# BUFFALO FISCAL STABILITY AUTHORITY
## Meeting Minutes
## March 26, 2014

The following are the minutes from the meeting of the Buffalo Fiscal Stability Authority (the "BFSA") held on Wednesday, March 26, 2014, in the first floor conference room of the Buffalo Market Arcade Complex. The meeting was called to order at 1:00 PM.

**Board Members Present**
Brown (proxy Estrich), Doherty, Mesiah, Olsen, and Poloncarz

**Board Member Excused**
Arthur, Floss, and Jurasek

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

**Additionally Present**
Mr. James Magavern, Esq., Magavern Magavern & Grimm LLP

**Opening Remarks**
Chair Olsen called the meeting to order and reviewed the meeting protocol. He provided an update to the Directors from the Audit, Finance and Budget Committee meeting held earlier. At the Audit, Finance and Budget Committee Meeting, Committee Members authorized the posting of this Authority's 2014-15 Preliminary Budget and related Four-Year Financial Plan in accordance with legal requirements. A copy of this document was provided to the Directors. The preliminary budget and financial plan as prepared by the BFSA Staff in consultation with the officers commences the public commentary period. Chair Olsen called for any comments from the Directors about the budget or financial plan at this time; there were none. Chair Olsen asked for any comments over the next few weeks to be sent to Executive Director Jeanette Mongold-Robe who will circulate updated versions of the budget as they become necessary. Approval of the budget itself will be required at the June board meeting.

Chair Olsen reviewed the agenda for the meeting:

- City of Buffalo
- Review of the City of Buffalo's final fiscal year 2013 operating results;
- Review of the proposed 2014 capital borrowing and final capital plan;
- Review of a proposed labor agreement between the City of Buffalo and the International Brotherhood of Teamsters Local 264; and
- Review of various budget modifications along with the second quarter report.

- <u>Buffalo City School District</u>
- Review of the 2014-2018 Financial Plan Update as requested via BFSA Resolution 13-07 on June 19, 2013; and
- A brief presentation on the District's second quarter results and a recent budget modification.

- <u>Buffalo Fiscal Stability Authority</u>
- A vote to enter into an Executive Session to receive legal advice from Mr. James Magavern, Esq.; and
- Discussion of the New York State 2014-15 Executive Budget and the potential impact to the City and District.

- <u>Buffalo Urban Renewal Agency and Buffalo Municipal Housing Authority</u>
- A review of the second quarter results of the remaining covered organizations, which include the Buffalo Urban Renewal Agency ("BURA") and the Buffalo Municipal Housing Authority ("BMHA").

Chair Olsen noted prior to concluding the meeting, the privilege of the floor would be extended to any member or members of the attending audience who wished to comment for the public record on any actions taken by the BFSA at the meeting.

**<u>Roll Call of Directors</u>**
Chair Olsen called the roll of the members. Finding a quorum present, the meeting commenced.

City of Buffalo Commissioner of Administration and Finance, Ms. Donna Estrich, represented Mayor Byron W. Brown, in accordance with Subdivision 1 of §3853 of the BFSA Act.

Subdivision 1 of §3853 of the BFSA Act reads: *"…The Mayor and the County Executive shall serve as ex officio members. Every director, who is otherwise an elected official of the City or County, shall be entitled to designate a single representative to attend, in his or her place, meetings of the Authority and to vote or otherwise act in his or her behalf. Such designees shall be residents of the City of Buffalo. Written notice of such designation shall be furnished prior to any participation by the signal designee…."*

Chair Olsen noted Mr. John Giardino was no longer a BFSA Director. The position is currently vacant. A joint legislative recommendation to the Governor is required to fill this vacancy.

**<u>Approval of the December 4, 2013, Minutes</u>**
Chair Olsen advanced the agenda to the first item for consideration: a review of the draft meeting minutes from the December 4, 2013, meeting. He introduced Resolution No. 14-01: "Approving Minutes from December 4, 2013," and requested a motion to move the item.

Director Mesiah offered a motion to approve Resolution No. 14-01.

Vice-Chair Doherty seconded the motion.

**RESOLUTION NO. 14-01**
**APPROVING MINUTES FROM DECEMBER 4, 2013**

BE IT RESOLVED that the Buffalo Fiscal Stability Authority hereby approves the minutes of its meeting on December 4, 2013.

BE IT FURTHER RESOLVED that the Buffalo Fiscal Stability Authority ratifies and affirms Resolution Nos. 13-25 through 13-28 that were approved on December 4, 2013.

The Board voted 5-0 to approve Resolution No. 14-01.

**City Items**

***Review of 2013 Audited Financial Statements***

Chair Olsen noted that the City had released its fiscal year ("FY") 2012-13 audited financial statements in December. A copy of the financial statements was provided to each member with the board book. Executive Director, Jeanette Mongold-Robe, provided a summary of the financial statements.

Ms. Mongold-Robe provided a snapshot of the City's final budget vs. actual results for fiscal year-end ("FYE") 2012-13. Total revenues and other financing sources exceeded the final budget by approximately $45 million. Total expenditures and other financing uses were less than the final budget by $26 million. Three key drivers for the positive budgetary variance in expenditures included: vacancies, supplies, and services. The surplus for the year was $52.2 million, a positive shift from operating deficits as reported in the previous two fiscal years.

