

MINUTES
Erie County Fiscal Stability Authority
November 16, 2005

Chairman Edward V. Regan called the meeting of the Erie County Fiscal Stability Authority (“ECFSA”) to order at 4:05 p.m. on Wednesday, November 16, 2005 in Room 101 of the Buffalo Niagara Convention Center. Notice of the meeting had previously been distributed to all Directors by courier and announced to the public and press.

***Directors Present:** Anthony J. Baynes, P. David Campbell, Sheila K. Kee, Stanley J. Keysa, Janet Penksa, John Johnson and Edward V. Regan*

***Others Present:** Greg Stamm, Esq., Special Counsel, Lee Van Riper, Executive Director*

Opening Remarks:

Chairman Ned Regan welcomed all attendees and explained that the website was up on the screen with a large number of new items and we have made it more user- friendly. The site name is www.ecfsa.state.ny.us or you can Google it.

Chairman Regan asked General Counsel Greg Stamm to review the process under which ECFSA was operating. Mr. Stamm stated that, when the State Legislature adopted the ECFSA bill, it intended to create an advisory board like that created for Nassau County. The Erie County Charter is unique in this regard that, if by chance a budget is not adopted or in balance at the time the levy is sent for taxes at the end of the year, the deficit would be made up the imposition of real property taxes. Consequently, since the primary reason ECFSA would go into a control period would be the failure of the county to adopt a budget that was balanced under Generally Accepted Accounting Procedures (“GAAP”), the control period would only last a short period of time. As a result, yesterday’s action by the County Legislature eliminates that basis for declaring a control period.

What the action of the County Legislature does is to encourage the continuation of the cooperative spirit between the authority and the county government, including the Executive and Legislature, on an ongoing basis to make sure the 4-year plan is carried out. There are very limited reasons ECFSA could again become a control board. For example, one is if, in the middle of the year, the county ran a deficit in excess of 1% of budget, which would be about \$10 million dollars. If that happened, a control period would be in order. There are a lot things for the Authority to do going forward to make sure the government continues on an even keel. However, it is unlikely that any time soon there would ever be a reason to think about imposing a control period.

Chairman Regan asked if Mr. Stamm was saying that, while state law authorizes a hard control period when the budget is not balanced, the county charter says the budget will always be

balanced. If so, there is a conflict between state law and the county charter. "Is Erie County the only county that does that?" Mr. Stamm stated he was not aware of charter requirements in other counties.

Chairman Regan then spoke about the actions of yesterday of the County Legislature. The legislators passed about 110 of the 140 initiatives that our consultant had worked to create. "These initiatives are about what this board is all about. Downsizing of government, reengineering, reforming government, merging of departments, elimination of other duties and functions to create a government that works." Along with the budget resolution are over 100 initiatives and some have been approved in the 2006 budget, some are marked "pending legislative vote" others are blank or say "under the control of County Executive." Chair Regan suggested interested parties visit the website to review all these initiatives.

Chair Regan went on to say: "PFM went into county government and worked with county officials and came out with this document that the Legislature has passed. This document is intended to demonstrate that the Legislature is pursuing four-year plan initiatives brought before us and is happy to act on items not yet pursued by County Executive or other county officials. You will see a call to County Executive, Comptroller and Sheriff to get these things in front of us so we can enact them." Chairman Regan applauded County Legislature for \$137 million dollars worth of PFM initiatives adopted, passed and to be implemented in county government.

He pointed out that Nassau County, in following PFM's recommendations, has had 10 upgrades in its financial ratings. "We fully intend to work with the County Executive, Legislature and other officials; to work with union leaders; to work with State Legislature and Governor's office. That's what was done in Nassau, it can be done again, the county can be stream-lined and made modern and made to work on behalf of citizens and it can be done in a matter of a couple of years. That is what this board is going to do. A major thing occurred yesterday, I saw a change in a number of legislators' attitudes from negative to a very positive attitude."

Chairman Regan remarked that we want to make sure that these initiatives are not just passed but implemented. What we are going to do is create an Office of Management and Productivity. It has been in our list of "efficiency grant" initiatives and it has been widely distributed. The goal is simply to go back into county government and deal with the professionals to work to implement them. We have started to create this office, with charts and graphs to track all the initiatives and understand what steps need to be taken next. The public would be welcome to stop in and see the progress of all the initiatives and track the savings. We are going to get the citizens and press to see that this is very clear and very open. Director Campbell has volunteered to create a committee to guide this, including people drawn from all walks of life and people who have been offering these ideas and will meet monthly to report publicly to go over just where the progress is. Congratulations to the legislators for being partners and they have invited us to do this by passing it.

