

BUFFALO FISCAL STABILITY AUTHORITY
Meeting Minutes
July 31, 2013

The following are the minutes from the meeting of the Buffalo Fiscal Stability Authority (the “BFSA”) held on Wednesday, July 31, 2013, in the Buffalo Market Arcade Complex. The meeting was called to order at 1:02 PM.

Board Members Present

Arthur, Brown (proxy), Doherty, Floss, Jurasek, Messiah, Olsen, and Poloncarz (proxy)

Board Members Absent

Giardino

Staff Present

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

Additionally Present

James L. Magavern, Esq., Magavern, Magavern, & Grimm, LLP
Larry Rubin, Esq., Kavinoky Cook, LLP

Opening Remarks

Chair Olsen called the meeting to order. The meeting’s agenda included:

- A review of recommendations from the BFSA Governance Committee to approve various BFSA guidelines and policies as well as the annual Procurement Report and annual Prompt Payment Report;
- A brief organizational overview;
- A review of a recent binding Interest Arbitration Award issued on behalf of the City of Buffalo (the “City”) and the Buffalo Police Benevolent Association (the “PBA”), the union representing City police officers;
- A brief discussion on the Buffalo Municipal Housing Authority’s intent to issue conduit debt involving construction projects related to two low-income senior housing facilities within the City;
- Extension of 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 noted that the Board book material included the annual Code of Ethics certification which needed to be signed and submitted by all BFSA Directors, excluding Mayor Brown and County Executive Poloncarz, and including all members of the BFSA staff. Additionally, a confidential Board evaluation had been provided to all Board members. The forms needed to be completed and returned to the BFSA. The Governance Committee will review the confidential submissions at the September 23, 2013 Board meeting and prepare a summarization of all of the input.

Roll Call of Directors

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

City of Buffalo Corporation Counsel, Mr. Timothy Ball, represented Mayor Byron W. Brown, in accordance with Subdivision 1 of §3853 of the BFSFA Act.

Erie County Constituent Services Assistant, Mr. Leonard Williams, represented County Executive Mark C. Poloncarz, in accordance with Subdivision 1 of §3853 of the BFSFA Act.

Subdivision 1 of §3853 of the BFSFA 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 June 19, 2013 Minutes

Chair Olsen advanced the agenda to the first item for consideration: a review of the draft meeting minutes from June 19, 2013. He introduced Resolution No. 13-09, “Approving Minutes from June 19, 2013.”

Secretary Arthur offered a motion to approve Resolution No. 13-09.

Director Mesiah seconded the motion.

**RESOLUTION NO. 13-09
APPROVING MINUTES FROM JUNE 19, 2013**

BE IT RESOLVED that the Buffalo Fiscal Stability Authority hereby approves the minutes of its meeting on June 19, 2013.

BE IT FURTHER RESOLVED that the Buffalo Fiscal Stability Authority ratifies and affirms Resolution Nos. 13-06 through 13-08 that were approved on June 19, 2013.

The Board voted 8-0 to approve the resolution.

BMHA Discussion

Proposed Conduit Debt Issuances

Chair Olsen reordered the agenda and introduced the next item for consideration: the proposed conduit debt issuance for the Buffalo Municipal Housing Authority (the “BMHA”). Under an advisory period, the BFSFA Act requires that the BFSFA review and comment on the terms of any proposed borrowing and discuss the prudence of each proposed issuance. There were two proposed borrowings on the behalf of two separate third parties.

Chair Olsen asked Executive Director Jeanette Mongold-Robe to provide a summary of the proposed conduit debt issuances.

Ms. Mongold-Robe noted that Mr. Larry Rubin, BMHA's legal counsel on the debt issuances, was in attendance and could answer Directors' questions regarding the proposed transaction. She addressed the Board and provided the following information:

Introduction

- The Buffalo Municipal Housing Authority has been requested to issue tax-exempt debt on behalf of two separate third parties;
- The purpose of the bonds is to fund the rehabilitation of two separate, low-income senior housing facilities;
- The issuance of tax-exempt debt is necessary for the developers to qualify for a 4% federal tax credit program. The transaction is similar in nature to the BMHA's bond issuance for Walden Park Senior Apartments, approved by the BFSA in December of 2011;
- 50% of the eligible costs are to be bonded in order for the developers to qualify for a federal tax credit;
- In exchange for the issuance of the debt, the BMHA will receive an administrative fee equal to approximately 1% of the total principal amount of the bond;
- The bonds are not considered debt of the BMHA or of the City of Buffalo and are non-recourse to both the BMHA and the City. If a default was to occur, the liability falls on neither the BMHA nor the City;
- The two projects include low-income senior housing at the following locations:
 - Hertel Park;
 - Trinity Towers.

Conduit Debt Defined

- *“An organization, usually a government agency, that issues municipal securities to raise capital for revenue-generating projects where the funds generated are used by a third party (the "conduit borrower") to make payments to investors. The conduit financing is typically backed by either the conduit borrower's credit or funds pledged toward the project by outside investors. If a project fails and the security goes into default, it falls to the conduit borrower's financial obligation, not the conduit issuer.”*

Director Floss asked for confirmation that, in the event of a default on the debt, the tenants would not be adversely impacted with increased rents or otherwise. Ms. Mongold-Robe asked Mr. Rubin to address the question.