In reviewing results for 2013, BFSA compared FY 2013 to FY 2012 and reported on significant fluctuations. Total revenues increased $65.5 million over FY 2011-12 primarily due to three transactions: the receipt of Casino revenue, the spin-up/adjustment to State AIM and the reversal of prior year accruals. Actual expenditures decreased $3 million over last year; it is noted that there have been steady increases over the past several years.

A review of the past four years of the City's revenues shows that they remained relatively flat; there were no increases to state aid while both property taxes and sales taxes remained flat. There was a significant increase in revenues from FY 2011-12 to FY 2012-13 resulting from:

- State Aid to Municipalities ("AIM") - Additional AIM revenue in FY 2012-13 of $18.6 million was received, consisting of: a spin-up from New York State of $10.8 million and an accounting adjustment of $7.8 million;
- Casino revenue – Casino revenue of $16 million was received, representing a one-time revenue at this level. The annual recurring amount is estimated at $3 million.
- Miscellaneous Revenue – Miscellaneous Revenue of $32.8 million was reported as a one-time accounting adjustment. This does not represent an increase in dollars but does return funds to Unassigned Fund Balance.

Ms. Mongold-Robe reviewed the historical AIM revenues the City has received since 2003. On average, 35% of all general fund revenues to the City represent State AIM dollars. State AIM also includes the Restricted AIM that the BFSA holds and releases to the City based on their annual budget and request to draw-down the funds.

Historical sales tax revenue represents approximately 15% of total revenues for the City; it remained flat from 2007-08 through 2011-12 and increased 8% in 2012-13.

The 2012-13 tax levy for the City of Buffalo was $138 million consisting of both City and District portions. More than 50% of the tax levy goes to the School District. The levy consists of the amount raised for general operations ($96 million) and debt service ($42 million). The homestead property tax levy comprises 55% of the total with the non-homestead constituting the remaining 45%. The property tax levy has remained flat since 2004-05 with a decrease of $5 million over the past year.

Approximately 80% of all revenues for the City are generated from state aid, real property taxes and sales taxes.

County Executive Poloncarz inquired whether the change in the property tax levy was a result of the rate being dropped, assessments being decreased, or a combination of both. Ms. Estrich replied that the City had held the assessments flat for the last few years and that it was a combination of keeping the assessments flat and reducing the tax levy.

Ms. Mongold-Robe reviewed historical general fund expenditures. During the period from 2008-2012 total expenditures increased 6%; during this same time period revenues increased 1%, creating an imbalance. Expenditures were held relatively flat for FY 2012-13. Operational expenditures decreased by $1 million, largely due to a reduction in personal expenditures (i.e., reduced staffing levels), and other financing uses - interfund transfers out decreased by $1.9 million, due to a decrease in debt service expenditures.

Key areas of City expenditures were reviewed. They include:

- <u>Health insurance costs for active and retired employees</u> - Since 2003, there has been a 97% increase for the cost of health insurance for retirees and a 44% increase for active employees. Annual fluctuations are quite wide and need to be evaluated on an annual basis to determine the reason for fluctuations.

Chair Olsen inquired what accounted for the difference in costs from year-to-year. Ms. Estrich replied there were currently a higher number of retirees than active employees. Retiree health insurance costs for the City were therefore higher. It is anticipated that this trend will continue. Presently, 14% of the General Fund is used for health care costs.

Ms. Mongold-Robe continued her presentation as follows:

- Pension costs have increased over the past several years. Presently 8.5% of total expenditures are for pension costs. Ms. Mongold-Robe noted there is only minor anticipated relief in pension costs for fiscal year 2014-15.

Ms. Mongold-Robe reviewed the summary of total revenues and total expenditures for the General Fund, noting that in FY 2010-11 and 2011-12, expenditures exceeded revenues resulting in a deficit and the subsequent use of fund balance.

Fund balance increased $52.2 million in FY 2012-13. Non-spendable restricted fund balance remained relatively flat; this amount is not accessible to the City for general operations and has a restricted use. There is a long term receivable of $16 million in the Refuse Fund that continues to be carried in this category of fund balance. Committed Fund Balance represents the "rainy day" fund of thirty days of expenditures set aside. Assigned Fund Balance has remained flat; this includes amounts set aside for encumbrances, judgments and claims, and subsequent year's expenditures. The surplus recognized in 2012-13 is reflected in the Unassigned Fund Balance and may be used for purposes as management intends in the future.

Unassigned Fund Balance is $64 million at June 30, 2013. The Unassigned Fund Balance and the Rainy Day Fund combined totals $100 million. The Rainy Day Fund cannot be used unless there is an emergency or unanticipated decrease in revenue.
There was a full valuation performed on the Other Postemployment Benefits ("OPEB") liability for the year ended June 30, 2013. The liability decreased from $1.6 billion to $1.5 billion due to adjustments in the underlying assumptions for estimated mortality rates.

The historical legal taxing margin from 2002-03 through 2012-13 was reviewed. One of the legislative reasons provided when the BFSA was created was the low constitutional taxing margin; it has since increased 222% from $12.9 million to $41.6 million. The historical taxable assessed valuation over this time period was also reviewed; taxable assessed property increased 19.8% from $5.4 billion to $6.4 billion.

