BUFFALO FISCAL STABILITY AUTHORITY
Meeting Minutes
June 19, 2013

The following are the minutes from the meeting of the Buffalo Fiscal Stability Authority (the "BFSA") held on Wednesday, June 19, 2013, in the Buffalo Market Arcade Complex. The meeting was called to order at 1:02 PM.

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

Board Members Excused
Jurasek

Board Members Absent
Giardino

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

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

Opening Remarks
Chair Olsen called the meeting to order. The meeting's agenda included: a review of the City of Buffalo's FY 2013-14 Adopted Budget and 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 review of a Memorandum of Agreement ("MOA") between the City of Buffalo (the "City") and the Buffalo Professional Firefighters Association, Local 282, International Association of Firefighters, AFL-CIO, CLC ("Local 282"), two BFSA matters including a recommendation from the Audit, Finance, and Budget Committee to receive and approve the final FY 2013-2014 Budget and 2014-2017 Financial Plan, and to receive advice from legal counsel regarding the appropriateness of continuing to include BURA as a Covered Organization.

Chair Olsen 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.

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…."*

Approval of the May 15, 2013 Minutes

Chair Olsen introduced Resolution No. 13-06, "Approving Minutes from May 15, 2013."

Secretary Arthur offered a motion to approve Resolution No. 13-06.

Director Mesiah seconded the motion.

APPROVING MINUTES FROM MAY 15, 2013

BE IT RESOLVED that the Buffalo Fiscal Stability Authority hereby approves the minutes of its meeting on May 15, 2013.

BE IT FURTHER RESOLVED that the Buffalo Fiscal Stability Authority ratifies and affirms Resolution Nos. 13-04 through 13-05 that were approved on May 15, 2013.

The Board voted 6-0 to approve the resolution.

Final 2013-2014 Budgets and Related Four-Year Financial Plans

Chair Olsen advanced the agenda to the next item for consideration: a review of the City's FY 2013-2014 Adopted Budget and 2014-2017 Four-Year Financial Plan. The Board reviewed the preliminary budgets and financial plans for the City, the District, and BURA at the May 15, 2013 Board meeting. The BMHA's Preliminary FY 2013-2014 Budget and 2014-2017 Financial Plan was not reviewed as there were outstanding questions by the BFSA staff at that time and a report was unable to be provided. The Board had determined that the District's preliminary financial plan was incomplete and unbalanced; the BMHA's and BURA's financial plans were additionally incomplete in that there was not enough information available to determine if the plans were compliant with the BFSA Act. BFSA Resolution No. 13-05, "Declaration of Incomplete Financial Plan," was unanimously passed declaring the financial plans incomplete and requesting additional data from each entity.

The District submitted the Final 2014-2017 Financial Plan on May 31, 2013. Both BURA and the BMHA submitted additional information and revised financial plans to the BFSA staff in order for staff to complete the analysis.

Chair Olsen introduced Resolution No. 13-07, "Determination with Respect to the City of Buffalo's 2014-2017 Four Year Financial Plan." The resolution included the determination that the 2014-2017 Financial Plan of the City of Buffalo and the Covered Organizations (including the District, BMHA, and BURA) complies with the requirements of the BFSA Act, but that the determination is provided with reservations regarding the District's 2014-2017 Financial Plan. The resolution requests a report by the District by December 2013 to provide detailed information on the actions outlined in the financial plan to close the remaining operational deficits.

Chair Olsen requested a review of the City of Buffalo's Final FY 2013-2014 Adopted Budget and the Revised 2014-2017 Financial Plan from Principal Analyst Bryce Link.

City of Buffalo
Mr. Link addressed the Board. He noted that the presentation would involve a brief update of the minor revisions made by the Buffalo Common Council to the Mayor's FY 2013-2014 Recommended Budget and provided the following information:

<u>Buffalo Common Council Changes to FY 2013-2014 Recommended Budget</u>
Increases include:

- $94,661 – Buffalo Common Council/City Clerk initiatives;
- $8,000 – Department of Management Information Systems;
- $100,000 – Cultural Grants and Anti-Violence Fund;
- $30,000 – Youth Services;
- Total increases = $232,661.

Decreases include:

- Gasoline - $201,000;
- Various City Clerk expenditures - $31,661;
- Total decreases = $232,661;
- Net FY 2013-2014 impact = $0.

<u>FY 2014-2015 Financial Plan Revenue Modification</u>

- Restricted Aid & Incentives to Municipalities – ($2,000,000);
- The sale of capital assets - $1,000,000;
- Use of Unassigned fund balance - $1,000,000;
- Net FY 2014-2015 impact = $0.

<u>2014-2017 Financial Plan – Summary Revenues & Expenditures</u>

- Each year of the Financial Plan includes an operating deficit;
- Each operating deficit is closed via the draw-down of fund balance.

Mr. Link concluded his presentation.

Vice-Chair Doherty noted that the City's 2014-2017 Financial Plan included Tribal State Compact revenues beginning in FY 2014-2015. The State of New York and the Seneca Nation of Indians had recently reached an agreement which would allow these revenues to begin to be received. She asked if the Revised Financial Plan included updated revenue estimates based on the recent settlement. Mr. Link replied that the City had not initially included Tribal State Compact revenues in FY 2013-2014 as litigation between the entities had suspended these payments. The resolution to the dispute has occurred since the Revised Financial Plan had been approved. The specific timing of the revenue receipts and the amounts was not yet available.

Chair Olsen noted that the City had conservatively excluded these revenues from previous budgets due to the uncertainty of the settlement. Recognizing these proceeds in FY 2014-2015 of the Financial Plan has proven to be serendipitous given the recent settlement between the two parties.

Buffalo Urban Renewal Agency

Chair Olsen advanced the agenda to the next item for consideration: a review of the Buffalo Urban Renewal Agency's FY 2013-2014 Adopted Budget and 2014-2017 Four-Year Financial Plan. He requested a review of the material from Principal Analyst Bryce Link.

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

<u>2014-2017 Financial Plan</u>

BURA is currently an institution in a state of transition. There has been recent employee turnover that has resulted in the loss of institutional knowledge. Additionally, the City Comptroller's Office is now performing the administrative tasks related to the drawdown of $11.4 million of the $13.4 million of Community Development Block Grants ("CDBG") which previously was performed by BURA and has resulted in a decrease in BURA personnel and an increase in City Comptroller personnel. This change was required by the U.S. Housing and Urban Development ("HUD").

<u>BURA Review of 2014-2017 Financial Plan: Grant Revenues</u>

- BURA is primarily funded through HUD grants, most significantly CDBG grants;
- The funding is approved by the U.S. Congress and is formula-driven. The population decline quantified in the 2010 U.S. Census has resulted in a 10.7% reduction in grant funding.

<u>FY 2013-2014 HUD Funding Allocations</u>

- Total HUD funding allocations for FY 2013-2014 have decreased from $17.9 million to $17.5 million, a 2% overall decrease;
- All individual grant allocations have decreased with the exception of the CDBG which increased by $100,000, or 0.8%.

