Minutes
Erie County Fiscal Stability Authority
Finance Committee
October 23, 2006

Chairman Joseph Goodell called to order a meeting of the finance committee of the Erie County Fiscal Stability Authority ("ECFSA") at 11:00 a.m. on Monday, October 23, 2006 in the Buffalo and Erie County Central Library. Notice of the meeting had previously been distributed to all committee members, all directors and announced to the public and press.

Committee members present: Joseph Goodell, Chair; Kenneth Kruly, John Johnson and Anthony J. Baynes

Other directors present: Stanley Keysa

Senior staff present: Kenneth Vetter, Executive Director

County representatives responding: County Executive Joel Giambra, Budget Director James Hartman, budget analysts Joseph Cercone and Rick Paulson, Timothy Callan from Comptroller Poloncarz's office, and Deputy County Attorney Brian White.

Opening Remarks

Director Goodell called the meeting of the finance committee for the Erie County Fiscal Stability Authority to order. He welcomed his fellow committee members and the public officials, interested members of the public and press and media in attendance.

He continued by stating that the meeting today is being held to get more information on from Erie County Budget Director James Hartman on Erie County's new four-year plan and 2007 budget and to ask some relevant questions on the documents. Both of the documents, the plan and the budget, must stand on their own merits. Each must exhibit soundness, reasonableness and do-ability.

He said the ECFSA board has tasked the finance committee to review the four-year plan and budget, and then to bring our findings back to the board and to the County. He then thanked the County Executive and others attending for their presence.

Director Sheila Kee joined the meeting at 11:06 a.m.

Review of revised Erie County financial plan

Chairman Goodell continued "We received the County's new four-year plan and 2007 recommended budget on October 16th and the members of the finance committee, as well as the full ECFSA board, have been reviewing both documents. We have invited Erie County Budget Director James Hartman to give us his 15 minute overview on the four-year plan and the 2007 proposed budget. I also see that County Executive Giambra is here and welcome him to speak to relevant points in the presentation. We will spend the bulk of our time interactively reviewing the budget, then the four-year plan with Mr. Hartman."

Director Goodell asked Mr. Hartman, to step to the podium. Mr. Hartman, I'd appreciate if you could run through the 2007 proposed budget, very briefly.

Mr. Hartman led off by stating that the Legislators had asked how the budget gap of two years ago could now be balanced without property tax rate increases or further cuts. Hartman continued by saying that the positive cash flow elements of 2006 were trended into 2007 and beyond to 2010. He identified seven elements of positive cash flow:

- Property tax revenues are going up, the rate is the same, but assessed value grew at better than 5%, and are expected to generate about $175M in 2007.

- Sales tax in 2007 is projected to be 3.6% better than budget in 2006 and 2.7% better than actuals for that year. For 2008 and beyond, sales tax revenues are expected to grow at 2.5% per year.

- Interest earnings are almost double projections for 2006, and that level is budgeted in 2007 and beyond.

- Recalculation of the Medicaid cap for 2006 lowers the Medicaid base in 2007 by $13.7 million.

- Projection of retirement costs from the State Comptroller's office shows the New York State Retirement System enjoying a healthy return; based on the state's formula, Erie County cost in 2007 will be $2.1 million lower than in 2006.

- In the Labor Management Health Care Fund, a number of elements have contained costs, particularly the cost of prescription drugs, moving more to generic drugs, using advanced mail ordering for many highly utilized drugs, and having retirees participate in Medicare Part B.

- Matrix efficiencies generated by PFM-suggested initiatives are projected to continue from 2006 into subsequent years.

Mr. Vetter asked Mr. Hartman about reconciling inter-fund transfers in general, and in particular for Central Police Services. Mr. Vetter indicated that the inter-fund expense in the E-911 fund was $1.9 million, while the corresponding revenue in Central Police Services was $2.8 million, or about $900,000 higher. Mr. Cercone responded that, in addition to the $1.94 million in revenues from the E-911 fund, there is additionally $917,000 coming from the sheriff for dispatchers.

