

MINUTES
Erie County Fiscal Stability Authority
August 18, 2005

Chairman Edward V. Regan called a meeting of the Erie County Fiscal Stability Authority (“ECFSA”) to order at 2:07 p.m. on Thursday, August 18, 2005 in the Auditorium of the Erie Community College City Campus. Notice of the meeting had previously been distributed to all Directors by FedEx and announced to the public and press.

Directors Present: John Johnson, Sheila K. Kee, Stanley J. Keysa, Janet Penksa, and Edward Regan

Directors Absent: Carole Stone and P. David Campbell

Others Present:

Edward Durivage, Edward Ingoldsby, and Barbara Van Epps of the New York State Division of the Budget
Richard Sigal, Esq. and Christopher Waterman, Esq. of Hawkins Delafield & Wood LPP
Scott Quehl of Public Financial Management, Inc.
Greg Stamm, Esq., Special Counsel

Opening Remarks:

Chairman Ned Regan welcomed all attendees and had the board members and staff introduce themselves. Chairman Regan then said he would diverge from the order of the suggested agenda.

Approval of Minutes

Chairman Regan then asked the Board to direct its attention to the business items on the agenda. Director Keysa moved to approve the minutes of the meeting of August 1, 2005, which motion was seconded by Director Johnson.

Attorney Richard Sigal asked that his comments on page 4 in the third paragraph in the minutes be amended to clarify that ECMC is NOT a covered organization.

Chair Regan discussed with Mr. Sigal the extent of financial assistance, and Sheila Kee passed out a copy of an email circulated to ECMC board members questioning the right of ECFSA to look into the financial affairs of the hospital. Ms. Kee stated that it was important that the ECFSA board had a good picture of the status of ECMC.

Chairman Regan asked Scott Quehl if he is getting the kind of information they need from ECMC. Mr. Quehl said he was.

Director Penksa stated she would like to discuss the impact that the sale of ECMC will have on the four-year plan FY and FY- 05 budget.

Director Keysa then suggested that the issues being raised were valid, and deserved discussion later in the meeting, and moved to amend the original motion to include the comments from Mr. Sigal. Director Johnson seconded, and the motion was unanimously approved.

Resolution 05-06

BE IT RESOLVED that the Erie County Fiscal Stability Authority approves the minutes of its meeting of August 1, 2005, with the clarification that ECMC is not a “covered organization,” and ratifies and affirms five resolutions numbered 05-01 through 05-05 that were approved on August 1, 2005.

This resolution shall take effect immediately.

Buffalo Niagara Partnership Report

Chairman Regan noted that the Buffalo Niagara Partnership had just released a report called “The Erie County Stabilization Project Report,” suggesting steps that Erie County ought to take to bring its budget into line with its fiscal resources. Director Johnson commended the 200 members of the Buffalo Niagara Partnership on their very detailed and extensive report. He thought the ECFSA Board should undertake a thorough review of the report for discussion at the next meeting. Director Kee asked Scott Quehl if the recommendations from this report would be integrated with the four-year plan. Mr. Quehl said some elements would likely require changes in state law or renegotiation of union contracts, and thus take a longer period than available, but that other elements would be recommended for inclusion.

Director Keysa said he had looked at the executive summary and was concerned by what the proposed changes would do to the intricate relationship between local governments and the County. He said that, while the County was primarily a provider of human services, it was also the logical regional government. Over the years, many functions had been supported by the County as a means of achieving economies of scale. If those functions are abandoned by the County, the impact on local governments could be devastating.

Chairman Regan said he doesn’t dispute that, but that urged that the full report be studied for the concepts it advances. Regan expressed the appreciation of the Board for the energy that was put into the report, and said it will be used and debated as soon as all have had a time to review it.