Mr. Rubin addressed the Board. The rental rates are regulated. Oversight of the projects is by both the Buffalo Municipal Housing Authority and the New York State Department of Housing and Urban Development. Monthly rents may not exceed 30% of the area's median income. If the project were to go into default, the rent-controls would remain in place for approximately 30 to 40 years.

Ms. Mongold-Robe continued with her presentation.

Proposed Debt Issuance – Hertel Park

- Owned by Hertel Park Associates, LLC;
- Located at 1631 Hertel Avenue, Buffalo, New York;
 - 138 low-income, senior apartment complexes;
- The maximum amount of principal to be borrowed is \$6.0 million;
- The bond will be privately placed with an interest rate of 5.35%;
- The debt issuance will be structured as a lease/leaseback transaction with a BMHA affiliate local development corporation;
- The structured lease payments equal the debt service payments;
- An additional Residential Housing Fund (“RHF”) loan of approximately \$2.7 million will be provided by BMHA;
- The Buffalo Urban Renewal Agency will provide an additional loan of \$700,000 from Housing Opportunities Made Equal (“HOME”) grant funds;
- BMHA’s administrative fee is estimated at \$55,000;
- There is the potential for future income to BMHA from the interest on the RHF loan.

Proposed Debt Issuance – Trinity Towers

- Owned by Trinity Tower Apartments II, LLC;
- Located at 25 Linwood Avenue, Buffalo, New York;
 - 83 low-income, senior apartment complexes;
- The maximum amount of principal to be borrowed is \$10.0 million;
- The bond will be privately placed with an interest rate of 5.35%;
- The draft bond purchase agreement is \$3.11 million;
- The debt issuance will be structured as a lease/leaseback transaction with a BMHA affiliate local development corporation;
- BMHA’s administrative fee is estimated at \$50,000;
- Unlike the Hertel Park debt issuance, there are no RHF loan or HOME loan proceeds.

Ms. Mongold-Robe reiterated that BMHA was a conduit borrower for both proposed debt issuances and therefore had no liability in the event that there was a default on either of the borrowings. BMHA will serve as the issuer of tax-exempt debt to allow the developers to obtain the federal tax credits available, and to provide for improvements to low-income senior housing.

She asked if any of the Directors had further questions regarding the proposed conduit debt issuances. Hearing none, she concluded her presentation.

City of Buffalo

Interest Award Arbitration

Chair Olsen advanced the agenda to the next item for consideration: a review of the interest arbitration award issued on behalf of the City of Buffalo and the PBA. The award was issued on July 16, 2013 and covers the fiscal years ended June 30, 2008 and June 30, 2009. He asked Ms. Mongold-Robe to summarize the interest arbitration award.

Ms. Mongold-Robe addressed the Board and provided the following summary:

Introduction

- The Interest Arbitration Award was executed on July 16, 2013;
- The arbitration panel's decision was not unanimous. The PBA representative dissented;
- The PBA's most recent agreement expired on June 30, 2007. It was executed prior to the creation of the BFSA and was current when BFSA imposed a wage-freeze. As such, the contractual 3.4% wage increases associated with the labor agreement were provided on July 1, 2007, 2008, and 2009, following the lifting of the wage-freeze.

Chair Olsen noted that the actual wage increases given to members of the PBA were approximately 4% given both the Interest Arbitration Award and the contractual wage increases. Ms. Mongold-Robe concurred and noted that the collective bargaining agreement between the City and the PBA was the only City labor agreement which was current during the period of the BFSA-imposed wage freeze.

Interest Arbitration Award – Key Provisions

- Salary Increases:
 - 1% awarded effective June 30, 2008;
 - 2% awarded effective June 30, 2009.

The awards are effective on the final day of the fiscal year rather than the first day of the fiscal year. The Interest Arbitration Award increases are in addition to the contractual increases of 3.4%, as noted by Chair Olsen.

Secretary Arthur asked if this had been the impetus for the PBA representative's dissenting vote. Ms. Mongold-Robe noted that this was one of several reasons stated in the multiple page dissenting opinion issued by the PBA's arbitration panel representative. Additionally, the representative disagreed with the elimination of the cosmetic surgery rider.

Interest Arbitration Award – Key Provisions (continued)

- Longevity Pay:
 - Increase of \$30 per year of service, for a total of \$155/year;
 - The maximum number of years is 25 years;
 - At 25 years or longer of service, an individual earns \$3,875 in longevity pay;
- Health insurance:
 - The cosmetic surgery rider was eliminated;
 - No other health insurance terms were addressed;
- Management Rights:
 - Management received the right to make biannual adjustments to manpower levels on January 15 and July 15 of each year;
 - No other management rights were addressed.

Chair Olsen questioned why health insurance changes had not been issued similar to the changes seen in the recently settled collective bargaining agreement between the City and the Buffalo Professional Firefighters' Association ("BPFA").

Director Floss asked if the City would logistically be able to offer a healthcare plan that excluded the cosmetic surgery rider.

Ms. Mongold-Robe confirmed that the City would be able to offer the current healthcare plan without the cosmetic surgery rider. The PBA is the only remaining City collective bargaining unit to receive the cosmetic surgery rider benefit. There is an expectation that the cost of the health insurance premium for the particular plan will be reduced; the cosmetic surgery portion of the premium's cost was comprised of both the rider's cost as well as the cost of actual surgeries. Necessary cosmetic surgery continues to be provided to the PBA; only elective cosmetic surgery has been eliminated.