The one fund that is problematic is the Refuse Fund which continues to report operating deficits. There was a $6.2 million operating loss for 2012-13 before the $3.2 million transfer from the General Fund; the net loss for the year was $3 million. There continues to be a long-term receivable due to the Solid Waste Fund to the General Fund representing cash borrowed by the Refuse Fund. At some point a plan will be required to address this situation.

Ms. Mongold-Robe concluded her comments on the financial statements. There were no questions from the Directors. Chair Olsen noted the remarkable improvement in the financial statements versus where the City began in 2002-03.

***Capital Borrowing/Update of Capital Plan***
Chair Olsen introduced the City's Proposed 2014 Capital Borrowing. The Capital Plan was reviewed at the December 2013 Board Meeting. Chair Olsen deferred to Ms. Mongold-Robe to review this item.

Ms. Mongold-Robe began the review of this item with background information. The Buffalo Common Council approved the final 2014 Capital Budget for the City in the amount of $22.9 million. Minor modifications were made to the proposed capital budget since it was last before the BFSA Board. The amount of $560,000 was taken from City-wide infrastructure and added to park improvements in the amount of $350,000 and a new project for City-wide community facility building improvements in the amount of $210,000 was added.

Last year the City Comptroller changed the approach to how funds were borrowed. Based on an analysis of the historical spend-down of bond proceeds, it was determined that Internal Revenue Service ("IRS") guidelines were not being adhered to and the City was paying interest expense on idle funds. Unspent bond proceeds at this time last year totaled $37 million; as of January 31, 2014, the amount was $17 million. It appears IRS guidelines are being met, while noting there are outstanding amounts from the 2012 borrowing that need to be spent down over the next two years in order to meet IRS guidelines. The Comptroller's change in the approach went to a basis of determining which projects are "shovel-ready", selling bonds for only those considered to be "shovel-ready" and issuing short-term Bond Anticipation Notes ("BANs") for the rest while applying a maximum borrowing threshold of 85% of the total capital budget. The remaining amount that will not be financed will roll-over into future years. In the event there are insufficient funds available for the 2014 projects, the City Comptroller's office will be able to provide an interfund loan to cover the cost of those projects.

Erie County Executive Poloncarz inquired about the BANs issued for short-term debt for remaining projects not identified as being shovel-ready and asked if the expectation was that they would be shovel-ready within the one-year period and if they would be converted to long-term debt. Ms. Anne Forti-Sciarrino, First Deputy Comptroller for the City, replied that if the project was ready to go but final costs were not yet known, a BAN would be issued for the first year while final costs are formalized. Long-term borrowing will be lined up once the exact costs are known.

Ms. Mongold-Robe continued the review. The 2013 BAN issued was in the amount of $17.8 million; of this amount $14 million will be converted into long-term debt and $2.2 million will be reissued as short-term debt. Of the $3.5 million not financed last year, $200,000 worth of projects were now deemed "shovel-ready" and were added into the project list for this year. The amount paid on the principal was $1.6 million.

The total Capital Plan for 2014 was $22.9 million. Applying the 85% cap brings the total maximum amount to be financed to $19.5 million. The actual amount to be financed is $17 million, $11.7 million of which is "shovel-ready", $5.1 million to be sold as BANs and $6.1 million yet-to-be financed. No District debt is to be issued as the District has cash available from past Joint Schools Construction Board ("JSCB") refundings to be used for capital needs.

Both the BAN and the bond will be competitively sold. The 2014 BAN will be issued in the amount of $7.4 million and comprises projects from both the current year as well as the prior year. The estimated interest rate is 1%. The estimated costs of issuance are $30,200. The 2014 bond will be in the amount of $25.6 million and will have an average life of 9.6 years. The estimated costs of issuance for the bond are $101,700. The City recently received an upgrade from the Standard & Poor's to A+ which puts this rating in line with the ratings by both Moody's Investment Services and Fitch Credit Ratings.

Ms. Mongold-Robe's concluded noting that there is an interest rate risk to this borrowing approach that could result in higher costs to the City if municipal borrowing interest rates were to significantly increase. Such rates have increased approximately .75% over the last year. There were no comments or questions from the Directors.

***City Labor Contract-264T Labor Contract***

Chair Olsen introduced the proposed labor contract between the City and the Local 264T union, representing Water Department employees. Chair Olsen reminded the Directors that their duty is to review this contract only. Chair Olsen deferred to Principal Analyst, Mr. Bryce Link to review this item.

Mr. Link began with an overview of the Memorandum of Agreement ("MOA"). The labor group includes 34 budgeted positions including titles of Caulkers, Machine Operators and Caulker Supervisor 1 and their main function is to maintain and repair the City's water distribution system. As of December 31, 2013, there was a vacancy rate of 26.5% or nine full-time equivalents ("FTE") positions. Employees are funded through the Water Fund with no General Fund impact. The previous Collective Bargaining Agreement ("CBA") expired on June 30, 2004, with members of this group have been out of contract for nearly ten years. This current CBA covers thirteen years from July 1, 2004 through June 30, 2017. There are no retroactive payments for July 1, 2004 through June 30, 2007; salary increases of 2% annually would go into effect effective July 1, 2007. Individuals who retired after July 1, 2007 will receive an increase. The average annual increase as of July 1, 2013 is 14.9%.