Update on Four-year financial Plan developments

Scott Quehl of PFM Group reported that he and his key staff were working on parallel paths with the County finance office and the comptroller. Fiscal gap projections should be available the first half of next week. The consultants are concentrating on tool building, and working with department heads to understand how they operate. The consultants are on their second and third rounds of interviews. The County Executive’s team is going through budget efficiency initiative. The plan to be submitted, while aided by the consultants, will definitely be an Erie County plan, as it has been at other municipalities, which the firm has assisted. The objective is to show local officials how various techniques can be woven together and used after the firm has completed its work.

Director Johnson asked if PFM felt it was getting good information on which to base an accurate picture of total financial plan. Quehl said that he was satisfied that they were getting good information from the County.

Director Johnson also emphasized the importance of looking at State and Federal entities that provide resources to the County. Chairman Regan also noted that you couldn't fully evaluate the County budget without considering State mandates.

Director Penksa took the opportunity to note that there had been considerable negative press concerning the cost of hiring PFM Group. She noted that she had high regard for the expertise of this firm, and that its services were critically needed to aid the Erie County budget office in preparation of the Plan due to ECFSA by October first.

Mr. Sigal commented that the statutory mandated timelines for completion of the 2005 and 2006 financial plans were so close together that it would be difficult to have fair and open procurement for a financial advisor for only the 2006 financial plan since as Scott Quehl has said PFM current services are already anticipating that certain matters under review for the 2005 plan because of the exigencies of time must be deferred to the 2006 plan. Thus, the two plans are entwined which would discourage and perhaps prejudice a procurement for just the 2006 plan.

Several discussions took place amongst Authority directors regarding the cost of PFM's services and timelines for ascertaining gap numbers. Chairman Regan requested a list of meetings and deadlines from Scott Quehl, and a timetable for procurement procedures from state budget personnel. In addition, there was a discussion of whether ECMC is NOT a covered organization. Director Penksa requested that a letter be sent to state legislative leaders to clarify state legislative intent.

Capital Component of Financial Plan

Chairman Regan noted that the agenda had a separate setout regarding the capital component of the County's financial plan, but said that would be an integral part of the four-year plan due October first.

Regan noted that he and Greg Stamm had met with County Executive Giambra and his representatives prior to the board meeting, and felt it was productive. He sensed that Giambra was open to a reconsideration of how the refinanced tobacco settlement funds would be utilized.

Director Kee again requested a briefing on the tobacco transaction from the County. Ed Ingoldsby suggested that PFM has people, other than Mr. Quehl, who are familiar with the tobacco transaction and could likely provide a briefing for the Board.

Revised By-Laws

Dick Sigal advised the board that the By-Laws had been revised to incorporate changes suggested at the last meeting.

Director Johnson then voted to approve the By-Laws with the requested changes; the motion was seconded by Director Penksa, and unanimously approved.

Resolution 05-07

WHEREAS, the Erie County Fiscal Stability Authority (“ECFSA”) adopted By-Laws at its meeting of August 1, 2005; and

WHEREAS, the ECFSA's attorneys and Directors recommend that certain technical amendments be made in the By-Laws.

NOW THEREFORE BE IT RESOLVED, that the ECFSA approves the adoption of the By-Laws attached to this resolution and that said By-Laws hereby replace the previously adopted By-Laws.

This resolution shall take effect immediately.

Appointment of Secretary

Chairman Regan began by stating that Director Keysa had 16 years of experience as a former Supervisor of the Town of Lancaster and had worked cooperatively with Chairman Regan when he was County Executive.

Director Kee then moved to appoint Stan Keysa as Secretary of the Authority. The motion was second by Director Penksa and unanimously approved.

Resolution 05-08

WHEREAS Chapter 182 of the Laws of 2005 that created the Erie County Fiscal Stability Authority (“ECFSA”) provides that the Directors shall appoint officers and agents as it may require; and

WHEREAS the ECFSA By-Laws require the appointment of a Secretary.

NOW THEREFORE BE IT RESOLVED, that the ECFSA appoints **Stanley J. Keysa** as Secretary to serve until the earlier of the expiration of his term as a Director, his resignation, removal or death.