Mr. Van Riper spoke regarding the resolution the County Legislature passed. There were 12 items in the resolution that were individually specified and passed that need legislation authorization either to implement a fee increase or to seek with state authorization. A dozen initiatives actively got voted on. There are another 24 items that were already in the budget as

adopted, or proposed by County Executive. Then there are about 40 more initiatives that are listed as under the control of the County Executive. That's because the Legislature was not asked specifically to do anything on these, they are management type of things that will go into place. They are the type of things that we will look over with Mr. Campbell's committee and with the authority staff to make sure they are going forward. "We will continually check with the County Executive's office and administration." There are probably another 40 or so which don't have specific comment on them or their status and are items that are in the four year plan that are moving forward, need active oversight or still need to be developed. They all need to be watched and they all need to be encouraged. They all need to be tracked to make sure we are making progress and that Erie Country's government is being restructured along the lines recommended to get the full savings that PFM identified, and which might well grow beyond the amount specified.

Van Riper said that, during a conversation with the Budget Director and PFM, some think PFM underestimated in some cases that they might be able to get more money out of certain initiatives, \$10 - \$11 million dollars of initiatives in the 2006 plan which grow to some \$30 million by 2009. Without ignoring these that are under the control of the County Executive or Sheriff, other things to be developed, so cumulatively for the four-year plan, there will be some \$70 million over the four years of savings from what initiatives were enacted yesterday, growing to the \$260 million PFM identified in total when the rest of the plans get developed.

Chairman Regan asked if the Budget Director is serious about this. Mr. VanRiper responded that they budgeted conservatively in some places, that there are some places that PFM suggested projected money that Budget didn't feel comfortable doing. For example, there is an expanded youth detention proposal that projected that, if they provided more beds, they could charge other counties for housing their youth. Budget said they have the capacity to do it, but they have no signed MOU's and they didn't feel safe to put revenue estimates on it.

Director Kee congratulated the Legislature for a job well done. "It is the beginning of a new era in county government." She said she is very excited about the office of management and productivity. A suggestion is to have key legislative chairs participate so the subject matter is reviewed by them as the issues are developed so that it will facilitate approval of future proposals. It would fast track some of the decision making and make sure the right individuals are participating from the county government departments.

Director Campbell said he concurred 100%. "This is going to require significant participation from the Legislature, Comptroller, and County Executive's office to implement any of these things and our job is to make sure the priorities are set and the processes move forward."

Director Johnson agreed with Directors Kee and Campbell, but said he is still concerned that the resolution created new jobs in the budget. Many of these jobs go back to a significant revenue stream coming out of other units of government. "I would strongly encourage that the ECFSa board make a major effort to see that those jobs are properly funded directly off the local tax base or through participation of state and federal government. Right now this resolution does not spell that out and I think we would be remiss if we went forward and did not have some thoughts on this."

Chairman Regan stated that there are some structural weaknesses in county government, perhaps along the lines Director Johnson was illustrating and certainly in the human resources department. We also know that our consultants found real strengths in the structure of county government but many improvements just hadn't been implemented in the midst of this crisis.

Director Keysa stated that the Legislature has shown great growth in maturity, in how things have been handled, and congratulated Majority Leader Lynn Marinelli for pushing through many of these initiatives. "She gained support for several initiatives that are difficult for those on her side of the aisle." Director Keysa also thanked the three County Legislators who elected to support the sales tax. "This was a reasonable and responsible thing for Legislators Chuck Swanick, Jeanne Chase and Steve McCarville to do. It was a difficult thing for them to do."

Director Penksa stated: "We never wanted to take over for democratically-elected government officials and I think we are all relieved that the Legislature rose to the occasion and that preserves what this democracy is about. Thanks again to Marinelli and the Legislature for taking leadership here."

Director Baynes congratulated Lynn Marinelli for rallying the troops and getting this done.

Chairman Regan stated: "We are realists and we are determined to take a government that doesn't work efficiently and make it work...that's our goal...that's our job... and we will keep coming back here in front of you and Mr. Campbell's committee and we will report publicly. You will be able to walk in and see just where they are, and if we eliminated one, there will be an explanation why when we achieve the goal you will hear from us."