Chair Olsen noted that the cosmetic surgery costs were not self-funded, unlike the mechanism by which the Buffalo City School District (the "District") provides cosmetic surgery for eligible employees.

Ms. Mongold-Robe confirmed this and noted that the District had moved to a single-carrier to provide health insurance several years ago to reduce health insurance expenditures. The move was unilateral and was subsequently litigated. The District lost the litigation and was required to restore the health insurance plans previously offered. The health insurance companies would no longer honor the previous plans, resulting in the District going into a self-funded plan.

Ms. Mongold-Robe continued her summary of the Interest Arbitration Award.

Interest Arbitration Award – Estimated Costs

- The total estimated retroactive cost of the Interest Arbitration Award is nearly \$12.5 million;
- The costs are comprised of the retroactive 2008 award, the retroactive 2009 award, the increased longevity payment, as well as the increased employer payroll taxes and pension contributions;
- The retroactive costs of the Interest Arbitration Award have been fully accrued in prior fiscal years; the City will not need to modify its 2013-2014 Adopted Budget to reflect an additional \$12.5 million expenditure as a result of the award. By accruing the costs associated with settled labor agreements, the City has been prudently addressing the anticipated expenditures. The funds accrued may only be used for settled labor agreements and may not be redesignated for any other purposes.

Director Floss asked if the prior years' budgets would need to be modified to reflect the retroactive costs of the Interest Arbitration Award. Ms. Mongold-Robe responded that the earlier budgets would not be modified; the City accrues annually for settled labor contract costs. The Final 2014-2017 Financial Plan may need to be modified and/or amended to address the prospective costs associated with the Interest Arbitration Award. BFSAs staff is working in collaboration with the City's Finance Department to ascertain if this is required.

Chair Olsen noted that this practice was different to the approach taken by the District. The District has historically not accrued for the anticipated costs associated with settling labor contracts but rather has reserved Assigned Fund Balance for this purpose. This is a less prudent

practice than the City's budgeting practice as funds which had previously been assigned for settled labor agreements have since been redesignated for general operations.

Interest Arbitration Award – Estimated Costs

- Prospective costs are estimated at \$10.7 million through fiscal year 2016-17;
- The current year economic impact is estimated at \$2.7 million;
- The costs appear to be provided for under the current Financial Plan.

Director Floss asked for detail on the methodology used to determine the pension contribution costs associated with the Interest Arbitration Award. Ms. Mongold-Robe noted that the effective marginal pension contribution rates from prior fiscal years would be utilized. The City has the option of either selecting the effective marginal rate from the current year or the effective marginal rates from each impacted year of the award. The effective marginal rate in the current year is higher than it has been in the previous years; it is advantageous to select the prior years' rates.

Ms. Mongold-Robe concluded her summary of the Interest Arbitration Award.

Chair Olsen reiterated that the compensation increases included in the award were in addition to the salary increases previously provided as associated with the previous collective bargaining agreement.

BFSA Business

Organizational Overview

Chair Olsen advanced the agenda to the next item for consideration: an overview of BFSA's organizational hierarchy. He asked Ms. Mongold-Robe to provide a summary for the Board.

Ms. Mongold-Robe addressed the Board and provided the following summary:

Standing Committees

- BFSA currently has two standing committees:
 - the Audit, Finance and Budget Committee, and
 - the Governance Committee.

Audit, Finance, and Budget Committee

- This committee assists the Directors in fulfilling their responsibilities with respect to approving annually the BFSA's budget, the review of financial operations and controls, the review of accounting policies and reporting practices and sufficiency of audit procedures, and reviewing the BFSA's annual audited financial statements with the independent auditors;
- The committee's current membership is as follows:
 - Chair Olsen – Committee Chair;
 - Director Floss;
 - Director Mesiah;
 - Additional Directors participate in the committee proceedings at the request of the Committee Chair.

- The committee generally meets three to four times annually;
- Meeting agendas typically include:
 - BFSA’s proposed budgets and four year financial plans;
 - Independent audits of the BFSA;
 - BFSA’s annual report;
 - Additional meetings are called by the Committee Chair as necessary and/or at the request of the committee’s membership.

Governance Committee

- The committee is responsible for keeping the Board informed of current best governance practices, reviewing corporate governance trends, and reviewing and updating the Authority’s corporate governance principles;
- The committee’s current membership is as follows:
 - Chair Olsen – Committee Chair;
 - Vice-Chair Doherty;
 - Secretary Arthur;
 - Additional Directors participate in the committee proceedings at the request of the Committee Chair.
- The committee generally meets two to three times annually;
- Meeting agendas typically include:
 - The review, renewal, and/or modification of existing operational policies;
 - A review of BFSA’s internal audits;
 - The implementation and recommendations of new policies and procedures as well as ensuring compliance with New York State laws;
 - The annual Board self-evaluation;
 - Additional meetings are called by the Committee Chair as necessary and/or at the request of the committee’s membership.