<u>BURA Review of 2014-2017 Financial Plan: Revenues</u>

- Total budgeted FY 2013-2014 revenues = $19.4 million;
- Total budgeted revenues decrease $1.6 million, or 7.7%, from the FY 2012-2013 Adopted Budget;
- The 2014-2017 Financial Plan projects annual reductions in HUD grant allocations of 5% each year based on recent trends;
- CDBG revenues decrease as a percentage of total BURA revenues over the four years of the Financial Plan from 69% in FY 2013-2014 to an estimated 68% in FY 2016-2017;
    - CDBG revenues were 63% of total BURA revenues in FY 2012-2013.

Director Floss asked if the 5% annual reduction in CDBG grant funding was a direct result of the recent federal budget sequestration. Mr. Link noted that the federal budget sequestration was one portion of the 5% annual reduction projection. The federal allocations are largely formula-based; the City of Buffalo's reduced population factors significantly in the projected reduction of these funds. Overall, the 5% reduction is a conservative estimate by BURA, mirroring recent trends.

BURA Review of 2014-2017 Financial Plan: Revenues (continued)

- Housing Opportunities Made Equal ("HOME") program funds are reduced $145,000 in FY 2013-2014 from FY 2012-2013;
- Total HOME program funding is $2.6 million in FY 2013-2014;
  - Annual reductions of 5% beginning in FY 2014-2015 are projected;
- Emergency Shelter Grants are budgeted at $972,000 in FY 2013-2014;
- The Neighborhood Stabilization Grant is no longer available. It totaled $1.1 million in FY 2012-2013;
- Housing Opportunities for Persons with Aids grants are projected to be reduced 5% annually;
- All other revenues are held relatively flat including CDBG and HOME program income.

BURA Review of 2014-2017 Financial Plan: Staffing

- The total number of full-time equivalent ("FTE") budgeted positions has decreased from 63 in the FY 2012-2013 Adopted Budget to 45 in the FY 2013-2014 Adopted Budget. The significant reduction from the two adopted budgets is largely due to the mid-year FY 2012-2013 layoffs of the "clean-and-seal" crew, following HUD's determination that the funding used for the employee group was ineligible for this expenditure. Additionally, four vacant positions were eliminated;
- The number of budgeted FTEs is not significantly altered over the three out-years of the 2014-2017 Financial Plan.

BURA Review of 2014-2017 Financial Plan: Conclusions

- BURA has submitted a balanced 2014-2017 Financial Plan;
- Grant funding will be monitored by BURA and City personnel on an annual basis;
- BURA projects out-year revenue reductions of 5% annually;
- BURA is an agency in transition faced with budget and staff reductions;
- The projected workforce may be inconsistent with the amounts projected in the Financial Plan. Management is requested to submit a revised workforce plan as necessary to BFSA, no later than July 15th.

Mr. Link concluded his presentation.

Chair Olsen expressed concern regarding BURA's projected funding cuts. The 2014-2017 Financial Plan is balanced but with reductions in funds available for high need areas such as emergency housing programs.

Vice-Chair Doherty noted the projected revenue reductions in BURA's 2014-2017 Financial Plan and asked how it would impact services provided by BURA. Mr. Link replied that the lower level of funding would impact the amount of funding BURA could allocate to community organizations and for community initiatives.

At 1:20 PM Mayor Brown entered the proceedings.

Buffalo Municipal Housing Authority
Chair Olsen advanced the agenda to the next item for consideration: a review of the BMHA's FY 2013-2014 Adopted Budget and 2014-2017 Four-Year Financial Plan. He requested a review of the report from Executive Director Jeanette M. Mongold-Robe and Comptroller Robert L. Miller.

Mr. Robert L. Miller addressed the Board. He provided the following information:

<u>BMHA Adopted Budget and Four-Year Financial Plan: Introduction</u>

- The FY 2013-2014 Budget and 2014-2017 Financial Plan was incomplete as of BFSA's May 15, 2013 Board meeting;
- The BMHA Board of Commissioners approved the FY 2013-2014 Budget on May 30, 2013;
- BFSA's staff attended a meeting with BMHA's management on June 10, 2013 and was able to receive answers to all of the questions stated over the previous six weeks;
- BFSA's staff determined the reasonableness of a complete financial plan on June 13, 2013.

<u>BMHA Adopted Budget and Four-Year Financial Plan: Key Assumptions</u>

- BMHA factored the effects of the federal budget sequestration into the FY 2013-2014 Adopted Budget. The impact totals $6.2 million;
- The HUD operating subsidy for the first six months of the FY 2013-2014 is 82% and 90% for the second six months. A 90% HUD operating subsidy is projected for the remaining three fiscal years of the financial plan;
- Dwelling rental income assumes an average occupancy of available rental units increasing gradually from 89% in FY 2011-2012 to 95% in FY 2016-2017 due in part to increasing occupancy mandates issued by HUD;
- Personnel costs will be reduced by 13% via the elimination of vacant positions. The reduction in budgeted positions in FY 2013-2014 is projected in each of the four years of the Financial Plan;
- Active employee healthcare premium costs are projected to increase 19% in FY 2013-2014. BMHA did not include any expectation of increases in healthcare expenses in any of the three out-years of the financial plan;
- The financial plan includes the use of reserves of $7.3 million over the four years of the financial plan. HUD recommends that a four month operating reserve be maintained for Asset Management Programs ("AMP"). Funds in excess of this level are considered excessive. HUD does not offer an operating reserve level recommendation for the Central Office Cost Center ("COCC").

BMHA Adopted Budget and Four-Year Financial Plan: Use of Reserves

- Operating deficits are closed in each fiscal year of the financial plan via the utilization of reserves. The cumulative use of reserves is $7.3 million over the four years of the financial plan;
- The operating deficit ranges from $3.3 million in FY 2013-2014 to between $1.1 million and $1.7 million in each of the out-years of the financial plan.

BMHA Adopted Budget and Four-Year Financial Plan: Revenue

- Total budgeted revenues in FY 2013-2014 are $33.4 million;
    - The largest revenue source is the operating subsidy from HUD which totals $16.4 million, 52% of the total revenues;
    - Rental income from tenants is the second largest revenue source and totals $9.7 million or 31% of total revenues.

BMHA Adopted Budget and Four-Year Financial Plan: Expenses by Department

- Departmental expenses are generally consistent as a percentage of total expenses in each fiscal year of the financial plan;
- Maintenance is the largest percentage of total budgeted expenses at $11.1 million, or 32%, in FY 2013-2014;
- Administrative is the second largest percentage at $9.6 million, or 27%, of total FY 2013-2014 budgeted expenses;
- Utilities represents the third largest percentage at $6.2 million, or 18%, of total FY 2013-2014 budgeted expenses;
- Other General Expenses total $5.8 million, or 17%, total FY 2013-2014 budgeted expenses;
    - Other Postemployment Benefits ("OPEB") - $3.0 million;
    - Interest Expense - $900,000;
    - Workers' Compensation Insurance - $800,000;
    - Property Insurance - $700,000.
- Protective Services total $900,000, or 3%, of total FY 2013-2014 budgeted expenses, the majority of which represents payments to the City of Buffalo police department based on the existing contract between the City of Buffalo and the Buffalo Municipal Housing Authority;
- Tenant Services total $900,000, or 3%, of total FY 2013-2014 budgeted expenses.

