

BUFFALO FISCAL STABILITY AUTHORITY
Meeting Minutes
March 11, 2015

The following are the minutes from the meeting of the Buffalo Fiscal Stability Authority (the “BFSA” or the “Authority”) held on Wednesday, March 11, 2015, 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

Chair R. Nils Olsen
Secretary George K. Arthur
Mayor Byron W. Brown (proxy Estrich)
Director Fredrick G. Floss
Director Richard T. Jurasek
Director Frank B. Mesiah
County Executive Mark C. Poloncarz (proxy Williams)

Board Member(s) Excused

Vice Chair Brigid Doherty

Staff Present

Executive Director Jeanette M. Mongold-Robe
Comptroller Robert L. Miller
Principal Analyst/Media Liaison Bryce E. Link
Senior Financial Analyst/Manager of Technology Nathan D. Miller
Administrative Assistant Nikita Fortune

Additionally Present

Mr. James L. Magavern, Esq., Magavern Magavern & Grimm LLP

Opening Remarks

Chair Olsen welcomed and thanked everyone for attending. He advised that the Audit, Finance and Budget Committee met earlier today and authorized the posting of BFSA’s fiscal year (“FY”) 2015-16 preliminary budget and four-year financial plan as prepared by BFSA staff and commences the public comment period. Any additional comments by Directors should be forwarded to Executive Director Mongold-Robe who will circulate updated versions of the budget as necessary. Approval of the budget will be required at the June Board meeting.

City of Buffalo Commissioner of Administration, Finance, Policy, and Urban Affairs, Ms. Donna Estrich entered the proceedings at 1:03 PM.

Roll Call of Directors

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

Ms. Donna Estrich represented Mayor Byron W. Brown, in accordance with Subdivision 1 of §3853 of the BFSA Act.

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

Subdivision 1 of §3853 of the BFSA Act reads: "...The Mayor and the County Executive shall serve as ex officio members. Every director, who is otherwise an elected official of the City or County, shall be entitled to designate a single representative to attend, in his or her place, meetings of the 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...."

Approval of Minutes

Chair Olsen stated the first order of business was to approve the Board minutes from the December 3, 2014 meeting.

Secretary Arthur made a motion to approve the minutes.

Director Floss seconded the motion.

RESOLUTION NO. 15-01

APPROVING MINUTES FROM DECEMBER 3, 2014

BE IT RESOLVED that the Buffalo Fiscal Stability Authority hereby approves the minutes of its meeting on December 3, 2014.

BE IT FURTHER RESOLVED that the Buffalo Fiscal Stability Authority ratifies and affirms Resolutions Nos. 14-26 through 14-28 that were approved on December 3, 2014.

The Board voted 7-0 to approve Resolution No. 15-01.

City of Buffalo

White-Collar Labor Contract

Chair Olsen advanced the agenda to the next item for consideration: a review of the proposed labor agreement between the City and AFSCME Local 650 representing the white-collar employees of the City of Buffalo ("City"). It was noted that the provisions of this contact with respect to raises and health insurance are also provided to the City's exempt employees. The labor agreement was approved by the union members on January 7, 2015, and then submitted to BFSA for review as required by the BFSA Act. Staff has prepared a report on this proposed labor agreement, along with a presentation to review the key terms of the contract with us, along with the financial analysis.

Ms. Mongold-Robe advised that the terms of the contract can be summarized into four main categories:

- Wage Increases: The contract generally provides for a 2% increase annually, with one 3% increase effective on July 1, 2015;
- Medical insurance: There is no change for current active employees. Employees hired before 1/1/2008 will not contribute to coverage; employees hired after 7/1/2008 will continue to contribute 15% for family coverage and 25% for single coverage as these terms are maintained in the new contract;
- City to self-insure for medical: This contract allows the City to move toward a self-insured medical plan. This was the last contract required to have this provision written to allow the City to move to being self-insured. The City is currently self-insured for prescription drug coverage. The City may also purchase stop-loss coverage for any medical claims that exceed \$250,000 once the City moves into self-insured medical and prescription drug coverage plans;
- Medical insurance for retirees: No change for current active employees when they retire. Any employees hired after 3/1/15 will not be eligible for health insurance upon retirement.

Principal Analyst Bryce E. Link provided the following presentation on the labor contract:

- The agreement was ratified 268 to 40;
- The agreement covers eight years, 7/1/11 to 6/30/19, one year longer than the City's current financial plan;
- There are over 473 budgeted positions. This unit covers over 300 titles. As of December 31, 2014 the vacancy rate was approximately 16%, representing 74 full-time equivalent employees ("FTEs");
- Employees are funded through the General Fund, Water Enterprise Fund, and the Solid Waste and Recycling Fund. Additional funds may be necessary from the General Fund to the Solid Waste and Recycling Fund due to the operational deficits generated and to subsidize any labor cost increases;
- There are 115 filled exempt positions. There are no current exempt vacancies;
- The previous CBA expired June 30, 2011. There are retroactive payments from July 1, 2011 to July 1, 2014. The retroactive payments have been previously accrued for. Individuals who retired post July 1, 2011 will receive the retroactive increase. As a whole the raises total approximately 18% over the eight years.

As employees in the pension tiers one through five retire, more employees will be brought onboard who will be tier 6 members, which are less costly to the employer. Tiers 1-4 have approximately 345 employees and, of that, 320 employees would be eligible to receive free medical insurance at retirement as long as they had their twenty years of service. Tiers 5 & 6 have approximately 73 employees.

The wage agreement is as follows:

- Annual 2% increases on July 1, 2011, 2012, 2013 and 2014;
- A 3% salary increase on July 1, 2015;
- 2% increases on July 1, 2016, 2017, and 2018;

- An increase in shift differential from \$0.30 an hour to \$1.00 an hour.

