

**BUFFALO FISCAL STABILITY AUTHORITY**  
**Meeting Minutes**  
**July 25, 2016**

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The following are the minutes from the meeting of the Buffalo Fiscal Stability Authority (the “BFSA” or the “Authority”) held on Monday, July 25, 2016, 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  
Interim Vice-Chair Richard T. Jurasek  
Secretary George K. Arthur  
Director Frederick G. Floss  
Director Frank B. Mesiah  
Honorable Byron W. Brown, City of Buffalo Mayor (proxy Estrich)  
Honorable Mark C. Poloncarz, Erie County Executive (proxy Maloney)

**Board Member(s) Excused**

Director Dottie Gallagher-Cohen

**Staff Present**

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

**Additionally Present**

Mr. James L. Magavern, Esq., Magavern Magavern & Grimm LLP  
Ms. Dawn Sanders-Garrett, Executive Director, Buffalo Municipal Housing Authority  
Mr. Modesto Candelario, Deputy Executive Director, Buffalo Municipal Housing Authority

**Opening Remarks**

Chair Olsen welcomed everyone to the July Board meeting, thanked all who were in attendance, and reviewed the logistics and agenda of the meeting.

Chair Olsen advised the Directors that the Governance Committee met earlier and recommended that the full Board approve various BFSA policies and procedures. BFSA staff will provide a brief organizational overview. Ms. Dawn Sanders-Garrett, Executive Director of the Buffalo Municipal Housing Authority (the “BMHA”), will discuss various matters as requested by the BFSA Board at the last board meeting.

Chair Olsen stated that the annual Board self-evaluation form should be completed and submitted anonymously to staff. The results will be compiled and reviewed at the next Governance meeting scheduled for September 21, 2016. In addition, a code of ethics certification page was included for submittal to staff.

**Roll Call of the Directors**

Secretary Arthur called the roll noting that Director Gallagher-Cohen was excused. A quorum being present, the meeting commenced.

Erie County Project Administrator, Siobhan Maloney, represented County Executive Mark C. Poloncarz in accordance with Subdivision 1 of §3853 of the BFSA Act. City of Buffalo Commissioner of Finance, Administration, Policy, and Urban Affairs, 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 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 introduced Resolution No. 16-09: "Approving Minutes from June 6, 2016," and Resolution No 16-10: "Approving Minutes and Resolutions from June 21, 2016."

Secretary Arthur made motion to consider and approve both Resolution Nos. 16-09 and 16-10 jointly.

Director Mesiah seconded the motion.

The Board voted 7-0 to consider and approve Resolution Nos. 16-09 and 16-10 jointly.

**BFSA Business**

*Policies & Procedures Review*

Chair Olsen noted the various proposed policies, guidelines, and reports which had been reviewed by the BFSA Governance Committee. He made a motion to consider all of these items by consent and approve the following resolutions:

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|--|-------------------------------------|
| Bylaws Res No. 16-11                           | Whistleblower Policy Res No. 16-17  |
| Code of Ethics Res No. 16-12                   | Lobbying Policy Res No. 16-18       |
| Mission Statement Res No. 16-13                | Procurement Report Res No. 16-19    |
| Investment Guidelines Res No. 16-14            | Prompt Payment Policy Res No. 16-20 |
| Property Disposal Guidelines Res No. 16-15     | Prompt Payment Report Res No. 16-21 |
| Use of Discretionary Funds Policy Res No 16-16 |                                     |

Chair Olsen stated for the record that Directors' contact with government officials is not prohibited by the Lobbying Policy; Directors are required to notify BFSA staff of contact.

Secretary Arthur made a motion to approve the items as recommended by the Governance Committee.

Director Mesiah seconded the motion.

Interim Vice-Chair Jurasek asked if proper procedure required that the items be approved individually.

Chair Olsen and Secretary Arthur agreed that, according to parliamentary procedure, the items can be voted on in one motion.