Mr. Vetter asked if the practice of bonding for CHIPS road overlay projects is still in practice. Mr. Hartman said “yes”.

Mr. Vetter asked if there has been an agreement on returning IGT from the Erie County Medical Center Corporation to Erie County. County Executive Giambra indicated that he believed the County would get those dollars, estimated at $6 million for 2006, without litigation. Mr. Giambra also stressed that the County must be patient with the situation with ECMCC and that many interpretations of law exist in this situation. He further indicated that, if the County were not to receive its 50% share of Medicaid, as part of the IGT, the 2006 fund balance would be affected.

Director Kee asked if the 2007 budget assumes that ECMCC takes on the $6 million from the IGT in the ‘07 budget. Mr. Hartman indicated that there is no way to predict what the size of the IGT will be in 2007 until half way through the year. He also stated that the size of the amount is always different, and that nothing had been budgeted in 2006.

Mr. Giambra indicated that Comptroller Poloncarz was contemplating a lawsuit, but that his communications with ECMCC indicated that they and the County were headed for an amicable settlement. If it came in, it would be added to year-end fund balance.

Budget analyst Rick Paulson interjected that they have always budgeted at net zero, which is what happened in ’06 and what they are budgeting in ’07.

Ken Vetter asked if there was any bonding included for operating expenses, such as for monitoring the DISS computer system. Hartman replied that DISS was being paid from the operating budget.

Chair Goodell then asked to change the focus to personnel costs.

Director Kruly indicated that in the ’05 adjusted budget, there were 3,998 jobs listed, in ’06 adjusted there were 4,263; 265 over ’05 and in the ’07 proposed budget, there are 4,352 jobs, an increase of over 350 from ’05. The plan calls for a reduction in jobs after 2007. Director Kruly asked Mr. Hartman “Why are jobs being added now, if they are to be deleted a year later?”

Mr. Giambra indicated that jobs were added in public health and safety, as a result of the 2005 cuts that his department heads told him were too deep.

Mr. Hartman responded that there are 89 new positions in ’07 over ’06 – 60 in Social Services, additions to CPS for E-911 to be paid by the 911 fund, 9 people in jail management and 5 in probation, or about $4 million increase in personnel costs.
Mr. Hartman went on to say that much of the $4 million increase is either reimbursed by the state or comes from a separate fund, and that less than 10 percent of that number will be paid in general fund tax dollars.

Mr. Hartman indicated that the County was looking to create "process improvement teams" in each department which will be asked to think carefully as to how to function with fewer people, and that these teams will be asked to re-engineer county government to define how to run the County with 15 percent less people over three years.

Director Kruly again noted that more than 300 jobs will have been added.

Mr. Giambra responded "My criteria has been: Does a job add revenue? Does the job perform an essential service?" He also noted that the net impact on the general fund has been less than a half million dollars.

Ken Kruly noted that the last BMR showed about 150 jobs to be vacant, and asked "Why don't you use these vacancies to start cutting jobs now?"

Rick Paulson responded that it takes time to fill a job, that most of the vacancies are only 6 to 8 weeks old, meaning the vacancies are "fresh", and that they are actively working on filling about 140 vacancies, which is why he advocates a "turn-over account."

Director Baynes noted that 15% is about 600 jobs, and asked "If the County's plan is to cut 15 percent across the board, then why are new jobs being added?" Mr. Hartman replied that the 15% is of <u>designated</u> positions – actually about 250 jobs.

Mr. Giambra indicated he had used his best judgment, and to lop off jobs now in the jail could create additional problems. "We still have a government to run." He said there are institutional constraints that demand certain positions are filled, and that he is trying to do so without raising real property taxes.

Mr. Hartman interjected that they had never talked about cutting 200 jobs this year, that the social services jobs added are largely paid by state reimbursement, others by the 911 surcharge, and that only the 9 jobs in the jail and 5 in probation are paid by the County.

