbara J. Smith, Chief Financial Officer, Buffalo City School District

Opening Remarks

Chair Olsen called the meeting to order. The meeting's agenda included: a review of the City of Buffalo's proposed FY 2013-14 Budget and FY 2014-2017 Financial Plan, a review of the financial plans for the Buffalo City School District (the "District"), the Buffalo Urban Renewal Agency ("BURA"), and the Buffalo Municipal Housing Authority (the "BMHA"), a City of Buffalo (the "City") FY 2012-13 budget modification, a review of the third quarter reports from the City, the District, and the BMHA, and to receive advice from legal counsel.

He noted that the Board would extend the Privilege of the Floor prior to the meeting's adjournment to any member of the attending public who wished to comment on the public record regarding any actions taken during the meeting.

Chair Olsen announced that Governor Cuomo had recently designated Director Doherty as BFSA's Vice-Chair and congratulated her on the appointment, noting her unique background and perspective.

Roll Call of Directors

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

Erie County Constituent Services Assistant, Mr. Leonard Williams, represented Erie County Executive Mark Poloncarz, 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…."*

<u>Approval of the March 13, 2013 Minutes</u>
Chair Olsen introduced Resolution No. 13-04, "Approving Minutes from March 13, 2013."

Director Floss offered a motion to approve Resolution No. 13-04.

Director Mesiah seconded the motion.

RESOLUTION NO. 13-04
APPROVING MINUTES FROM MARCH 13, 2013

BE IT RESOLVED that the Buffalo Fiscal Stability Authority approves the minutes of its meeting on March 13, 2013.

BE IT FURTHER RESOLVED that the Buffalo Fiscal Stability Authority ratifies and affirms Resolution Nos. 13-01 through 13-03 that were approved on March 13, 2013.

The Board voted 7-0 to approve the resolution.

<u>Proposed 2013-14 Budgets and Related Four-Year Financial Plans</u>
City of Buffalo

Chair Olsen advanced the agenda to the first item for consideration: a review of the City's proposed 2013-14 Budget and 2014-2017 Four-Year Financial Plan, submitted to the BFSA by Mayor Brown on May 1, 2013.

He introduced Resolution No. 13-05, "Declaration of Incomplete Financial Plan" for consideration by the Board. The resolution related to the BFSA's declaration that the Financial Plan as submitted was incomplete specifically with respect to the District, BMHA and BURA.

Chair Olsen requested a review of the report from Executive Director Jeanette M. Mongold-Robe and Principal Analyst Bryce E. Link.

Ms. Mongold-Robe addressed the Board. She provided the following information:

<u>Introduction</u>
The City submitted the Financial Plans of the City and the Covered Organizations (including the District, BMHA, and BURA) on May 1, 2013, in compliance with the provisions of the BFSA Act. The budgets are considered preliminary as they have not been acted upon by the respective governing bodies. BFSA is currently in an advisory period and is therefore not required to approve the plans, as had been required in years past while the BFSA was in a control period. BFSA is required to certify the revenues and will consider this item at the June 19, 2013 Board meeting.

The proposed Financial Plans differ from those submitted in years past, specifically with respect to the District's submission, in that a Proposal to Eliminate the Gap ("PEG") plan was not submitted demonstrating how budgetary gaps are eliminated throughout the Financial Plan. The lack of a PEG plan which would address the budgetary deficits led to the conclusion that the preliminary plan was incomplete as defined in the BFSA Act. The District's budget staff is working diligently to revise the Financial Plan; the District's Board of Education is anticipated to review a final document on Wednesday, May 22, 2013.

The resolution introduced by Chair Olsen additionally contained clauses which specifically addressed the proposed Financial Plans submitted by BMHA and BURA. The financial plans did not include the necessary data needed by the BFSA to determine if the plans were complete per the BFSA Act.

At 1:17 PM Mayor Brown entered the proceedings.

City of Buffalo Budget & Four-Year Plan: High-Level Review

- The FY 2013-14 Proposed Budget includes a reduction in New York State Aid ("State Aid") of $18.6 million;
    - This State Aid decrease was anticipated. The prior fiscal year ("PFY") included an advance of State Aid, referred to as a "spin-up", in the amount of $10.8 million. In addition, the City changed the timing of revenue recognition for $7.8 million of State Aid. Both of these transactions were one-time revenue adjustments; there was no actual increase in the dollars coming into the City, but was reflective of how revenue was recognized and reported. As a result, the reduction in State Aid in the Proposed Budget was anticipated and is reflective of the one-time revenue adjustment in 2012-13;

- The 2013-14 Proposed Budget addresses the $18.6 million decrease in State Aid through a series of actions. The City has budgeted for the increased use of Restricted State Aid and Incentives to Municipalities ("Restricted State AIM") of $9.6 million to a total budgeted amount of $12.0 million, leaving $200,000 of these funds remaining. The City has budgeted an incremental increase in the annual transfer from the City's Parking Fund in the amount of $4.4 million; these funds had previously been set-aside for the construction of additional municipal parking which is no longer considered necessary. Additionally, the City is recognizing revenue for the foreign fire insurance payment in the amount of $4.2 million; this is a one-time revenue source at this level.

- Highlights and related concerns pertaining to the City's Financial Plan include:

    1) The inclusion of $29.0 million of Tribal State Compact gaming revenues in the three out-years of the Financial Plan. The receipt of the revenues is unclear; litigation is pending between the State of New York and Seneca Nation of Indians as they are in the midst of an arbitration process;
    2) The depletion of available fund balance; it is important to note that the Rainy Day Fund remains intact over the Financial Plan;
    3) The use of all remaining Restricted State AIM, which is held by the BFSA.

4) There is no formal deficit reduction plan for the Refuse Fund. The General Fund owes the Refuse Fund $14.7 million as of June 30, 2012;

→ The annual operating transfer from the General Fund decreases through each year of the Financial Plan from $3.2 million in FY 2013-14 to $2.1 million in FY 2016-17;

5) The available tax margin for FY 2013-14 is $42.1 million, representing a minor increase from the prior fiscal year of $500,000, and is equivalent to 67.8 % of the available taxing capacity;

→ The available tax margin in 2002-03, the year the BFSA was established, was $12.9 million.

Chair Olsen noted that the low taxing margin in FY 2002-03 was one of the major reasons that the Buffalo Fiscal Stability Authority was created. The City's ability to increase its taxing margin is a major accomplishment.

6) Property taxes are held flat in FY 2013-14 and are projected to increase in FY 2014-15 at a rate of 2-3% annually; the rate that is projected is consistent with New York State's real property tax cap;

7) The City began to report an operating deficit in 2012, and is expected to report a deficit in the current fiscal year. This trend continues over the Financial Plan. A summary of the deficits are as follows:

→ FY 2011-12 = $16.3 million (actual), or 3.5% of expenditures;
→ FY 2012-13 = $10.8 million (estimated), or 2.2% of expenditures;
→ FY 2013-14 = $12.0 million (projected), or 2.5% of expenditures;
→ FY 2014-15 = $2.5 million (projected), or 0.5% of expenditures;
→ FY 2015-16 = $5.8 million (projected), or 1.2% of expenditures;
→ FY 2016-17 = $5.2 million (projected), or 5.2% of expenditures.

Ms. Mongold-Robe concluded her high-level overview of the City of Buffalo's Proposed 2013-14 Budget and Four-Year Financial Plan. She asked Mr. Link to address the Board and provide further detail.