This resolution shall take effect immediately.

Appointment of Treasurer

Chairman Regan noted that Janet Penksa had an extraordinary understanding of how the state budget process worked and was well-respected by all who had worked with her regardless of their political affiliation. Director Keysa then moved to appoint Janet Penksa as Treasurer of the Authority; the motion was seconded by Director Johnson, and unanimously approved.

Resolution 05-09

WHEREAS Chapter 182 of the Laws of 2005 that created the Erie County Fiscal Stability Authority (“ECFSA”) provides that the Directors shall appoint a Treasurer.

NOW THEREFORE BE IT RESOLVED, that the ECFSA appoints **Janet E. Penksa** as Treasurer to serve until the earlier of the expiration of her term as a Director, her resignation, removal or death.

This resolution shall take effect immediately.

Procurement Guidelines

Chair Regan called upon attorney Richard Sigal to explain the next several resolutions. Mr. Sigal noted that ECFSA was subject to State law governing the hiring of consultants, and needed to adopt procurement guidelines. At the last meeting, because of the limited time frame until October 1st, ECFSA had engaged several firms on an expedited basis. Today's resolution sets procurement policies for ECFSA, and was modeled after that of the Buffalo Fiscal Stability Authority. Director Keysa asked if it would be possible to adopt the policies today, but have revisions ready for the next meeting to provide for a two-step procedure whereby ECFSA would first issue a "request for qualifications" ("RFQ"), after which it would issue to the three (3) or four (4) most qualified respondents a "request for proposal" ("RFP"). Mr. Sigal said that those changes could be made by the next meeting in time to begin the solicitation process.

Director Johnson then moved to approve the resolution as drafted, seconded by Director Penksa, and unanimously approved.

Resolution 05-10

WHEREAS, the Erie County Fiscal Stability Authority ("ECFSA") was created by Chapter 182 of the Laws of 2005, as amended, to be a corporate governmental agency and instrumentality of the State of New York constituting a public benefit corporation to "oversee the County's budget, financial and capital plans; to issue bonds, notes or other obligations to achieve budgetary savings and to finance short-term cash flow or capital needs; and if necessary, to develop financial plans on behalf of the County if the County is unwilling or unable to take the required steps toward fiscal stability"; and

WHEREAS, the ECFSA will require professional assistance in performing its mission, and

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

WHEREAS, in order to comply with state law it is necessary for the ECFSA to adopt Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts.

NOW THEREFORE BE IT RESOLVED, that the ECFSA adopts the Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts that is attached to this resolution.

This resolution shall take effect immediately.

Amend Resolution on Legal Counsel

Mr. Sigal explained that it is unlikely that ECFSA will need the specialized expertise of bond counsel in the near future as much as it will need general legal services, and that he would terminate his services as September 17th. Special counsel Greg Stamm stated that he doesn't possess the invaluable and specialized expertise of Mr. Sigal, and may recommend retention of bond counsel in the future

Director Kee then moved to revise the resolution retaining Hawkins Delafield & Woods LLP. The motion was seconded by Director Penksa and unanimously approved.

Resolution 05-11

WHEREAS, the Erie County Fiscal Stability Authority ("ECFSA") was formed by Chapter 182 of the Laws of 2005, as amended, to "oversee the County's budget, financial and capital plans; to issue bonds, notes or other obligations to achieve budgetary savings and to finance short-term cash flow or capital needs; and if necessary, to develop financial plans on behalf of the County if the County is unwilling or unable to take the required steps toward fiscal stability;" and

WHEREAS, the ECFSA will require professional assistance in performing its mission; and

WHEREAS, the ECFSA is required by Chapter 182 of the Laws of 2005, as amended, to commence operations immediately and to receive a four year financial plan for the County of Erie not later than October 1, 2005 and act upon such plan not later than 15 days after its submission by the County, and to receive and act upon a four-year financial plan submitted with the County Executive's 2006 fiscal year budget proposal and any revisions thereto; and