Significant changes include:

- Elimination of retiree health insurance for those hired after March 1, 2015;
- Elimination of summer hours (which occurs between the first day of July and ending the first Monday of September);
- Addition of one personal leave day per year which is added on September 1st of each year between 2015 and 2018. Like other personal leave time if it is not used within a year's time, it rolls into sick leave.
- City is now able to move to self-insured medical as of July 1, 2015;
- New flat rate for 105(h) plan \$270 for single coverage and \$750 for family;
- All retirees are required to cover their Medicare Part B premium costs;
- Domestic partner language was removed;
- All employees have a choice between five plans offered through Blue Cross:
 - a. Traditional Blue POS 201;
 - b. Traditional Blue POS 204;
 - c. Traditional Blue POS 206;
 - d. Traditional Blue 7200;
 - e. Traditional Blue 901

Active employees hired prior to 2008

- Current employees contribute 0% if the lowest cost plan is chosen. If employee does not select the lowest cost plan the employee is responsible for paying the premium difference.

Active employees hired after 2008

- Current employees contribute 15% for family and 25% for single coverage. If the employee does not select the lowest cost plan, they are responsible for the full premium difference;
- 105(h) is only available to those who select the lowest cost plan.

Active employees at retirement hired before July 1, 2008

- Contribute 0% with a minimum of 20 years of service;
- Contribute 10% with 15 to 20 years of service;
- Contribute 15% with 10 to 15 years of service;
- Responsible for Medicare Part B premium.

Active employees at retirement hired after July 1, 2008

- Minimum contribution 25%/15% (Single/Family) with individuals with less than 20 years paying a higher percentage;
- Minimum 10 years of service prior to retirement;
- Responsible for Medicare Part B premium;
- Contribute 35%/25% (Single/Family) with 15 to 20 years of service;
- Contribute 45%/35% (Single/Family) with 10 to 15 years of service;

- Employees hired after March 1, 2015 will not receive health insurance coverage in retirement.

In the General Fund, years 1 through 3 represent the retroactive years covering July 1, 2011 through June 30, 2014; total retroactive costs are approximately \$4.2 million and the City has fully accrued that amount over those years so there is no impact to the General Fund in the current fiscal year. Current year's costs are projected to increase by \$3.5 million offset by \$167,000 in savings for an impact of \$3.3 million; the City is planning on using the budgeted amount for the salary adjustment line to address the additional net cost. It is noted another option available to the City is to use the estimated savings of \$3.4 million from vacancies.

Over the life of this Memorandum of Agreement ("MOA"), the total cost to the General Fund is \$31.8 million, savings of \$7.1 million, and a net cost of \$24.8 million.

In the Enterprise Fund, the retroactive costs for years 1-3 are fully accrued for and will not have an impact on the current year's operations. Estimates for years 4-8 were conducted with the assumption that all positions will be filled. The current year cost estimate is almost \$400,000 combined between the Water Fund and the Solid Waste Fund. The Water Fund has the reserves in place or if need be rates could be increased to fund the MOA. The Solid Waste Fund is already running a deficit and is dependent upon the General Fund for additional costs. In the current fiscal year, the City is on track to have close to \$400,000 in vacancy savings. Going forward in years 6-9 the average annual savings is \$44,000 a year and the annual cost is \$513,500 increasing to \$650,000 by 2018-19.

The total estimated cost for the Water Fund and the Solid Waste Fund is \$2.9 million with an estimated savings of \$176,000 for a net cost of \$2.8 million. After factoring in the prior year accruals the total current and prospective costs total \$2.5 million.

Recommendations and Conclusions

- Retroactive costs for the CBA have been fully funded through the annual accrual for the unsettled labor contracts;
- Current year funding of the MOA will be addressed through the use of the salary adjustment line;
- Out-year costs will be funded through health care savings, as well as a reduction of the resources needed for the salary adjustment line;
- The MOA places additional pressure on the City's already stressed General Fund over the course of the Financial Plan. The current plan already includes aggressive revenue estimates, complete drawdown of available fund balance, as well as PEG's to close the current projected budget gaps;
- Solid Waste and Recycling fund will continue to operate at a deficit and additional labor costs will likely be subsidized by the General Fund;
- Elimination of retiree healthcare going forward is a significant change; however, the benefit will not be seen for another 25-35 years as these savings will come from employees that have yet to be hired;

- If the City does not self-insure effective July 1, 2015, there will be an additional cost of approximately \$1 million per year.

Director Floss questioned the removal of the domestic partnership language and if it was the result of the legalization in the State of same-sex marriage; Mr. Link confirmed this was the case.

Director Floss questioned if future retirees would be able to buy-in to health insurance at 100% of the premium's cost. Ms. Mongold-Robe and Mr. Link advised that they would follow-up with the City to receive an answer.

Director Floss questioned the fact that single coverage pays a higher percentage of coverage than family because it changes the incentive and allows the City to take on a higher burden when there are two working family members as opposed to the employee opting to take individual coverage. He offered to have a conversation with City officials discuss his concern further.

Director Jurasek questioned if the estimated savings across eight years of \$7 million comes primarily from the City becoming self-insured. Mr. Link stated that it was a large portion of the savings, contributing approximately \$1 million a year in savings. In addition there is the premium payment for Medicare Part B, which will now be paid by the retiree instead of the City and will provide approximately \$500,000 of savings per year.

Director Jurasek questioned how many out-of-date labor agreements include the self-insured provision. Ms. Estrich advised that this is the first contract to include the self-insured provision.

Chair Olsen congratulated the City and AFSCME Local 650 on being able to agree on a contract that is beneficial to both sides.