Approval of Minutes

Director Kee then moved to approve minutes from November 3, 2005. The motion was seconded by Director Baynes and unanimously approved.

Resolution No. 05-37

APPROVING MINUTES AND RESOLUTIONS FROM NOVEMBER 3, 2005

BE IT RESOLVED that the Erie County Fiscal Stability Authority approves the minutes of its meeting of November 3, 2005 and ratifies and affirms 1 resolution numbered 05-36 that was approved on November 3, 2005.

This resolution shall take effect immediately.

OTHER BUSINESS

Chairman Regan spoke about two other committees being formed. One would look at government structure, meaning the relationship of the county with the cities, towns and villages. The elected officials have been watching the county crisis go on and wanting to play some sort of

a role. He asked Director Keysa to head this committee and report back. We also need a finance committee and the Chairman asked Director Penksa to head this committee.

Director Campbell stated the ECFSA was created because of an overriding factor. "Some poor decisions that were made were conscious decisions. People knew what they were doing, people went along with it and the results are what we got. The overriding issue is a leadership issue, and the leadership is now stepping up to the table. The state bill that was written for ECFSA was written intentionally so that the elected officials had an opportunity to take the leadership responsibilities. Our job is to guide this process." He said that, in the Hevesi report, there were three statements. First, there existed a fiscal crisis to the tune of hundreds of millions of dollars; second, there was a cash crisis; and third, there was a trust issue with the elected officials, which he called a "crisis of confidence". "We sold in the open market future proceeds from the tobacco fund that brought in \$100 million dollars. Without that, Erie County would not only be facing a 50 cent sales tax increase and a property tax increase of 15%. The magnitude of the problem would be beyond our thoughts. It would be twice or three times as bad as it is."

Campbell went on to say: "We have a four year plan that has now identified over \$80 million dollars of initiatives to restructure the government. They have to be implemented. If they are not, we will find ourselves in a deficit again. That is the only reason I am committing myself to ensure that this gets done. The plan says there will be no tax increases in 2007, 2008 and 2009 and this committee is committed to make sure that happens. I believe each and every one of them is committed, along with the Comptroller and County Executive, and we are going to hold them to it. Now we have a plan before us and it is going to be actions that drive it."

"I do have some reservations, based on some issues. It is easy to say that the County Executive's office and the Comptroller's office and all the legislators are going to work together starting today. When we get the newly elected people in place that claim things are going to change and we are going to have an opportunity to do what is in the best interest of Erie county residents."

"There was comment made by one elected official that "We don't need any help, we didn't need any help to begin with and we could have done all this stuff by ourselves." I take exception to that naive statement. It is not factual and we would not be sitting here today if everyone didn't get together to try and pull this thing out of this financial mess. For that individual, I would offer a proverb: "Pride only breeds quarrel; the wisdom is found in those who take advice." We need to all take advice and work together."

"The second statement that was made that alarms me is: "Let's get this budget done and we can always add amendments later." We have worked over a year to get this thing to where we got it where we have a road map in place to get out of here, and if someone thinks it is a joke - that all we have got to do is get a plan put in place and then we can go back to business as usual - they've got another thing coming, because this committee will not allow that to happen."

Another statement made is "All we need to do is examine our policies" We don't need to examine any more policies, we have a plan that clearly puts a road map in place and the legislators and county government, they know what is in there. We need to do it now and take the action to go forward. "It is time to take action. ECFSA did exactly what we were asked to do."

We weren't asked to put in a hard control board but to get a four year plan that would bring financial stability to Erie County, and we have been able to do that, to guide the process. Today is the day for moving forward, we have done a lot of good things, I appreciate everything that Lynn Marinelli and her group has done. They have pushed this process forward. We should never have to face this situation again."

"Get off the train if you don't want to be part of the solution. We don't have time for self-serving, inefficient, ineffective forms of government anymore. I don't want to have to deal with the public and try to tell them there are no alternatives other than raise taxes. We should be dealing with this crisis. To conclude, the responsibility of this committee is to ensure that this four year plan is implemented in its entirety and that the government is restructured and that that effort is led by the elected officials."

At 4:45 p.m., Director Keysa moved to adjourn, seconded by Director Penksa, and the motion was unanimously approved.

Respectfully submitted,

*Stanley Jay Keysa,
ECFSA Secretary*