WHEREAS, it is necessary that the ECFSA immediately obtain legal services regarding its formation and activities, the immediacy of such need constituting extraordinary circumstances which make competition impracticable or inappropriate within the meaning of the procurement guidelines adopted by this Authority;

NOW THEREFORE BE IT RESOLVED, that the ECFSA engage the firm **Hawkins Delafield & Wood LLP** to provide such legal services as requested by the Chairman until such time as the Authority shall have a reasonable opportunity to procure such legal services in accordance with a competitive selection process undertaken in accordance with its procurement guidelines. Such services shall be conditioned upon the Chairman signing and receiving appropriate letter from the County Executive of the County of Erie as required regarding consent of said official to this representation and shall be undertaken for such amounts and on such terms as shall be determined by the Chairman or Vice Chairman of the Authority.

BE IT FURTHER RESOLVED that this resolution shall supersede the resolution of the Authority adopted August 1, 2005 appointing Hawkins Delafield & Wood LLP to provide such legal services.

This resolution shall take effect immediately.

Amend Resolution on Financial Advisor

Director Penksa stated that she felt that PFM was a very professional and capable firm to handle the massive amount of work that needs to be complied for the price it is getting. She then moved to retain PFM, Inc. as interim financial advisor. Her motion was seconded by Director Johnson and unanimously approved.

Resolution 05-12

WHEREAS, the Erie County Fiscal Stability Authority (“ECFSA”) was formed by Chapter 182 of the Laws of 2005, as amended, to “oversee the County’s budget, financial and capital plans; to issue bonds, notes or other obligations to achieve budgetary savings and to finance short-term cash flow or capital needs; and if necessary, to develop financial plans on behalf of the County if the County is unwilling or unable to take the required steps toward fiscal stability”; and

WHEREAS, the ECFSA will require professional assistance in performing its mission; and

WHEREAS, the ECFSA is required by Chapter 182 of the Laws of 2005, as amended, to commence operations immediately and to receive a four year financial plan for the County of Erie not later than October 1, 2005 and act upon such plan not later than 15 days after its submission by the County, and to receive and act upon a four-year financial plan submitted with the County Executive’s 2006 fiscal year budget proposal and any revisions thereto; and

WHEREAS, it is necessary that the ECFSA immediately obtain services of a financial advisor regarding its formation and activities, the immediacy of such need constituting extraordinary circumstances which make competition impracticable or inappropriate within the meaning of the procurement guidelines adopted by this Authority;

NOW THEREFORE BE IT RESOLVED, that the ECFSA engage the **PFM Group** to provide such financial advisor services as requested by the Chairman until such time as the Authority shall have a reasonable opportunity to procure such financial advisor services in accordance with a competitive selection process undertaken in accordance with its procurement guidelines. Such services shall be undertaken for such amounts and on such terms as shall be determined by the Chairman or Vice Chairman of the Authority.

BE IT FURTHER RESOLVED that this resolution shall supersede the resolution of the Authority adopted August 1, 2005 appointing the PFM Group to provide such financial advisor services.

This resolution shall take effect immediately.

Operating Budget

Director Kee wanted to express her gratitude that the operating budget showed the reimbursement for the great work the Buffalo Fiscal Stability Authority has provided us so far. She then asked various questions about the proposed budget. Director Penksa asked for greater detail in the next iteration of the operating budget.

Director Keysa noted that Senator Volker had been interviewed on TV stating that Volker thought this board would be much less expensive because it could satellite off the Buffalo FSA staff, but that the budget was obviously a separate staff and asking an explanation as to why.

Ed Ingoldsby stated that, as Director Kee pointed out, on an interim basis ECFSA is relying substantially on the BFSFA staff, but that over time he thinks they have a full slate and we have full slate so their capabilities to support this authority on a long-term basis will pose a problem. Chairman Regan stated that he has favored regionalism from the very beginning of regionalism, but that we need to be separate.