BMHA Adopted Budget and Four-Year Financial Plan: Staffing

- Total FTEs are held constant at 270 in each year of the Financial Plan; this number represents a reduction of 17 FTEs from the FY 2012-2013 Adopted Budget.

BMHA Adopted Budget and Four-Year Financial Plan: Capital & Other Grants

- Grant funding is consistent within each fiscal year of the Financial Plan.

BMHA Adopted Budget and Four-Year Financial Plan: Conclusions

- BMHA's 2014-2017 Financial Plan is operationally balanced with the usage of reserves to eliminate operational deficits in each year of the financial plan;

- BMHA needs to continue to monitor the effect of the federal budgetary sequestration very closely;
- Projected negative cash flows needs to be monitored closely;
- Funding from reserves over the four-year period is included in the financial plan at $7.3 million.
- The following expenses must be monitored closely as they represent 80% of expenses:
    - Employee salaries and benefits;
    - Utilities;
    - Maintenance;
- No inflation factor has been applied to health care costs in the three out-years of the Financial Plan.

Mr. Miller concluded his presentation.

Ms. Mongold-Robe noted that the report issued on BMHA's 2014-2017 Financial Plan included specific recommendations for BMHA. She added additional comments as follows:

- All fiscal years of the financial plan are balanced. However, the 2013-2014 fiscal year depicts a negative cash flow due to expenses for debt service. A revised cash flow statement showing the funding source for the negative cashflow has been requested of BMHA by July 15, 2013;
- BMHA's fringe benefit expenses for employee health insurance have increased dramatically from FY 2012-2013. BMHA has been divested from the City of Buffalo's health insurance pool and, as such, has seen a significant increase in premium costs due to a higher historical cost rating. BMHA's health insurance consultant has not been able to provide cost increase projections for the three out-years of the financial plan. It is not considered a threat to the stability of the financial plan as BMHA largely receives reimbursement from HUD for healthcare expenses through the operating subsidy. The BMHA has hired a healthcare insurance consultant to address the concerns regarding the BMHA's health insurance plan and rising costs.

Director Floss asked what the likely funding source was to address any cash flow issues. Ms. Mongold-Robe replied that the use of reserves was the logical funding source to meet any cash flow issue. BMHA currently has adequate reserves available to meet its cash flow needs. However, BMHA's management needs to confirm the funding source.

City Items

Memorandum of Agreement between the City of Buffalo and the Buffalo Professional Firefighters Association, Local 282, International Association of Firefighters, AFL-CIO, CLC

Chair Olsen advanced the agenda to the next item for consideration: a review of the proposed MOA between the City of Buffalo and the Buffalo Professional Firefighters Association ("Local 282"). The labor agreement was approved by Local 282 on May 30, 2013 and was subsequently submitted to the BFSA for review. The BFSA Act requires the BFSA to assess the impact on the long-term fiscal condition of the respective entity. BFSA is currently in an Advisory Period and does not have statutory authority to approve or reject labor agreements.

BFSA staff has prepared an analysis of the proposed MOA. A side-by-side comparison of the terms of the proposed MOA as compared to both the expired collective bargaining agreement ("CBA") and the most current labor agreement approved by BURA has been included with the analysis. The proposed MOA approved by the City of Buffalo's Administration and Local 282 is significant as the firefighters' union has been out of contract since June 30, 2002.

Chair Olsen asked Mr. Link to provide a summary of the material.

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

<u>MOA between the City of Buffalo & Local 282: Introduction</u>

- The CBA replaces the previous CBA which expired on June 30, 2002 and runs through the end of the current financial plan, or June 30, 2017;
- There are no retroactive salary payments between July 1, 2002 and June 30, 2012. The new salary increases are effective as of July 1, 2012;
- Titles covered by the CBA include: firefighters, including operational command officers—lieutenants, captains, battalion chiefs, division fire chiefs, marine engineers and fire alarm dispatchers. In addition, the deputy commissioners and commissioner receive corresponding salary increases per section 24-12 of the City Charter;
- There are 719 FTE positions budgeted that are covered by the CBA. The largest single group is the firefighters at 542 FTEs. There are also six auxiliary positions covered by the CBA including (1) assistant marine engineer, (3) fire alarm dispatchers and (2) assistant fire alarm dispatchers. The remaining 171 budgeted positions are in command and officer positions. Examples of titles include lieutenant, captain, and commissioner;
- Per the City's 3rd quarter report, there were 655 positions filled with 64 vacancies. There were 681 positions filled as of July 1, 2012.

<u>MOA between the City of Buffalo & Local 282: Salary Increases</u>

- There is a 0% increase from July 1, 2002 through June 30, 2012. A step 5 firefighter would have been earning $51,072 prior to July 1, 2008. Beginning on July 1, 2008 members of Local 282 received a 5.5% increase which increased a Step 5 employee to $53,917;
- On average members of Local 282 will receive a 21.05% increase. A step 5 employee will receive a 23.8% increase, or $12,175, bringing the salary to $63,247, as of July 1, 2012, compared to the $51,072 they earned as of 6/30/08;
- Additional 2% increases are provided on July 1, 2013, July 1, 2014, July 1, 2015, and July 1, 2016. The increase for Step 5 employee increases from $64,512 as of July 1, 2013 to $68,461 as of July 1, 2016;
- There are no retroactive payments for service prior to July 1, 2012. Individuals who retired after July 1, 2012 will receive an adjustment reflective of the amount of time they worked in the current fiscal year ("CFY") while individuals who have retired before July 1, 2012 are not entitled to any increase;
- The average annual increase of all titles is 21.05% as of July 1, 2012 compared with the June 30, 2007 rates;
- The new Step 5 (highest step) would be $63,247 on July 1, 2012 increasing to $64,512 on July 1, 2013.

Mr. Link provided a salary schedule depicting salary steps and wages for both current and new employees for each fiscal year of the proposed MOA.

<u>MOA between the City of Buffalo & Local 282: Health Insurance for Active Employees</u>

- The cosmetic surgery rider is eliminated; the annual projected cost savings are $110,000 for eliminating the rider;
- Current employees are incentivized to move into the POS 201 away from the more costly POS 901. Individuals that desire to maintain the 901 coverage would begin to contribute $300 per month upon ratification of the contract, increasing to $600 per month as of June 30, 2014, and would be required to contribute the full cost of the difference between the POS 201 and POS 901 as of June 30, 2015. Current year annual savings are $5,637 for a single policy and $11,227 for a family policy;
- Current employees contribute $0 towards health insurance premiums after the initial four years of employment. During the first four years of employment, employees pay 25% or 15% of the premium for single or family coverage;
- New employees will contribute either 25% (single) or 15% (family) of premium, which is $1,370 per year for single coverage and $2,212 per year for family coverage under the POS 201 plan.

<u>MOA between the City of Buffalo & Local 282: Health Insurance for Retirees</u>

- Currently active employees can retire with POS 901 at retirement at no cost to the employee if he or she retires by June 30, 2015;
- Current active employees can retire post July 1, 2015 with POS 201 at no cost to the employee;
- New hires will only have the POS 201 option at retirement, maintaining their respective contribution during active service into retirement: 25% and 15% respectively for single and family coverage;
- Upon ratification of the CBA, all retirees are required to enroll into Medicare Part B with the City paying the cost of Medicare Part B and a supplemental Medicare Senior product.