Major provisions impacting the contract are:

- Health Insurance
    - Current employees maintain 0% contribution costs and have the option of enrolling in one of three insurance programs;
    - New employees (i.e., employees hired after July 1, 2013) are required to move into the lower cost plan or a plan yet-to-be developed and to contribute 25% for single coverage and 15% for family coverage. The actual cost to the employee per the current health insurance premiums for single coverage is $1,385/year and $2,236 for family coverage.

      Chair Olsen commented there appears to be a noticeable incentive for the family coverage option over the single coverage option.

    - Active employees at retirement with a minimum of 10 years of service will contribute 0% with mandatory enrollment in Medicare Part B when eligible and enrollment into a senior product;
    - New employees at retirement will be required to enroll in the lower cost plan or the new option yet-to-be developed. They will be required to have a minimum of 10 years of service prior to retirement to be eligible, must enroll Medicare Part B with the provision of a senior product, and will have a minimum contribution toward health insurance depending on the number of years of service at retirement.

- Overtime Management
    - Caulker's overtime has been reduced; the standby shift is now Monday through Friday 4 PM to 12 AM and Saturday to Sunday when called in.
    - Reduced Water Service Workers overtime: Caulkers are now authorized to complete water main shut-offs/reconnections.

- Other Provisions
    - Personal Leave - reduced by one-day/year;
    - Vacation - all employees are being moved to a new vacation accrual schedule; time to earn vacation will take longer and there is a reduction in the maximum number of days allowed to be banked;
    - Residency - all employees are required to meet residency and domicile requirements;
    - Boot allowance - required annually if they are not issued boots.

- Funding
    - Costs associated with this MOA have not been budgeted for in this fiscal year or the years over the course of the financial plan;
    - The retroactive component has been fully accrued for and will not have a negative impact on the current year operations;
    - The estimated cost is just over $686,000.

Chair Olsen reminded the Directors that this was not a General Fund expenditure and will be fully covered by the Water Fund; how it is covered is strictly a management decision.

BFSA's conclusions and recommendations are as follows:

- Retroactive costs for the CBA have been fully funded through the annual accrual for unsettled labor contracts;
- No funding source has been identified for the CFY or remaining years of the financial plan to fund these salary increases; and
- Management should update the financial plan to reflect the salary increases and to identify resources to cover the increased costs.

Mr. Link concluded his review. Chair Olsen commented that the contract was well thought out and addressed many problems and begins to share some of the expenses of healthcare between the City and the employees. He congratulated both the City and the union for reaching an agreement, the resolution of which enhances the morale of the employees and benefits City residents. County Executive Poloncarz commended the City administration and union for reaching an equitable resolution.

***Review of Budget Modifications and 2nd Quarter Report***

Chair Olsen introduced the two items remaining on the agenda pertaining to the City including a review of the City's second quarter operating results and the review of a number of budget modifications. Chair Olsen deferred to Mr. Link to review these items.

Mr. Link began the review of the budget modifications. The adopted budgeted expenditures were $482.5 million; there were four key modifications totaling $3.4 million, as follows:

- Demolitions - $1.5 million;
- Police cruisers - $1.1 million;
- Additional road salt - $400,000;
- City Hall cafeteria repairs - $400,000.

The $3.4 million of budget modifications have been funded fully through the increased use of fund balance.

Chair Olsen asked if the increase in road salt was due to the harsh winter, noting the amount of overtime, wear on equipment, and use of road salt are difficult to predict. Ms. Estrich confirmed Chair Olsen's assumptions and noted the extreme weather of this past winter.

Mr. Link moved on to the second quarter year-end projections. The second quarter projected fiscal year end revenue of $472.2 million. The projected expenditures are $486.7 million, with a projected operating deficit of $14.5 million which would be closed utilizing fund balance.

On the revenue side, the following are the major variations compared to the adopted budget:

- Adopted Budget was $470.5 million
    - Add: Casino revenue: $3 million
      Miscellaneous: $200,000
      Interest: $200,000
      Other (net increase in revenue from various lines): $100,000
    - Less: Fines: ($100,000)
      Non-property taxes: ($500,000)
      Service charges: ($300,000)
- Total revised projected revenue: $472.2 million

Vice-Chair Doherty asked about what is driving the decline of fines. Ms. Estrich commented the largest fine decrease is parking fines. Parking enforcement had not been enforced as anticipated due to the severity of the winter's weather.

On the expenditures side, the following are the major variations compared to the adopted budget:

- Adopted Budget was $482.5 million
    - Add: Fire personal services: $3 million
      Police Arbitration award: $2.3 million
      Demolitions: $1.5 million
      Police cars: $1.1 million
      District music program: $400,000

- Less: Fringe benefits: ($2.2 million)
  Vacancies/dept. spending: ($1.7 million)
  Other: ($200,000)

- Total revised projected expenditures: $486.7 million.