Director Penksa then moved to approve the operating budget; her motion was seconded by Director Keysa and unanimously approved.

Resolution 05-13

WHEREAS, the Erie County Fiscal Stability Authority (“ECFSA”) was created by Chapter 182 of the Laws of 2005, as amended, to be a corporate governmental agency and instrumentality of the State of New York constituting a public benefit corporation to “oversee the County’s budget, financial and capital plans; to issue bonds, notes or other obligations to achieve budgetary savings and to finance short-term cash flow or capital needs; and if necessary, to develop financial plans on behalf of the County if the County is unwilling or unable to take the required steps toward fiscal stability”; and

WHEREAS, the ECFSA is required by Chapter 182 of the Laws of 2005, as amended, to commence operations immediately and to receive a four-year financial plan for the County of Erie not later than October 1, 2005 and act upon such plan not later than 15 days after its submission by the County, and to receive and act upon a four-year financial plan submitted with the County Executive’s 2006 fiscal year budget proposal and any revisions thereto; and

WHEREAS, the ECFSA will have costs and expenses to operate and carry out its functions, including but not limited to paying the costs and expenses of its agents, employees and facilities hereof, reimbursement of costs incurred by Directors for actual and necessary expenses incurred in the performance of such Director's official duties, and otherwise to carry on and effectively carry out the obligations required by Chapter 182 of the Laws of 2005, as amended; and

WHEREAS, staff has carefully reviewed costs and expenses anticipated to be incurred in carrying out the duties and functions of the ECFSA and has prepared an operating budget for the 2005 Fiscal Year based upon reasonable assumptions of costs and expenses, a copy of which is appended hereto.

NOW THEREFORE BE IT RESOLVED, that the Directors of the ECFSA approve the budget for the 2005 Fiscal Year covering operating expenses from August 1, 2005 through December 31, 2005.

This resolution shall take effect immediately.

Authority Staff

Chairman Regan asked for motions to approve resolutions providing for staffing and administration. Mr. Stamm stated that it was obvious there was a need to have someone handling the day-to-day administration of the Authority, and that Gail Keil was both qualified and already doing the job. He said his own role is still being defined and hopefully he will be able to minimize his role, but a lawyer is needed to help ECFSA get thru this period.

Director Penksa then voted to approve Greg Stamm as Special Counsel. Motion was seconded by Director Kee and unanimously approved.

Resolution 05-14

WHEREAS, the Erie County Fiscal Stability Authority (“ECFSA”) was formed by Chapter 182 of the Laws of 2005, as amended, to “oversee the County’s budget, financial and capital plans; to issue bonds, notes or other obligations to achieve budgetary savings and to finance short-term cash flow or capital needs; and if necessary, to develop financial plans on behalf of the County if the County is unwilling or unable to take the required steps toward fiscal stability”, and

WHEREAS, the ECFSA will require professional staff to assist in performing its mission; and

WHEREAS, the ECFSA is required by Chapter 182 of the Laws of 2005, as amended, to commence operations immediately and to receive a four year financial plan for the County of Erie not later than October 1, 2005 and act upon such plan not later than 15 days after its submission by the County, and to receive and act upon a four-year financial plan submitted with the County Executive’s 2006 fiscal year budget proposal and any revisions thereto; and

WHEREAS, Greg Stamm is well qualified for the position of Special Counsel, possessing training and experience that will allow him to immediately commence the duties of Special Counsel; and

WHEREAS, Greg Stamm is recommended by the Chairman and Vice-Chairman.

NOW THEREFORE BE IT RESOLVED, that the ECFSA offers the position of Special Counsel to **Greg Stamm** subject to terms and conditions of employment as determined by the Chairman or Vice Chairman of the Authority.

This resolution shall take effect immediately.