BFSA Staff

- BFSA employees five staff members:
 - Ms. Mongold-Robe – Executive Director: Ms. Mongold-Robe serves as the head of BFSA’s staff and is responsible for reporting directly to the BFSA Board of Directors;
 - Mr. Bryce Link - Principal Analyst/Media Liaison: Mr. Link serves as the principal analyst over the City of Buffalo and the Buffalo Urban Renewal Agency, and also serves as the media liaison;
 - Mr. Nathan Miller - Financial Analyst/Manager of Technology: Mr. Nathan Miller serves as the financial analyst over the District and handles all of the technology needs of the BFSA;
 - Mr. Robert L. Miller – Comptroller: Mr. Robert L. Miller primarily serves as the Comptroller of the BFSA, which responsibilities include items such as managing BFSA’s investments, compliance with financial regulations and managing all accounting related aspects of the BFSA. Secondly, Mr. Miller serves as the financial analyst over the Buffalo Municipal Housing Authority;
 - Vacant – Administrative Assistant: Ms. Carmen Tyler formerly served as BFSA’s Executive Administrative Assistant. The position has been restructured

following her departure and is expected to be filled in the near future. BFSA has advertised the position in a number of publications and has received over 200 applications for the position.

Ms. Mongold-Robe provided a summary of the negotiating units associated with the City of Buffalo, the Buffalo City School District, the Buffalo Urban Renewal Agency, and the Buffalo Municipal Housing Authority.

Negotiating Units – City of Buffalo

- Most collective bargaining units are currently out of contract;
- Only one union, the Buffalo Professional Firefighters Association, has a current labor contract;
- The City has accrued funds for the estimated retroactive costs associated with settling the expired collective bargaining agreements.

Chair Olsen reiterated that the City's practice of accruing for the retroactive costs associated with settling collective bargaining agreements was superior to the District's method of reserving fund balance for future settlements. The District has been re-appropriating the fund balance which had been set aside for future labor negotiations for general operations. As a result, fewer funds are available to settle labor contracts making the resolution of expired labor contract more difficult.

Negotiating Units – Buffalo City School District

- Most collective bargaining units are currently out of contract;
- The District employs a number of part-time employees whose wages are subject to the District's Living Wage Policy.

Negotiating Units – Buffalo Municipal Housing Authority

- All collective bargaining units are currently out of contract;
- Exempt employees are at-will employees without formal, written contracts. Their compensation generally mirrors the compensation given to the BMHA's white-collar union.

Negotiating Units – Buffalo Urban Renewal Agency

- All collective bargaining units are currently out of contract;
- There is a significant drop in the number of current employees when compared with the historical staffing levels. The clean-and-seal team was eliminated when the U.S. Department of Housing and Urban Development determined that the grant funds utilized to pay these employees' compensation could no longer be used for this purpose. Additionally, most of the financial oversight functions previously performed by the Buffalo Urban Renewal Agency have been transferred to the City of Buffalo Comptroller's Office, further reducing the need for staffing.

Ms. Mongold-Robe concluded her summary.

BFSA Guidelines and Policies

Chair Olsen advanced the agenda to the next item for consideration: a review of various BFSA guidelines and policies as well as the Annual Procurement Report and Annual Prompt Oayment Report. The Governance Committee had met prior to the full Board meeting and reviewed all of the items and voted to send all of the items to the full Board for review with a recommendation to approve all of the items.

Secretary Arthur offered a motion to take all of the resolutions in unison and to approve the items.

Director Floss seconded the motion.

**RESOLUTION NO. 13-10
APPROVING THE BYLAWS OF THE BUFFALO FISCAL STABILITY AUTHORITY**

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

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

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

WHEREAS, the BFSA most recently adopted revised Bylaws by Resolution No. 12-33 at its meeting on December 5, 2012; and

WHEREAS, the BFSA desires to review and adopt the organization’s Bylaws on a regular basis, as a good governance practice; and

WHEREAS, upon reviewing the Bylaws, it was determined that modifications were required in order for such Bylaws to be compliant with provisions of the BFSA Act; and

WHEREAS, the Governance Committee of the BFSA has reviewed the amended Bylaws and has recommended they be adopted by the BFSA Board of Directors.

NOW THEREFORE BE IT RESOLVED that the BFSA does hereby accept the recommendation of the Governance Committee and approves the revised Bylaws in its present form.

**RESOLUTION NO. 13-11
ADOPTING A CODE OF ETHICS**

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

WHEREAS, as a public authority, BFSA is subject to regulation by the State of New York, whether in the form of State law, the Governor's Executive Orders or rules and regulations promulgated by the State Comptroller; and

WHEREAS, the Public Authorities Accountability Act of 2005 establishes a wide range of duties and responsibilities for state and local public authorities to promote the highest standards of ethical practices by authority staff and members, and thereby to engender public confidence in their activities; and

WHEREAS, one such requirement is the adoption of a Code of Ethics that, at a minimum, reflects the standards set forth in Sections 73 and 74 of the Public Officers Law; and
WHEREAS, the BFSA initially adopted a Code of Ethics by Resolution No. 06-50 at its meeting on August 9, 2006; and

WHEREAS, the BFSA most recently adopted its Code of Ethics by Resolution No. 12-19 on August 1, 2012; and

WHEREAS, a review of BFSA's current Code of Ethics found that minor modifications were required to correct minor grammatical and omission errors; and

WHEREAS, the Code of Ethics Appendix A, "Public Officers Law, Section 73, Business or Professional Activities by State Officers and Employees and Party Officers," and Appendix B, "Public Officers Law, Section 74, Code of Ethics," were amended to reflect minor updates to these sections of the Public Officers Law; and

WHEREAS, the Governance Committee of the BFSA has reviewed the attached Code of Ethics and has recommended its adoption by the BFSA Board.