In a review of City employees, it was noted there were adopted budgeted FTEs of 2,641; at the end of the second quarter the City had 2,320 positions filled, leaving 321 vacancies or 12.1%. Specifically, fire and police had 1,520 budgeted FTE's and at the end of the second quarter, 1,365 had been filled, leaving a vacancy of 155 FTE's or 10.2%. It is noted the filled FTE count of 1,365 does include the latest class that entered the academy. These individuals will not be fully deployed until the next fiscal year.

Chair Olsen noted the importance of these numbers and noted that the public should be informed, especially critics, that the City is running very leanly which has helped to place it in a better financial standing. He commended the City officials for their hard work.

Mr. Link closed the review with City fiscal year considerations:

- Overtime continues to be monitored, especially in protective services;
- Expired CBA's and potential impact of binding arbitration for police.

Chair Olsen asked about the fiscal years subject to the recent police arbitration; the years were 2009-10 and 2010-11.

There were no further comments or questions by the Directors.

**Buffalo City School District Items**

***District Financial Plan Update***

Chair Olsen moved the agenda to District matters. The first item is to review the report requested by BFSA in June 2013 by a Board resolution in response to the review of the financial plan and certain deficiencies in the plan that were noted. Chair Olsen deferred to Ms. Jeanette Mongold-Robe and the Financial Analyst/Manager of Technology, Mr. Nathan Miller to review the item.

Ms. Mongold-Robe began the presentation with a review of BFSA Resolution No. 13-07. On June 19, 2013 the BFSA Board found the financial plan submitted by the City to be complete and compliant with the BFSA Act subject to certain reservations including:

- The District faces a structural imbalance over the FY 2014-2017 financial plan;
- The financial plan was balanced but dependent on the use of reserves, staffing reductions, the closure of two charter schools and unspecified and unquantified program cuts to non-mandated programs in the three out-years;
- The potential actions to be taken to balance the budget could have a devastating impact on the academic achievement of student;
- The District's actions to close the budgetary gaps were based on yet-to-be-performed studies and analyses;
- The District is faced with a significant level of risk that it will encounter a fiscal crises in the out-years of the financial plan.

In response to these concerns, the BFSA requested a report from the District which would:

- Clearly define and delineate the District's potential actions to close the budgetary gaps in the out-years of the financial plan;
- Provide evidence regarding the likelihood of occurrence for the achievement of additional revenues and budgetary savings;
- Identify specific 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 ("PEG" plan);
- Assess the effect of such changes upon the District's financial stability and the educational achievement and welfare of its students; and
- Identify any changes in state law or policy that would better enable it to perform its mission.

Ms. Mongold-Robe reviewed the General Fund 2014-2017 Programs to Elimination the Gap ("PEG") actions. The initial baseline gap is $166 million. The District has applied $70 million of fund balance leaving a revised gap of $96.5 million. Of the amount of fund balance ($70 million), assigned fund balance that had been set aside for OPEB in the amount of $31 million and fund balance set aside for collective bargaining in the amount of $26 million is being used. Unassigned Fund Balance of $12 million is included; there will not be any unassigned fund balance available for budget purposes after the current fiscal year (FY 2013-14).

Chair Olsen commented that there is a clear understanding that both OPEB and collective bargaining costs will increase in the future. Additionally, he noted that the importance of Unassigned Fund Balance being unavailable in future years and referenced the $35 million balance being retained but again is not available based on the Buffalo Board of Education's fund balance policy.

The revised baseline gap after the use of fund balance is $96.5 million and must be closed either through additional revenues or reductions to expenditures.

The current PEG actions include:

- Staff reductions - $31.5 million
    - Close and consolidate low-enrollment classes;
    - Special education services/staffing reductions/reallocations;
    - The reduction of 50 transportation aides annually.
- Administrative, alternative and/or swing site schools - $3.6 million
    - End the WNED lease;
    - Closure of two swing schools.
- Other reductions to close the gap - $61.4 million
    - Consolidation and cooperation with the City to enhance revenues/reduce costs;
    - Reduction to non-mandated supplemental and enrichment programs,
    - Potential increases in revenues;
    - Further appropriation of fund balance;
    - Equalization of early and late school start times;
    - Closure of two charter schools.

Ms. Mongold-Robe deferred to Mr. Nathan Miller to review the remainder of the report. Mr. Miller provided the following information:

- Staff & service reductions
  - Close and consolidate low-enrolled classes - $16 million
    - Based on externally produced report;
    - Internal District team is currently evaluating;
    - No current, clear plan.
  - Special education services/staffing reductions - $13 million
    - Represents 4.2% of total projected costs;
    - Audit is being performed, anticipated completion in April 2014.

Chair Olsen voiced his concern about the City Schools being under Federal supervision for failure to meet Federal requirements for special education for decades. The prospect of making significant cuts to the program is frightening. The increase in the number of teachers providing special services to children increased due to assuming unmet needs that will get recognized as services improve. Along with other PEG savings, this one is difficult and, while it may be possible to make the cuts, there is concern that they will have adverse effects to the services. The BFSA's concern is not only that the budget is balanced but also that services provided are adequate. Given the track record of the District, some of the cuts are alarming in terms of potential results.

Mr. Miller continued his review of the Financial Plan update.

  - Reduce 50 bus aides annually - $3 million;
    - The reduction continues to be planned. The aides will be transitioned out through attrition. They are School District employees, on the first student buses. Impact on student safety was not quantified by the District in the Financial Plan Update.