<u>MOA between the City of Buffalo & Local 282: Overtime Management</u>

- The minimum overtime for call-ins is reduced from four hours to two hours;
- One firehouse automatically closes if five individuals from a company call in sick. Members reporting for duty will be redeployed to backfill for other call-ins;
- Only one company shall be closed per any shift. A list of the members creating the company closure will be provided to Local 282 leadership;
- Any employee that calls in on a scheduled holiday shift shall lose five hours of holiday pay.

MOA between the City of Buffalo & Local 282: Sick Leave Accrual

- Sick leave is reduced from eleven hours a month to nine hours a month. Newly hired employees earn nine hours a month of sick leave in their first year of employment; previously eight hours a month was earned in the first year of employment;
- The proposed MOA removes a maximum threshold for accrued sick leave; the current labor agreement allows for a maximum of 2,400 hours to be accrued;
- The maximum number of hours an employee can sell-back at retirement increases from 1,400 hours to 2,400 hours. The first 1,500 hours are at a 3:1 ratio; hours 1,501 through 2,400 hours are at a 2:1 ratio.

MOA between the City of Buffalo & Local 282: Other Contract Provisions

- All employees receive an increase on the annual longevity payments, increasing from $125 per year to $210 per year. Additionally, the amount of years longevity may be awarded increases from 25 years to 30 years;
- There is no change to the current personal leave accruals;
- All employees are moved to the new employee vacation accrual schedule. Per the new schedule, it will take an employee more years of service to earn an additional vacation tour. A vacation tour is equivalent to 48 hours. A portion of current employees lose a vacation tour by converting over to the new accrual schedule.

Mr. Link provided the proposed MOA's vacation accrual schedule depicting for both current and future active employees. Under the terms of the current CBA, an employee earns two tours of vacation by the third year of their employment. Under the terms of the proposed MOA, an employee would not qualify for the additional tour until they have reached five years of service. An employee would need 22 years of service to reach the top of the vacation accrual schedule; under the current schedule an employee reaches the maximum at 16 years of service.

MOA between the City of Buffalo & Local 282: Other Contract Provisions (continued)

- All new employees hired after January 1, 2012 are required to maintain an actively domiciled residency in the City of Buffalo per the terms of the proposed MOA. Active employees hired prior to this date would not be impacted;
- Two employees are provided compensation for conducting official Local 282 business;
- The linen service would be eliminated;
- The Injured-On-Duty ("IOD") policy is clarified. IOD eligibility would no longer be automatic but would require medical documentation as well as approval from the Fire Commissioner. All employees continue to accrue benefits while on IOD leave for the first six months. After the first six months, employees on IOD leave receive only salary and health insurance benefits. Vacation and sick leave would no longer accrue. Employees are required and expected to be under home confinement while on IOD leave and not working a second job;
- The Home Confinement Policy would be strengthened allowing management the ability to penalize individuals on sick leave who violate the policy. Any individual who violates the policy loses sick leave. Subsequent violations would lead to additional sick leave forfeiture. Four violations within a twenty four month period will lead to disciplinary action including dismissal;

- The proposed MOA would dismiss all Local 282 grievances and litigation against the City, with the exception of specific grievances filed with the New York State Public Employees Relations Board.

MOA between the City of Buffalo & Local 282: Costs & Savings

- Including the retroactive payment for FY 2012-2013, total gross costs are projected to be $72.65 million over the course of the financial plan;
- The costs are offset by gross savings in the amount of $43.7 million over the course of the financial plan, leaving a net cost of approximately $28.9 million;
    - A portion of those costs will be paid with prior year accruals for labor costs; the remaining balance of the costs will be covered by budgeted funds for the settlement of labor contracts;
    - For every dollar in costs, there is 60 cents of savings (or 60% savings through employee concessions);
- The City has demonstrated that the MOA is funded though past accruals and any additional, incremental costs fit within the context of the financial plan.

MOA between the City of Buffalo & Local 282: Conclusions

- The incremental costs for the CBA have been either previously funded through the annual accrual for unsettled labor contracts or are prospectively funded through the projected expenditure for the accrual of unsettled labor contracts;
- The MOA provides predictability of firefighters' employee costs through the end of the current financial plan;
- Savings provided from the elimination of POS 901 and transferring employees to POS 201 are significant;
- Retirees would be required to enroll into Medicare Part B with full cost to the City. A senior product would also be provided to retirees;
- Active employees choosing the POS 901 option would be responsible for the full cost difference between the POS 201 and POS 901 health insurance costs beginning July 1, 2015;
- All future employees begin to contribute to health insurance at 25% for single coverage or 15% for family coverage;
    - Current employees contribute 0%.

Mr. Link concluded his summary of the proposed MOA.

Chair Olsen asked Ms. Mongold-Robe to provided further comments regarding the proposed MOA.

Ms. Mongold-Robe thanked City of Buffalo Commissioner of Administration, Finance, Policy & Urban Affairs, Ms. Estrich and her staff and City of Buffalo Corporation Counsel, Mr. Timothy Ball and his staff for their aid and assistance given while reviewing the proposed MOA.

Chair Olsen congratulated Mayor Brown and the leadership of Local 282. The contract was negotiated in a fairly toxic negotiating environment; the firefighters had not received a new labor agreement in ten years. The proposed MOA provides health insurance concessions. The City has maintained a level of fund balance which allows it to effectively bargain with its employee labor groups. The proposed MOA provides important cost reductions for the City and provides significant and meaningful raises for the firefighters. The recent negotiation process exemplified by the City and Local 282 is a model for future negotiations for the City as well as the Buffalo Public School District. It is a major step forward for the City of Buffalo.

Mayor Brown thanked Chair Olsen for his comments. The proposed MOA follows the guidance that the Buffalo Fiscal Stability Authority has offered for labor agreements. It is not only a fair contract for the employees but one that is fair for the City of Buffalo's residents and taxpayers.

He thanked former Commissioner of Administration, Finance, Policy & Urban Affairs, Ms. Janet Penksa, former Budget Director and current Commissioner of Administration, Finance, Policy & Urban Affairs, Ms. Donna Estrich, for carefully budgeting for the costs associated with settling this labor agreement. He additionally recognized and thanked Corporation Counsel Tim Ball and his staff, Director of Employee Relations Omar Price, and Fire Commissioner Garnell Whitfield and his staff for their long hours and dedicated research they provided which lead to the successful negotiation of the labor agreement. He thanked Local 282 President Dan Cunningham and his staff for their cooperation in negotiating an agreement that is fair to the firefighters as well as to the taxpayers. It is a good day for the City of Buffalo and a very good day for labor peace.

Mayor Brown offered a motion to receive and file the proposed MOA.

Chair Olsen seconded the motion.

The Board voted 7-0 to receive and file the proposed MOA.

<u>Final 2013-2014 Budgets and Related Four-Year Financial Plans (continued)</u>

Buffalo Public School District

Chair Olsen advanced the agenda to the next item for consideration: a review of the District's FY 2013-2014 Adopted Budget and 2014-2017 Four-Year Financial Plan. He requested a review of the report from Ms. Mongold-Robe and Financial Analyst / Manager of Technology, Mr. Nathan D. Miller.