Authority Staff

Director Penksa then moved to approve Gail Keil as Director of Administration; her motion was seconded by Director Kee and unanimously approved.

Resolution 05-15

WHEREAS, the Erie County Fiscal Stability Authority (“ECFSA”) was formed by Chapter 182 of the Laws of 2005, as amended, to “oversee the County’s budget, financial and capital plans; to issue bonds, notes or other obligations to achieve budgetary savings and to finance short-term

cash flow or capital needs; and if necessary, to develop financial plans on behalf of the County if the County is unwilling or unable to take the required steps toward fiscal stability”; and

WHEREAS, the ECFSA will require professional staff to assist in performing its mission; and

WHEREAS, the ECFSA is required by Chapter 182 of the Laws of 2005, as amended, to commence operations immediately and to receive a four year financial plan for the County of Erie no later than October 1, 2005 and act upon such plan not later than 15 days after its submission by the County, and to receive and act upon a four-year financial plan submitted with the County Executive’s 2006 fiscal year budget proposal and any revisions thereto; and

WHEREAS, Gail Keil is well qualified for the position of Director of Administration, possessing training and experience that will allow her to immediately commence the duties of Director of Administration; and

WHEREAS, Gail Keil is recommended by the Chairman and Vice-Chairman.

NOW THEREFORE BE IT RESOLVED, that the ECFSA offers the position of Director of Administration to **Gail Keil** subject to terms and conditions of employment as determined by the Chairman or Vice Chairman of the Authority.

This resolution shall take effect immediately.

Authority Staff – Health Benefits

Dick Sigal emphasized the need to get an administrative staff in place with proper benefits and support, and said it would be proper to move these resolutions in a consolidated fashion to expedite the meeting.

Director Kee asked if a site had been selected for ECFSA offices, and Chairman Regan called on Gail Keil to report on possible sites. Ms. Keil said that several were considered, with the most likely being the former TICOR building at 110 Franklin Street, which is now owned by Erie County. ECFSA would rent the space from Erie County, although a rate has not yet been negotiated. Director Keysa noted that the building had once been a church where Abraham Lincoln had gone to services while on the way to his inauguration. Chairman Regan asked if it would be possible to visit the site after the meeting and Erie County DEP Commissioner Larry Rubin said he would arrange for keys to be available.

Director Penksa then moved to approve Resolutions 05-16 (providing health benefit package), 05-17 (authorizing membership in the NYS Employee Retirement System), 05-18 (authorizing employees otherwise qualified to participate in Tier I and Tier II plans), 05-19 (providing for pension benefits for unused sick leave time), and 05-20 (authorizing use of a payroll service) in a single motion; that motion was seconded by Director Kee and unanimously approved.

Resolution 05-16

WHEREAS, the Erie County Fiscal Stability Authority (“ECFSA”) was formed by Chapter 182 of the Laws of 2005, as amended, to “oversee the County’s budget, financial and capital plans; to

issue bonds, notes or other obligations to achieve budgetary savings and to finance short-term cash flow or capital needs; and if necessary, to develop financial plans on behalf of the County if the County is unwilling or unable to take the required steps toward fiscal stability”; and

WHEREAS, the ECFSA is required by Chapter 182 to commence operations immediately; and

WHEREAS, the ECFSA requires professional staff to assist in performing its mission and it is necessary to offer such employees standard health insurance benefits comparable to those offered to state employees; and

WHEREAS, staff have received and reviewed materials regarding state sponsored health insurance;

THEREFORE BE IT RESOLVED, that the Directors of the Erie County Fiscal Stability Authority elect to participate as a participating employer in the New York State Health Insurance Program; and

BE IT FURTHER RESOLVED, that the effective date of such participation shall be September 1, 2005 or such later date as is appropriate for the employees of the Authority, is permitted by law, and is acceptable to the Executive Director of the Authority; and

BE IT FURTHER RESOLVED, the Chairman or his designee(s) are further authorized to take all actions deemed necessary or number appropriate to implement the foregoing and to take related actions.