The Board voted 7-0 to approve Resolution Nos. 16-11 thru 16-21.

### *Organizational Overview*

Chair Olsen advanced the agenda for the organizational overview to be presented by Ms. Robe.

Ms. Robe stated the bylaws established two standing committees:

- 1) Audit, Finance and Budget Committee: Assists the Directors in meeting the requirements relating to budgeting, financial reporting, and internal controls. Members of the committee are Chair Olsen, Director Floss, and Director Messiah. Additional directors will participate at the request of the Chair. The committee meets three to four times per year to review annual BFSAs budgets and four-year financial plans and to review the independent audit. Additional meetings will be called as necessary.
- 2) Governance Committee: Keeps the Board informed of all matters involving corporate governance, policies, and procedures. The required annual Board self-evaluation is reviewed in this committee. Members include Chair Olsen, Interim Vice-Chair Jurasek, and Secretary Arthur. Additional Directors participate at the request of the Chair. The committee meets two to three times per year or as necessary to review, renew and/or modify existing operational policies.

Chair Olsen noted that all Directors of the Board who are not members of either committee have a standing invitation to participate in the proceedings.

Ms. Robe continued with the overview of the BFSAs. There are five staff members of the BFSAs: Ms. Jeanette Robe, Executive Director, who reports to the Directors; Mr. Bryce Link, Principal Analyst/Media Liaison; Mr. Robert Miller, Comptroller; Mr. Nathan Miller, Senior Analyst/Manager of Technology; and, Ms. Nikita Fortune, Administrative Assistant.

Ms. Robe provided a snapshot of all negotiating units for all covered organizations by listing the number of full-time equivalent employees (“FTEs”) for each unit as well as the expiration date for each agreement. It was noted that no pay increases were included in the City of Buffalo’s fiscal year (“FY”) 2017-2020 four-year financial plan, outside of what was negotiated.

### **City of Buffalo (the “City”):**

- PBA – 703 FTEs, CBA in effect through 6/30/19;
- Local 282 (Fire) – 657 FTEs, CBA in effect through 6/30/17;
- Local 264 (Blue-Collar) – 546 FTEs, CBA in effect through 6/30/19;
- Local 650 (White-Collar (including exempt employees)) – 577 FTEs, CBA in effect through 6/30/19;

- Crossing Guards – 118 employees; CBA in effect through 8/31/15;
- AFSCME 2651 (Building Inspectors) – 53 FTEs, CBA in effect through 6/30/20;
- Local 264T – 30 FTEs, CBA in effect through 6/30/17; and
- Operating Engineers – 26 FTEs, CBA in effect through 6/30/12

Chair Olsen commended the City’s Administration on their willingness to present labor agreements to the BFSA and explaining them in detail.

Director Floss questioned if the crossing guards, bus aides and food service workers were below the new minimum wage thresholds and if increases were included in the four-year plans. Ms. Estrich advised the pay for Crossing Guards was beneath the new threshold and had since been raised to comply with the new guidelines. Ms. Robe advised that the four-year plans do not include wage increases for the negotiating units in question. Director Floss stated that an amended four-year plan and an amended labor agreement should be presented to the BFSA for review and made a recommendation to obtain that information. Chair Olsen concurred.

Ms. Robe stated her concern about the new federal regulations that go into effect in December 2016 for employees that earn less than \$48,000 and the requirement to pay overtime for hours worked over 40 hours per week. Director Floss also stated that the employees would also need to be reclassified under the Fair Labor Standards Act (“FLSA”) as required by law. Ms. Estrich advised that the majority of employees that fall within the stated guidelines work for the Buffalo Common Council and close to a dozen within the Administration that may be affected, therefore, the City has started researching the titles for reclassification. Chair Olsen and Director Floss both agreed that the Buffalo City School District (the “BCSD”) could have a heavier lift with this issue, contingent on the terms for the existing labor agreements.