Director Jurasek asked for clarification on when the City will see dollars returning to the budget in terms of the elimination of retirees' insurance costs. Ms. Estrich responded it will be seen in twenty years as it is part of the OPEB liability.

Chair Olsen stated that the City is running a fairly lean operation at this time.

Director Jurasek underscored Chair Olsen's comment by mentioning that the City currently has approximately 350 vacancies.

City's Audited Financial Statements

Chair Olsen advanced the agenda to the next item for consideration: a review of the City's FY 2013-14 Financial Statements.

Ms. Mongold-Robe stated that the City's financial statements were released in December 2014. Total revenues and other financing sources were budgeted at \$470.5 million; actual revenue was \$467.8 million, leaving a negative variance of \$2.7 million. Total expenditures and other

financing uses were budgeted at \$498.0 million; actual expenditures were \$487.2 million, leaving a positive variance of \$10.8 million. The actual deficit was \$19.4 million.

The planned use of fund balance was initially budgeted at \$12.0 million. The BFSA Board reviewed several budget modifications during the year which totaled \$6.7 million. The modifications that were not reviewed by BFSA were judgments and claims and salaries of police and fire, which totaled \$8.8 million. The final budgeted use of fund balance was \$27.5 million. The actual use of fund balance was \$19.4 million, leaving a difference of \$8.1 million.

Total operating revenues decreased by \$53.1 million from FY 2012-13 to FY 2013-14 largely due to one-time revenues recognized in 2013. Other financing sources increased by \$4.9 million for a transfer from the Parking Fund to help subsidize the General Fund. In total, revenues decreased \$48.2 million, or 9%.

Operating expenditures increased by \$24.1 million, or 6%. Other financing uses remained flat. In total, operating expenditures and other financing uses increased \$23.3 million, or 5%. For the first time since the BFSA was created, operating revenues were not sufficient enough to support operating expenditures and there is approximately a \$100,000 difference. BFSA will monitor this situation to determine if this is a continuing trend.

Over the last ten years, revenue has increased by \$83 million, or approximately 22%. From 2013 to 2014, revenue decreased by \$48 million due to various one-time revenues recognized last year. Casino revenue decreased by almost \$10 million on a year-to-year basis, due to a large one-time payment made in 2013 which represented several years of held-back casino revenue that was released upon settlement of the long outstanding litigation. State Aid and Incentives to Municipalities ("State AIM") decreased \$18.6 million due to a spin-up of aid in FY 2012-13 of \$10.8 million and a one-time accounting adjustment in FY 2012-13 of \$7.8 million. Restricted State AIM increased by \$9.8 million; this represents funds from excess state aid held by the BFSA and is released to the City when restrictions are met. A negligible balance of \$240,000 remains available to the City. Prior year miscellaneous revenue was recorded in the amount of \$32.8 million due to a return of funds accrued in prior years for collective bargaining, which represented a one-time accounting adjustment and while it did not represent an increase in dollars to the City it did return the funds to unassigned fund balance.

Chairman Olsen asked about the status of the lawsuit on the validity of gambling in the City and if there had been any planning as to what would happen if the verdict was unfavorable for the City. Secretary Arthur believed the suit is still pending. Director Jurasek verified that the casino payments are being released to the City, which is approximately \$6 million per year. As per Ms. Mongold-Robe, these monies are included in the City's financial plan and therefore viewed as a revenue source.

Director Floss stated that the budgeting system has remained flat over the past few years, 2007 through the current year. Chair Olsen stated the real property tax rate has been stable over the same period of time.

Ms. Mongold-Robe stated that sales tax receipts had increased over a ten year period by \$16 million, or 27%, from \$59.3 million to \$75.5 million. The tax levy is \$138.3 million and, of that, \$68 million is retained by the City and \$70.3 million is remitted to the District. Homeowners pay 55% of the levy, or approximately \$76 million, and businesses pay 45% of the levy, or approximately \$62 million. Historically the tax levy has decreased by \$8 million, or 5.5%, since 2005.

Chair Olsen stated that the City has lowered real property taxes and continues to run a lean labor force. He commended the City for their prudent manner in keeping expenses down.

Ms. Mongold-Robe stated that the City expenditures have outpaced revenues over the past ten years; expenditures have increased 28% or \$107 million, and revenues increased \$83 million over the same time period. On a year-to-year basis, total expenditures for fiscal year 2014 increased \$23 million mostly due to operating costs including the recent collective bargaining agreement for fire and the police arbitration award. Increased New York State Employee Retirement System (“NYSERS”) as well as Police and Fire Retirement System (“NYSPFRS”) contributions increased \$7 million driven by increases in contribution rates. There was an increase in health insurance of \$3.4 million due to increased rates and increased capital outlay for vehicles of \$2 million, while debt services costs decreased by almost \$1 million.

Director Floss asked Ms. Estrich if NYSERS increases are expected to occur again. Ms. Estrich replied going forward there will be a reduction in payments. There will be a reduction seen in the December 2015 payment.

Ms. Mongold-Robe stated what is being paid for health insurance for retirees exceeds what is being paid for active employees. In FY 2013-14, \$41.2 million was paid for retirees’ premiums and \$28.4 million was paid for active employees’ premiums. Over a ten-year period health insurance payments for retirees has increased 113% and have increased 44% for active employees. This disparity is a nationwide problem not just a City of Buffalo issue. Self-insurance is a move in a positive direction to bring health insurance costs down.

Ms. Estrich mentioned that the City can now purchase stop-loss insurance and that will be a savings for the City with respect to health insurance expenses.

Chair Olsen commended the City for addressing this issue with the new 650 labor contract even though it will take several decades to see the savings associated with retiree health care, especially for those employees who have yet to be hired.

Ms. Mongold-Robe stated over the past seven years pension costs have increased. NYSPFRS increased \$18.7 million, or 105%, and NYSERS increased \$6.3 million, or 162%.