Mr. Nathan Miller addressed the Board. He provided the following information:

<u>Buffalo Public School District's FY 2013-2014 Adopted Budget: Summary</u>

- The FY 2013-2014 Adopted Budget is balanced;
  - General Fund revenues = $762.9 million;
  - General Fund expenditures = $794.0 million;
  - Operating deficit = $31.1 million, closed by the appropriation of $31.1 million in fund balance;

- FY 2013-2014 General Fund budgeted revenues exceed FY 2012-2013 General Fund budgeted revenues by $2.3 million, or 0.3%;
- FY 2013-2014 General Fund budgeted expenditures exceed FY 2012-2013 General Fund budgeted expenditures by $14.0 million, or 1.8%;
- Staff reductions – 31 fewer General Fund FTEs are budgeted in FY 2013-2014 than were budgeted in FY 2012-2013, a budgetary savings of $2.8 million;
  - 50 fewer part-time Bus Aides are budgeted from the prior fiscal year, a budgetary savings of $84,100;
- Building Closures – Twelve non-permanent schools and swing schools.

<u>Buffalo Public School District's 2014-2017 Financial Plan: Summary</u>

- The four-year cumulative operating deficit totals $166.2 million;
- The financial plan has a heavy reliance on fund balance;
  - $12.0 million – Unassigned fund balance;
  - $57.7 million – Assigned fund balance;
  - Total Assigned and Unassigned fund balance usage- $69.7 million;
- The Programs to Eliminate the Gap ("PEG") action plan totals $96.5 million;
  - $31.5 million – staff reductions;
  - $3.6 million – site closures;
  - $59.9 million – other reductions to close the gap;
  - Total PEG actions- $96.5 million.

<u>Buffalo Public School District's 2014-2017 Financial Plan: Revenues</u>

- General Fund revenues are projected to increase from $762.9 million in FY 2013-2014 to $811.9 million in FY 2016-2017;
  - $49.0 million increase, or 6.4%, over the four years of the financial plan;
  - The largest funding source is New York State Aid.

<u>Buffalo Public School District's FY 2013-2014 Adopted Budget: Expenditures</u>

- FY 2013-2014 expenditures are budgeted at $794.0 million;
  - Employee compensation - $237.1 million, or 30%;
  - Employee benefits - $184.2 million, or 23%;
  - Debt service - $121.3 million, or 15%;
  - Payments to charter schools - $101.0 million, or 13%;
  - Transportation - $43.8 million, or 6%;
  - All other expenditures- $106.6 million, or 13%.

<u>Buffalo Public School District's 2014-2017 Financial Plan: Expenditures</u>

- General Fund expenditures are projected to increase from $794.0 million in FY 2013-2014 to $860.6 million in FY 2016-2017;
  - $66.6 million increase or 8.4% increase over the four years of the financial plan.

Buffalo Public School District's FY 2013-2014 Adopted Budget: Staffing

Budgeted FY 2013-2014 FTEs total 4,103, a reduction of 31 FTEs from the number budgeted in FY 2012-2013. The total number of filled FTE positions as of March 31, 2013 was 4,135 including 2,851.0 teachers. The FY 2013-2014 Adopted Budget reduces the number of budgeted teacher FTEs by 41 from the number actually filled as of the end of the FY 2012-2013 third quarter.

Historical & Projected Buffalo Public School Enrollment: Traditional Public Schools and Public Charter Schools

- Total enrollment in Buffalo public schools, both traditional and charter, has decreased from 44,216 FTE students in FY 2003-2004 to a projected 40,637 in FY 2013-2014. Overall public school enrollment is projected to increase over the next four fiscal years, with modest declines in District enrollment and modest growth within public charter schools.

Mayor Brown noted that the enrollment projection indicated that student enrollment in traditional public schools has stabilized; the overall projected growth in total public school enrollment indicates that the City's population has grown as families relocate within the City. The student enrollment growth is seen within Buffalo public charter schools.

Secretary Arthur noted that as a greater number of students attend public charter schools, there is a greater funds transfer from the District to the respective charter schools. There needs to be a moratorium on new charter schools.

Director Floss noted Mayor Brown's earlier comments regarding the projected growth in charter school enrollment and asked if an analysis had been performed to determine where the students were transferring from, if they had relatives within District schools, etc…. Ms. Mongold replied that a targeted analysis regarding the enrollment growth could be performed. The analysis performed to date has focused on the overall funding transfer and has examined the transfer to charter schools on a macro level.

Secretary Arthur noted that individuals from outside of the City of Buffalo fraudulently use City addresses to send their children to District schools. As a result, the District pays to educate students without receiving the adequate funding to do so. An analysis of projected enrollment should consider this issue.

Mr. Williams concurred with Secretary Arthur's statements.

Chair Olsen noted that, because of the presence of Say Yes to Education, the not-for-profit organization which provides a free tuition for all graduating Buffalo seniors from all Buffalo public schools, the enrollment in Buffalo charter schools and District schools with test-in requirements will likely increase as families relocate to the City to take advantage of the tuition offer. If this were to occur, it would be an unfortunate side-effect of the program as it could reduce opportunities of existing, higher needs City students who could benefit from the program. The District's poor graduation rates steers students toward area charter schools; this transfer of students places further financial stress on the District.

Vice-Chair Doherty noted that the increased enrollment within area charter schools was likely impacted from student transfers from area non-public schools as well as from District schools.

Director Mesiah noted that the cost of educating a student in secondary schools is significantly higher than the cost to educate students in elementary schools. Charter schools are able to have a lower per pupil cost of educating students by providing primarily elementary education; students transfer from the elementary charter schools to District high schools, causing further stress on the District. He asked if the funding transfer to the charter schools from the District factored in the higher cost of educating students in secondary education.

Mr. Miller replied that the New York State law which created the funding mechanism for charter schools bases the per pupil funds transfer on a set tuition rate per each FTE student. The grade level of the students enrolled in the charter schools is not a factor in the calculus.

Director Floss noted that it would be worthwhile to analyze the number of Buffalo students who leave charter schools in eighth grade and enroll in District high schools in ninth grade.

Ms. Mongold noted that the District had implemented school-based budgeting in the current 2013-2014 budget year. The District was able to determine that certain schools were receiving a larger portion of resources while other schools were receiving proportionately fewer resources. The implementation of school-based budgeting allowed the District to reallocate funding in a more equitable manner District-wide. This has allowed the District to address some of the funding disparity mentioned earlier by Director Mesiah.

Ms. Mongold noted that the current funding formula for charter schools is broken. When a student leaves a traditional public school to attend an area charter school, the District must forward a per pupil tuition. However, the District cannot commensurately reduce their expenditures due to non-transferable fixed costs.

Mr. Miller continued his presentation.

<u>Historical & Projected Payments to Charter Schools</u>

- The District's payment to charter schools is a major cost driver. It is projected to increase from \$101.0 million in FY 2013-2014 to \$120.1 million in FY 2016-2017, a \$19.1 million, or 18.9%, increase.

Mayor Brown requested clarification regarding the impetus of the projected increased payment to charter schools. Mr. Miller replied that the projected increased enrollment along with an annually increasing tuition rate determined the projected increased payment. The tuition rate has been held flat by legislative action in the last several fiscal years.