Interim Vice-Chair Jurasek questioned if the other Big 5 school districts were similar to BCSD in their spending, staffing, and number of expired contracts, noting the Yonkers school district is not comparative to BCSD and the high number of expired labor contracts that are unique to BCSD. Ms. Robe stated staff will have this information compiled for review at the next BFSA board meeting in September 2016.

**Buffalo City School District (“BCSD”):**

- BTF (teachers) – 3,486 FTEs & 147 part-time employees (“PTEs”) (CBA expired on 6/30/04);
- BEST (teacher aids/assistants) – 882 FTEs, (CBA expired on 6/30/12);
- Su/B (substitutes) – 614 PTEs (CBA expired on 6/30/12);
- TAB (bus aides) – 352 PTEs (CBA in effect through 6/30/17);
- PCTEA (White-Collar) – 424 FTEs (CBA expired on 6/30/13);
- Local 264 (Blue-Collar) – 88 (CBA expired on 6/30/13);
- Local 264 (Food Service Workers) – 28 FTEs, employees, (BCSD unable to determine number of part-time employees; CBA in effect through 6/30/17);
- BCSEA (Administrators) – 245 FTEs (CBA expired on 6/30/04); and
- Local 409 (Custodial Engineers) – 55 FTEs, CBA expired on 6/30/10).

**Buffalo Municipal Housing Authority (“BMHA”):**

- Local 264 (White-Collar) – 61 FTEs, CBA expired on 6/30/11;
- Local 264 (Blue-Collar) – 81 FTEs, CBA expired on 6/30/11;
- Local 264 (Managers) – 6 FTEs, CBA expired on 6/30/11;
- Local 17 (Operating Engineers) – 8 FTEs, CBA expired on 6/30/13;
- Exempts – 3 FTEs, each with individual contracts; and
- Non-Represented Civil Service – 8 FTEs, at-will with certain New York State civil service protections.

BMHA is under extreme financial constraints along with housing authorities across the country.

**Buffalo Urban Renewal Agency (“BURA”):**

- CSEA Local 1000 – 31 FTEs, CBA in effect through 6/30/17; and
- Exempts – 9 FTEs, employed at-will.

BURA has made tremendous cuts over the years and is a much smaller organization than it once was.

Chair Olsen noted that renaissance taking place in the City does not seem to extend to programs that assist the needy in terms of housing development, community support and public education. He thanked Ms. Robe for her presentation and advanced the agenda to the discussion with Ms. Dawn Sanders-Garrett, Executive Director, BMHA.

**Buffalo Municipal Housing Authority**

***Discussion with Management***

Ms. Sanders-Garrett thanked the Board for the opportunity to discuss issues pertinent to the BMHA including unit occupancy rates, unit turn-around time, and indicators for scoring. She provided the Directors with a printout of the occupancy rates for BMHA properties including Marine Drive as of June 30, 2016.

**Occupancy**

BMHA has 18 asset management groups (“AMPs”), 13 of which are at an occupancy rate of 90% or better. Three of the AMPs are between 86-90% occupied. The two areas of concern are Commodore Perry Homes (18% occupancy) and A.D. Price Courts (0% occupied). A.D. Price Courts, established in 1943, has 170 units offline and under redevelopment. The plan is being finalized to continue the build out of that property. Three phases have been completed and the fourth phase is underway. There are a number of people that would like to see a mixture of old and new, and A.D. Price Homes were designated specifically for African Americans in the City. BMHA has held several community meetings for planning input from the stakeholders and it appears that a majority would like to preserve one original administrative building and the rest of the development consist of new structures. Director Arthur asked for copies of the minutes of the BMHA community meetings as well as to be notified of the next public meeting. Ms. Sanders-Garrett replied that minutes were not taken at the meetings but summaries are available. Director Arthur stated there was a study done on the units with the Preservation Board and to

date an answer has not been received. Ms. Sanders Garrett indicated the next meeting is scheduled for August 16<sup>th</sup> at 43 Mortimer at 5:30pm.