Mr. Link addressed the Board. He noted that the presentation would discuss the concerns, risks, and important assumptions and trends included in the City's Proposed FY 2013-14 Budget and 2014-2017 Financial Plan. The budget has been conservatively drafted by the City's Administration and decreases year-to-year expenditures by approximately $87,000 and decreases revenues by $600,000. The budget has maintained current fiscal year ("CFY") services into the upcoming fiscal year ("FY"), with minor reallocations for resources and manpower among various departments. The major cost drivers include pension payments, health insurance costs, and added personnel costs for additional cellblock attendants. The City's Administration has managed these cost increases within the context of this financial plan.

City of Buffalo Budget & Four-Year Plan: High-Level Review

Available Fund Balance: 2013-14

- Unassigned Fund Balance at 06/30/2012 = $12.2 million;
    - Estimated budgetary surplus for FY 2012-13 = $4.8 million;
    - Reclassification of Restricted fund balance to Unassigned fund balance = $2.9 million;
    - $1.1 million of fund balance will be transferred from Unassigned fund balance into the "Rainy Day Fund;
    - $12.0 million of Unassigned fund balance to be appropriated for FY 2013-14 general operations;
- Estimated Unassigned fund balance at 06/30/2013 = $7.9 million.

FY 2013-14 Operating Revenue - $470.5 million

- Fund balance is excluded when considering revenue as it is a reserve and therefore not a revenue source;
- The largest component of the City's total operating revenue is State AIM at $161.3 million, or 34.3% of total operating revenue;
- The second largest component of the City's total operating revenue is the funds received through the Real Property Tax Levy and the School Tax Relief ("STAR") program at $138.3 million, or 29.4%, of total operating revenues;
- Erie County sales tax proceeds are estimated at $75.9 million, or 16.0% of total operating revenues;
- Other significant pieces include:
    - → Interfund transfers in at $15.8 million, or 3.4% ,of total operating revenues;
    - → Use of Restricted AIM of $12.0 million, or 2.6%, of total operating revenues;
    - → All other revenues of $67.2 million, or 14.3%, of total operating revenues.

FY 2013-14 Proposed Spending - $482.5 million

- The largest expenditure is employee fringe benefits at 30% of total budgeted expenditures, representing $148.9 million. These costs include: active and retiree health insurance, payroll taxes, workers' compensation, payments in-lieu-of health insurance, and employer pension contributions;
- Transfers are budgeted at $106.2 million, or 22% of total expenditures;
    - → The largest transfer is to the Board of Education in the amount of $70.3 million, which has been held flat since FY 2005-06;
    - → The second largest payment is to the Debt Service Fund in the amount of $31.2 million;
    - → The operating subsidy to the Refuse Fund is proposed at $3.2 million;
- Police Department expenditures are proposed at $79.5 million, or 17% of total expenditures;
- Fire Department expenditures are proposed at $54.1 million, or 11% of total expenditures;
- Department of Public Works expenditures are proposed at $26.4 million, or 5% of total expenditures;

- Utilities costs are proposed at $16.8 million, or 4% of total proposed expenditures;
- All other departmental spending and general charges are proposed at $51.8 million or 11%.

Total Employee Costs

- Employee costs are the largest operating cost for the City;
- The City's proposed FY 2013-14 employee costs are $323.4 million, or 86% of total expenditures;
    - → Employee costs are trending to be a higher percentage of total expenditures, placing additional strain on budgets;
    - → Reductions are made in other areas to absorb the increased employee costs for increases in health insurance and pension contributions including: the purchase of new vehicles, equipment, material, software upgrades, technology investments, etc….

City Personnel Costs

- Total employee costs have increased from $228.9 million in FY 2005-06 to $323.4 million in FY 2013-14, an increase of $94.5 million, or 41.3%, on a budget-to-budget basis;
    - → The principal driver in this increase is the increasing cost of health insurance and pension payments;
- Staffing has increased from 2,537 full-time equivalent ("FTE") employees in FY 2005-06 to 2,638 FTEs in FY 2013-14, an increase of 101 budgeted FTEs;
    - → The increase is mainly attributed to the addition of 42 new FTEs cellblock attendants after the agreement with the County to handle such services ended and 50 FTEs who returned to City employment after the City reassumed maintenance of its parks system;
    - → Eight FTEs are increased staffing in various departments.

Average Cost per Employee

- The average FTE cost when including both salary and benefits, excluding retiree health insurance, was $80,316 in FY 2005-06 (based on budgeted amounts) and is $109,325 in FY 2013-14.

Chair Olsen asked for the percentage increase in average FTE costs from FY 2005-06 to FY 2013-14 and what percentage of the increase that was attributed to benefit costs. Mr. Link replied that the average increase from FY 2005-06 to FY 2013-14 was 36%, or $29,000. The increase is attributed to increased salary and benefit costs, with increased benefit costs being the principal cost driver. Total FY 2013-14 fringe benefit expenditures are proposed at approximately $150.0 million and salaries are proposed at approximately $175.0 million.

Chair Olsen noted that the City could address rising fringe benefit expenditures through new collective bargaining agreements.

Average Cost per Employee (including Retiree Health Insurance)

- The average FTE cost when including both budgeted salary and benefits, and including retiree health insurance, was $90,296 in FY 2005-06 and increases to $122,593 in FY 2013-14.

Chair Olsen noted that, since the creation of the BFSA, the City had very responsibly decreased its level of employment. The issues the City currently are largely out of the control of the City's Administration.

Projected Operating Deficit

- The projected operating deficits listed in the Proposed Financial Plan are as follows:
  - → FY 2013-14 - $12.0 million;
  - → FY 2014-15 - $2.5 million;
  - → FY 2015-16 - $5.8 million;
  - → FY 2016-17 - $5.2 million;
- The cumulative operating deficit is proposed at $25.5 million. The individual budgetary gaps are closed through the equivalent use of fund balance in each year of the Proposed Financial Plan.

City 2013-14 Budget & 2014-2017 Financial Plan: Major Fund Sources – Revenue and Other

- The major revenue categories and amounts budgeted in the Financial Plan, from largest to smallest are:
  - → State AIM;
  - → Property Tax & STAR;
  - → Sales Tax;
  - → Restricted AIM;
- The other funding source identified is Unassigned fund balance which is used to close the budgetary gap;
- The major revenue categories and Unassigned fund balance constitute approximately 83% of all revenues and resources available to the City;
  - → The draw-down of $12.0 million in Restricted State AIM is listed in FY 2013-14 of the Financial Plan and $2.0 million in FY 2014-15. BFSA has identified that this is an overestimate of available Restricted State AIM in FY 2014-15 and has notified the City's Administration. The City is revising the Financial Plan to address this issue;
- State Aid and Incentives to Municipalities ("State AIM") is projected to increase by 1% in the out-years of the Proposed Financial Plan, although the New York State financial plan is currently projecting a 0% increase;
- Property tax growth is projected in FY 2014-15 in the amount of $8.1 million, or 5.9%, increasing by 2.7% and 1.8% in the subsequent years;
- Sales tax growth of approximately 2.5% is projected annually, which is in line with Erie County's estimates.

City 2013-14 Budget & 2014 – 2017 Financial Plan: Parking Enterprise Fund Transfer

- The Proposed Budget increases the transfer to $9.6 million from the Parking Enterprise Fund including a one-time sweep of reserves of $4.4 million;
- The total four year transfer from the Parking Enterprise Fund to the City's General Fund is proposed at $25.2 million.