- Administrative: facility closures - $3.5 million
  - Two swing schools - $3 million
    - Two schools (temporary sites) being used while construction at other facilities is underway could be closed;
    - 2014-15 building usage plan not yet developed and is anticipated in April/May 2014;
  - Termination of the WNED lease in FY 2015-16 - $500,000

- Other reductions - $61.4 million
  - Consolidation/cooperation with the City - $1.5 million
    - Share of proceeds from sales of school buildings: when a school is returned to the City real estate portfolio, the City retains the funds.
  - Equalization of bell times - $4 million
    - Savings of transportation costs - equalization of bell times would mean less buses on the road and a cost savings;

        - A collaboration with collective bargaining units is needed and has not been agreed upon at this time;
        - Savings from an action such as this would largely be a one-time savings realization given that the District receives an estimated 85% reimbursement for prior year's eligible transportation expenditures;
    - Closure of two charter schools - $28 million

One of the two charter schools anticipated to close, the Pinnacle Charter School, closed earlier than anticipated. The PEG action assumed that savings would be higher; however, the net savings were substantially less due to the added expenditures from hiring additional staff, textbooks, etc..., associated with educating the newly enrolled District students.

Chair Olsen noted his assumption that this PEG action did not contain any discussion about the possible effects of an increase in Charter School costs that would be built into the District. Mr. Miller responded part of the assumption is that charter school enrollment and the per-pupil tuition will increase in the out-years.

Director Mesiah commented it is more than the increase in tuition but an increase in the activities at the high school level, and associated costs of those activities, that don't exist in the primary grades. These costs are unknown.

Discussion continued with Chair Olsen commenting that an unintended result of Say Yes to Education is there may be pressure on the charter schools to move into high schools to keep students in the City; there is also the shifting of students to Catholic schools which has been talked about and may become a reality - all of which will have an effect on the budget.

Mr. Miller continued his review of the Financial Plan update.

- Broad Category: program reductions/additional revenues/use of fund balance - $27.5 million.

Mr. Miller reviewed the list of non-mandated programs and services as provided by the District in response to the BFSA's request. The items included the impact on the 2014-15 fiscal year only rather than for the three outyears of the Financial Plan. Mr. Miller stressed that the items listed are not items that the District was currently recommending be cut but rather a list of non-mandated services and related costs.

The items listed included:

- Reduce out-of-classroom teachers - 255 FTEs - savings of $23.3 million;
- Kindergarten - 100 FTEs - savings of $8.3 million;
- Reduce non-IEP bus aides and non-IEP teacher aides - $7.1 million;
- Eliminate stipends for intramural, interscholastic and modified athletics - savings of $3.1 million;
- Closure of one non-reconstructed public school - savings of $4.8 million;
- Other, including the elimination of non-mandated costs for testing, advanced placement programs, supplemental music and arts programs - savings of $1.6 million.

Ms. Mongold-Robe reiterated that the list of non-mandated programs provided was not a management recommendation but merely an expansion of the PEG action listed in the District's Financial Plan. The Board of Education will need to deliberate and prioritize these cuts and assess the impact from the cuts to the students. The list provided would be the starting point, rather than a prioritized list, for the Board of Education to review and begin to develop a plan on how to close the budget gap. On a broad basis, the financial plan update is incomplete as it did not include all the information requested by the BFSA via Resolution 13-07. There continues to be an unclear understanding of how the budgetary gaps in the out-years will be closed, although a "general roadmap" has been provided. A discussion of the assessment of the impact of these changes on the District's financial stability and the educational achievement and welfare of its students is not practical as these reduced services have not, and cannot, be identified without the Board of Education involvement.

Vice-Chair Doherty asked for clarification whether the Superintendent and the leadership team were making a recommendation to the Board of Education for cuts. Ms. Smith commented that the leadership team goes before the Board of Education annually to discuss budget cuts and the plan for that year. It is difficult to project with certainty four years out when Board Members and situations constantly change. The PEG plan for next year's budget currently is being worked on and there is continuous back and forth between the Leadership Team and the Board of Education members.

Chair Olsen commented that the BFSA Board understands the problems and supports working together. The lack of discussion of the effect these cuts would have on the educational programs of the District is concerning. There needs to be more engagement by the District Administration who is responsible for the quality of education provided. Dialogue with the School Board, the District, the BFSA and parents is critical. Ms. Smith noted that if cuts are needed, the Administration would address that in the most thoughtful and responsible way.

County Executive Poloncarz inquired as to who approved the Financial Plan Update. Ms. Smith replied the School Board has never approved reports such as this. The Superintendent is aware of it.

Mr. Magavern noted that it would be appropriate to discuss the matter in an executive session.

With the District FY 2014-17 Financial Plan Update concluded, Chair Olsen moved onto the next item.

***District 2nd Quarter Review and 2013-14 Budget Modifications***

Chair Olsen introduced the two items remaining related to the District and noted they would be concurrently discussed, including the review of the District's second quarter operating results and one recent budget modification. A copy of the BFSA's report on the second quarter has been provided in the Board book along with a copy of the Board of Education action on the budget modification. Chair Olsen deferred to Mr. Nathan Miller to discuss these two items.