With respect to total revenues and expenditures over the past four years, there has been a total surplus of \$3.6 million. However, last year included several one-time revenues that did not provide additional dollars to the City.

Total fund balance decreased \$19.4 million, which was used to close the deficit. Total assigned and unassigned fund balance is 15% of total expenditures. The recommendation for a government the size of Buffalo is between 5% and 10% of fund balance to maintain a healthy reserve. Unassigned fund balance of \$30.7 million is available for future budgeting. The Rainy Day fund provides an additional \$37 million.

Director Floss asked if the City of Buffalo was on the New York State Office of the State Comptroller's fiscally distressed watch list. Ms. Mongold-Robe replied that it was not.

Ms. Mongold-Robe continued with her presentation.

Total fund balance increased by \$110 million from 2002-03 to 2013-14. During this time there was a wage freeze enacted in 2004 which was subsequently lifted on July 1, 2007. Also during this time the City established a Rainy Day fund which sets aside monies for thirty days' worth of expenditures for emergency/unforeseen costs. This fund has not been used since it was created. Rating agencies look at this factor favorably and it is similar to another layer of "insurance." Chair Olsen stated there are not many comparable municipalities with this amount of "cushion."

Other postemployment benefits ("OPEB") are estimated at \$1.6 billion as of June 30, 2014 and represent the total unfunded actuarial accrued liability. OPEB represents future healthcare costs for only current employees. The liability equates to \$14,260 per City household.

The historical legal tax margin was dangerously low when the BFSA was created at \$12.4 million. It has increased \$31 million, or 250%. The assessed valuation has remained virtually unchanged as compared to the inflation rate.

Chair Olsen attributed a statement to Director Floss regarding all of the tax-free development going on. There has not been a lot of tax revenue produced for the City despite all of the development occurring in the City. Ms. Mongold-Robe stated that 45% of all property in the City was off of the tax rolls. Ms. Estrich confirmed that 45% have some sort of exemption. There is a high concentration of non-profit entities within the City.

Director Mesiah asked if the 45% of properties off of the tax rolls includes businesses that receive tax breaks to incentivize economic development. Ms. Estrich confirmed that developing businesses are included in that number. Secretary Arthur stated that it has been 45% off the rolls for many years. Director Mesiah believed the percentage will be much higher with all of the major development going on in the City. Ms. Mongold-Robe advised that staff would research this item. Director Floss stated that it is important to estimate what the impact of these tax breaks are going forward as well as the impact to provide services.

Ms. Mongold-Robe continued with her presentation. The loss continues to increase with respect to the Solid Waste and Recycling Fund at \$7.8 million operating loss for FY 2013-14, representing a 26% increase in loss from year-to-year. In addition to the subsidy from the City,

the General Fund is held legally responsible for the payment of the cash deficit as it accumulates; the City has \$17 million in fund balance set aside for the Solid Waste and Recycling debt. The total Solid Waste and Recycling Fund net deficit is \$30.4 million and, of that amount, the General Fund is obligated for \$17.0 million. The operating loss for FY 2013-14 was \$7.8 million. Transfers from the General Fund were \$3.2 million resulting in a final 2013-14 deficit of \$4.5 million.

Update of Financial Capital Budget

Chair Olsen advanced the agenda to the next item for consideration: an update of the City of Buffalo's Capital Budget. BFSA had reviewed the preliminary budget and five year plan during the December Board meeting.

Ms. Mongold-Robe stated that the Common Council approved the final Capital budget in the amount of \$26 million in December. Modifications were made to the Mayor's proposed capital budget in the amount of \$650,000. Specific infrastructure projects were identified in each council district with each being allocated \$300,000. The total amount for infrastructure projects didn't change but the City's ability to use these funds in a more discretionary manner is now limited to the specific use identified.

In 2013, the City Comptroller changed the approach as to how funds were borrowed. Based on an analysis of the historical spend down of bond proceeds, it was determined that IRS guidelines weren't being adhered to and that the City was paying interest expense on idle bond proceeds. As a result, the City Comptroller reduced the amount of maximum debt to be issued by 15% and the reduction continues to be applied. For bonds issued between 2008 and 2014, a total of \$13 million remains unspent as of the end of February 2015. This represents 8% of total bond proceeds from 6 bond issues, and does not include any outstanding proceeds from short term debt ("BANs").

In 2013 there was approximately \$37 million in unspent bond proceeds. As of January 2014 that amount has been reduced to \$17 million. As of February 2015, that amount was further reduced to \$14 million in total. The majority of the funds have been outstanding since 2008 and accounts for \$13 million of the unspent proceeds.

The 2015 approved capital budget totals \$26 million which exceeds the total amount that is authorized to be borrowed of \$22.2 million. Therefore, projects totaling \$3.8 million will be reported as authorized but unissued debt. The 2015 bond is estimated to consist of:

- 2013 projects \$5.3 million
 - 2014 projects \$8.5 million
 - 2015 projects \$16.3 million
- Total: \$30.1 million

No District debt is scheduled to be issued.

The 2015 bond is to be sold competitively in the estimated amount of \$30.1 million. The average life of the bond is 5.9 years with final maturity at 2026. The estimated cost of issuance is approximately \$123,000. The ratings are expected to be the same as last year: S&P A+, Moody's A1 and Fitch A+.

The financial advisors of BFSA ran a theoretical, alternate financing structure to calculate the savings that could be achieved if BFSA issued debt. BFSA recently received a bond upgrade by Fitch to AAA. Moody's reaffirmed BFSA at Aa1. If the BFSA borrowed on behalf of the City the total estimated savings would be \$431,375, an average annual savings of \$39,485.