City 2013-14 Budget & 2014 – 2017 Financial Plan: Tribal State Compact

- The City's Proposed Financial Plan includes $29.0 million in revenues from the Seneca Gaming Corporation, per the Tribal State Compact.
  - → Funds have been suspended by the Seneca Gaming Corporation since FY 2009-10 due to outstanding litigation between the Corporation and New York State. The remittance of the City's portion of slot revenues has been suspended while litigation is outstanding. The State of New York acts as a "pass-through" from the Seneca Gaming Corporation to the cities of Buffalo, Salamanca, and Niagara Falls;
  - → New York State is in arbitration with the Seneca Gaming Commission and a decision is anticipated in the near future.

Chair Olsen noted that the City's Administration had budgeted conservatively and excluded these revenues from proposed budgets while the litigation was outstanding. The City of Niagara Falls and the City of Salamanca had included these revenues in prior year budgets.

Secretary Arthur asked how long the arbitration process between the State of New York and the Seneca Gaming Corporation had been, to date. Chair Olsen indicated that the arbitration process had been ongoing for less than one year.

City 2013-14 Budget & Financial Plan: Additional Areas of Interest

- The Proposed Financial Plan includes an increase in the parking fines of $0.5 million;
- The Proposed Financial Plan includes an increase in the towing and storage fees of $0.7 million.

City 2013-14 Budget & Financial Plan: Expenditures

- Departmental spending is held flat over the life of the Proposed Financial Plan, including employee salaries;
- Health Insurance is proposed to increase from $74.8 million in FY 2013-14 to $84.3 million in FY 2016-17, an increase of $9.5 million, or 12.7 %;
- Pension contributions are proposed to increase modestly at $1.6 million, or 3.5%;
- All other expenditures are held fairly flat over the financial plan, with a slight decrease for transfers out for the Solid-Waste Fund and the Refuse Fund. The amount to the Refuse Fund is expected to decrease each year as more revenue is generated through recycling.

Director Jurasek asked for further information regarding the City's interfund transfers out. Mr. Link clarified that All Other Transfers Out included transfers to the Debt Service Fund, to the Refuse Fund and to the School District. The transfer to the Debt Service Fund is based on the schedule of bond principal and interest payments. The transfer to the Refuse Fund is projected to decrease over the Financial Plan as the City expects that the Refuse Fund will receive higher proceeds due to increased recycling rates. The transfer to the District was established in previous fiscal years and is held consistent.

Chair Olsen noted the portion of the Real Property Tax Levy that the City forwards to the District is greater than 50% of the total levy. The City has no statutory authority over the District how these funds are utilized.

Director Jurasek asked if the City of Buffalo could hypothetically reduce the transfer to the District to reduce a budgetary deficit. Mr. Link replied that the City may only maintain the current level per the maintenance of effort provision in New York State law. Once the level of the transfer is increased, the new amount would become the new minimum amount to be maintained, unless the increased amount was specifically for debt service. Mayor Brown confirmed this. He noted that the City had increased the amount to be transferred by $2.0 million in the first year of this first term as Mayor of Buffalo.

City 2013-14 Budget & 2014-2017 Financial Plan: Health Insurance Trends

- The cost of health insurance for active and retired employees is projected to continue to escalate, consistent with the historic trend.

Director Floss noted that the FY 2012-13 budgeted amount for retiree health insurance was less than the actual FY 2011-12 expenditure shown. He asked for clarification regarding this item. Mr. Link replied that the City had been subsidizing the cost of health insurance for other City agencies including the Buffalo Urban Renewal Agency and the Buffalo Sewer Authority. This practice ended and was not incorporated in the FY 2012-13 amount. Director Floss request the demographic data utilized to determine the amounts budgeted for active and retiree health insurance.

Chair Olsen noted that the cost of active employee health insurance had increased in FY 2012-13 when the president of the Buffalo Firefighters union had encouraged the union’s membership to switch their health insurance plan to the most costly plan, the 901 plan, as a negotiating tactic.

Director Floss noted that the State of New York had been transferring retired individuals into Medicare Part B and asked if the City had been acting similarly.

Mayor Brown replied that they were not currently transferring retired individuals into Medicare Part B.

Mr. Link added that recently settled collective bargaining agreements have included provisions to require retired individuals to enroll in Medicare Part B upon eligibility.

City 2013-14 Budget & 2014-2017 Financial Plan: Staffing

- The Proposed Budget and Financial Plan increases staffing by 23 FTE's to 2,638 over the 2,615 FTEs in the 2012-13 budget. The increase is mainly attributed to 20 new cellblock attendants for oversight of female detainees;
- An additional parking enforcement officer, an additional 311 Call Manager and a Secretary to the Commissioner in the Citizen Rights Division have been added in the Proposed Budget and Financial Plan;
- Uniformed police and fire officers are budgeted flat across the Proposed Financial Plan at 801 and 719 respectively;
- Currently the City has 2,364 FTEs at the end of the third quarter, 274 FTE's below their proposed staffing number for FY 2013-14. There are currently 764 sworn police officers and 655 uniformed firefighters.

City 2013-14 Budget & 2014-2017 Financial Plan: Revenue & Other Financing Source Concerns

- The Proposed Budget and Financial Plan is dependent on $29.0 million in casino revenue. This revenue is uncertain;
- The Proposed Budget and Financial Plan will deplete Restricted AIM and nearly deplete Unassigned fund balance;
- The one-time planned sweep from the Parking Enterprise Fund would deplete the Parking Fund's available excess reserves;
- The Proposed Budget and Financial Plan includes an additional $1.0 million to $2.0 million in annual traffic fines associated with the license plate readers. The system did not go online when expected and has only recently been fully operational;
- The Proposed Budget and Financial Plan assumes a 1% annual increase in State AIM while the New York State Financial Plan assumes a 0% annual increase.

City 2013-14 Budget & Financial Plan: Expenditure & Other Financing Source Concerns

- The Proposed Budget and Financial Plan holds annual departmental spending flat;
- The Proposed Budget and Financial Plan includes $9.0 million annually for the retroactive salary adjustments related to settled collective bargaining agreements. Any settled contracts with costs higher than this would place additional pressure on the budget.

Chair Olsen asked for clarification that settled collective bargaining agreements were likely to develop through binding arbitration rather than through a negotiated contract. He noted that the Governor had issued a proposal that considered a municipality's fiscal distress during the arbitration process. Mr. Link confirmed that it is likely the City will have arbitration awards in the future. He further noted the Governor's proposal to amend the binding arbitration process included capping awards at 2% annual increases including both salary and health insurance increases. The proposal has not gained traction with either the New York State Senate or the New York State Assembly. More recently, the Governor has proposed a Financial Restructuring Board for distressed local governments. This board would provide advice to distressed local government to restructure and implement efficiencies. State funds would be available to local governments who implemented the recommendations of this board.

City 2013-14 Budget & Financial Plan: Expenditure & Other Financing Source Concerns (continued)

- The Proposed Budget and Financial Plan includes a modest growth in the cost of fringe benefits;
- Certain expenditures may be under-projected.

City 2013-14 Budget & Financial Plan Considerations

- The Proposed Budget and Financial Plan includes a total operational deficit of $25.5 million, prior to the use of this amount in fund balance;
- Overtime costs are budgeted at a relatively flat level for the Police and Fire departments in each out-year of the Proposed Budget & Financial Plan;
- Personnel costs are held flat throughout the Financial Plan while benefit costs continue to rise;
- New York State's economic climate continues to be a risk to revenues. There are no projected increases in State AIM; there is no appetite for increased taxes.

Mr. Link concluded his presentation.

Vice-Chair Doherty noted that the presentation had included budget-to-budget comparisons for personnel costs. She requested that future historical comparisons include fiscal year end actual revenues, expenditures, and FTE data. Mr. Link noted that these comparisons were in development and will be provided.