With respect to Commodore Perry, established in 1937, there are 330 uninhabitable units at the development. Residents have been relocated closer to the BMHA administrative offices to the most inhabitable units. An application was submitted for Commodore Perry to be considered for a federally-funded Choice Neighborhood program for redevelopment but was denied. New competitive programs are presented by the Department of U.S. Housing and Urban Development (“HUD”) on an average of every four years to deal with distressed public housing. Ms. Sanders-Garrett stated nine years ago BMHA received \$12.0M in capital funds and now the agency receives \$7.0M to address the needs of 31 developments. Due to the financial restraints, strategic decisions must continually be made to direct the resources appropriately. A large portion of time is spent lobbying New York State for additional resources for demolition of uninhabitable units at Commodore Perry. Time is also spent at the federal level working on advocacy with the Public Housing Directors Association (“PHDA”) in order to lobby for change of the rules and regulations concerning how offline units are accounted for. The lack of occupancy at Commodore Perry and A.D. Price Courts lower the overall occupancy rates for the BMHA. There is a process to take units offline for demolition, disposition or redevelopment.

In 2012, HUD offered the Rental Assistance Demonstration program (“RAD”) in order to address rehabilitation needs of housing authorities. The number of units to be included in the program was initially capped at 60,000 units. The monies collected could then be used for capital improvements of the developments. BMHA applied for the RAD program in 2012 because the number of needed capital improvements was steadily increasing. The housing stock in the two developments are extremely aged; Commodore Perry was established in 1937 and A.D. Price Courts was established in 1943. Both developments have crumbling infrastructure, air quality issues and water seepage making which makes them completely uninhabitable. The BMHA Board of Directors chose to enroll Commodore Perry in the RAD program as opposed to the entire BMHA portfolio as suggested by Ms. Sanders-Garrett. The suggestion to enroll the entire portfolio was made because the capital improvement funding was steadily decreasing and it would get to a point when the capital needs would outweigh the resources. Subsequently, Commodore Perry was approved for enrollment of 172 of the 330 units in the RAD program. Capital funds are the only dollars available to address capital needs and therefore there must be a new influx of monies outside of the public housing structure to deal with those units. The RAD program allows public housing authorities (“PHAs”) to leverage the rent to pay back resources obtained from financial markets. Prior to the RAD program, PHAs were not allowed to solicit funding from the financial markets. PHAs lobbied for an increase to the number of units that could enroll in RAD and now the program will accommodate 285,000 nationally.

BMHA performed a physical needs assessment of all 31 developments and found that more than \$300M would be needed to address all of the capital needs.

Secretary Arthur asked if there is a local RAD board in Buffalo. Ms. Sanders-Garrett advised there is no local arm for RAD and the decisions regarding RAD are made at the federal level. Secretary Arthur asked how the plan was developed. Ms. Sanders-Garrett advised that BMHA holds public meetings for input in developing a plan for submission to RAD which is determined by the early physical needs assessment, structure of the rent, current physical assessment, financing plan and determining cash flow with the use of some consultants.

Director Floss asked for more clarification as to why the BMHA board did not accept Ms. Sanders-Garrett's recommendation to enroll the entire portfolio in the RAD Program. Ms. Sanders-Garrett responded because RAD was a new program and there was no evidence that the program would be effective. Since then, the board approved the remainder of Perry and Shaffer Village to be added to the RAD program. Meetings to educate BMHA Commissioners and tenants were/will be scheduled. RFPs will be put out for any contracting.

Ms. Estrich questioned why only 57 units of the 172 RAD enrolled units are occupied at Commodore Perry. Ms. Sanders-Garrett advised the financing was just recently completed and the implementation is being completed in three phases which will address a certain number of units in each phase. In addition, new rules, referred to as Affirmatively Affirming Fair Housing, had to be applied to the implementation of the RAD program. There are some units at Commodore Perry that require demolition because the rehabilitation of those units is too great. The said units have met the obsolescence test for HUD and therefore can be demolished when the financing for demolition has been secured.