Mr. Miller began his discussion by reviewing a few of the significant subsequent events that occurred since the start of the fiscal year, as follows:

- At the end of the first quarter there were 110 additional FTEs than in the original budget; it has since grown to 213 FTEs. A recommendation from the BFSA at the December 2013 Board Meeting was for the District to modify the budget to reflect the additional salary and benefit costs of newly added positions and identify the funding source and/or budgetary savings in other budgeted expenditures to balance the budget.
  - Since then, the positions have been fully budgeted for via budget transfers. Total budgeted General Fund expenditures have not increased;
- In December 2013, NYSED had placed approval of approximately $36 million on hold pending further parental consultation in District Educational Improvement plans.
  - Consultations have occurred and the funds are being received by the BCSD;
- In the third quarter:
  - The FY 2014-17 Financial Plan update was submitted to the BFSA. In February 2014, there was a budget modification for $1.75 million due to a settled judgment. The funds were appropriated from fund balance and had previously been set aside for this purpose.

Mr. Miller reviewed the staffing levels for the CFY on an All Funds-basis compared to a General Fund-basis with a comparison as to District's staffing levels last year. There is a variance in All Funds of 253 FTEs and in the General Fund of 143 FTEs additionally budgeted since the budget was adopted. The majority of the variances are for additional teachers; there are 150 additional teachers budgeted in the Modified Budget than originally budgeted.

A review of budgeted and projected revenues and expenditures was made. The current budget was adopted with a $36.8 million operational deficit including $5.7 million in carryover encumbrances. The expenditures are now projected to be flat at the end of the year. There is a favorable budget variance of $4 million for revenues predicted at this time consisting of a $1 million favorable budget variance for sales tax receipts and a $3 million favorable variance in miscellaneous state aid.

As previously mentioned there are no projected FYE variances in General Fund expenditures. The following is a list of transfers which have occurred since the beginning of the year. They include:

- Employee compensation is $8.4 million greater than originally budgeted;
- Employee benefits have decreased by $3.5 million. The decrease in employee benefits is in juxtaposition with the increase in the number of budgeted employees along with their additional compensation. The net budget transfers out of the employee benefit expenditures is in part due to budgetary savings in the active health insurance, retirement and miscellaneous benefits, resulting from more up to date information;
- Payments to Charter Schools have been reduced by $5.5 million, reflective of the closing of the Pinnacle Charter School and the subsequent overall decrease in assumed enrollment in Charter Schools;
- Debt Service is in line with current assumptions;

- All other non-personnel related expenditures are $6.5 million greater. This is largely due to a greater than anticipated number of students enrolled in the District and the cost for contracts, textbooks, transportation, supplies, etc.

Mr. Miller concluded his presentation. There were no questions or comments from the Board Members.

**Privilege of the Floor**
Chair Olsen extended the Privilege of the Floor to any attending member of the public who wished to comment on any actions taken during the meeting's proceedings.

Buffalo City School District Board of Education Member, Mr. Carl Paladino addressed the Board and stated the following:

- An apology to the BFSA Board for comments made in a letter he sent to the Directors;
- The state of the District since his joining the District's Board of Education. He described the state of the District as horrific and spoke of being displeased with the Administrators' skills, qualifications and leadership as well as the overall direction of the schools.
- A request for the BFSA Board to intervene and help the District.

Chair Olsen responded to Mr. Paladino's comments and agreed that the BFSA Board would continue to try to collaborate with the Board of Education on the many serious issues it is faced with.

**Executive Session**
Chair Olsen noted the Board needed to receive legal advice. He called for a motion to convene into Executive Session for this purpose.

County Executive Poloncarz made a motion to move into executive session.

Director Mesiah seconded the motion.

The Board adjourned into executive session at 2:58 PM.

BUFFALO FISCAL STABILITY AUTHORITY
Executive Session Meeting Minutes
March 26, 2014

The following are minutes from the Executive Session of the Buffalo Fiscal Stability Authority (the "BFSA") held on Wednesday, March 26, 2014, in the first floor conference room of the Buffalo Market Arcade Complex. The meeting was called to order at 3:05 PM.

**Board Members Present:** Brown (proxy Estrich), Doherty, Mesiah, Olsen and Poloncarz

**Board Members Excused:** Arthur, Floss and Jurasek

**Staff Present:** Mongold-Robe and Link

**Additionally Present:** James L. Magavern, Esq., Magavern Magavern and Grimm, LLP

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

Chair Olsen called Executive Session to order.

The Board received legal advice from Mr. James Magavern.

**Adjournment**

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

County Executive Poloncarz offered a motion to adjourn from Executive Session and reenter in the public portion of the Board Meeting.

Vice-Chair Doherty seconded the motion.

The Board voted 5-0 to adjourn from Executive Session and reenter the public portion of the Board Meeting.

The Board exited Executive Session at 3:34PM.

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

County Executive Poloncarz offered a motion to reenter the public session.

Vice-Chair Doherty seconded the motion.

The Board voted 5-0 to reenter the public session at 3:37 PM.