Mayor Brown recognized the hard work that Commissioner of Administration, Finance, Policy & Urban Affairs, Ms. Donna Estrich and her staff had done while developing the FY 2013-14 Proposed Budget and Financial Plan. While the Financial Plan includes the potential for a tax increase in FY 2015-16, the financial plan can be adjusted; it is the City administration's intention to efficiently manage expenditures to maintain a flat tax rate. There has not been a property tax or fee increase in the eight years of the Mayor's administration.

Chair Olsen noted that the City of Buffalo is much better situated than comparable cities. He commended Mayor Brown for his leadership in conservatively guiding the City's finances.

Director Jurasek concurred with Chair Olsen's comments.

Mayor Brown thanked the Board for these sentiments. Additionally, he thanked the work done in previous years by former Commissioner of Administration, Finance, Policy, and Urban Affairs, Ms. Janet Penksa, former Budget Director Donna Estrich, and all budget staff.

Buffalo City School District

Chair Olsen advanced the agenda to the next item for consideration: a review of the District's Proposed 2013-14 Budget and Four-Year Financial Plan. He requested a review of the report from Executive Director Jeanette M. Mongold-Robe and Financial Analyst/Manager of Technology Nathan D. Miller.

Ms. Mongold-Robe addressed the Board. She provided the following information:

<u>District Preliminary Budget and Four-Year Financial Plan: High-Level Review</u>

- FY 2011-12 was the first fiscal year in recent years where the District had an operating deficit. This operating deficit was $14.5 million, or 2%, of total General Fund expenditures. Previous budgets had included deficits that were ultimately not realized at FYE;
- The CFY has an estimated operating deficit of $24.5 million, or 3.3%;
- The Preliminary Budget and Financial Plan includes very substantial operating deficits, as follows:
  - → FY 2013-14 - $52.2 million, or 6.4% of total General Fund expenditures;
  - → FY 2014-15 - $60.0 million, or 7.2% of total General Fund expenditures;
  - → FY 2015-16 - $67.7 million, or 7.9% of total General Fund expenditures;
  - → FY 2016-17 - $70.1 million, or 8.0% of total General Fund expenditures;
- The District is currently working to develop a PEG plan to address the budgetary gaps.

Ms. Mongold-Robe concluded her comments and asked Mr. Nathan Miller to provide a further summary of the Preliminary Budget and Financial Plan.

Chair Olsen asked for confirmation that the District's Preliminary Budget and Financial Plan did not include a PEG plan to address the budgetary gaps in each fiscal year of the plan. Mr. Miller confirmed this. He provided the following information:

<u>District Preliminary Budget and Four-Year Financial Plan: Introduction</u>

- The FY 2013-14 Preliminary Budget is not balanced. General Fund expenditures exceed General Fund revenues and the use of fund balance by $26.4 million;
- The FY 2014-17 Preliminary Financial Plan is not balanced. General Fund expenditures exceed General Fund revenues and the use of fund balance by $180.4 million. This is the amount that will need to be closed by the District through a PEG action plan;
- General Fund revenues and expenditures are reasonable given the historical trends and known considerations included in the preliminary staffing plan;
- Employee compensation and fringe benefits expenditures are reasonable only if collective bargaining agreements remain unsettled. Most collective bargaining units will be out of contract at the start of the next fiscal year.

Chair Olsen requested confirmation that the Buffalo Teachers Federation ("BTF"), the collective bargaining unit which represents the District's teachers, would be out of contract for ten years at the start of the next fiscal year, barring a new settled contract. Mr. Miller confirmed this and added that the Buffalo Council of Supervisors and Administrators ("BCSA") would also be out of contract for ten years at the start of the next fiscal year.

District Preliminary Budget and Four-Year Financial Plan: Introduction (continued)

- The Preliminary Budget and Financial Plan contains a cumulative, four-year operating deficit of $250.0 million;
- Gap closing measures listed in the plan are:
  - → $69.6 million – drawdown of total fund balance;
  - → $180.4 million – yet-to-be-determined gap-closing actions;
- The Preliminary Budget and Financial Plan utilizes $19.1 million in fund balance that had been previously reserved for prior year claims, chiefly to settle collective bargaining agreements. The amount of fund balance assigned to settle contracts is projected to be $62.7 million at June 30, 2013.

Chair Olsen noted that the drawdown of funds previously reserved to settle collective bargaining agreements would impede the District's ability to settle new agreements.

District Preliminary Budget and Four-Year Financial Plan: Introduction (continued)

- The Preliminary Budget and Financial Plan utilizes all of the $32.5 million in fund balance that had previously been assigned for other postemployment benefits ("OPEB");
  - → The OPEB liability was most recently estimated at $1.8 billion;
  - → The cost of retiree health insurance increases $18.7 million, or 27.5%, over the plan;
- The Preliminary Budget and Financial Plan utilizes a combined Unassigned fund balance of $18.0 million in FY 2013-14 and FY 2014-15. Unassigned fund balance is not utilized in the last two fiscal years of the plan as a further drawdown of these funds would violate the Board of Education's current fund balance policy.

Chair Olsen asked for confirmation that the fund balance currently assigned to negotiate unsettled collective bargaining agreements had previously accumulated due to the BFSA-imposed wage freeze. Mr. Miller confirmed this.

District Preliminary Budget and Four-Year Financial Plan: Summary

- General Fund revenues are projected to increase modestly by an average annual rate of 1.6% over the four years of the Preliminary Financial Plan;
- General Fund expenditures are projected to increase modestly as well by an average annual rate of 2.1% over the four years of the Preliminary Financial Plan;
- As General Fund expenditures exceed General Fund revenues in FY 2013-14, the higher rate of growth in expenditures leads to a widening of year-to-year budgetary gaps. The average annual rate of growth in the deficit is projected to be 8.6%.

Vice-Chair Doherty asked for confirmation that the District's projected enrollment was flat over the four years of the Preliminary Financial Plan. Mr. Miller confirmed this and noted that projected enrollment decreases by 200 students, or less than 1%, over the four years of the plan. Enrollment in area charter schools is projected to continue to increase.

<u>District's 2013-14 Preliminary Revenues - $761.5 million</u>

- New York State Aid (excluding Building Aid) - $520.4 million, or 68% of total General Fund expenditures;
- New York State Building Aid - $113.4 million, or 15% of total General Fund expenditures;
- Real Property Tax transfer - $70.3 million, or 9% of total General Fund expenditures;
- Erie County Sales Tax - $38.3 million, or 5% of total General Fund expenditures;
- All Other Revenue - $19.0 million, or 3% of total General Fund expenditures.

<u>District's 2014-17 Preliminary Revenues</u>

- The projected General Fund revenues increase 6.4%, or $48.9 million, over the four years of the Preliminary Financial Plan;
- The areas of growth are within New York State Aid (excluding Building Aid) and Erie County Sales Tax;
- All other revenues are either projected to be flat or to decline.

<u>District's 2013-14 Preliminary Expenditures - $761.5 million</u>

- Employee Compensation - $249.3 million, or 31% of total General Fund expenditures;
- Employee Benefits - $190.9 million, or 23% of total General Fund expenditures;
- Charter School payments - $101.0 million, or 12% of total General Fund expenditures;
- Debt Service - $249.3 million, or 31% of total General Fund expenditures;
- All other expenditures - $151.2 million or 19% of total General Fund expenditures.

Chair Olsen asked if there was any pending legislation that would allow for the State of New York to make direct payments to public charter schools rather than using the school district as a pass-through entity. Mr. Miller replied that he was not aware of any current legislation that would allow for the direct funding of charter schools but that such legislation had been proposed in past years.

Director Mesiah noted that the District's annual transfer to area Charter Schools was very substantial and places a continual strain on the District's finances.