Director Johnson asked what percentage of the 364 jobs that have been filled are revenue-producing positions. Mr. Paulson responded that all of the social service positions filled were reimbursed, and were mandated and filled to avoid federal penalties. He added that special investigators, whose services reduce costs, are increase revenue recovery, were cut in 2005 but are now being returned.

Director Kruly noted that there were a number of upgrades in the budget including an increase of almost $30,000 for the Health Commissioner, bringing his annual salary, including what he gets from the Medical Center, to almost $300,000 per year. Director Kruly also noted that an increase of over $9,000 was slated for the head of Central Police Services.

County Executive Giambra indicated that it was his decision to give out raises to senior people. He indicated that Dr. Billittier, the Health Department Commissioner, has received offers to go elsewhere and the salary increase was to keep him with the County.

In the case of Kevin Comerford, the head of CPS, Mr. Giambra indicated that he had taken on the responsibility of two since the merger of CPS and Emergency Services.

Director Kruly asked why part-time wages are up 21%. Mr. Cercone responded that the County was using more part-time workers, where appropriate, under existing contract language, particularly in the Parks Department.

Director Baynes asked Mr. Giambra if he would give raises to other department heads. Mr. Giambra indicated he would, if he thought they were valuable enough.

Director Kruly asked "Why there is $8.6 million in overtime in the jail for '07, while the '04 actual was over $11 million?" Mr. Hartman responded that the jail is difficult to manage, that nine full-time positions were added to cut overtime and that his office is pushing alternatives to incarceration to reduce the prisoner count by 150-200 per day.

Mr. Giambra stated that the Sheriff had requested 40 additional deputies, but that the County Executive fell that "throwing money at the problem doesn't resolve the issue" and that unfunded state mandates were at the base. He further indicated that NYSAC is giving top priority items this year to the unreimbursed cost of housing state prisoners in county jails, thus shifting costs to the counties. He indicated that New York State prison populations have gone down by 5%, while county prison populations have increased by 16%. Mr. Giambra indicated that there would be a $5 to $7 million difference [in Erie County] if the State paid the local governments for handling their prisoners.

Director Kruly said he agreed with the analysis of the prisoner problem, but asked if the budget is realistic in its expectations. Joe Cercone said that the County had already added 11 deputies, but dropped two administrative staff, but that the time to hire and train meant that it would have little impact on reducing overtime in 2006.

Director Kee asked "Is there still automatic overtime for show-up that will affect overtime?" Mr. Cercone indicated that there is, but that SAP now separates overtime from holiday, shift and other paid time, and that there are savings.

Mr. Giambra added that the jail overtime issues needs more effective management.

Director Johnson asked "How many part-time staff were hired to cover for compensation cases?" Mr. Giambra indicated that injured-on-duty were not that high. Mr. Cercone stated that with union agreements, they can't use part-time positions to fill IRD positions, but that the Sheriff had a good monitoring program in place. Mr. Hartman added that they were looking particularly to reducing the number of pre-trail jail inmates, and that from 100 to 200 could be taken out of jail by electronic monitoring.

Director Johnson stated that the County should be careful in using alternatives to incarceration within the 17-21 age group, indicating a Pittsburg study showed that this group tends to violate restrictions disproportionately. Mr. Giambra added that there are a significant number of inmates with mental health concerns, perhaps 100-200 per night, and that the jail is used in place of state facilities which have been closed. Mr. Hartman indicated the number may be between 200-300 nightly.

Chair Goodell then asked that the focus shift to debt service.

Director Kee indicated "On page 174, book A, the figure for debt service was $48.2 million. On page 91 of the budget message, it is $45.23 million. Which is correct?"

Mr. Giambra indicated that due to the storm, there are some "scrivener" errors in the budget and that there was no intent to deceive. He stated further that if the committee is looking for reconciliation, his staff would provide it.

Director Kee indicated that on page 90 of the message, $5.5 million was listed as an inter-fund transfer. Director Kee further stated that that total may be incorrect.