Mayor Brown asked if the tuition rate was projected to increase due to the State's intention to allow more charter schools to be commissioned, more aggregate student enrolled in charter schools, or a combination of both actions. He asked if there where currently a moratorium on the creation of new charter schools. Ms. Mongold-Robe clarified that the payment to charter schools was based on a per student rate. No current moratorium exists on the creation of new charter schools.

Mr. Miller continued his presentation.

<u>Projected Health Insurance Expenditures</u>

- Health Insurance expenditures are another major cost driver for the District;
    - Health insurance expenditures for active employees is projected to increase $8.0 million, or 17.8%, over the four years of the Financial Plan;
    - Health insurance expenditures for retirees is projected to increase $17.8 million, or 29.2%, over the four years of the Financial Plan;
    - Total health insurance expenditures are projected to increase from $111.8 million in FY 2013-2014 to $139.2 million in FY 2016-2017.

Chair Olsen noted that the members of Local 282 had previously been publically advised by its union leadership to transfer into the most expensive health insurance plan as a means to create greater leverage in negotiations. The Buffalo Teachers Federation ("BTF"), the union which represents District teachers, has a similar option available. Given that the management-labor relationship between the District and the BTF is as toxic as the relationship had been between the City and Local 282, a similar recommendation could be offered by the BTF's leadership. If this were to occur, the District's health insurance expenditures would increase even more substantially than the amounts projected within the Financial Plan.

Director Floss noted that the health insurance expenditure projections in the Financial Plan did not include potential health insurance expenditure reductions resulting from a settled collective bargaining agreement. The proposed MOA between the City and the Local 282 estimates substantial health insurance reductions. It is reasonable to assume that a settled CBA between the District and the BTF would include substantial health insurance savings as well.

Mr. Miller continued his presentation and outlined the District's PEG action plan. PEG actions offer potential gap-eliminating actions. They are often options of last resort that, if implemented, could have a deleterious impact on the quality of educational services.

<u>Proposed Elimination of the Gap (PEG Actions)</u>

- Use of fund balance = $69.7 million;
    - $57.7 million in Assigned fund balance;
    - $12.0 million in Unassigned fund balance;
- Staff reductions = $18.9 million;
    - Closing low-enrollment classes - $15.8 million;
    - Reduction of 50 bus aides annually - $3.1 million.

Mayor Brown asked if the reduction in bus aides would occur through attrition rather than layoffs. Mr. Miller confirmed that it would be through attrition.

Proposed Elimination of the Gap (PEG Actions) - continued

- Special Education and related staffing reductions - $12.6 million;
- Facility closures - $3.6 million;
    - (2) Swing schools;
    - Terminate WNED facility usage in FY 2015-2016.

Director Floss expressed his concern that regarding the proposed reduction in special education expenditures. Students with disabilities are in need of enhanced services rather than reductions.

Chair Olsen noted that the District's special education program has been under judicial supervision for approximately fifteen years. The District has a dismal record of providing special education services both operationally and cost-effectively. An audit that is expense-driven rather than services-driven is very concerning. Typically in urban settings, non-public and charter schools steer students with disabilities into traditional public schools. The District has a significant percentage of students requiring special educational services. If services are cut, not only will the quality of the education for students suffer, but the District would expose itself to litigation. This PEG action is not only highly speculative but also very likely inappropriate.

District Chief Financial Offer, Ms. Barbara J. Smith, requested to address the Board regarding the special education PEG action. She provided the following information:

- The District will perform a comprehensive audit in FY 2013-2014 of all Special Education function including, but not limited to, direct services provided in classrooms;
- The District currently budgets many out-of-classroom teaching positions which are related to Special Education. The ratio of staff-to-students is currently disproportionate. The District is examining methods of early intervention in order to reduce the number of students receiving Special Education services;
- The audit is intended to reduce inefficiencies and enhance the quality of Special Education services rather than reduce services provided.

Vice-Chair Doherty asked how much Special Educational services were budgeted for annually. Ms. Smith replied that Special Educational services are budgeted for over $100.0 million annually when including all related services. Referencing the earlier discussion regarding charter school enrollment, she noted that some of the projected growth in charter school enrollment was due to individuals transferring from non-public schools into public charter schools, particularly to take advantage of the free tuition offer from Say Yes to Education. There is a large transfer from charter schools that only provide elementary educational services into District high schools as well.

Mayor Brown noted that total Special Education budget of over $100.0 million and asked for verification that the PEG action reduction of $12.6 million would not negatively impact the quality of services offered to District students. Ms. Smith confirmed that the intent was to provide the mandated services more efficiently and effectively. The audit will allow the District better address students' needs in a more cost-effective manner.

Mayor Brown noted that the District's FY 2013-2014 Adopted Budget included a reduction in music instruction. He asked for further detail regarding the number of schools and students impacted by the reduction of these educational services. Ms. Smith noted that some of the impacted schools have reallocated funds since the budget had been adopted to allow for the restoration of some of the services. Individual District schools had more autonomy in crafting their respective budgets than in prior years through the aforementioned school-based budgeting process. Individual school management prioritized their respective budget allocations based on their individual needs and based on limited resources. Additional schools may choose to reallocate funds to restore musical programs if they are able to. The number of students impacted and the number of schools impacted is not readily available.

Mayor Brown noted that the District has a chronic issue of absenteeism which can be as high as 30% in some instances and even 20% in some kindergarten classes. He requested data regarding absenteeism rates in at all grade levels in all District schools as well as the number of schools and students impacted by the aforementioned budget reductions in music instruction.

Director Mesiah asked if art, music, and vocal instruction educators were assigned to a specific school or if they rotated to various schools. Ms. Smith replied that instrumental teachers were allocated to several public schools. Any public school which does not have a full-time program will have an instructor who splits their work time between other public schools without full-time programs.

Director Floss requested data regarding absenteeism rates in all schools by grade level delineated by students with disabilities and general education students. Ms. Smith replied that the requested reports exist and would be forwarded.

At 2:35PM Secretary Arthur exited the proceedings.

At 2:36 PM Mayor Brown exited the proceedings.

Vice-Chair Doherty noted that the recent graduation rate data released by NYSED was for the end of the 2011-2012 school year. She requested preliminary graduation rates for District schools after they have been compiled. Ms. Smith replied that the preliminary graduation data for the 2012-2013 school year would be available following the August 2013 summer exams. The report ultimately issued by NYSED may differ from this data as they use different criteria.

Mr. Miller continued his presentation.

Proposed Elimination of the Gap (PEG Actions) - continued

- Other reductions to close the gap - $61.4 million;
  - Consolidations/Cooperation with the City of Buffalo - $1.5 million;
  - Reduction of non-mandated supplemental and enrichment programs - $27.5 million;
    - FY 2013-2014 comprehensive review of all programs to be performed;
    - Reduction of 75 FTEs in FY 2015-2016 and 50 FTEs in FY 2016-2017;
  - Equalization of school bell times - $4.0 million;
  - Closure of 2 charter schools - $28.4 million.