Mr. Miller noted that, along with the funds transferred to area charter schools, the District also incurs the expense of providing transportation services for area charter schools.

Chair Olsen noted that the District provides special educational services for area charter school students as well.

District's 2014-17 Preliminary Expenditures - $761.5 million (continued)

- Projected General Fund expenditures increase 8.2%, or $66.8 million, over the four years of the Preliminary Financial Plan;
- The major areas of growth are for employee benefits and the payments to area charter schools;
- Employee compensation expenditures increase modestly as the staffing level is maintained flat and settled collective bargaining agreements are not projected in the Preliminary Financial Plan. The growth in this area is attributed to annual step increases that employees receive.

Director Floss noted that total employee compensation and benefits accounted for approximately 54% of total expenditures. The percentage of employee costs compared to total expenditures is low when comparing the District to other school districts. Employee compensation and benefit costs are typically around 70% of total expenditures. Collective bargaining agreements settled over the course of the Financial Plan threaten to put further stress on the District's finances. Future analysis of the District's expenditures should include comparisons to other districts in order to determine the reasonableness of the expenditures.

Chair Olsen concurred that settled collective bargaining agreements would likely increase existing out-year deficits. The operating deficits listed in the Preliminary Financial Plan paint a very bleak financial picture for the District.

Vice-Chair Doherty noted that transportation expenses are projected to increase in the Preliminary Financial Plan due to an increased need for services. Other communities have discussed moving to a neighborhood school model which would shorten students' travel time and reduce transportation costs. She asked if the District had considered a change to this model. Mr. Miller noted that the neighborhood school model had been discussed at Board of Education meetings. He asked attending representatives from the District to provide further detail on these discussions. District Chief of Staff, Mr. Jim Kane addressed the Board and noted that no substantive discussions regarding a change to the neighborhood school model were currently occurring.

Vice-Chair Doherty noted that the benefits of neighborhood schools have been well documented. The District's transportation expenditures are quite significant. A consideration of this model is something that the District should consider to contain expenditures and improve academic achievement.

Mayor Brown noted that District schools were largely segregated by ethnic group up until the 1970s. The desegregation model used allowed students to attend schools City-wide to address this issue. The conditions which existed at that time no longer exist. A shift to a neighborhood school model can now be considered due to the proven benefits theses schools have as well as to alleviate some of the District's financial stress.

Chair Olsen noted that community schools make a lot of sense. The achievement gaps throughout the District are very troubling.

Director Mesiah noted that community schools allow for the pooling of resources which allows districts to provide more diverse services more efficiently.

Chair Olsen noted that the operating deficits listed in the Financial Plan were very troubling and threaten to reduce the level of services that can be offer to students. Previous PEG plans have closed out-year deficits through the reduction or elimination of non-mandated services including music, art, and athletics. The District has conservatively budgeted in the past and has managed to reduce operating deficits. It is very concerning that a PEG plan has not been developed yet that details the hard decisions that the District may need to take to balance its finances.

Mr. Miller continued his presentation.

District Preliminary Budget and Four-Year Financial Plan: Health Insurance

- Total health insurance costs are proposed at $115.5 million in FY 2013-14 and grow to $142.6 million in FY 2016-17;
- Health insurance costs for active employees are projected to increase $8.4 million, or 17.4%, over the Preliminary Financial Plan;
- Health insurance costs for retirees are projected to increase $18.7 million, or 27.9%, over the Preliminary Financial Plan.

Chair Olsen noted that a recently enacted New York State law does not allow public entities to make any changes to teachers' retiree health benefits which further constrain entities such as the District to address their OPEB obligations. A very high percentage of the District's expenditures are out of management's control.

District Preliminary Budget and Four-Year Financial Plan: Charter School Payments

- Total payments to area charter schools are proposed at $101.0 million in FY 2013-14 and grow to $120.1 million in FY 2016-17, an increase of $19.1 million or 18.9%.

Mayor Brown noted that the Preliminary Financial Plan assumed no growth in student enrollment. He noted that some demographic projections had shown increased enrollment within the District due the involvement of Say Yes to Education. Mr. Miller confirmed that the Preliminary Financial Plan assumed no growth in enrollment and asked if an attending representative from the District could provide further detail regarding projected student enrollment.

District Chief Financial Officer, Ms. Barbara Smith addressed the Board. She confirmed that the Financial Plan did not show growth in student enrollment. Say Yes to Education has noted increased enrollment as a reasonable expectation. The enrollment amounts listed in the Preliminary Financial Plan are based on conservative assumptions.

Director Mesiah noted that if enrollment remains flat, the District's per pupil expenditures will increase as a higher number of students reach postsecondary education. Students in higher grades are more costly to educate as more services are available. Ms. Smith replied that these expectations were incorporated into the annual budgets.

Director Jurasek noted that it was a reasonable hypothesis that student enrollment would increase due to the involvement of Say Yes to Education with the District. It is reasonable that these increases would not be listed in the Preliminary Financial Plan due to the lack of empirical data.

Ms. Smith noted that the District no longer receives State Aid on a per pupil basis. Enrollment increases will not necessarily lead to State Aid increases.

Chair Olsen noted that the District will have difficulty attracting new students if they are forced to reduce or eliminate non-mandated services.

Mr. Miller continued his presentation. He outlined the conclusions the staff's analysis had developed following the review of the Preliminary Budget and Financial Plan, as follows:

District Preliminary Budget and Four-Year Financial Plan: Conclusions

- $51.6 million in Fund Balance will be used for general operations which had been reserved for alternative purposes;
  - → Assigned – Prior Year Claims = $19.1 million;
  - → Assigned – OPEB = $32.5 million.
  - → Use of Fund Balance diminishes the District's ability to negotiate contracts;
- $18.0 million in Unassigned Fund Balance will be used for general operations;
- The District will opt into the NYSERS pension-smoothing option;
  - → Allows the District to amortize $3.0 million in FY 2013-14;
  - → Increases the total cost by $622,000 over the next 12 years
  - → Potential impact, if any, on bond rating is unclear;
- The Preliminary Financial Plan is not balanced in accordance with the BFSA Act. The remaining budgetary gaps are as follows:
  - → 2013-14 - $26.4 million;
  - → 2014-15 - $40.5 million;
  - → 2015-16 - $54.7 million;
  - → 2016-17 -$58.8 million.
- Superintendent's Strategic Plan is currently in development;
  - → Financial Plan should ultimately be consistent with Strategic Plan;
- The District must complete a Final Financial Plan that:
  - → Addresses $180.4 million in remaining budgetary gaps;
  - → Details how gaps are eliminated without the use of speculative revenues or expenditures;
  - → Covers all expenditures for programs mandated by Federal & State Law;
  - → Provides adequate reserves to maintain essential programs in the event that revenues are overestimated and/or expenditures are underestimated;
  - → Identifies all programs, services, level of services, and obligations the District is required to maintain by law, administrative rule, policy or direction, by CBA, or practical necessity, and shall demonstrate that the costs are will be fully covered in the Financial Plan;
  - → Specifically states the expected effect on student achievement and actions NYSED may take to any proposed reductions in or contingent cuts to any programs, services or level of services.

Chair Olsen noted in conclusion that the District should identify all programs, services, level of services and obligations required as per the BFSA Act.

Director Floss directed a question to Ms. Smith and asked how the final Financial Plan would be consistent with the Superintendent's Strategic Plan and the idea of moving back to community schools. The District is wrapping up a $1.5 billion investment in their facilities and it would be short-sighted to close some of the reconstructed facilities.