Director Kee indicated that the debt in 2007 is $53.27 million-- four times the amount in 2004—which is a $41 million increase. Director Kee further indicated that if that debt had not been incurred, that the property tax levy increase could have been avoided. Mr. Giambra responded that part of the increase was due to the ECMC consent decree, that there is an effort to re-invest in Erie County infrastructure and indicated that the Erie County debt service per-capital is one of the lowest in the state.

Director Goodell indicated that he raised four daughters and when they said they want to stay out late "like their friends" his response was that "we are more prudent parents. That is the standard that Erie County should be judged by."

Mr. Giambra indicated that, if his department heads tell him something needs to be fixed, such as roads, he tries to fix them.

Director Kee indicated that there is an affordability issue with the current debt; Erie County is carrying $2,500 in debt burden for a family of four; annual debt service has increased from $207 per capita in 2000 to $676. Mr. Hartman stated that the County's debt service is affordable and that ECMC debt service runs off in 2015.

Director Johnson stated he understands the County's position, but asked if some of these things could be prioritized by need. Mr. Giambra indicated that prioritization was done and that all of these will pay dividends in the future. He further indicated that the County property tax rate is the lowest in New York State. Director Baynes replied that the sales tax rate is the second highest in New York State.

County Executive Giambra noted his keen desire to bring economic activity to downtown Buffalo by building an enhanced city campus for ECC, and that the County's $15 million investment would bring $20 million in state investment. "Isn't that a good return on our investment?"

Director Johnson said that he needed to explain his vision to the public, as it was not well understood.

Director Kee indicated that the capital program put forward is two times the amount in the prior four-year financial plan, $59 million versus $30 million. Director Kee asked if that was not the highest capital budgets in Erie County history. Director Kruly indicated that there had been capital budgets that exceeded $100 million. Director Kee then asked if past capital budgets might be graphed for the board.

Director Kee continued “There is only $1.2 million in debt service for capital outlay for 2007.” She opined that payments need to be made earlier; that the cost has been pushed forward to primarily 2008 and beyond. Mr. Hartman indicated that the Comptroller determines the interest and principal calculation, with only interest in the first year.

Mr. Callan, from the Comptroller’s office, indicated that the Comptroller is concerned with the size of the capital debt program for next year and that will be commenting on that and other elements of the budget in the near future.

Director Goodell asked that the committee be sent a comment or memo on capital debt from the Comptroller.

Director Kee asked “If the county is paying $15 million for ECC and the state is picking up half of the $72 million total project, where is the rest of the money coming from?” Mr. Giambra indicated that the rest is included in phase II and phase III of the ECC plan and that those plans and related funding are should be considered by future administrations.

Director Kee observed that $15 million of the $59.2 million capital budget is due to ECMCC. Mr. Giambra indicated the amount is from the consent decree. Director Kee responded “There appears to be no detail on how the money will be used.” Mr. Hartman it was detailed in the consent decree, and indicated he would forward a schedule to the committee.

Director Kee also asked “How does the administration cover additional unforeseen expense with such a high capital debt?” Mr. Hartman indicated that the County would sell bonds to do so. Director Kee then asked if phase one of the ECC project is self-contained, so as to not constrain future administrations, and Mr. Giambra responded “Yes.”

Director Keysa asked “Might any portion of the costs for clean-up of the unprecedented October storm cleanup be bonded?” Mr. Giambra indicated that he had assurances that President Bush would sign a disaster declaration, and that Governor Pataki has determined that the usual local share cost of 12.5% will be taken care of by the State. Director Keysa then asked for a copy of the letter so stating.

Director Keysa then asked "Has the County has claimed all of the CHIPS dollars for which it is eligible?" Mr. Cercone indicated that there are additional transfer tax dollars available.

Director Keysa asked "Where the transfer tax dollars go?" Mr. Cercone responded that it is kept in a trust fund and that there is $9.5 million in the 2007 budget.

Director Keysa then asked, "When the dollars come in, where do they go?" Mr. Cercone indicated that there is an accrual against revenues.

Director Goodell indicated that there has been a tremendous increase in capital debt since 2000 and that the financial crisis should change scenarios. "It's not time to go back to the old days."