Mr. Miller noted that the closure of both the Pinnacle Charter School and the Community Charter Schools was assumed in the PEG action plan. If the schools ultimately close and the students enroll within the District, the payment to charter schools will be reduced. Currently both schools remain open due to an injunction issued.

Director Floss asked if students had left the Pinnacle Charter School and Community Charter School and enrolled in either a District public school or other charter schools as a result of the potential closure of these two charter schools. Mr. Miller replied that the data was not readily available but that it would be examined.

Mr. Miller noted that a further PEG action noted was the potential further appropriation of the $61.0 million in Assigned fund balance available.

Mr. Miller concluded his presentation.

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

Buffalo Public School District's 2014-2017 Financial Plans: Conclusions

- The District has little to no control over major cost drivers;
  - Salary step increases continue to be provided in perpetuity even after labor agreements expire, per New York State law;
  - Health insurance: active employees
    - Most District employees do not contribute toward the cost of their health insurance;
    - New health insurance contribution terms need to be negotiated in future labor agreements;
  - Health insurance: retirees
    - Many do not contribute toward health insurance;
    - New terms need to be negotiated in future labor agreements;
  - Pension rates are established by the New York State pension systems;
    - The current pension contribution rates are high by historical standards and will continue to be nearly as high for the foreseeable future;
  - Payments to charter schools continue to increase as enrollment continues to rise.

- The FY 2013-2014 Adopted Budget is balanced;
    - Reduction of 31 FTEs resulting in a reduction to compensation costs of $2.8 million;
    - Operating deficit of $31.1 million exists and is closed through the use of fund balance;
    - Allocation of all available Unassigned fund balance of $12.0 million;
    - Allocation of $19.1 million in Assigned fund balance for general operations;
        - Assigned fund balance represents management's intent to use the funds for the stated purpose;
        - $10.6 million previously reserved for the settlement of labor contracts is being used;
        - $8.1 million previously reserved for OPEB is being used;
        - Fund balance is the last resource to be used, at the point when annual expenditures exceed annual revenues;
- There are significant concerns regarding the District's fiscal stability with respect to the remaining out-years of the Financial Plan;
    - No available Unassigned fund balance following FY 2013-2014;
        - A minimum of 4% of Unassigned fund balance to expenditures must be maintained, per the District's fund balance policy.

Chair Olsen asked if the District had an appropriate amount of Unassigned fund balance available to maintain the required 4% minimum level required by the District's fund balance policy. Ms. Mongold confirmed that a 4% Unassigned fund balance level is maintained throughout the Financial Plan. The District drew-down fund balance in FY 2010-2011, and is anticipated to draw-down fund balance in FY 2011-2012 as well as in each of the four years of the Financial Plan.

<u>Buffalo Public School District's 2014-2017 Financial Plans: Conclusions (continued)</u>

- Assigned fund balance is significantly drawn upon;
    - Fund balance Assigned for OPEB is essentially depleted over the four years of the Financial Plan;
        - $30.9 million of $32.5 million projected to be used;
        - The total OPEB liability is greater than $1.8 billion;
    - Fund balance Assigned for Prior Year Claims, including unsettled labor contracts is being used in the amount of $25.6 million, or 34% of the total $76.3 million reserve. This is compared to the $205 million which was available at the beginning of the 2011-2012 fiscal year.

Ms. Mongold noted that the District's PEG action plan in the amount of $96.5 million is different from those seen in past submissions in that the level of available fund balance has been significantly reduced based on such use of funds. Without substantial increases to revenues, some of the PEG actions will need to be implemented. Many of the PEG actions listed are undefined or outside of the District's control; various studies are planned by the District to better define the PEG actions.

Ms. Mongold continued that the 2014-2017 Financial Plan did not include prospective costs for future compensation increases for settled labor contracts. The majority of collective bargaining units are currently out of contract. Settling new labor agreements is further complicated by the reduction of fund balance previously reserved for settled labor agreement which is now being used for operations.

Ms. Mongold-Robe concluded her presentation.

Chair Olsen noted that the 2014-2017 Financial Plan appeared to be transparent and accurate. The concern is that the District has serious issues that it has little to no control over including a permanently escalating structural imbalance, which with no new areas of funding, cannot be addressed. The BFSA Board will work with the District to develop recommended changes in New York State law to present to the legislature including mandates which are detrimental to school districts.

When the FY 2011-2012 graduation rates were released by NYSED, BFSA's staff performed a more detailed analysis of the data. The District is clearly separated between two groups of schools: those schools with outstanding academic results who are highly selective with admissions, and the neighborhood schools where the students contend with safety issues getting to school and do not receive an environment conducive for higher academic achievement.

Chair Olsen provided the following examples of low District graduation rates and high District dropout rates for FY 2011-2012:

- Bennett High School - 31% graduation rate, 41% dropout rate;
- Lafayette High School - 20% graduation rate, 49% dropout rate;
- Riverside High School – 24% graduation rate, 40% dropout rate;
- Burgard High School – 23% graduation rate, 47% dropout rate;
- East High School - 27% graduation rate, 40% dropout rate.

The issues at these schools are very large. The District and the BTF need to engage in the sort of collective bargaining seen between the City and the firefighters to settle a labor contract. The current PEG action plan is more concerning than previous ones in that, not only does it identify the reduction or elimination of discretionary services, it also identifies drawing down reserves set aside to settle labor agreements, making a new labor agreement that much more difficult to achieve.

The condition of the District neighborhood schools is dire. The Board of Education has historically shown reluctance to make the difficult decisions needed to address these issues. The budget as submitted is problematic in that it reduces the number of budgeted teachers at a point when academic achievement is low. Given the dismal graduation rates at the schools previously mentioned, it is logical to assume that there will be a transfer of students into higher graduation schools including area charter schools and non-public schools. The very high dropout rate is very concerning.

Chair Olsen noted that all final Financial Plans had been examined. A draft resolution which included the determination that the financial plans are complete and complies with the BFSA Act with certain reservations has been created. The reservations include:

- An acknowledgment of the structural imbalance over the four years of the Financial Plan with respect to escalating mandated costs and lagging New York State financial assistance;
- The recognition that the District's 2014-2017 Financial Plan is balanced only through the use of reserves, staffing reductions, the closure of two charter schools, and unspecified program cuts to achieve the balance;
- The recognition that such program cuts could have a devastating impact on the District and that an evaluation of the potential impact on student achievement should be performed;
- The finding that there are significant risks that the District will encounter a fiscal crisis at some time over the course of the current Financial Plan.

The resolution requests a report from the District in consultation with the BFSA's Executive Director and staff which provides:

- A detailed plan of the actions to close the budgetary gaps in the out-years of the Financial Plan;
- Evidence regarding the likelihood that the projected savings and revenues are achievable;
- The identification of programs and services which would be reduced or impacted based on studies that the District has indicated will be conducted during the coming school year, and to assess the impact of such changes on the District's financial stability and the educational achievement of its students;
- The identification of any changes in New York State law or policy that would better enable the District to perform its mission.

Chair Olsen noted that the report was requested to be submitted to the BFSA during the month of December 2013. He added that the report was not being dictated upon the District but a means to jointly work with the District in collaboration to resolve the serious issues facing the District. The report's intent is to provide adequate information to the BFSA to determine if there is an imminent fiscal crisis and also to document the areas where the BFSA can work in collaboration with the District to attempt to change New York State Laws and policies that are negatively impacting the District's ability to success in its mission.