Ms. Smith replied at this time the discussion of moving to a community school model is very preliminary. Discussions are beginning, but there is currently no movement in that direction. The reconstructed schools and their locations would be taken into consideration when formulating plans. The strategic plan will balance the needs of the students with the ability of the District to provide for those needs.

Vice-Chair Doherty asked Ms. Smith on the current status of the Annual Professional Performance Review ("APPR") plan. Ms. Smith noted the BTF had initiated legal proceedings to revoke the previously agreed upon plan. Approval of the plan by the New York State Education Department by January 17, 2013 had been necessary to secure the CFY's increase in State Aid payments. The new litigation is not anticipated to imperil these funds.

Chair Olsen reiterated that the District is currently in a financial crisis that continues to escalate. The District has structural deficits and has limited resources available to address these deficits. These deficits are very troubling.

At 2:48 PM Mayor Brown exited the proceedings.

Buffalo Urban Renewal Agency

Chair Olsen advanced the agenda to the next item for consideration: a review of the Buffalo Urban Renewal Agency's Proposed Budget and Financial Plan. He asked Mr. Link to provide a summary of the analysis.

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

The Buffalo Urban Renewal Agency is an authority that is currently in a state of flux. Operationally, approximately 95% of Community Development Block Grant ("CDBG") funding is being passed through the City Comptroller's office within the Department of Audit & Control, as opposed to directly flowing to BURA. He noted a knowledge vacuum has been created due to the attrition of several senior staff members through retirements or transferring to other departments. This knowledge vacuum has led to the insufficient reporting. BFSA is working with BURA to refine the four-year financial plan and quarterly reports.

Review of Financial Plan – Revenues

- BURA is primarily funded through the U.S. Housing and Urban Development ("HUD");
- CDBG total 66% of total grant revenues in FY 2013-14. This is projected to increase to 69% in FY 2016-17;
- Funding is approved by the U.S. Congress;
    - → No current funding approved for FY 2013-14;
    - → Funding is formula driven;
    - → The 2010 U.S. Census results continue to negatively impact BURA's level of grant funding;
    - → The Neighborhood Stabilization Program has expired; this attributed $1.1 million in revenues in FY 2012-13;
    - → There are projected annual reductions to grants throughout the financial plan, ranging from 5-9% annually.

Director Floss noted the HUD revenues are now administered by the City Comptroller and asked if there were any legal ramifications regarding BURA's status as a Covered Organization per the BFSA Act. Chair Olsen asked Mr. James Magavern, Esq., of Magavern, Magavern, & Grimm, LLP, to address the question. Mr. Magavern noted that he had prepared a legal opinion regarding the issue that would be provided in detail later in the meeting.

Review of Financial Plan – Grant Revenues

- Total amount budgeted for 2013-14 = $19.1 million;
- Total grant revenues decrease $1.9 million, or 9.2%, in FY 2013-14 following a prior year reduction of $5.4 million;
- Housing Opportunities Made Equal or "HOME" program funds
    - → Reduced by $140,000 in FY 2013-14;
    - → Reduced from $2.6 million down to $2.4 million through the remainder of Proposed Financial Plan;
- Emergency Shelter Grants or "ESG" program funds
    - → Budgeted at $1.2 million in FY 2013-14;
    - → Projected to decrease 5% annually;
- Neighborhood Stabilization Grant
    - → Totaled $1.1 million in FY 2012-13;
    - → Unavailable following the CFY;
- All other revenues are projected to decrease by approximately 5% annually throughout the Proposed Financial Plan.

Mr. Link noted that the material provided was incomplete and did not include expenditures or staffing information in the Financial Plan. BFSA is not able to determine the reasonableness of the Proposed Financial Plan until a revised Financial Plan is submitted which contains this data. BFSA's staff is working in collaboration with BURA's staff regarding these deficiencies.

Chair Olsen noted that a revised Financial Plan is a requirement of the BFSA Act. He asked if the reduced federal funding was the result of the recent federal sequestration. BURA's outlook is bleak when considering a decrease in available resources and a City poverty level that has not decreased. Mr. Link confirmed that the reduction in available federal funding was in part a result of the recent federal sequestration.

Mr. Williams asked if further reductions in federal funding could be anticipated as a result of the federal sequestration. Mr. Link replied that the reduction in federal funds was primarily impacted by the 2010 U.S. Census. The City's population has declined which directly impacts the level of federal funding BURA receives. The federal sequestration further reduced available funding. Additional reductions are very possible depending on decisions made at the national level.

Chair Olsen noted that BURA's Proposed Budget and Financial Plan, as submitted, were incomplete.

Buffalo Municipal Housing Authority

Chair Olsen moved the agenda forward to the next item for consideration: a review of the Buffalo Municipal Housing Authority's Proposed Budget and Financial Plan. He asked BFSA Comptroller, Mr. Robert Miller, to address the Board and provide a summary of the material.

Mr. Robert Miller addressed the Board and provided the following information:

Buffalo Municipal Housing Authority FY 2014-2017 Four-Year Financial Plan: Introduction

- BMHA's management was provided a list of questions and information requests on April 24, 2013 which BFSA anticipated would be needed in order to assess reasonableness of the Financial Plan;
- The Proposed Budget and Financial Plan was received on May 1, 2013;
- BFSA issued an additional request for information from the BMHA after a review of the preliminary 2014 Budget and Four-Year Financial Plan.
- BMHA has not responded to BFSA's request for information despite several additional attempts to receive the information;
- BFSA is unable to determine whether or not BMHA's Proposed Budget and Financial Plan is accurate due to the lack of information requested.

Buffalo Municipal Housing Authority FY 2014-2017 Four-Year Financial Plan: Assumptions

- BMHA has indicated that the impact of the federal sequestration was factored into the Proposed Budget and Financial Plan. The impact of the sequestration is unclear; information regarding this item has been requested but not provided to date. It is BFSA's understanding that the effect is somewhere between $4 to $6 million;
- Personnel costs will be reduced by 10%. The detail of how this would occur has not been provided. BFSA is also concerned as the 10% reduction is factored in beginning July 1st which means the reductions would have to be implemented by July 1;
- The cost of health insurance was increased 20% for FY 2013-14. This inflation factor was not included in the three out-years of the plan;
- The Proposed Budget and Financial Plan include the usage of $6.8 million in fund balance. The prior year's Financial Plan included usage of $5.2 million over the four

years of the plan. Budgeted usage of fund balance has therefore increased 30% from the prior fiscal year's Financial Plan.

Buffalo Municipal Housing Authority FY 2014-2017 Four-Year Financial Plan

- FY 2013-14 budgeted revenues are expected to decrease by $6.0 million from $37.4 million in fiscal year 2011-12 to $31.4 million in fiscal year 2013-14. The majority of the decrease is due to a reduction in the operating subsidy from HUD of $3.1 million. The revenues in the out-years after 2015 in the financial plan will each increase 3 percent;
- The Proposed Budget and Financial Plan includes operational deficits from $2.1 million to as low as $100,000 which is funded through reserves;
- Expenses are budgeted to decrease, from $35.3 million in fiscal 2011-12 to $33.4 million in fiscal year 2014. The out-years in the financial plan will each be lower than FY 2013-14 and increasing slightly each of the out years by less than 1%.

Buffalo Municipal Housing Authority FY 2014-2017 Four-Year Financial Plan: Revenues

- FY 2013-14 budgeted revenue includes the operating subsidy from HUD of $18.4 million, or 59% of total revenues;
- The second largest source of FY 2013-14 revenue is rental income from tenants of $9.4 million, or 30% of total revenues.