Mr. Giambra asked "What is your definition of a fiscal crisis?" Mr. Goodell responded "What lead to the creation of this board."

Mr. Giambra then said "The estimate of the deficit in 2005 was grossly overstated. The county tax is not the biggest part of the property tax problem. That lies with the schools, towns, villages and cities."

Chair Goodell interjected: "We do have the second highest sales tax in New York State."

Mr. Giambra responded: "I wasn't happy to recommend that, but the alternative was significant reductions in non-mandated county services" and said that was the result of unfunded state mandates and union contracts.

The two then parried about the impact of the property tax increases from 2004 to 2007 on Mr. Goodell's property.

Director Goodell then asked Mr. Hartman if he would like to make a brief presentation on the four-year plan. Mr. Hartman declined and suggested that the committee ask its questions. Mr. Giambra indicated that this "is fun." Director Goodell asked members of the committee if they had any questions.

Director Kruly noted that the PFM initiatives had suggested fees in the County Clerk's Office could be raised, but that the state legislature had rejected the necessary legislation, and asked how those fees could be raised by $4.3 million over three years. Mr. Hartman said that the earlier suggestions related to criminal records, while these referred to the registrar side of the office and had been suggested by the State Assembly majority leader. Mr. Kruly said he was leery of counting on money in 2007 that hadn't been approved yet.

Director Kruly observed that there was an increase projected in investment income and asked that the Comptroller comment on the projections for 2007 and beyond.

Mr. Kruly continued by observing that the financial plan included $250,000 savings in fleet reductions, although fleet costs are going up by over $500,000 in 2007. Mr. Hartman replied that the savings were in cost-avoidance, not a reduction in base cost.

Director Kee said that detailed information in needed on how the budget and four-year plan match up. Mr. Hartman indicated that the four-year plan lists savings versus a projected gap, and that there are still inflationary increases to be dealt with Director Kruly responded that would make them phantom savings.

Director Kruly asked how the market-based revenue is going. Mr. Hartman responded that the firm the County hired is moving forward with the plan.

Director Kruly asked for the rates for the parking fees. Mr. Hartman responded that it is $3.00 per car for 15 weeks, $550,000 gross or $400,000 net of collection costs. Kruly asked about improved attendance, and Hartman said he would share documentation.

Director Kruly observed "There is $130,000 in the plan for improving contract competition, yet, there are no specifics." Mr. Hartman responded that he would have the County purchasing people respond with specific program information.

Director Kruly asked "How will the County achieve $500,000 through utilizing best practices?" He requested detail and noted that the plan lists changes required in NYS law. Mr. Hartman indicated that no change in state law would be required and that the PFM estimates were too high. He further indicated that alternative methods might need to be deployed. Mr. Cercone indicated that they are trying to review spending and that there is an increase in expense in the health department for medical items.

Director Johnson asked Mr. Hartman about validation of where Erie County is going in human service delivery and referenced the Erie County Blueprint for Change, which he characterized as a "marquee project." He said there should be real savings which are not reflected in the four-year plan. Commissioner Johnson said three or four state agencies support this project, and suggested that Erie County reach out to state agencies for projections of revenues. He cited the Department of Temporary Disability, the Department of Health, the Department of Mental Health, and his Department of Children and Family Services as being supportive.

Mr. Hartman indicated that there are baseline assumptions for revenues and expenses assuming that support from New York State remains level, and that Mr. Paulson had projected more accurately than had PFM. Mr. Paulson responded that the 2007 budget and the four-year plan assume current levels of reimbursement for flexible reimbursement, daycare and block grants, among others.

Director Johnson said that state projections show numbers going down, with foster care down 50% over several years.

Mr. Paulson replied that cases are down but that rates are increasing.

Director Johnson urged that the County get together with the state agencies on rates.

Mr. Giambra said "If you are correct, we will have a surplus." Mr. Hartman said he had tried to by conservative in his projections.

Director Kee noted "Children with special needs spending has undergone an increase of 300%, now it's going to be flat?" Mr. Paulson indicated that for 2006, compared to 2005, there was a decrease of 1.5%. Previously, it had been growing up to 20% per year. Now, it is expected to decline, as many of these children are now in school, and covered by the school district budgets.