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby adopt the attached Code of Ethics applicable to the BFSA's Directors appointed by the Governor and to BFSA employees and former employees to ensure the highest level of honesty, ethical conduct and public trust in all of the BFSA's activities.

**RESOLUTION NO. 13-12
ADOPTION OF BFSA MISSION STATEMENT**

WHEREAS, Chapter 122 of the Laws of 2003, as amended, created the Buffalo Fiscal Stability Authority ("BFSA"); and

WHEREAS, the BFSA, as a New York State public authority, is subject to the provisions of the Public Authorities Accountability Act of 2005, as modified by Chapter 506 of the Laws of 2009 ("Public Authorities Law"); and

WHEREAS, Section 2824-a of Public Authorities Law requires state public authorities to develop and adopt a mission statement; and

WHEREAS, the BFSA's Board of Directors is expected to review, amend as necessary, and approve or reaffirm the Mission Statement of the BFSA annually; and

WHEREAS, the BFSA Board of Directors approved the initial adoption of the Mission Statement on October 3, 2011 and approved the modified mission statement on August 1, 2012; and

WHEREAS, upon reviewing the Mission Statement, BFSA staff determined that no modifications were necessary; and

WHEREAS, the Governance Committee of the BFSA has reviewed the Mission Statement of the BFSA and has recommended its reaffirmation by the BFSA Board of Directors.

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby accept the recommendation by the Governance Committee and reaffirms the Mission Statement in its present form.

**RESOLUTION NO. 13-13
APPROVING BFSA INVESTMENT GUIDELINES**

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

WHEREAS, Section 2925 of the New York State Public Authorities Law requires public authorities to develop investment guidelines that establish a set of basic procedures to meet investment objectives, assure that investment assets are adequately safeguarded and collateralized, establish and maintain a system of internal controls including adequate accounts and records which reflect investment transactions and provide for accurate reporting and evaluation of investments in conformance with generally accepted accounting principles; and

WHEREAS, Section 3854 of the Buffalo Fiscal Stability Act directs BFSA as to permissible investments of public funds not subject to provisions of contracts with bondholders; and

WHEREAS, in order to further comply with State law, it is necessary for the BFSA to review the adopted Investment Guidelines at least annually; and

WHEREAS, the BFSA initially adopted investment guidelines by Resolution 04-02 on January 21, 2004; and

WHEREAS, the BFSA has annually readopted investment guidelines as required by law with the most recent having occurred via Resolution No. 12-21 on August 1, 2012; and

WHEREAS, upon a review of the current Investment Guidelines, the BFSA has determined that minor modifications were required to update the policy and to correct minor grammatical errors; and

WHEREAS, the BFSA's Governance Committee has reviewed and has recommended the approval of the proposed Investment Guidelines.

NOW THEREFORE BE IT RESOLVED, that the Board of Directors of the Buffalo Fiscal Stability Authority hereby approve the Investment Guidelines as attached to this resolution.

RESOLUTION NO. 13-14
APPROVAL OF PROPERTY DISPOSAL GUIDELINES

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

WHEREAS, §2895 - 2897 of New York State Public Authorities Law requires public authorities to adopt comprehensive guidelines which detail the Authority's operative policy on the disposal of personal property valued in excess of five thousand dollars; and

WHEREAS, the BFSA has developed and implemented property disposal guidelines to comply with this requirement; and

WHEREAS, the BFSA originally approved the Property Disposal Guidelines by Resolution No. 06-69 on November 9, 2006; and

WHEREAS, the BFSA most recently adopted the Property Disposal Guidelines on August 1, 2012 by Resolution No. 12-22; and

WHEREAS, upon a review of the current Property Disposal Policy, BFSA staff has determined that no amendments or changes are necessary; and

WHEREAS, the BFSA's Governance Committee has reviewed the draft Property Disposal Policy and has recommended its approval by the Buffalo Fiscal Stability Authority's Board of Directors.

NOW THEREFORE BE IT RESOLVED, that the Board of Directors of the Buffalo Fiscal Stability Authority does hereby affirm the property disposal guidelines as required by §2895 - 2897 of New York State Public Authorities Law.

BE IT FURTHER RESOLVED, that the BFSA Comptroller is affirmed as the "Contracting Officer" who shall be responsible for the disposition of property is hereby affirmed.

RESOLUTION NO. 13-15

ADOPTING THE USE OF DISCRETIONARY FUNDS POLICY STATEMENT

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

WHEREAS, as a public authority, the BFSA is subject to regulation by the State of New York, either in the form of rules and regulations promulgated by the State Comptroller or legislation approved by the State Legislature and signed into law by the Governor; and

WHEREAS, §2824(1)(b) of the Public Authorities Law requires directors to understand, review and monitor the implementation of fundamental financial and management controls and the operating decisions of the Authority; and

WHEREAS, the New York State Authorities Budget Office recommends that all state and local authorities adopt written policies that specifically delineate the proper use of an authority’s discretionary funds; such policy should address not only what constitutes a proper discretionary expenditure related to the mission and public purpose of the authority, but also address what would be considered an improper use of those funds; and

WHEREAS, a Use of Discretionary Funds Policy Statement has been developed to comply with this recommendation; and

WHEREAS, the BFSA’s Governance Committee has reviewed the drafted Use of Discretionary Funds Policy Statement and has recommended its approval by the BFSA.