Buffalo Municipal Housing Authority FY 2014-2017 Four-Year Financial Plan: Expenditures by Department

- FY 2013-14 budgeted expenditures includes maintenance costs which are budgeted at $10.9 million, or 33% of total expenditures;
- The second largest FY 2013-14 expenditure is Administrative costs of $8.8 million, or 26% of total expenditures;
- Utilities comprise $6.0 million, or 18% of FY 2013-14 expenditures;
- Other General Expense totals $5.8 million, 17% of total FY 2013-14 expenditures, of which OPEB represents $3.1 million, interest expense $0.9 million, workers' compensation insurance $0.8 million and property insurance $0.7 million;
- Protective services totals $1.2 million, or 4% of total FY 2013-14 expenditures, the majority of which represents payment to the City of Buffalo police department based on a contract;
- Tenant services totals 2% of the 2013-14 budget, or $0.8 million in FY 2013-14.

Buffalo Municipal Housing Authority FY 2014-2017 Four-Year Financial Plan: Expenditures by Category

- FY 2013-14 budgeted employee salaries and benefits total $18.6 million, or 56% of total expenditures;
- FY 2013-14 budgeted maintenance totals $5.0 million, or 15% of total expenditures;
- FY 2013-14 budgeted utilities totals $5.0 million, or 5% of total expenditures.

Buffalo Municipal Housing Authority FY 2014-2017 Four-Year Financial Plan: Conclusions

- BMHA’s current financial plan has many challenges. With the significant reductions in HUD funding and the use of reserves to balance the budget, expenses need to be monitored very closely specifically employee costs, utilities and maintenance which represent 86% of all costs at BMHA;
- BFSA is unable to reach a conclusion at this time on the reasonableness of the revenues and expenses as included in BMHA’s current Plan as BFSA is waiting for additional information that has been requested from but not received as of this time from BMHA’s management.

Mr. R. Miller concluded his presentation.

Director Floss asked for the amount of Unassigned fund balance the BMHA currently has. Mr. R. Miller replied that BMHA’s Unassigned fund balance totaled $36.0 million as of June 30, 2011. BMHA has not provided data indicating how much Unassigned fund balance was available as of June 30, 2012.

Chair Olsen requested a motion to move Resolution No. 13-05.

Director Floss offered a motion to move Resolution No. 13-05.

Mr. Williams seconded the motion.

RESOLUTION NO. 13-05
DECLARATION OF INCOMPLETE FINANCIAL PLAN

WHEREAS, Article 10-D Title 2 of the Public Authorities Law ("the BFSA Act"), requires the City of Buffalo (the “City”) to submit a four-year financial plan that includes the City of Buffalo, the Buffalo Public School District (the “District”), the Buffalo Municipal Housing Authority (“BMHA”) and the Buffalo Urban Renewal Agency (“BURA”) (collectively the “Financial Plan”) along with the Mayor’s proposed City budget to the Buffalo Fiscal Stability Authority (“BFSA”) not later than the date required for submission of the budget to the Common Council as set by the City Charter; and

WHEREAS, the City of Buffalo submitted the proposed City budget and related Financial Plan to the BFSA on May 1, 2013; and

WHEREAS, pursuant to §3857 of the BFSA Act, the BFSA is required to determine within twenty days after submission of a Financial Plan whether the Financial Plan is complete and complies with certain provisions of the BFSA Act, and to submit its recommendations with respect to the Financial Plan; and

WHEREAS, the BFSA has determined that the Financial Plan of the District is incomplete and is unbalanced in that it: includes a $26.4 million unfunded deficit in the General Fund for the 2013-14 fiscal year; includes a remaining unfunded deficit totaling $154.0 million for fiscal years 2015, 2016 and 2017, representing the three out-years of the financial plan; and

WHEREAS, pursuant to §3857.3 of the BFSA Act, the financial plan shall be in such form and shall contain such information for each year during which the financial plan is in effect as the BFSA may specify; and

WHEREAS, pursuant to §3857.4 of the BFSA Act, the financial plan shall include any information which the BFSA may request to satisfy itself that projected employment levels, collective bargaining agreements and other actions relating to employee costs, capital construction and other such matters as the BFSA may specify are consistent with the financial plan; and

WHEREAS, the BFSA has determined that additional information is required to be submitted by BMHA in order for the BFSA to determine whether BMHA's Financial Plan is complete and complies with certain provisions of the BFSA Act; and

WHEREAS, the BFSA has determined that additional information is required to be submitted by BURA in order for the BFSA to determine whether BURA's Financial Plan is complete and complies with certain provisions of the BFSA Act.

NOW THEREFORE BE IT RESOLVED, that the BFSA has determined that the Financial Plans of the District, BMHA and BURA are incomplete and do not comply with the standards set forth in §3857 of the BFSA Act; and

BE IT RESOLVED FURTHER, that the BFSA recommends the District continue in its efforts to finalize its 2013-14 budget and four-year financial plan; and

BE IT RESOLVED FURTHER, that the BFSA requires the submission of a revised four-year financial plan by the District, which includes a detailed plan to eliminate the budgetary gap for all years of the District's four-year financial plan, and in which the District's general fund and special projects fund are balanced in accordance with generally accepted accounting principles based on reasonable revenue and expenditure estimates, without speculative revenues or savings, which covers all expenditures for programs mandated by federal and state law, and which provides adequate reserves to maintain essential programs in the event revenues have been overestimated or expenditures underestimated for any period; and

BE IT RESOLVED FURTHER, that the revised plan shall identify all programs, services, levels of service, and obligations that the District is required to maintain or fulfill by applicable law, by administrative rule, policy or direction, by collective bargaining agreement, or by practical necessity, and shall demonstrate that the costs thereof will be fully covered by realistic revenue estimates; and

BE IT RESOLVED FURTHER, that in the event the revised plan proposes any cuts (including contingent cuts) in existing programs, services or levels of service, it shall specifically describe those cuts, the expected effect of such cuts upon the educational achievement of the District's students, the actions that the State Education Department might be reasonably expected to take in response to any adverse effects upon student achievement, the expected effect of those cuts on the fiscal stability of the District; and the order in which such cuts, if necessary, are proposed to be made; and

BE IT RESOLVED FURTHER that the District's final four-year financial plan should be submitted to the BFSA the same date that the Board of Education approves such item but no later than May 31, 2013; and

BE IT RESOLVED FURTHER that the BMHA is to submit information as requested by BFSA staff by May 31, 2013; and

BE IT RESOLVED FURTHER that BURA is to submit information as requested by BFSA staff by May 31, 2013.

The Board voted 6-0 to approve Resolution No. 13-05.

City Items
Budget Modification: Firefighter Litigation Settlement

Chair Olsen advanced the agenda to the next item for consideration: a City FY 2012-13 budget modification. He asked Ms. Mongold to summarize the material.

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

- The City had reached a legal settlement with the estates of firefighters Charles McCarthy and Jonathan Croom in the amount of $4.1 million;
- The FY 2012-13 budget has been modified to appropriate $4.1 million in assigned fund balance set-aside for judgments and claims for the payment of this settlement.

Chair Olsen requested a motion to receive and file the budget modification.

Secretary Arthur offered a motion to receive and file the budget modification.

Director Flossed seconded the motion.

The Board voted 6-0 to receive and file the City's FY 2012-13 budget modification.

<u>2012-13 Third Quarter Reports</u>
City of Buffalo

Chair Olsen advanced the agenda to the next items for consideration: a review of the City and Covered Organizations' third quarter reports. BURA's third quarter report will not be discussed as BURA's report has not been received.