**BFSA Matters**

Chair Olsen announced that during executive session, the BFSA Board Members discussed legal counsel's advice as it related to one matter related to the consideration for an imposition of a Control Period based on the financial condition of the District and what actions BFSA could take to require the District to submit additional information with its financial plan.

The Board is being asked to approve a resolution which would require the upcoming financial plan of the District to include the information which was requested by BFSA as a separate report in connection with the review of the financial plan this past June, and which was discussed previously earlier in the meeting. Additionally, the resolution requires the Superintendent to review the financial plan with the Board of Education to the extent necessary to clearly define the actions comprised by the District's Programs to Eliminate the Gap and assess the effect of such changes upon the District's fiscal stability and welfare and educational achievement of its students, and require approval of the Financial Plan by the Board of Education. The resolution further requires the Board of Education to develop a plan to reduce the provision of services that meets the financial plan's needs to balance the Financial Plan.

The District is required to submit a financial plan by May 1, 2014, that includes the level of detail as requested, and in the event that all information requested is not provided, the Financial Plan shall be found to be incomplete pursuant to the BFSA Act.

Chair Olsen introduced Resolution No. 14-02: "Requirements for the City of Buffalo's 2015-2018 Financial Plan," and asked for a motion to move the item.

Director Mesiah offered a motion to approve the Resolution No.14-02.

County Executive Poloncarz seconded the motion.

**RESOLUTION NO. 14-02**
**REQUIREMENTS FOR THE CITY OF BUFFALO'S 2015-2018 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, it is anticipated that the City of Buffalo will submit the proposed City budget and related Four-Year Financial Plan to the BFSA on May 1, 2014; and

WHEREAS, by Resolution No. 13-07 the BFSA found the 2014-2017 Financial Plan to be complete and compliant with the standards set forth in the BFSA Act §3857, subd. 2, subject to reservations as follows:

(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;

(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");

(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;

(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;

(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; and

WHEREAS, in light of these reservations the District was requested to prepare a report that:

(1) clearly defines and delineates the District’s potential actions to close the budgetary gaps in the out years of the Financial Plan;

(2) provides evidence regarding the likelihood of occurrence for the achievement of additional revenues and budgetary savings;

(3) specifically identifies 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;

(4) assesses the effect of such changes upon the District's financial stability and the educational achievement and welfare of its students;

(5) identifies any changes in state law or policy that would better enable it to perform its mission; and

WHEREAS, the District provided such a report in January 2014 which was found to be incomplete in that it did not provide all the information as requested by BFSA; and

WHEREAS, it is the BFSA’s intention to clearly communicate what information will be necessary in order for the Financial Plan to be found to be complete and compliant with the standards set forth in BFSA Act §3857, subd. 2.

NOW THEREFORE BE IT RESOLVED, that the Financial Plan for the District shall include the following information with respect to the plans to eliminate budget gaps identified over the four years of the Financial Plan:

(1) clearly define and delineate the District's potential actions to close the budgetary gaps in the out years of the Financial Plan;

(2) provide evidence regarding the likelihood of occurrence for the achievement of additional revenues and budgetary savings;

(3) specifically identify those programs, services, or levels of services that would be reduced or impacted as outlined in the District's Programs to Eliminate the Gap;

(4) assess to the extent possible the effect of such changes upon the District's financial stability and the educational achievement and welfare of its students;

(5) identify any changes in state law or policy that would better enable it to perform its mission.

BE IT RESOLVED FURTHER**,** that the Superintendent of the District shall review the Financial Plan with the Board of Education to the extent necessary to clearly define the actions comprised by the District's Programs to Eliminate the Gap and assess the effect of such changes upon the District's fiscal stability and the welfare and educational achievement of its students and request approval of the Financial Plan by the Board of Education; and

BE IT RESOLVED FURTHER, that the Board of Education shall develop a plan to reduce the provision of services that meets the financial plan's needs to balance the Financial Plan; and

BE IT RESOLVED FURTHER, that the District shall also provide a report no later than May 1 proposing reforms in state law and policy and shall support such proposals with examples and detailed explanations; and

BE IT RESOLVED FURTHER, that the Financial Plan as submitted on May 1, 2014 shall include the level of detail as requested by this Resolution; and

BE IT RESOLVED FURTHER, that in the event all information as requested is not provided, the Financial Plan shall be found to be incomplete pursuant to BFSA Act §3857, subd. 2.

The Board voted 5-0 to approve Resolution No. 14-02.

Chair Olsen noted that the passage of the resolution was necessary due to the almost complete failure of the District to comply with the previous request made as well as the concern expressed by County Executive Poloncarz that the financial plan and any attachments to it be approved by both the Superintendent and the Board of Education.

County Executive Poloncarz noted it is very important that plans presented to the BFSA have the stamp of approval of the Superintendent and the Board of Education. On the chance the information is not provided as requested, this Board will then consider taking other actions as appropriate in the future.

Due to the length this meeting has taken today and the commitments of Board Members, Chair Olsen suggested the rest of the agenda items be saved for the next meeting, as a quorum would be lost if the meeting continued.

**Adjournment**

Chair Olsen requested a motion to adjourn.

County Executive Poloncarz offered a motion to adjourn.

Director Mesiah seconded the motion.

The Board voted 5-0 to adjourn.

The Board adjourned at 3:48 PM.