Secretary Arthur asked what the turn-around time is for a unit. Ms. Sanders-Garrett advised a standard unit is usually ready within 30 days. Some of the work is completed by contractors due to the slim BMHA workforce. Director Floss questioned when a unit is counted as vacant. Ms. Sanders-Garrett advised there are many variables that affect when a unit is deemed vacant, e.g. skipped rent, court eviction cases; there are different treatments for different vacancies. Generally, when a family moves out of a unit the vacancy count begins. Director Floss confirmed that the occupancy rate report is a snapshot of the day. Ms. Sanders-Garrett clarified that units that are undergoing a major redevelopment approved by HUD are not counted in the vacancy rate. BMHA petitions HUD to take any dangerous units offline.

Ms. Sanders-Garrett reviewed the occupancy process for filling units. Application intake is handled at 245 Elmwood for all sites, except for the Marine Drive apartments and every development has its own waitlist. The waitlist for senior developments isn't as long as it is for families because there are more senior units within the City. As an example, the Kenfield-Langfield family development has approximately 900 units and there is turnover in 40 units on a monthly basis. In order to ensure that the units are leased within 30 days there must be an applicant pool of at least 60 for the 40 vacant units. The majority of the development is stable and many residents are expected to attend the National Night Out activities on the development's footprint on August 2, 2016. There are over 10,000 residents in BMHA developments and counters the initial intent of public housing which was to be a short-term housing option. Some developments have over 85 years of wear-and-tear and therefore require extensive repairs and reinforcement. Director Floss asked if there is a difference in the rehabilitation of short-term versus long-term units to ensure that long-term units will not deteriorate to the point of demolition. Ms. Sander-Garrett replied previously the development had one centralized heating unit; that system has been decentralized and there are now individual heating units. The roofs and siding has been replaced. The Kenfield-Langfield development is scoped into any major redevelopment program that BMHA participates in. BMHA is testing the Marine Drive model of the entire occupancy process being completed on site. This change will allow the intake/occupancy department to focus on the other BMHA developments to achieve the goal of having at least 95% occupancy for all BMHA developments.

When the BMHA received \$14.0M from the American Reinvestment Recovery Act the following improvements were made:

- \$5.5M was poured into Ferry-Grider Homes, the City invested in the infrastructure to provide sidewalks in the development;
- The boilers were replaced at Commodore Perry; and
- Façades and internal work was completed at LaSalle Courts.

Without private resources there is no way BMHA will be able to handle \$300M in capital needs.

Director Mesiah asked how many developments have community advisory groups. Ms. Sanders-Garrett advised there are five active community spaces for activities. The Martha Mitchell Center within the Kenfield-Langfield footprint is the largest community area within any BMHA development. The center also houses a Community Action Organization (“CAO”) childcare center. The Lyndon B. Johnson development has an onsite food pantry partnership with the CAO. Commodore Perry has an on-site partnership with Catholic Charities. There are also employment, training and computer services at various developments throughout the BMHA footprint. Each active resident council is provided a space to have activities and meetings.

Interim Vice-Chair Jurasek asked if there is a monthly planning tool to determine maintenance priorities that the BFSA Board would be able to understand. Ms. Sanders-Garrett stated BMHA uses a work order system that generates individual needs of units. The capital improvement department addresses the overall physical needs assessment of the authority.

Director Mesiah exited the meeting at 2:03PM.

Director Floss stated there are three categories of needs:

- Immediate: the sink is broken and water is leaking;
- Long-term maintenance: roofs, boilers; and
- Intermediate development specific needs: a portion of older stock units are rehabbed before they become structural problems which will save money over time.

Ms. Sanders-Garrett replied that not all units are vacant because of structural issues. For example, Shaffer Village has crime issues and a housing unit substation is being placed there to combat that. BMHA is attempting to identify services that residents may need or require, including: youth services, childcare services, food pantry services, housekeeping and budgeting. Due to the limited resources available BMHA tries to educate residents to increase retention and decrease turnover and how to keep rodents and infestation out of the buildings as building extermination is an added expense for the agency.