Director Floss questioned the benefit of the City borrowing the monies itself as opposed to BFSA borrowing on its behalf. Ms. Mongold-Robe advised that one of the requirements for BFSA to move from a control period to an advisory period was for the City to issue its own debt. Therefore in FY 2007-08, the BFSA allowed the City to reenter the bond market and begin to borrow. She stated her understanding is that now the BFSA is in an advisory role that benefit no longer exists. Chair Olsen agreed with Ms. Mongold-Robe's explanation.

Director Floss questioned if the Comptroller has stated the reason for the City borrowing as opposed to BFSA borrowing on the City's behalf. Ms. Mongold-Robe stated that discussion has not been had with the Comptroller.

Buffalo City School District

Memorandum of Understanding between the Buffalo City School District and the Buffalo Council of Supervisors and Administrators

Chair Olsen advanced the agenda to the next item for consideration: a memorandum of understanding between the BCSD and Buffalo Council of Supervisors & Administrators ("BCSA") regarding the 2015 retirement incentive.

Director Floss exited the proceedings at 2:07 PM.

Mr. Nathan Miller addressed the Board and provided the following information. BCSA is a collective bargaining unit consisting of assistant superintendents, principals, assistant principals, directors, supervisors, project administrators and other supervisors. As of December 30, 2014, there were 198 FTEs funded through the District's General Fund. This group has an annual average compensation of \$129,000 which includes salary, pension, FICA and health insurance. This CBA expired June 30, 2004.

There are 64 FTE administrators eligible to receive the retirement incentive; of these, 38 FTEs are 59 years old or older and were therefore no longer eligible for the contractual early retirement incentive. Individuals must have a minimum of 14 years of service with BCSD to be eligible. Their irrevocable letter to retire must be received between January 1, 2015 and August 1, 2015. The incentive is equal to 75% of salary differential between the retiring administrator (\$98,000 avg.) and Step 1 masters replacement (\$70,500 avg.). The average retirement incentive is a one-time lump sum payment of \$20,600.

The offering is dissimilar to prior incentives because the primary goal is not savings. The goals of this package are to:

- Create vacancies within school facilities;
- Improve school operations; and
- Reduce the number of potentially unplaced principals

Vacated positions will be refilled not eliminated. The retirement incentive provides year one savings only if District's hypothesis of 30% participation with no natural attrition is met. Early retirement incentive in the CBA for 55-58 year olds increased by approximately \$1,375 per participant. It was noted that a less quantifiable loss is that of institutional knowledge and experience leaving the District as the average years of service for eligible participants is 29.6 years.

The recommendation is that the District produce a report upon the conclusion of the program which would examine the effectiveness of the retirement incentive and include the number of individuals who accepted the retirement incentive, their salaries, the number of positions refilled along with the replacements' salary and benefit information, and any vacated and eliminated positions as a result of this incentive. Ultimately, the report should depict how, or if, the retirement income impacted the FY 2014-2015 Adopted Budget.

Director Jurasek questioned if the purpose of the retirement incentive was to create flexibility within the system rather than a financial benefit. Mr. Miller concurred with this observation.

Director Jurasek suggested that the Board accept the BFSA's staff analysis of the District's retirement incentive with the caveat that the report be amended to include a recommendation that the District assess the effectiveness of the program with respect to its intended purpose, as well as a summary of costs and/or savings to allow for the review of the financial impact of the program. This report should be submitted to BFSA in the fall of 2015 at the conclusion of the program and after hiring and transfer decisions have been finalized.

Chair Olsen also agreed that the primary purpose of this incentive is to create personnel flexibility and not cost savings.

Secretary Arthur made a motion to forward the analysis to the District with Director Jurasek's proposed addition.

Director Mesiah seconded the motion.

The Board voted 6-0 to approve the motion.

Requirements for the 2016-2019 Four Year Financial Plan

Chair Olsen advanced the agenda to the next item for consideration: Resolution No. 15-02, "Requirements for the City of Buffalo's 2016-2019 Four-Year Financial Plan," detailing the requirements for the BCSD 2016-2019 Financial Plan. Requirements have been requested for the past two financial plans, however, for various reasons have not been submitted in their

entirety. There has been no clear plan submitted by BCSD to address how budget gaps will be handled in the out-years of the financial plan. The resolution requires that the plans to close the budget gaps be clearly defined, requires that an assessment of such impacts be provided, and suggest legislative changes that would enable the District to better perform its mission. The resolution also states that the financial plan is to be approved by the Board of Education before it is submitted to the City on May 1, 2015.

Director Jurasek proposed an amendment to the resolution based on the fact that on December 3, 2014, the BFSA met with the Superintendent, the Chief Academic Officer, the President of the School Board, and the Chief Financial and Operating Officer. These representatives discussed their foundational assumptions as they plan and create the FY 2016-2019 financial plan. The BFSA was told that a comprehensive study was underway and that said study would be used by the District to prepare the FY 2016-2019 Financial Plan. The BFSA was advised that the multi-district comparative study of operations and costs would be complete in spring 2015.

Director Jurasek made a motion to amend the resolution as follows: “BE IT FURTHER RESOLVED, that the BFSA have immediate access to all cross-district comparative research data currently available to the District in the study being conducted by Education Resource Strategies as referenced in the meeting on December 3, 2014 between District and Board officials.”

Chair Olsen seconded the motion to include Director Jurasek’s amendment clause.

The Board voted 6-0 to accept the amendment clause.

Secretary Arthur agreed with the motion and questioned the status of the District’s Distinguished Educator in determining the District’s finances.

District Chief Financial & Operating Officer, Ms. Barbara Smith, advised that the Distinguished Educator was still employed by the District to make recommendations to the District regarding focus on priority schools, reviewing plans, assisting with leadership, and submitting corrective action plans. This position has no bearing on the finances of the District.