NOW THEREFORE BE IT RESOLVED, that the Board of Directors of the Buffalo Fiscal Stability Authority does hereby approve the Use of Discretionary Funds Policy Statement.

RESOLUTION NO. 13-16

REVIEW AND APPROVAL OF WHISTLEBLOWER POLICY

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

WHEREAS, as a public authority, BFSA is subject to regulation by the State of New York, whether in the form of State law, the Governor’s Executive Orders or rules and regulations promulgated by the State Comptroller; and

WHEREAS, the Public Authorities Accountability Act of 2005 establishes a wide range of duties and responsibilities for state and local public authorities to promote the highest standards of ethical practices by authority staff and members, and thereby to engender public confidence in their activities; and

WHEREAS, the BFSA has established and adopted a Code of Ethics; and

WHEREAS, the BFSA originally adopted a Whistleblower Policy on January 28, 2008 by Resolution No. 08-03; and

WHEREAS, BFSA last reaffirmed the Whistleblower Policy on August 1, 2012 by Resolution No. 12-24; and

WHEREAS, it is desired to have the BFSA's Board of Directors annually review and approve the Whistleblower Policy as it represents a significant internal control mechanism; and

WHEREAS, upon review of the current Whistleblower Policy, BFSA staff has determined that no amendments or changes are necessary; and

WHEREAS, the BFSA Governance Committee has reviewed the Whistleblower Policy in its present form and recommended its approval by the full Board of Directors.

NOW THEREFORE BE IT RESOLVED, that the BFSA hereby approves the Whistleblower Policy dated July 31, 2013.

**RESOLUTION NO. 13-17
READOPTING THE LOBBYING CONTACT POLICY AND REAPPOINTMENT OF
LOBBYING CONTACT OFFICER**

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

WHEREAS, Public Authorities Law, Article 10-D, Title 2, §3854(12) provides that the BFSA Board of Directors shall appoint officers and employees as it may require; and
WHEREAS, as a New York State public authority, the BFSA is subject to the requirements of Public Authorities Law, Article 9, Title 12-A, §2987, "Public Authorities Lobbying Contacts"; and

WHEREAS, Public Authorities Law, Article 9, Title 12-A, §2987(4) requires that New York State public authorities adopt a Lobbying Contact Policy and appoint an officer to oversee the requirements of the Lobbying Contact Policy; and

WHEREAS, the BFSA initially adopted the Lobbying Contact Policy by Resolution, No. 11-42 on December 7, 2011; and

WHEREAS, upon review of the current Lobbying Contact Policy, it was determined that no amendments or changes were necessary; and

WHEREAS, the BFSA's Governance Committee has reviewed and has recommended the re-adoption of the proposed Lobbying Contact Policy and the reappointment of the Comptroller to Lobbying Contact Officer.

NOW THEREFORE BE IT RESOLVED, that the BFSA does hereby readopt the Lobbying Contact Policy.

BE IT FURTHER RESOLVED, that the BFSA does hereby reappoint the position of BFSA Comptroller to the position of Lobbying Contact Officer, who shall serve in this capacity along with his/her regularly assigned duties at no additional rate of compensation.

**RESOLUTION NO. 13-18
APPROVAL OF PROCUREMENT GUIDELINES**

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

WHEREAS, the BFSA requires professional assistance in performing its mission; and

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

WHEREAS, in order to comply with State law it is necessary for the BFSA to adopt and review at least annually its Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts ("Procurement Guidelines"); and

WHEREAS, BFSA initially established its Procurement Guidelines through the adoption of Resolution No. 03-36, "Approving Procurement Policies For Certain Contracts" on October 7, 2003; and

WHEREAS, BFSA has annually reviewed, amended as needed, and adopted its Procurement Guidelines to be in compliance with all applicable Federal laws, State laws, and Gubernatorial Executive Orders and Proclamations; and

WHEREAS, BFSA most recently adopted Resolution No. 12-23, "Approval of Procurement Guidelines" on August 1, 2012; and

WHEREAS, upon reviewing the Procurement Guidelines, BFSA staff determined minor modifications were necessary to provide for clarity and/or continuity; and

WHEREAS, the BFSA's Governance Committee has reviewed the Procurement Guidelines and recommended its approval by the BFSA Board of Directors.

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby approve and adopt the Procurement Guidelines as dated July 31, 2013.