Chair Olsen introduced Resolution No. 13-07, "Determination with Respect to the City of Buffalo's 2014-2017 Four-Year Financial Plan" and asked for a motion to approve the item.

Director Floss offered a motion to approve Resolution No. 13-07.

Director Mesiah seconded the motion.

DETERMINATION WITH RESPECT TO THE CITY OF BUFFALO'S 2014-2017 FOUR-YEAR FINANCIAL PLAN

WHEREAS, Article 10-D Title 2 of the New York State 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 (the "BMHA") and the Buffalo Urban Renewal Agency (the "BURA") (collectively the "Financial Plan") along with the Mayor's proposed City budget to the Buffalo Fiscal Stability Authority (the "BFSA"); and

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

WHEREAS, the BFSA determined on May 15, 2013 that the Financial Plan was incomplete; and

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

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

WHEREAS, the BFSA determined that the Financial Plan of the District was incomplete and unbalanced in that it: included a $26.4 million unfunded deficit in the General Fund for the 2013-14 fiscal year; included a remaining unfunded deficit totaling $154.0 million for fiscal years 2014-15, 2015-16 and 2016-17, representing the three out-years of the financial plan; and

WHEREAS, the BFSA recommended that the District continue in its efforts to finalize its 2013-14 budget and four-year financial plan, and requested:

> (1) 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
>
> (2) 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

(3) that in the event the revised plan proposes any cuts (including contingent cuts) in existing programs, services or levels of service, 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

WHEREAS, the City has submitted its adopted budget and a revised Four-Year Financial Plan, BMHA and BURA have submitted additional information and revised Four-Year Financial Plans, and the District has submitted a final Four-Year Financial Plan, and the BFSA has reviewed these submissions.

NOW THEREFORE BE IT RESOLVED, that the BFSA hereby determines, subject to the reservations hereinafter stated, that the Four-Year Financial Plan for fiscal years 2013-14 through 2016-17 is complete and complies with the standards set forth in BFSA Act §3857, subd. 2.

BE IT FURTHER RESOLVED, that BFSA finds that:

(1) the District faces a structural imbalance over the Financial Plan in that there are rapidly increasing costs mandated by state law and lagging state financial assistance; and
(2) the District's final Four-Year Financial Plan is balanced for fiscal year 2014, but depends upon the use of reserves, staffing reductions, closing of two charter schools, and unspecified program cuts to achieve balance in fiscal years 2015, 2016 and 2017 ("the out years"); and
(3) the District’s actions to close the budgetary gaps in the out years includes actions that are undefined as they are based on studies to be performed in the upcoming year and it is therefore unclear if such savings can be realized; and
(4) such actions could have a devastating impact on the District and such potential impact should be evaluated with respect to the potential effects of such actions on the educational achievement of the District’s students; and
(5) there is a significant risk that the District will encounter a fiscal crisis at some time during the out years, and may be unable to preserve essential services, maintain programs mandated by the state and federal law, and ensure the availability of a sound basic education to all of the children of the City.

BE IT FURTHER RESOLVED, that the District is requested, in consultation with the BFSA Executive Director and staff, starting immediately and in light of continuing information, to prepare a report that will:

(1) clearly define and delineate the District’s potential actions to close the budgetary gaps in the out years of the Financial Plan; and
(2) provide evidence regarding the likelihood of occurrence for the achievement of additional revenues and budgetary savings; and

(3) specifically identify those programs, services, or levels of services that would be reduced or impacted as outlined in the District's current Programs to Eliminate the Gap action plan which are to be determined during the next fiscal year upon the completion of various studies; and
(4) assess the effect of such changes upon the District's financial stability and the educational achievement and welfare of its students; and
(5) identify any changes in state law or policy that would better enable it to perform its mission.

BE IT FURTHER RESOLVED, that the report shall be submitted to the BFSA during the month of December, 2013.

The Board voted 5-0 to approve Resolution No. 13-07.

BFSA Items
Adoption of BFSA's FY 2013-2014 Budget and 2014-2017 Financial Plan

Chair Olsen advanced the agenda to the next item for discussion: a recommendation from the BFSA's Audit, Finance, and Budget Committee to review BFSA's Final FY 2013-2014 Adopted Budget and related 2014-2017 Financial Plan. No changes have been made to either the budgeted or projected amounts since the initial submission at the March 2013 Board meeting.

Director Floss offered a motion to accept the recommendation from the Audit, Finance, and Budget Committee and to approve BFSA's Final FY 2013-2014 Adopted Budget and 2014-2017 Financial Plan.

Director Mesiah seconded the motion.

ADOPTION OF 2013-2014 BFSA BUDGET AND 2014-2017 FOUR YEAR FINANCIAL PLAN

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

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

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

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

WHEREAS, the New York State Office of the Comptroller's Public Authority Regulations Part 203 requires the BFSA to annually prepare a budget and financial plan covering the budget year and the three subsequent fiscal years in accordance with generally accepted accounting principles; and

WHEREAS, the BFSA has carefully reviewed and projected the revenues expected to be received and expenses expected to be incurred over the four-year period of the Financial Plan for fiscal years 2013-14 through 2016-17.

NOW THEREFORE BE IT RESOLVED, that the Directors of the Buffalo Fiscal Stability Authority do hereby approve the 2013-2014 BFSA Budget and 2014-2017 Financial Plan.

The Board voted 5-0 to approve Resolution No. 13-08.

Discussion of BURA as a Covered Organization

Chair Olsen advanced the agenda to the next item for consideration: a discussion of BURA's continued status as a Covered Organization. At the May 2013 BFSA Board meeting, the Board received legal advice related to the applicability of the BFSA Act to the Buffalo Urban Renewal Agency as a Covered Organization. The legal advice ultimately indicated that it is the BFSA Board's discretion whether or not to continue to include BURA as a Covered Organization. Chair Olsen asked if any Directors had any comments regarding the item. Hearing none, he provided his opinion on the matter and stated that he believed it is appropriate to continue to include BURA as a Covered Organization for the following reasons:

- BURA acts as an extended arm of the City and is similar to a department of the City. It provides necessary services to low-income individuals and organizations who serve low-income individuals;
- There are shared services and personnel between the City and BURA;
- The collective bargaining agreement between BURA and the Civil Service Employees Association, Local 815, has been heralded by the BFSA as a remarkable labor agreement with precedential impact on other proposed labor agreements to the extent that is reasonable and practicable.

Chair Olsen noted that there could be a motion presented to consider an action declaring BURA to no longer be included as a nonexempt covered organization. He further indicated that no action could be taken, which would keep BURA as a nonexempt covered organization.

No request for a motion was made. BURA shall remain as a nonexempt covered organization.

<u>Privilege of the Floor</u>

Chair Olsen extended the Privilege of the Floor to any attending member of the audience who wished to comment on the public record regarding any actions taken during the meeting. Hearing none, he requested a motion to adjourn.

Adjournment
Dirctor Floss offered a motion to adjourn.

Director Mesiah seconded the motion.

The Board voted 5-0 to adjourn.

The Board adjourned at 3:05 PM.