Chair Olsen stated that one of the underlying issues in the District is the interconnectedness of the choices being made and the financial implications of said choices.

Secretary Arthur stated the District’s budget is due May 1st. The Common Council receives an initial proposal earlier in the calendar year. Ms. Smith confirmed this.

Director Jurasek reiterated that he would like access to the data for informational purposes. Chair Olsen underscored the importance of gaining access to the various studies being conducted within the District.

Secretary Arthur made motion to approve Resolution No. 15-03 as amended.

Director Mesiah seconded the motion.

RESOLUTION NO. 15-03

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 FY 2016-FY 2019 Four-Year Financial Plan to the BFSA on May 1, 2015; and

WHEREAS, by Resolution No. 13-07 the BFSA found the FY 2014-FY 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; and
- (2) the District's final Four-Year Financial Plan is balanced for fiscal year 2014, but depends upon the use of reserves, staffing reductions, closing of two charter schools, and unspecified program cuts to achieve balance in fiscal years 2015, 2016 and 2017 ("the out years"); and
- (3) the District's actions to close the budgetary gaps in the out years includes actions that are undefined as they are based on studies to be performed in the upcoming year and it is therefore unclear if such savings can be realized; and
- (4) such actions could have a devastating impact on the District and such potential impact should be evaluated with respect to the potential effects of such actions on the educational achievement of the District's students; and
- (5) there is a significant risk that the District will encounter a fiscal crisis at some time during the out years, and may be unable to preserve essential services, maintain programs mandated by the state and federal law, and ensure the availability of a sound basic education to all of the children of the City.

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; and
- (2) provides evidence regarding the likelihood of occurrence for the achievement of additional revenues and budgetary savings; and
- (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; and
- (4) assesses the effect of such changes upon the District's financial stability and the educational achievement and welfare of its students; and
- (5) identifies any changes in state law or policy that would better enable it to perform its mission.

WHEREAS, the District provided 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, by Resolution No. 14-02, the BFSA required that the FY 2015-FY 2018 Financial Plan for the District include the information as originally requested with respect to the plans to eliminate the budget gaps identified over the four years of the Financial Plan in order for the Financial Plan to be found complete and compliant with the BFSA Act; and

WHEREAS, by Resolution No. 14-04, the BFSA agreed to the District Superintendent's request for additional time to be able to delineate and prioritize the potential actions to close the budgetary gaps in the out years of the Financial Plan and to assess the effect of such savings and cuts on student achievement and welfare, and such process should be performed as soon as practical; and

WHEREAS, also by Resolution No. 14-04, it was determined that the Superintendent of the District shall review the modified 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

WHEREAS, the District has failed to submit a modified Financial Plan as provided for within Resolution No. 14-04; and

WHEREAS, by Resolution No. 14-04 it was also resolved that the FY 2016-FY 2019 Financial Plan be approved by the Board of Education prior to its submission on May 1, 2015; and

WHEREAS, it is the BFSA's intention to clearly communicate what information will be necessary in order for the FY 2016-FY 2019 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 FY 2016-FY 2019 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 specific actions to close the budgetary gaps in the out years of the Financial Plan; and
- (2) provide evidence in support of the likelihood that estimated increases in revenues and reductions of expenditures in the out years will be realized; and
- (3) specifically identify those programs, services, or levels of services that would be reduced or impacted by the District's Programs to Eliminate the Gap; and
- (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; and
- (5) identify any changes in state law or policy that would better enable the District to perform its mission, and provide detailed support for legislation to enact such changes, based upon the District's experience and objectives.

BE IT FURTHER RESOLVED that the BFSA will require the District's Financial Plan for Fiscal Years 2015-2016 through 2018-2019 to be approved by the Board of Education prior to its submission on May 1, 2015; and

BE IT FURTHER RESOLVED, that the Financial Plan as submitted on May 1, 2015 shall include the level of detail as requested by this Resolution; and

BE IT FURTHER RESOLVED, 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, subs. 2, 3 and 4.

BE IT FURTHER RESOLVED, that the BFSA have immediate access to all cross-district comparative research data currently available to the District in the study being conducted by Education Resource Strategies as referenced in the meeting on December 3, 2014, between BFSA and District and Board of Education officials.

The Board voted 6-0 to approve Resolution No. 15-03 as amended.

2014-15 Second Quarter Reports
City of Buffalo 2nd Quarter Report

Chair Olsen advanced the agenda to the next items for consideration: a review of the City of Buffalo and the Covered Organizations' quarterly reports. The reports for BURA and the

Buffalo Municipal Housing Authority (“BMHA”) were submitted but lack details to allow for financial analysis. The BFSA staff has requested additional information from both entities. Meeting with both entities have been held in the fairly recent past to address their reporting concerns.

Mr. Link began his presentation by stating that inroads were being made with BURA until the Director of Financial Control left for another position.

He provided the following summary of the City’s FY 2014-15 second quarter report. Projected year-end revenues are \$475.0 million, projected year-end expenditures are \$498.4 million, which leaves a projected operating deficit of \$23.4 million. The City is planning to use fund balance to offset this amount.

The adopted budget for revenues was \$477 million. There have been some increases in non-property taxes and miscellaneous and other revenues totaling \$1.7 million. This amount is being offset by expected decreases in fines for traffic adjudication of \$1.9 million; the legislation allowing this was pocket-vetoed by the Governor this past year. However, there is new legislation pending that would allow the City to move forward with traffic adjudication with a target date of May 1, 2015. Also, non-property taxes are expected to be \$900,000 less than budgeted which is related to the Class 1 utility tax (i.e., the tax on landline telephones). This revenue will continue to decrease as people move from using landlines to mobile devices. Service charges are expected to be less than budgeted by \$500,000, and operating transfers in is expected to be less by \$300,000. Therefore, revenues are expected to be \$2 million less than budgeted.