RESOLUTION NO. 13-20

READOPTING THE PROMPT PAYMENT POLICY STATEMENT

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

WHEREAS, as a public authority, the BFSA is subject to regulation by the State of New York, either in the form of rules and regulations promulgated by the State Comptroller or legislation approved by the State Legislature and signed into law by the Governor; and

WHEREAS, §2880 of the Public Authorities Law requires public authorities to promulgate rules and regulations detailing its prompt payment policy and to periodically review the same; and

WHEREAS, the BFSA has developed and implemented a Prompt Payment Policy statement to comply with this requirement; and

WHEREAS, the BFSA originally adopted its Prompt Payment Policy statement on September 28, 2006 by Resolution No. 06-61; and

WHEREAS, the BFSA most recently readopted its Prompt Payment Policy statement on August 1, 2012 by Resolution No. 12-25; and

WHEREAS, no modifications to the Prompt Payment Policy were deemed necessary; and

WHEREAS, the BFSA’s Governance Committee has reviewed the Prompt Payment Policy and recommends its approval by the BFSA.

NOW THEREFORE BE IT RESOLVED, that the Board of Directors of the Buffalo Fiscal Stability Authority does hereby affirm its Prompt Payment Policy statement.

Director Jurasek noted his extensive review of both the proposed Bylaws and the proposed Code of Ethics. No provisions were included in either document addressing the dutifulness of a Director’s meeting attendance. One Director has been absent for every meeting for the past several years. This is a serious problem.

Director Jurasek asked whether a mechanism to address a Director’s absenteeism existed or if the issue was beyond the jurisdiction of the Board. Chair Olsen replied that the Board of Directors had no authority to remove a Director. All Directors, with the exception of the ex-officio members, are ultimately appointed by and serve at the pleasure of the Governor. Many organizations have a policy whereby a member may be removed from a board following a specified number of unexcused absences. The BFSA staff has notified the Governor’s appointment office of the issue. Ms. Mongold-Robe noted that the Director alluded to in the

conversation was appointed to the Board by the Governor after a joint recommendation by the New York State Senate and Assembly.

Chair Olsen replied that the New York State Western Delegation could help initialize the process of replacing Director Giardino from the Board. Mr. Giardino does not consider himself a member of the Board. The position has been vacant for a considerable amount of time.

Secretary Arthur noted that the BFSA Board has previously publically requested on three or four occasions that a new Director be appointed to the Board to replace Director Giardino.

Director Floss offered to reach out to members of the New York State Western Delegation regarding the issue.

Chair Olsen lamented the lack of private sector representation on the Board and expressed his preference that a new Director with this background be appointed.

Secretary Arthur offered a motion to send correspondence to both the New York State Speaker of the Assembly and the New York State Senate Majority Leader to resolve the issue.

Director Jurasek seconded the motion.

The Board voted 8-0 to send correspondence to the both the New York State Speaker of the Assembly and the New York State Senate Majority Leader to resolve the issue.

Chair Olsen noted that the BFSA would shortly be involved in lobbying with the New York State Legislature to advocate for legislative changes that will help the City of Buffalo and the District.

Secretary Arthur stated that the BFSA Act had been rushed and was politically motivated. BFSA's Board is dissimilar to other New York State control boards in that BFSA is the only such entity with ex-officio members. Neither the Mayor of Buffalo nor the Erie County Executive should be members of the Board. Much of the language in the BFSA Act was included in order to embarrass the City of Buffalo.

He noted that a motion had been seconded earlier to approve the following policies and guidelines:

- BFSA Bylaws;
- Code of Ethics;
- Mission Statement;
- Investment Guidelines;
- Property Disposal Guidelines;
- Use of Discretionary Funds;
- Whistleblower Policy;
- Lobbying Policy;
- Procurement Guidelines;
- Prompt Payment Policy.

He requested a vote on the motion.

The Board voted 8-0 to accept the recommendations from the Governance Committee and approve all proposed policies and guidelines.

BFSA Reports

Chair Olsen noted that the Governance Committee had reviewed and forwarded both the Procurement Report and the Prompt Payment Report to the Board with recommendations to approve the items.

Secretary Arthur offered a motion to approve both the Procurement Report and the Prompt Payment Report.

Director Mesiah seconded the motion.

**RESOLUTION NO. 13-19
APPROVAL OF THE ANNUAL PROCUREMENT REPORT**

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

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

WHEREAS, in order to comply with State law it is necessary for the BFSA to adopt and review at least annually its Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts (“Procurement Policies”); and

WHEREAS, BFSA initially established its Procurement Policies through the adoption of Resolution No. 03-36, “Approving Procurement Policies For Certain Contracts”, on October 7, 2003; and

WHEREAS, BFSA most recently adopted Resolution No. 12-23, “Approval of Procurement Guidelines”, on August 1, 2012; and

WHEREAS, the Procurement Policies define a Procurement Contract as “any written agreement of the Authority for the acquisition of goods or services of any kind in the actual or estimated amount of \$25,000, or more”; and

WHEREAS, the provision set forth in Section §2879(2) of New York State Public Authorities Law has set a threshold amount of \$5,000 for contracts used in the acquisition of goods and/or services; and

WHEREAS, the adopted Procurement Policies require that the BFSA “shall annually prepare for approval by the Directors and public availability a report on Procurement Contracts as of the end

of each fiscal year summarizing procurement activity by the Authority for the period of the report, including a listing of all contracts entered into, the selection process used to select such contractors and the status of existing Procurement Contracts”; and

WHEREAS, the BFSA staff have prepared a report titled “Report on Procurement Contracts for the Fiscal Year Ended June 30, 2013” in accordance with the aforementioned policies and State laws; and

WHEREAS, the BFSA’s Governance Committee has reviewed the Report of Procurement Contracts for the Fiscal Year Ended June 30, 2013 and recommends its approval by the Board of Directors.