This resolution shall take effect immediately.

Authority Staff – General ERS Membership

Resolution 05-17

BE IT RESOLVED: that the Directors of the Erie County Fiscal Stability Authority do hereby elect to participate as an employer in the New York State and Local Employees Retirement System and approve inclusion of its officers and employees in such system, in accordance with any and all of the laws governing such participation as set forth in the Retirement and Social Security Law, as presently or hereafter amended, together with any administrative rule, regulation or directive governing same; and

BE IT FURTHER RESOLVED: that this election shall become effective on the 18th day of August 2005.

This resolution shall take effect immediately.

BE IT RESOLVED: that the Directors of the Erie County Fiscal Stability Authority do hereby elect to participate as an employer in the New York State and Local Employees Retirement System and approve inclusion of its officers and employees in such system, in accordance with any and all of the laws governing such participation as set forth in the Retirement and Social Security Law, as presently or hereafter amended, together with any administrative rule,

regulation or directive governing same; and

BE IT FURTHER RESOLVED: that this election shall become effective on the 18th day of August 2005.

This resolution shall take effect immediately.

Authority Staff – Tier I and Tier II Plans

Resolution 05-18

BE IT RESOLVED: that the Directors of the Erie County Fiscal Stability Authority do hereby elect to provide the additional pension benefits of Section 75-c; Section 75-e; Section 75-g and Section 75-i of the Retirement and Social Security Law, as presently or hereafter amended; and

BE IT FURTHER RESOLVED: that the effective date of such shall be the 18th day of August, 2005.

This resolution shall take effect immediately.

Authority Staff – Benefits for Unused Sick Leave

Resolution 05-19

BE IT RESOLVED: that the Directors of the Erie County Fiscal Stability Authority do hereby elect to provide the additional pension benefits of Section 41 (j) of the Retirement and Social Security Law, as presently or hereafter amended; and

BE IT FURTHER RESOLVED: that the effective date of such shall be the 18th day of August, 2005.

This resolution shall take effect immediately.

Authority Staff - Authorize Payroll Service

Resolution 05-20

WHEREAS, the Erie County Fiscal Stability Authority (“ECFSA”) was formed by Chapter 182 of the Laws of 2005, as amended, to “oversee the County’s budget, financial and capital plans; to issue bonds, notes or other obligations to achieve budgetary savings and to finance short-term cash flow or capital needs; and if necessary, to develop financial plans on behalf of the County if the County is unwilling or unable to take the required steps toward fiscal stability”; and

WHEREAS, the ECFSA is required by Chapter 182 to commence operations immediately; and

WHEREAS, the ECFSA requires professional staff to assist in performing its mission; and

WHEREAS, it is necessary that the ECFSA immediately obtain payroll services to compensate its staff, the immediacy of such need constituting extraordinary circumstances which make

competition impracticable or inappropriate within the meaning of the procurement guidelines adopted by this Authority; and

WHEREAS, staff have received and reviewed information from ComputerSearch Payroll Services regarding payroll administration;

THEREFORE BE IT RESOLVED, that the Directors of the Erie County Fiscal Stability Authority elect to engage **ComputerSearch Payroll Services** until such time as the Authority shall have a reasonable opportunity to procure such payroll services in accordance with a competitive selection process undertaken in accordance with its procurement guidelines. Such services shall be undertaken for such amounts and on such terms as shall be determined by the Chairman or Vice Chairman of the Authority.

This resolution shall take effect immediately.

Director Penksa asked if someone from the state budget office could develop the full annual number for the operating budget for the next meeting, and Director Keysa asked if someone from state budget office could also develop job descriptions for the positions identified in the budget.

Public Comments

The Chairman then opened the floor to questions or comments from the audience.