Projected expenditures in the adopted budget were \$504.5 million. There has been an additional \$3.5 million related to the fire department, of which \$200,000 is for injured on duty, disability payment for firefighters and the remainder is for additional labor costs associated with the settlement of the labor contract. There are also approximately \$8.3 million in savings due to vacancies and less department spending and additional savings in fringe benefits of \$1.3 million. Therefore, the total revised projected expenditures is \$498.4 million.

The budget was adopted with 2,628 budgeted FTEs. As of December 31, 2014, there were 2,274 FTEs filled, resulting in 354 vacancies, or 13.5% unfilled positions.

There are 1,520 budgeted FTEs for fire and police positions with 1,329 filled, leaving a 12.6% vacancy rate. The largest vacancy is within the fire department; however, a new firefighter recruit class will begin in a few months.

Considerations that impact the fiscal year are as follows:

- Revenues that are projected may not materialize;
- Overtime with protective services remains a risk to the budget due to the number vacancies;
- Expired CBA’s and potential impact of binding arbitration for police;

- Impact of the recently settled Local 650 Contract;
- Impact of the November Snowstorm in excess of \$6.5 million – costs may increase or reimbursement may not materialize;
- Traffic adjudication has yet to go into effect; new implementation date of May 1, 2015;
- Current revenue projections may be overstated.

BCSD 2nd Quarter Report:

Nathan Miller presented the analysis of the District’s 2nd quarter report. He provided the following information:

Significant events that have occurred since the start of the fiscal year as follows:

- The budget has been modified -
 - Adopted deficit of \$10.2 million;
 - Carryover encumbrances of \$2.9 million;
 - 75 teacher FTEs greater than budgeted as of 12/31;
 - 34.5 FTE positions added including 24 FTE teacher aides/assistants;
- The District has offered BCSA a retirement incentive:
 - 39 administrators eligible
 - Incentives average \$20,600/retiree
 - Year 1 District savings \$17,000 (elimination of one position)
 - Year 1 District costs \$65,000 (no eliminated position)
- Board of Education Resolution: “Out of Time” Schools
 - Bennett, East and Lafayette high schools & MLK elementary continue to be “phased-out”;
 - Elements of “phase-in” proposals as submitted by the individual schools to be implemented within these schools;
 - No formal submission to NYSED at this time;
 - Requests for Space proposals by area charter schools denied;
 - District-wide space audit to be conducted;
 - New requests for space to be considered.

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 the District’s staffing levels last year. There was a variance in All Funds of 16 FTEs and a variance of 46 FTEs in the General Fund.

The current budget was adopted with \$10.2 million operational deficit.

Director Jurasek stated that other entities are making decisions about District physical plants including closings and questioned who will do the District space audit and what is the completion date for the audit. Mr. Miller advised that the District-wide comprehensive study will be completed internally by the District and requests for space can be submitted for the following year.

Chair Olsen asked if there is a plan as the number of “phase-out” schools increases and the need for more capacity at other schools increases.

Ms. Smith confirmed that the District will conduct a space usage audit to be used for longer term planning. The Division of Plants & Facilities will review each school to advise how much space is available in each building in order to devise a long term building usage plan.

Director Jurasek asked if it is assumed that the four out-of-time schools will be shuttered. Ms. Smith advised the buildings are not expected to be shuttered but their future has not been determined.

Governor’s Executive Budget ***Impact on the City of Buffalo***

Chair Olsen advanced the agenda to the next item for consideration: a review the Executive Budget as it pertains to the City.

Mr. Link gave a presentation on the Governor’s proposed budget and provided the following information:

With respect to the real property tax freeze credit program:

- Year 2 municipalities must stay within tax cap and have an approved plan sharing or consolidating services;
 - Plan must achieve recurring savings;
 - Reduce expenditures by 1% of the tax levy annually for the next 3 years;
 - 2% and 3% reductions in subsequent years;
 - Savings must be applied to tax reduction;
- Penalty for not achieving planned savings could result in recapture of State aid to the local municipality.

The Big 5 are treated slightly different because of the dependent school districts.

With respect to eliminating duplicative and overlapping governments:

- Shared services and consolidation grants: \$150 million available for consolidations and shared services;
- Citizens reorganization empowerment: up to \$100,000 for local governments to cover costs associated with consolidations and dissolutions;
- Citizen Empowerment tax credits: for local municipalities that consolidate or dissolve, tax credits equal to 15% of the newly combined local tax levy;
- Local Government Efficiency Grants (“LGEG”): competitive grants provide funding to assist with efficiency projects;
 - Buffalo is eligible to compete for the LGEG grants at this time

Other items to note:

- Real property tax credit: available to households with incomes below \$250,000 whose property taxes exceed 6% of their income. The credit is valued up to 50% of the amount by which property taxes exceed the 6% burden threshold. Outside of NYC, only the taxes levied by a tax cap-compliant jurisdiction are included in the credit calculation. The program would be phased in over four years;
- Traffic adjudication: legislation to allow Buffalo to conduct traffic adjudication locally has been included, estimated new revenue at \$3 million annually;
- Local assistance is still held flat at \$161,285,233 and maintained at that rate throughout the financial plan.

Impact on the District

Mr. Miller gave presentation on Governor's proposed budget with respect to the District. The impact on all districts including the Buffalo City School District is unknown as the New York State Division of the Budget did not release projected school aid runs based on the Executive Budget as it has in years past. BFSA developed a rough estimate based on the existing aid formulas along with several assumptions. The District's potential aid increase is \$12 million to \$33 million, excluding funding from the Smart Schools Bond Act & State-wide Universal Pre-Kindergarten grant.