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby approve the Report of Procurement Contracts for the fiscal year ended June 30, 2013.

**RESOLUTION NO. 13-21
APPROVAL OF THE PROMPT PAYMENT REPORT**

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

WHEREAS, as a public authority, the BFSA is subject to regulation by the State of New York, either in the form of rules and regulations promulgated by the State Comptroller or legislation approved by the State Legislature and signed into law by the Governor; and

WHEREAS, §2879(7) of the Public Authorities Law requires public authorities to annually prepare and approve a report on procurement contracts; and

WHEREAS, §2879(2) of the Public Authorities Law defines a procurement contract as a written agreement for the acquisition of goods or services of any kind, in the actual or estimated amount of five thousand dollars or more; and

WHEREAS, §2880 of the Public Authorities Law requires public authorities to promulgate rules and regulations detailing its prompt payment policy and to periodically review said rules and regulations; and

WHEREAS, the BFSA has developed and implemented a Prompt Payment Policy to comply with this requirement; and

WHEREAS, the BFSA originally adopted its Prompt Payment Policy statement on September 28, 2006 by Resolution No. 06-61; and

WHEREAS, the BFSA most recently adopted its Prompt Payment Policy on August 1, 2012 by Resolution No. 12-25; and

WHEREAS, the BFSA Governance Committee has reviewed the Prompt Payment Report in its present form and recommends its approval by the Board of Directors.

NOW THEREFORE BE IT RESOLVED, that the Board of Directors of the Buffalo Fiscal Stability Authority does hereby approve the 2013 Prompt Payment Report.

The Board voted 8-0 to approve both the Procurement Report and the Prompt Payment Report.

New Business

Direction of Counsel

Chair Olsen noted that all items on the agenda had been discussed and asked if any Director wished to discuss new business. Hearing none, he requested a motion to direct counsel to research and draft proposed legislative changes to aid and assist the City of Buffalo and the Buffalo City School District.

Secretary Arthur offered a motion to direct counsel to research and draft proposed legislative changes to aid and assist the City of Buffalo and the Buffalo City School District.

Director Floss seconded the motion.

The Board voted 8-0 to direct counsel to research and draft proposed legislative changes to aid and assist the City of Buffalo and the Buffalo City School District.

Director Floss recommended that the proposed legislative changes be generic as the changes would likely impact other municipalities and school districts.

Chair Olsen noted that the Board would work in collaboration with the City of Buffalo's Administration and the District's leadership throughout the process.

Buffalo Municipal Housing Authority - Contract with Eric Mower & Associates

Chair Olsen noted that it had come to the Board's attention that the BMHA had entered into a public relations contact with Eric Mower & Associates in excess of \$50,000 while BFSA was in a control period without Board approval as required. The lack of submission for approval appears to be an oversight by BMHA rather than an intentional act. Executive Director Mongold-Robe has subsequently been in contact with BMHA's leadership regarding the lapse.

Buffalo City School District – Structural Issues

Chair Olsen noted that the condition of the District continues to be disappointing. The District has budgetary issues with an operational deficit and lacks a clear plan to address these deficiencies. Additionally, the District has recently lost potential grant funding; the status of the teacher professional performance review plan is uncertain. BFSA has considerable credibility and will be able to effectively lobby for legislative changes to assist the District.

Secretary Arthur noted that the District currently employs a Distinguished Educator, Dr. Judy Elliott. The role of a distinguished educator is to assist low-performing school districts make yearly performance gains for four or more years. Reports have been issued by the Distinguished

Educator to the New York State Department of Education but have not been provided to the BFSA.

Ms. Mongold-Robe replied that all public reports will be requested and forwarded to the Board as soon as they become available.

Director Mesiah expressed his concern that the Board was merely discussing the financial status of the District. The issues within the District go beyond the financial status and include:

- Lack of parental involvement in students' education;
- High student absenteeism rates;
- Other social issues.

The number of students who are exposed to and endangered by drugs, alcohol, and gang violence are much too high. The social issues facing the District need to be addressed along with the financial issues. Further, too much emphasis is placed on test-taking rather than actual learning.

Chair Olsen concurred with Director Mesiah's concerns and noted that both he and Director Floss continue to advocate for involvement by area colleges and universities to begin to address some of the issues raised. Further, the teachers' union and administrators' union need to spend less time in court over disputes and dedicate more time working on solutions.

Director Jurasek sought clarification on the approved motion involving BFSA's legal counsel.

Chair Olsen noted that counsel had been directed to examine potential legislative changes which would be beneficial to the City and the District that BFSA could lobby for.

Director Jurasek noted that the BFSA Act allowed the Board to hold public meetings at any location in New York State. BFSA has the ability to create a legislative advocacy committee, a quorum of which could meet with legislative leaders in Albany or any other desired locale.

Privilege of the Floor

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.

Ms. Marilyn Gallivan addressed the Board. She thanked the Board for its continued hard work and for its advocacy on the behalf of the District.

Adjournment

Chair Olsen requested a motion to adjourn.

Director Floss offered a motion to adjourn.

Director Mesiah seconded the motion.

The Board voted 8-0 to adjourn.

The Board adjourned at 2:08 PM.