Richard Pawarski (candidate for Erie County Comptroller) expressed concern over the retirement package that the board approved. Ed Durivage explained that the resolutions were adopting the whole suite and that is not to put those employees into those tiers just that in the event that an employee was already in a tier, they would be reinstated in that tier; new employees would be started in Tier IV. Mr. Pawarski's next question was on the use of the tobacco funds. He said County Executive Giambra had said that the County had received the \$110 million and the funds would go to the general fund and yet this board has not determined the appropriate use of those funds. He asked whether it wouldn't be wise to put this money in a trust account until this board has determined the use, and what is going to stop the County Executive from using the funds and when the County would have to borrow more funds. Chairman Regan noted ECFSA had no present control over the money, but that he had been advised to discuss it independently. Director Penksa stated that we do not have any statutory authority to require that the funds be placed in trust.

Mr. Pawarski asked whether the money was not originally limited to capital purposes. Chairman Regan answered that the funds were originally limited by IRS rules to capital purposes, but that the use had been changed in the recent refinancing. This was confirmed by Mr. Sigal

Mr. Pawarski's last question was about the pay and benefits provided Greg Stamm. Mr. Stamm stated that he is not going into any retirement system and clearly he will be paid for his services but how that happens will be determined by how much work is required of him. Mr. Stamm stated that his regular hourly wage was not going to be charged, but that his rate will be fair for his services.

Erie County Legislator Demone Smith, Chairman of the Legislature's Finance Committee, asked if this board would file all paperwork with the clerk of the legislature. Chairman Regan stated that of course our documents would be available to the community as this is an open board. Director Keysa mentioned that as Secretary he would like to have an official repository and that the County Clerk might be willing to be the official document keeper. Director Kee stated maybe the library would be a good place to have copies open to the public. Chairman Regan thought that the new ECFSA office would be appropriate. Dorothy Johnson of the BFSA stated that all their documents and minutes are all on their official website and the official copy is kept in their office. Chairman Regan stated that ECFSA would consider that suggestion and put it on agenda for next meeting.

Legislator Smith asked whether ECFSA would displace the County's bonding authority, that is, will the County be able to borrow money or will the Authority? Mr. Sigal said that if the Authority were to do any bonding it would be at the request of the County Legislature and the County Executive. During the advisory period any borrowing by the County would be subject to review by this board of its prudence. There is no requirement in the law as to which entity will or will not be borrowing.

Mr. Smith then asked whether, if the Authority were to do any borrowing, who would choose the bond counsel? Mr. Sigal stated the authority would do it as part of the procurement guidelines approved by the Authority.

Mr. Smith noted that Erie County has required that 15% of its contracts be awarded to minority or women business enterprises and asked whether ECFSA plans to live by those rules. Director Kee said the procurement provision would cover that.

Mr. Smith asked if PFM Group was subject to that requirement. Chairman Regan stated that, if they have not in the past, PFM would certainly be in the future.

Legislator Smith noted that, as of right of now, ECFSA is in advisory mode and yet the expenditure is for a full staff in contrast to the Buffalo board which is a control board. Chairman Regan stated that the workload is very similar, and that the Authority must be ready to go if we go into a control role.

Mr. Smith expressed concern that the hiring of Ms. Keil and Greg Stamm indicates a strong involvement with the Republican Party, and asked if there is a sense of partisanship on the board. Director Penksa stated she is a Democrat, recommended for appointment by the State Comptroller that she had worked with these people and they are very professional. Chairman Regan went on to state that all board members have had to deal with the political parties and that the route to public policy is through a political background.

The Chairman thanked the audience participation and stated he wished more of Mr. Smith's colleagues would attend. Chairman Regan then invited the Directors to accompany him in looking at the former TICOR building at 110 Franklin Street, which has been suggested as suitable for ECFSA offices.

At 4:13 p.m., Director Johnson moved to adjourn, seconded by Director Penska, and the motion was unanimously approved.

Respectfully submitted,

Stanley Jay Keysa,
ECFSA Secretary