The increase statewide will be \$1.1 billion if all of Gov. Cuomo's proposals are adopted. If his proposals are not accepted the aid will increase 1.7%, or \$377 million, the minimal amount allowable under current NYS Education Law.

Chair Olsen questioned if the assumption was that all of the Governor's proposals would be implemented. Mr. Miller confirmed that this was the Governor's stated position.

Chair Olsen stated there is always uncertainty about state aid; however, the uncertainty this year is waiting to find out if there will be an increase at all dependent upon something the schools have no control over.

Mr. Miller proceeded with his presentation and outlined the Governor's proposals:

- Proposals 37-42
 - Professionalize teaching, support teachers and increase standards; strengthen teacher evaluations,
 - Reward high performing teachers with performance pay
- Proposals 43-50
 - Transform the State's failing schools and implement Massachusetts Model
 - Exeditiously but fairly remove ineffective teachers
 - Expand charter schools by raising the state-wide cap by 100 slots to 560 schools
 - Pass the DREAM Act and ETC

- Proposals 51-54
 - Extend Mayoral control of city school districts
 - Continue support for 4-year old pre-kindergarten
 - Initiate 3-year old pre-kindergarten
 - Launch a NY Mentoring Commission

Presentation of Resolution to Vincent Buzard

Chair Olsen advanced to the final item of business on the agenda, a presentation to A. Vincent Buzard, J.D. Chair Olsen introduced Resolution No. 15-02, “Honoring Former Outside Legal Counsel and Chief Litigator A. Vincent Buzard, J.D.” He commended Mr. Buzard for successfully representing BFSA on every case during his tenure as litigation counsel. The most significant being the wage freeze and steps litigation and the positive effect this had on the City and covered institutions cannot be overstated. The BFSA currently has very little litigation remaining.

Mr. Buzard provided a historical review of the wage freeze case that the BFSA had to enact on April 21, 2004. Mr. Buzard ultimately won this case for the BFSA by overcoming the impairment clause in the Constitution by showing the police power trumps the impairment clause and invoke the need for the police.

Mr. Buzard ultimately won the next suit brought against the BFSA by the teachers union fighting to obtain all of the employment steps that were not granted during the wage freeze. The argument that approving all employment steps would have dire consequences on the ultimate goal which was to fiscally save the City of Buffalo.

Mr. Buzard thanked the Board for their appreciation of his work on their behalf.

Secretary Arthur made a motion to approve the resolution read by Chair Olsen.

Director Mesiah seconded the motion.

**RESOLUTION 15-02
HONORING FORMER OUTSIDE COUNSEL AND CHIEF LITIGATOR A. VINCENT
BUZARD, J.D.**

WHEREAS, on July 3, 2003, New York State Governor George E. Pataki signed into law Chapter 122 of the Laws of 2003, also known as the Buffalo Fiscal Stability Authority Act, which created the Buffalo Fiscal Stability Authority (the “BFSA”) to assist in the restoration of fiscal stability in the City of Buffalo; and

WHEREAS, on December 15, 2003, and pursuant to Resolution No. 03-77, the BFSA Board of Directors voted to approve Harris Beach PLLC as legal counsel of the Buffalo Fiscal Stability Authority, noting Harris Beach “as the firm most capable of carrying out the required duties”; and

WHEREAS, Harris Beach assigned Mr. A. Vincent Buzard, who is the founder and leader of Harris Beach's Appellate Litigation and Advocacy practice group, as legal counsel and chief litigator to the BFSA; and

WHEREAS, Mr. Buzard brought an extensive amount of litigation experience in various municipal areas including labor and contracts, as well as brought a successful record representing clients in both the state and federal judicial systems; and

WHEREAS, during Mr. Buzard's distinguished career in public service and as an attorney, he has served as the Corporation Counsel for the City of Rochester, as previous president of the Monroe County Bar Association, as the 108th president of the New York State Bar Association, was the recipient of the "Justice for All Award" in 2006, and was selected as the 2014 Appellate Lawyer of the Year in the Rochester area; and

WHEREAS, Mr. Buzard's extensive knowledge of the judicial system provided an immeasurable asset in the performance of his duties as chief litigator; and

WHEREAS, Mr. Buzard has successfully represented the BFSA in all of its litigation cases since its inception, including, Meegan v. Brown in the New York State Court of Appeals, BTF v. Tobe in the United States Court of Appeals, Meegan v. Masiello, Foley v. Masiello and the IAFF Local 282 v. BFSA in the New York State Court, Appellate Division; and

WHEREAS, Mr. Buzard's successful representation of the BFSA has provided an estimated \$201.8 million in savings to date for the City of Buffalo and the Buffalo City School District; and

WHEREAS, Mr. Buzard's legal representation, professionalism, tireless effort and commitment have contributed to the success of the BFSA and tremendously towards fiscal stability of the City of Buffalo, the Buffalo City School District, the Buffalo Municipal Housing Authority, and the Buffalo Urban Renewal Agency; and

WHEREAS, Mr. Buzard's contributions to the BFSA and the community shall endure.

NOW THEREFORE BE IT RESOLVED, that the Buffalo Fiscal Stability Authority does hereby honor and appreciate Mr. A. Vincent Buzard, J.D., for his outstanding contributions to the Buffalo Fiscal Stability Authority, the City of Buffalo, the Buffalo City School District, the Buffalo Municipal Housing Authority, the Buffalo Urban Renewal Agency, and the Western New York Community.

The Board voted 6-0 to approve the motion.

Privilege of the Floor

No comments provided.

Adjournment

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

Secretary Arthur offered a motion to adjourn the meeting.

Director Mesiah seconded the motion. The Board voted 6-0 to adjourn the meeting. The meeting adjourned at 3:20pm.