Ms. Sander-Garrett continued with her presentation stating each property has an assistant superintendent and laborers assigned to handle the process of expediting unit readiness. There are 165 employees in the agency and 30 people called in sick, over and above any scheduled absence. The BMHA is in the process of hiring an Assistant Executive Director of Operations to handle the day-to-day activities to supervise developments.



BMHA received notice from HUD that the Public Housing Assessment System (“PHAS”) score for financial indicator has improved from 10 of 25 in 2014 to 15 of 25 in 2015. The Authority also saw improvement in management score of 12 of 25 in 2014 with improvement to 14 of 25 in 2015. Since the management indicator is not at least 15 of 25, the BMHA is labeled substandard in management, but the Authority overall has received an improved standard score.

Ms. Sanders-Garrett handed out a few copies of the BMHA presentation to the Directors. Secretary Arthur asked that this presentation be recessed in order to provide the Board with an opportunity to review the information. Chair Olsen agreed.

Director Floss stated the Board may be able to offer the most help to BMHA with increasing the PHAS management score. Ms. Sanders-Garrett thanked Director Floss for the assistance and stated she will send a copy of the BMHA presentation on the four indicators to Ms. Robe. BMHA is focused primarily on the financial and management indicators.

Mr. Modesto Candelario, Assistant Executive Director of BMHA, stated that if 170 uninhabitable A.D. Price units and 260 uninhabitable units in Commodore Perry are eliminated from the occupancy rate calculation, the BMHA’s occupancy rate would increase to 96-98%. Therefore, until those units are addressed, BMHA will always score below the threshold which in turn affects the management indicator.

Chair Olsen stated the BFSA Board serves as an educational component to present a complete picture of available housing resources and the challenge of locating affordable decent housing for families in the City. The fact that BMHA and BURA budgets are stressed and a failing BCSD with a 54% graduation rate needs to be highlighted by the BFSA Board in order to provide a clear picture of what is happening in the City. Chair Olsen thanked the BMHA administration for their presentation to the Board. Ms. Sanders-Garrett thanked the Board for the open dialogue and stressed the importance of advocacy for the public housing crisis across the country. Chair Olsen acknowledged the change and challenges in funding public housing.

Director Floss stated the rational between poor housing and poor schools and the need to take a holistic approach to address the needs of the City’s residents.

Ms. Sanders-Garrett stated she would provide Ms. Robe a copy of the upcoming resident engagement meetings at the various developments and stressed the importance of having more voices at the policy-making level, both federal and state, to apply pressure for increased resources to address the capital needs of the authority.

Chair Olsen thanked Ms. Sanders-Garrett for her willingness to attend the meeting. He then asked if there were any new business items. Hearing none, Chair Olsen stated his desire to schedule another meeting with BCSD Board President and Superintendent Cash. Director Floss asked for the new Chief Financial Officer to attend the meeting as well. Chair Olsen stated the availability of quality, affordable education is a major consideration for where people live. There is a major problem in public education that is impeding improvement in the City. In addition, Chair Olsen requested that a discussion with the City Administration be scheduled to discuss the efforts the administration is taking to address housing, education and accessibility issues.

Interim Vice-Chair Jurasek clarified Secretary Arthur's suggestion that the BMHA be invited back to a subsequent Board meeting to continue the dialogue.

**Privilege of the Floor**

Chair Olsen extended the Privilege of the Floor to any member of the attending public who wished to comment for the public record on any actions taken by the Board at the day's meeting.

Chair Olsen asked if there was any new business, hearing none he asked for a motion to adjourn.

Secretary Arthur made a motion to adjourn.

Director Floss seconded the motion.

The Board voted 6-0 to adjourn.

The Board adjourned at 2:42 PM.