Mr. Link addressed the Board and provided the following review of the City's third quarter report:

City of Buffalo's Third Quarter: Update

- The City's FY 2012-13 budgeted operating deficit is $11.52 million;
- The projected FYE operating deficit is $10.8 million, and includes the $4.1 million budget modification discussed earlier.

City of Buffalo's Third Quarter: Revenues

- General Fund revenues are projected to decrease by $600,000;
- The largest budgetary variations are as follows:
    - → Intergovernmental –$900,000;
    - → Taxes – ($200,000);
    - → Non-property taxes – ($925,000);
    - → Fines – ($900,000);
    - → Miscellaneous – $600,000.

City of Buffalo's Third Quarter: Expenditures

- All City departments are projecting favorable budgetary variances. The net variance is $9.1 million;
- General Charges is projecting an unfavorable budgetary variance of $7.8 million, consisting of the following:
    - → Fringe Benefits – ($5.5 million);
    - → Other – ($2.9 million);
- All fifteen departments are projecting to be under budget at FYE, representing a budgetary surplus of $9.1 million;
- The City current has 2,364 FTEs with 251 FTE vacant positions, or a 9.6% vacancy rate.

City of Buffalo's Third Quarter: Recommendations

- A final year-end projection should be performed which includes estimated year-end financial adjustments to revenues and expenditures to identifying if there is a need to modify the 2012-13 budget;
- Modify budget as necessary prior to the adoption of the FY 2013-14 budget
    - → Per City's Charter, the CFY budget may not be modified after the adoption of the subsequent year's budgeted;
- The City should not exceed its budgeting authority for current year operations.

Mr. Link concluded his presentation.

Buffalo City School District

Chair Olsen advanced the agenda to the next item for consideration: a review of the District's third quarter report. He asked Mr. Nathan Miller to briefly summarize the report.

Mr. Miller addressed the Board and provided the following information:

District's Third Quarter:

- General Fund revenues are projected to be unfavorable by $6.6 million at FYE;
- General Fund expenditures are projected to be favorable by $7.8 million at FYE;
- The FY 2012-13 operating deficit included in the modified budget is $26.5 million. The projected operating deficit at FYE is $25.4 million.

FY 2012-13 Budgeted Use of Fund Balance

- Assigned Fund Balance = $11.6 million;
    - → Prior Year Claims - $7.1 million;
        - ▪ Previously reserved for the future settlement of CBAs;
        - ▪ $4.5 million general operations;
        - ▪ $2.6 million settled CBA with Blue-Collar union;
    - → Stabilization Reserve - $0.9 million;
    - → Prior Year Encumbrances - $3.6 million;
- Unassigned fund balance = $15.0 million;
- Projected FYE Unassigned fund balance= $38.8 million.

FY 2012-13 Projected Revenues - $753.0 million

- <u>Significant Budgetary Variances</u>:
    - → Erie County Sales Tax - $1.3 million;
    - → Miscellaneous - $1.3 million;
    - → New York State Aid - ($8.0 million);
    - → Federal Medicaid - ($1.2 million);
- Unfavorable Variance = $6.6 million.

FY 2012-13 Projected Expenditures - $778.4 million

- <u>Significant Budgetary Variances</u>:
    - → Employee Benefits - $7.4 million;
    - → All Other Expenditures - $6.4 million;
        - ▪ Tuition - $2.5 million;
        - ▪ Reserve for Contingency - $2.2 million;
        - ▪ Utilities - $1.2 million;
        - ▪ Other - $0.5 million;
        - ▪ Employee Compensation - ($1.5 million);
        - ▪ Payments to Charters - ($4.5 million);
    - → Favorable Variance = $7.8 million.

Mr. Miller concluded his overview of the District's third quarter report.

Buffalo Municipal Housing Authority

Chair Olsen advanced the agenda to the next item for consideration: a review of the BMHA's third quarter report. He asked Mr. Robert Miller to briefly summarize the report.

Mr. Robert Miller addressed the Board and provided the following information:

BMHA's Third Quarter – Asset Management Portfolio ("AMP")

- Revenues are at 77% of the FY 2012-13 budget;
  - → The operating subsidy from HUD was at 81% of the full year budget and 6%, or $905,300, more than the first nine months of the prior year. This increase in operating subsidy was not expected;
- Expenditures are at 75% of the FY 2012-13 budgeted amount;
- Expenditures exceeded revenues by $45,000 for the first nine months of the fiscal year.

BMHA's Third Quarter – Central Office Cost Center ("COCC")

- General expenditures are at 64% of the FY 2012-13 budgeted amount as accruals for OPEB and workers' compensation costs will need to be adjusted at FYE;
- Utilities are 85 % of the FY 2012-13 budgeted amounts. The budget had included a significant decrease from the historical average;
- Protective Services are 90% of the FY 2012-13 budgeted amounts, as there is a $200,000 error included in the numbers which overstated expenses by that amount.

BMHA's Third Quarter – Summary

- BMHA is not projecting any variation from the FY 2012-13 Adopted Budget for both Assets Management Projects or for the Central Office Cost Center at FYE;
- The FY 2012-13budgeted use of reserves of $1.8 million for the AMPs and the $0.8 million for the COCC remains appropriate;
- A couple major construction projects have been ongoing; the demolition of two of the six towers is complete at Kensington Heights and Woodson Gardens will be demolished in spring this year.

BMHA's Third Quarter – Recommendation

- BFSA recommends that BMHA's management project total FYE revenues and expenditures and modify the FY 2012-13 Adopted Budget accordingly.

Mr. R. Miller concluded his presentation.

Privilege of the Floor

Chair Olsen requested that the agenda be reordered to permit the Privilege of the Floor be moved up as the next item for consideration.

Director Floss motioned to reorder the agenda.

Secretary Arthur seconded this motion.

The Board voted 6-0 to reorder the agenda.

Chair Olsen asked if there were any attending members of the public who wished to address the Board regarding any actions taken during the meeting.

Ms. Marilyn Gallivan addressed the Board. She noted that the BFSA was currently in an advisory period and that the City had earned this status. She expressed her concern over the District's financial situation.

Chair Olsen thanked Ms. Gallivan for her attendance and public comments. He concurred with her that the District's was in a dire financial situation.

BFSA Items

Executive Session for Advice of Counsel

Chair Olsen requested a motion to adjourn into Executive Session to discuss legal matters.

Secretary Arthur offered a motion to exit into an executive session to discuss legal matters.

Director Floss seconded the motion.

The Board voted 6-0 to exit into an Executive Session.

The Board adjourned into Executive Session at 3:22 PM.

BUFFALO FISCAL STABILITY AUTHORITY
Executive Session Meeting Minutes
May 15, 2013

The following are the minutes from the Executive Session of the Buffalo Fiscal Stability Authority (the "BFSA") held on Wednesday, May 15, 2013, in the Buffalo Market Arcade Complex. The meeting was called to order at 3:26 PM.

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

Board Members Absent: Brown and Giardino

Staff Present: Link & Mongold-Robe

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.

At 4:02 PM Vice-Chair Doherty exited the proceedings.

Adjournment

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

Secretary 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 5-0 to adjourn from the Executive Session and reenter he public portion of the Board meeting.

The Board exited the Executive Session at 4:05 PM.

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

Secretary Arthur offered a motion to reenter the public session.

Director Floss seconded the motion.

The Board voted 5-0 to reenter the public session.

Chair Olsen noted that the Board had received legal advice from Mr. James Magavern in Executive Session related to the BFSA Act. No formal actions had occurred.

Adjournment

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

Secretary Arthur offered a motion to adjourn the meeting.

Director Floss seconded the motion.

The Board voted 5-0 to adjourn the meeting.

The meeting adjourned at 4:08 PM.