Mr. Giambra noted that residential preschool care can cost $100,000 per year per child, and that they want to cut the number to 100 children. There has been a positive variance in 2006, but the rate of growth for preschool is going up at 5% a year.

Mr. Vetter asked why the ½ percent sales tax appears to go down then up again in the budget and financial plan presentation. Mr. Cercone indicated that it was a presentation issue. Mr. Vetter asked if the budget assumed the ¾ percent sales tax would be in-place for all 12 months of 2007. Mr. Hartman said "Yes".

Mr. Vetter asked if replenishing the $8 million unrestricted fund balance deficit in the road fund is addressed. Mr. Hartman said "No".

Director Baynes asked if there is a contingency plan if the City of Buffalo is successful in its quest to get more of the sales tax. Mr. Giambra stated he would "just say no" and that the four-year plan presented by Mayor Brown to the City of Buffalo Fiscal Stability Authority was consistent with the County plan regarding the sales tax.

Director Baynes asked "What if you do not get support from the Legislators to continue the extra sales tax." Mr. Giambra replied: "Then this board will go hard." He elaborated that the alternative would be to virtually eliminate all non-mandated County activities.

Director Baynes asked "Do you have plans to spend the reserve fund. Both County Executive Giambra and Mr. Hartman replied there are no plans to tap the fund.

Director Kruly indicated that the charter revision up for referendum mandates a 5% fund balance for Erie County and asked how the County would cover that $42+ million shortfall. Mr. Giambra stated that, if the revision is passed, they would then determine how to fund it. He further indicated that a $50 million reserve shouldn't be a problem. Mr. White, from the County Attorney's Office, indicated that there would have to be a 5% projected fund balance at the end of 2007, so there would be a year to achieve that.
Mr. Hartman then indicated that he believes that half of the efficiency grant funding - $9 million under the state legislation - could be used to replenish fund balance and that the County has shown more than $9 million in recurring savings. He noted that 2006 was running better than expected, and that he would like to use half the efficiency grants in

2007 to build reserves. Going forward, the administration is still looking at the school tax STAR formula, not to close a gap, but to build reserves.

Director Kruly stated that he does not agree with that interpretation, that he saw only minor savings over 2005, and does not see recurring savings. Mr. Giambra indicated that a contact should be made with the state legislature for clarification. Mr. Kruly again asserted that he differed with Mr. Giambra and Mr. Hartman as to what the law required. All three, however, agreed that EVFSA could hold the funds for as true emergency, and if not so used, the funds would become part of the fund balance at the end of the year.

Director Goodell agreed to have the ECFSA attorneys met with the County Attorney to discuss the question of whether the "savings" identified by the County would qualify as "recurring savings" for purposes of qualifying for release of the state aid.

Mr. Giambra said it may be appropriate to have the issue clarified by the NYS Legislature, and further asked that any questions to be answered by County staff be put in writing. He added "I appreciate this opportunity for dialogue, and look forward to working with you on this."

Director Goodell, in summarizing the meeting, indicated there are four things he personally would take away from the meeting: that the four-year plan includes increased taxes, increased debt, additional costs and timid cost recovery. Director Goodell believes that there are iffy revenues. He noted that the committee had reviewed and found lack of substantiation for inmate reductions and for integrated case management and is concerned that many revenues and cost projections are based on "flimsy" estimates.

Mr. Giambra responded that the statute requires advice and counsel, and asked that comments be made in writing, and that the ECFSA provide advice.

Director Goodell indicated that there has been input on every single issue that has come up, and said he found it hard to believe that the County staff did not know what the advice was on those issues. Mr. Giambra then asked if the Authority would suggest a property tax increase, and said the ECFSA could put their concerns in writing so the County could respond back. "We anxiously await your response."

At 1:17 p.m., Director Goodell called the meeting adjourned.

Respectfully submitted,

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Stanley J. Keysa, Secretary